

2709-3

1. Considered MAY 20, 1979
2. Name of Applicant C.L. SWANSON, M.D.
3. Post Office Address PIERRE
4. Amount of water claimed 18.41
5. Source of water supply MISSOURI RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 1289
7. Water to be diverted and used in HUGHES county
about 8W, 22S miles of HARROLD
8. Proof of Publication
Received 5-17-76
Not received _____
9. Application
Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks:

No. 2709-3Map No. 2071-3 Water Division No. 3 MISSOURI RIVER

(Blanks to be Filled by the Engineer for the W. R. C.)



APPLICATION FOR PERMIT

To Appropriately Water within the State of South Dakota

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

1. Name of Applicant C. L. SwansonPostoffice address 310 East Wynoka Pierre, State South Dakota

If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract3. Name of diversion work Swanson Irrigation Project #24. Amount of water claimed (cubic feet per second) 18.41 CFS5. Source of water supply Missouri River6. Location of point of diversion South of a Point 400' east of the NW corner ofSection 17 T109 N-R75W, North of a point 900' west of the SW cornerof Section 17 T109N-R75W County Hughes7. Annual period or periods during which water is to be used Irrigation Season8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation9. For irrigation use, _____ number of acres to be irrigated 1289

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

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
<u>See attachment</u>			

Attach sheet if more space is needed

10. Time required to complete construction of water supply system five years. Additional time required to complete application of water to the proposed beneficial use four years.11. Choice of newspaper for Notice of Intent to Appropriately Water publication Pierre Capitol Journal

12. Principal Features of the Proposed Water Supply System.

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

Pumps

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

Pipe

C. Works proposed to apply water to beneficial use.

Sprinkler Irrigation

Estimated Total Cost: \$ 500,000.00Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of HughesI, C. L. SWANSON, M.D., the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, as I am able to complete the necessary construction.Signed C. L. Swanson, M.D.Subscribed and sworn to before me this 28 day of April 19 76Ronald D. Kessler
Notary Public (or other qualified officer)My Commission expires
Jan 10, 1982

T10S N - R7S W
HUGHES COUNTY



MISSOURI
RIVER
FLOW

NORTH BOUNDARY
OF DIVERSION AREA

LAKE
SHAFER
RESERVOIR

17

SOUTH BOUNDARY
OF DIVERSION AREA

60 ACRES

55 ACRES

20 ACRES

10 ACRES
16

155 ACRES

155 ACRES

130 ACRES

160 ACRES

160 ACRES

21

22

SURVEYOR'S CERTIFICATE

I, R. V. Summerside, Registered Land Surveyor, State of South Dakota,
do hereby certify that, at the direction of C. L. Swanson, I have
surveyed the tract of land as shown, and that the above drawn
Plot is a reasonably accurate description of the land of the
proposed irrigation project. In witness whereof I have set
my hand and seal this 22nd day of APRIL, 1926, A.D.

R. V. Summerside
REGISTERED LAND SURVEYOR

LAND TO BE IRRIGATED

DESCRIPTION	ACRES	OWNER
SE 1/4, SEC 9, T10S N - R7S W	130	C. L. SWANSON
SW 1/4, SEC 9	20	"
NE 1/4, SEC 16	80	"
NW 1/4, SEC 16	20	"
SW 1/4, SEC 16	155	"
SE 1/4, SEC 16	155	"
SE 1/4, SEC 17	55	"
NE 1/4, SEC 20	60	"
NE 1/4, SEC 21	160	"
NW 1/4, SEC 21	130	ANNY TIONA RED BEAR
SW 1/4, SEC 21	160	"
NW 1/4, SEC 22	160	JOHN DIE EAGLE & FAMILY
TOTAL	1289	ACRES

WATER APPROPRIATION MAP

SCALE: 1" = 660' APPROVED BY: DRAWN BY:
DATE: 26 APR 26 REVISED:

C. L. SWANSON

PIERRE, SOUTH DAKOTA

DRAWING NUMBER

MAP# 2071-3 (APPL NO 2709-3)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 2709-3

C. L. SWANSON, MD.
(Applicant)

310 E WYNOKA, PIERRE
(Post Office Address)

SOUTH DAKOTA 57501 With the following modifications.
(State)

Date of first receipt of application APRIL 29 1976

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

Date of receipt of corrected application _____, 19____

Approved MAY 20 1976, Recorded in Book 15 Page 153

WATER RIGHT PERMIT NO. 2709-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 2709-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is APRIL 29 1976
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before NOVEMBER 20 1978
3. The whole of said work is to be completed on or before MAY 20 1981
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MAY 20 1985
5. The water appropriated shall be used for the purpose of IRRIGATION

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

7. The amount of the appropriation herein granted shall not exceed 18.41 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before MAY 20 1985; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 2TH day of JUNE 1976

WATER RIGHTS COMMISSION

By:

John Hatch
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

SE $\frac{1}{4}$, Section 9 T109N-R75W	130
SW $\frac{1}{4}$, Section 9 T109N-R75W	20
NE $\frac{1}{4}$, Section 16 T109N-R75W	80
NW $\frac{1}{4}$, Section 16 T109N-R75W	20
SW $\frac{1}{4}$, Section 16 T109N-R75W	159
SE $\frac{1}{4}$, Section 16 T109N-R75W	155
SE $\frac{1}{4}$, Section 17 T109N-R75W	55
NE $\frac{1}{4}$, Section 20 T109N-R75W	60
NE $\frac{1}{4}$, Section 21 T109N-R75W	160
NW $\frac{1}{4}$, Section 21 T109N-R75W	130
SW $\frac{1}{4}$, Section 21 T109N-R75W	160
NW $\frac{1}{4}$, Section 22 T109N-R75W	160

Publish first publication, on or before May 6, 19 76NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

April 30, 19 76Notice is hereby given that C. L. Swanson

whose post office address is Pierre, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 18.41 cubic feet of water per second of time from the Missouri River through the Swanson Irrigation Project #2, the point of diversion of which is to be located in the _____

between points in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16 and in the NW $\frac{1}{4}$ NW $\frac{1}{4}$

of Section 17, Twp. 109N, Range 75W. Said water to be used for the purpose

of providing irrigation on ^{portions of} the following described land:

SE $\frac{1}{4}$, E $\frac{1}{4}$ SW $\frac{1}{4}$, Section 9; E $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17; Section 16; N $\frac{1}{2}$ NE $\frac{1}{4}$,

Section 20; N $\frac{1}{2}$, SW $\frac{1}{4}$, Section 21; NW $\frac{1}{4}$, Section 22, all in T109N, R75W

This application No. 2709-3 will be considered by the Water Rights Commission at their office at Pierre upon the 20th day of May, 19 76, at 1:00 P. M. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

EFJ/bw

cc.C.L. Swanson, MD, 310 E. Wynoka, Pierre, S.D. 57501

-122K

No. 2709-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
County Hughes

I, John H. Neppel hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Daily Capital Journal

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

city of Pierre

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

May 5, 1976; and
May 12, 1976.

John H. Neppel
(Signature)

Business Manager
(Title)

May 14, 1976
(Date Signed)

No. 3372 - 21 dly May 6-12

No. 2709-3

NOTICE

INTENT TO

APPROPRIATE WATER

Notice is hereby given that O.L. Swanson, whose post office address is Pierre, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 18.11 cubic feet of water per second of time from the Missouri River through the Swanson Irrigation Project No. 2, the point of diversion of which is to be located between points in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 and in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, Twp. 109N, Range 75W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Section 9; E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 17; Section 16; N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 20; N $\frac{1}{2}$ SW $\frac{1}{4}$, Section 21; NW $\frac{1}{4}$, Section 22, all in T109N, R75W.

This application No. 2709-3 will be considered by the Water Rights Commission at their office at Pierre upon the 20th day of May, 1976 at 1:00 P.M. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By: BURTON F. JONES

Water Rights Specialist





United States Department of the Interior
OFFICE OF THE SOLICITOR

ROOM 211 - FEDERAL BUILDING
P.O. BOX 519
ABERDEEN, SOUTH DAKOTA 57101

May 19, 1976



Mr. Burton F. Jones
Water Rights Specialist
Water Rights Commission
Pierre, SD 57501

Dear Mr. Jones:

The Area Director, Bureau of Indian Affairs, has advised that on May 20, 1976, a Hearing will be held at 1 p.m. by the Water Rights Commission at their office at Pierre, South Dakota, on the application of C. L. Swanson, Pierre, South Dakota, for a permit to appropriate for beneficial use 18.41 cubic feet of water per second of time from the Missouri River through the Swanson Irrigation Project # 2, the point of diversion being located between points in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16 and in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 17, T. 109 N. R. 75 W., for the purpose of irrigation.

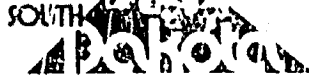
This letter will serve as our written objection to such application for a permit to appropriate ground water from within the boundaries of the Crow Creek Reservation. The issuance of such permit would be contrary to established law, which declares that the State lacks jurisdiction with respect to the adjudication of the waters of, or the lands within the exterior boundaries of an Indian Reservation. Sec 25 U.S.C.A. Sec. 321; Winters v. United States, 207 U.S. 564; 28 S. Ct. 207; United States v. Powers, 94 F. 2d 783; United States v. McIntire, 101 F. 2d 650; and United States v. Alexander, 131 F. 2d 359.

In filing this objection to the issuance of such proposed permit and in writing this letter to you, we do not waive our right to challenge the State's jurisdiction by legal action or otherwise and merely intend to call the State's attention to the fact that the State lacks jurisdiction in this matter.

Very truly yours,

Wallace G. Dunker
Wallace G. Dunker
Field Solicitor

cc: Area Director
Superintendent, Crow Creek Agency, Ft. Thompson, SD
Mr. Parnell Hagen, Area Soil Conservationist, B.I.A.
Dr. C. L. Swanson, 310 E. Wynoka, Pierre, SD 57501



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

June 9, 1976

C.L. Swanson
310 E. Wynoka
Pierre, S.D. 57501

Dear Mr. Swanson:

Enclosed herewith is your Water Right Permit No. 2709-3 as approved by the Water Rights Commission, authorizing you to construct your water diversion system and apply the water to beneficial use, not exceeding the limits as specified in said Water Right Permit No. 2709-3.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Water Rights Commission when you have completed the system and/or have put the water to beneficial use. The Commission can then schedule an inspection so that your Certificate of Construction and/or your Water License may be issued to you, thus completing your acquisition of a Water Right.

P.S. This is to inform you that the Office of the Solicitor, United States Department of Interior in a letter dated May 19, 1976 contends that the State of South Dakota lacks jurisdiction with respect to the issuance of permits to use waters within the exterior boundaries of an Indian Reservation.

Respectfully,
WATER RIGHTS COMMISSION

JOHN HATCH
Chief Engineer

JH/BFJ/bw
Encl: As stated

2432-36
2709-3
3728-3

WATER RIGHTS DIVISION
Phone (605) 773-3352

March 3, 1983

David M. Axtmann
Attorney at Law
Box 187
Highmore, South Dakota 57345

Dear Mr. Axtmann:

Please find enclosed copies of our Form 20, Notice of Transfer of Water Permit. These must be signed by the owner before a notary public and returned to this office with a fee of Two Dollars and Fifty Cents (\$2.50) each, total of \$7.50.

Upon receipt of the Transfer Forms and the \$7.50 filing fees the permits will be transferred to the proper name.

Please advise this office if you have any questions.

Sincerely,

Genny Young
Water Rights Specialist

GY:ms
Enc.

David M. Axtmann

ATTORNEY AT LAW
BOX 187
HIGHMORE, S. DAK. 57345
TELEPHONE (605) 852-2772

March 28, 1983

Genny Young
Water Rights Specialist
Dept. of Water &
Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501

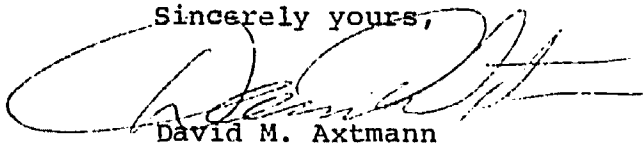
Re: Swanson - Cowan

Dear Ms. Young:

Enclosed please find a check in the amount of \$7.50 as well
as three Form 20 for your consideration.

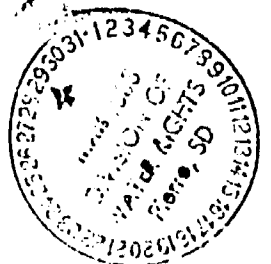
Please acknowledge the transfers requested. Thank you.

Sincerely yours,



David M. Axtmann

DMA/sc
Encs.



NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 3/5/83

This is to notify you that the title to the lands described as follows:

1289 Acres - S $\frac{1}{2}$ Section 9; Section 16; SE $\frac{1}{4}$ Section 17, NE $\frac{1}{4}$ Section 20; N $\frac{1}{2}$ and

SW $\frac{1}{4}$ Section 21; NW $\frac{1}{4}$ Section 22; T109N, R75W

formerly owned by C. L. Swanson

has been transferred to Pat Cowan, Highmore, South Dakota 57345 Box 455

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 2709-3 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of Water Rights, Water Management Board as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Hyde) ss.

I, C. L. Swanson being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

C. L. Swanson
(Signed)

Subscribed and sworn to before me this 15 Day of March, 1983.

Dan M. [Signature]
(Notary Public)





**Department of
Water & Natural Resources**

Joe Foss Building

Water Rights Division

Pierre, South Dakota 57501

Phone (605) 773-3352

No. 2432-3A

2709-3

3728-3

March 29, 1983

Pat Cowan
Box 455
Highmore, SD 57345

Dear Mr. Cowan:

Enclosed is receipt No. 4 9213,
4 9214 & 4 9215 in the amount of \$ 2.50 each which you
paid for transfer of Water Right Nos. 2432-3A, 2709-3 & 3728-3.

Our records now show you as the owner of this Water Right.

Sincerely,

Genny Young
Water Rights Specialist

GY:ms
Enc.

RECEIPT

WATER RIGHTS COMMISSION

No 4 9214

State of South Dakota

PIERRE, March 29, 1983

RECEIVED OF Pat Cowan, Box 455, Highmore, SD 57345

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

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for Inspecting Construction, and issuing Cert. of Construction No.....		
Fee for Inspecting Beneficial Use, and issuing Water License No.....		
Fee for issuing Location Certificate-Dry Draw, No.....		
Fee for filing TRANSFER OF WR#2709-3	2	50
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for (any other work as provided by law)		
TOTAL	2	50

WATER RIGHTS COMMISSION

By *(Signature)*
Chief Engineer, Executive Officer
JOHN HAICH/ms

David M. Axtmann

ATTORNEY AT LAW
BOX 157
HIGHMORE, S. DAK. 57345
TELEPHONE (605) 852-2772

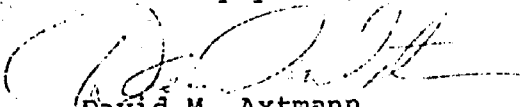
December 5, 1983

Department of Water and
Natural Resources
Water Rights Division
523 East Capitol
Pierre, SD 57501

Gentlemen:

Enclosed please find a Warranty Deed containing the descriptions of property which has been recently transferred from Pat Cowan of Highmore, South Dakota to the Big Bend Ranch Partnership. We would like to secure the necessary forms to transfer the water rights to said property from the prior owner to the Big Bend Ranch Partnership. Please provide us with the necessary forms and information necessary to accomplish this. Thank you.

Sincerely yours,


David M. Axtmann

DMA/sc
Enc.



WARRANTY DEED

PAT COWAN, a single person, of Highmore, Hyde County, State of South Dakota, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, Grants, Conveys and Warrants, to BIG BEND RANCH PARTNERSHIP, of King SE, Highmore, South Dakota, the following described real estate in the County of Hughes in the State of South Dakota:

All of Section Sixteen (16); all of Section Seventeen (17) less the U.S. take area; the Northeast Quarter (NE 1/4) of Section Twenty (20); the Northeast Quarter (NE 1/4) of Section Twenty-one (21); the Northeast Quarter (NE 1/4), the North Half of the Southeast Quarter (N 1/2 SE 1/4), all in Section Eight (8); All in Township One Hundred Nine (109), Range Seventy-five (75), Hughes County, South Dakota.

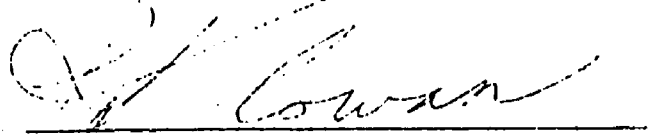
West Half (W 1/2) of Section Twenty-nine (29), Township One Hundred Nine (109) North, Range Seventy-five (75), West of the Fifth Principal Meridian, and the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) and the East Half of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (E 1/2 NE 1/4 NE 1/4 SW 1/4) and the Northeast Quarter of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter (NE 1/4 SE 1/4 NE 1/4 SW 1/4) and the North Half of the Northwest Quarter of the Southeast Quarter (N 1/2 NW 1/4 SE 1/4) and the North Half of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (N 1/2 SW 1/4 NW 1/4 SE 1/4) and the triangular portion of the South Half of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (S 1/2 SW 1/4 NW 1/4 SE 1/4) bounded by the North and East sides of said South Half of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (S 1/2 SW 1/4 NW 1/4 SE 1/4) and by a diagonal line from the Southeast corner of said South Half of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (S 1/2 SW 1/4 NW 1/4 SE 1/4) to the Northwest corner thereof, and the Southeast Quarter of the Northwest Quarter of the Southeast Quarter (SE 1/4 NW 1/4 SE 1/4), all in Section Thirty-six (36), Township One Hundred Nine (109) North, Range Seventy-six (76), West of the Fifth Principal Meridian, all in Hughes County, South Dakota.

All of Section Nine (9); the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section Eight (8); and the East Half of the Southwest Quarter of the Southwest Quarter (E 1/2 SW 1/4 SW 1/4) of Section Eight (8); all in Township One Hundred Nine (109) North, Range Seventy-five (75), West of the Fifth Principal Meridian, Hughes County, South Dakota.

Subject to easements, reservations and exceptions of record. Said conveyance is also subject to a contract for deed and mortgage in favor of Bryce L. McDowell and Mabel McDowell; said contract for deed dated the 16th day of March, 1976 and recorded in the Office of the Hughes County Register of Deeds on the 17th day of March, 1976 at the hour of 10:25 A.M. in Book 312 of Miscellaneous at page 270, and said mortgage dated the 2nd day of April, 1976, and recorded in the office of the Hughes County Register of Deeds on the 9th day of April, 1976 in Book 311 of Mortgages at page 546. Said conveyance is also subject to a contract for deed in favor of Gordon Milbrandt and Vicki Milbrandt;

said contract for deed dated the 24th day of March, 1977, and recorded in the office of the Hughes County Register of Deeds on the 25th day of April, 1977 at 10:15 A.M. in Book 318 of Miscellaneous at page 364.

Dated this 2 day of December, 1983.


Pat Cowan

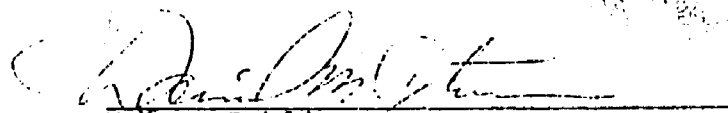
State of South Dakota)

:ss.

County of Hyde)

On this the 2nd day of December, 1983, before me, the undersigned officer, personally appeared PAT COWAN, a single person, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.


Notary Public

My commission expires: 7-15-87

(SEAL)

December 13, 1983

David M. Axtmann
Attorney at Law
Box 187
Highmore, South Dakota 57345

Dear Mr. Axtmann:

Please find enclosed a copy of a Notice of Transfer of Water Permit form. This form must be signed by the owner before a notary and returned to this office with a filing fee of \$2.50 for each, total of \$7.50.

Upon receipt of the enclosed form and the \$2.50 filing fee the permits will be transferred to the proper name. South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

Please advise if you have any questions.

Sincerely,

Maxine Stirling
Staff Assistant

ms/
Enc. 3

DWNR-820A-8/83

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: December 20, 1983

This is to notify you that the title to the lands described as follows:

1289 Acres - S $\frac{1}{2}$ Section 9; Section 16; SE $\frac{1}{4}$ Section 17; NE $\frac{1}{4}$ Section 20;

N $\frac{1}{2}$ and SW $\frac{1}{4}$ Section 21; NW $\frac{1}{4}$ Section 22; T109N, R75W.

formerly owned by Pat Cowan

has been transferred to Big Bend Ranch Partnership

(please include complete mailing address)

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 2709-3 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)

County of Hyde) ss.

Pat Cowan For

I, Big Bend Ranch Partnership being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

BIG BEND RANCH PARTNERSHIP

BY: Pat Cowan Partner
(Signed)

Subscribed and sworn to before me this 20 Day of December, 1983.

Pat Cowan
(Notary Public)



RECEIPT

Division of Water Rights

No 4 9452

South Dakota Department of Water and Natural Resources

Pierre, December 22, 1983

RECEIVED OF Big Bend Ranch Partnership, c/o David M. Axtmann, Box 187, Highmore, SD 57345
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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 _____ for WR# 2709-3	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____ (Any Other Work Provided by Law, _____)		
Total	2	50

By John Hatch
Chief Engineer JOHN HATCH (ms)

No. _____

2709-3
2432-3A
3728-3



Department of Water & Natural Resources

Joe Foss Building
Pierre, South Dakota 57501

Water Rights Division

Phone (605) 773-3352

December 27, 1983

David M. Axtmann
Box 187
Highmore, South Dakota 57345

RE: Big Bend Ranch Partnership

Dear Mr. Axtmann:

Enclosed is receipt No. 4 9451 (totalling \$7.50)
4 9452, 4 9453 in the amount of \$2.50 each which you
paid for transfer of Water Right Nos 2432-3A, 2709-3 & 3728-3
Our records now show ^{Big Bend Ranch Partnership} ~~you~~ as the owner of this Water Right.

Sincerely,

Maxine Stirling
Staff Assistant

ms/
Enc.

WNR-821-7/79

Receipt & Notice of filing of Transfer of Water Right

SOUTH DAKOTA
Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

November 3, 1987

Bill Taylor
WOODS, FULLER, SHULTZ & SMITH, PC
310 South First Avenue
Sioux Falls, SD 57102

Dear Mr. Taylor:

I am contacting you in reference to your letter of October 19, 1987, concerning the transfer of water rights held by Pat Cowan Estate on the Big Bend Ranch.

Enclosed are partially completed "Notice of Transfer" forms for use in filing ownership changes on Water Permit Nos. 1690-3 and 1691-3, Pat Cowan Estate and 2432-3A, 2709-3, and 3728-3, Big Bend Ranch Partnership. The forms should be signed by the new owner(s) in the presence of a notary public. Upon completion of the forms, return them to our office with a required filing fee of \$2.50 each (total of \$12.00). The water permits will then be transferred to the new owner(s).

South Dakota Water Law 46-54-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact us.

Sincerely,

Genny McMATH

GENNY MCMATH
Natural Resources Analyst
605 773-3352

enclosures

WOODS, FULLER, SHULTZ & SMITH P.C.

FRANCIS M. SMITH
MERLE A. JOHNSON
ARLO D. SCHMEYER
RICHARD O. GREGG
JOHN E. SMITH
WILLIAM G. TAYLOR
WILLIAM P. FULLER
STUART L. TIEDE
GARY F. THIMSEN
BRADLEY C. GROSSENBURG
JAMES M. WEDERICH
COMET H. MARALESSON
RICHARD J. CORCORAN
J.G. SHULTZ
PIERCE H. McDOWELL III
ROGER W. DAMGAARD
BARBARA ANDERSON LEWIS
FREDERICK M. ENTWISTLE
VINCENT A. PURTELL
LEOT F. FLYNN

LAWYERS

310 SOUTH FIRST AVENUE

SIoux FALLS, SOUTH DAKOTA 57102

336.3890

AREA CODE 605

TELECOPIER

605-339-3337

MELVIN T. WOODS (1849-1983)
HOWELL L. FULLER (1906-1981)
JOHN B. SMULTZ (1912-1975)

December 1, 1987

Ms. Genny McMath
Natural Resources Analyst
Department of Water & Natural Resources
523 East Capitol Street
Pierre, South Dakota 57501

Re: Notice of Transfer of Water Permit
Big Bend Ranch Partnership
Permits No. 2432-3A, 2709-3 and 3728-3

Dear Ms. McMath:

Enclosed you will find three completed Notices of Transfer of Water Permits along with our check for \$7.50. Please file the notices of transfer in the appropriate file of the Division of Water Rights. Please then send me confirmation of receipt and filing.

Thank you for your attention to this matter.

Very truly yours,

WOODS, FULLER, SHULTZ & SMITH P.C.

Bill Taylor

William Taylor

Enclosures

P.S. You also sent Applications for Transfer of Water Rights No. 1691-3 and 1690-3. Those permits are located in Hyde County and do not appear to be part of the Big Bend Ranch. Would you please check to see if those permits are Hyde County permits? If so, correspondence regarding them should be directed to Todd M. Cowan, King Southeast, Highmore, South Dakota 57234, or the executor of the Cowan Estate, Clarence Mortenson in Pierre.

DEC 1967
DIVISION OF
WATER RIGHTS
PHOTO. SD

Date: December 2, 1987

This is to notify you that the title to the lands described as follows:

Section 21, NW $\frac{1}{4}$ Section 22, T109N, R75W

formerly owned by Big Bend Ranch Partnership

has been transferred to Lowell C. Hansen, II, 301 North Dakota Avenue, Sioux Falls, SD 57102, (please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 2709-3 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
) ss.
County of MINNEHAHA)

I, Lowell C. Hansen, II being first duly sworn on my oath depose and say:
That my relation to the above described undertaking is that of owner, that I have read
the above foregoing statement, and I know of my own personal knowledge that the infor-
mation herein stated is true.

(Signed) _____

Subscribed and sworn to before me this 1st Day of December, 1987.

Wm Taylor
(Notary Public)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, December 2, 19 87

RECEIVED OF Woods, Fuller, Schultz & Smith, P.C. 310 S. First Ave., Sioux Falls, SD 57102
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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>2709-3</u>	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By John Hatch
Chief Engineer JOHN HATCH (MS)

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

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

WATER RIGHTS DIVISION
(605) 773-3352

2709-3
3728-3

December 22, 1987

Woods, Fuller & Smith
310 S. First Avenue
Sioux Falls, SD 57102

RE: Transfer of Water Permits for Lowell C. Hansen II

Dear Sir:

Enclosed are receipt Nos. 411073, 411074 and 411075 in the amount of \$2.50 each which you paid for transfer of Water Rights Nos. 2432-3A, 3728-3 and 2709-3.

Our records now show Lowell C. Hansen II as the owner of these Water Rights.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc.

cc: Lowell C. Hansen II



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

April 20, 1992

1905-3
2432-3A
2709-3
3728-3

Mark Joens
Fischer, Rounds & Associates
PO Box 218
Pierre, SD 57501-0218

Dear Mr. Joens:

Enclosed are partially completed "Notice of Transfer" forms for use in filing an ownership change on Water Right No. 1905-3 and Water Permit Nos. 2432-3A, 2709-3 and 3728-3. They are currently listed in the name of Lowell C Hansen, II (formerly Big Bend Ranch, Inc).

The transfer forms should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the forms to our office with a required filing fee of \$2.50 each (total of \$10.00).

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

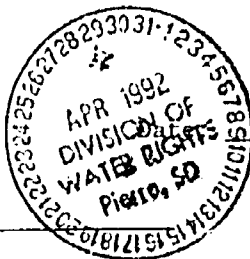
Genny McMath
Natural Resources Analyst
(605) 773-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2709-3



4-24-92

I\We request that Water Permit No. 2709-3

formerly owned by: Lowell C Hansen, II

be transferred to: (name & address) ALEX A. FALK AND ANN L. FALK - 1301

NORTH FURNESS STREET, ABERDEEN, S.D. (Telephone No.) 605-228-3335

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

1289 acres - S 1/2 Section 9, Section 16, SE 1/4 Section 17, NE 1/4 Section 20,

N 1/2, SW 1/4 Section 21 and NW 1/4 Section 22, T109N, R75W

I\We understand that the validity of Water Permit No. 2709-3 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 at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
)
County of HUGHES)

I\We ALEX A. FALK & ANN L. FALK being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

* Alex A. Falk Ann L. Falk
(Signed)

Subscribed and sworn to before me this 24 day of April, 1992.

[Signature]
(Notary Public)

Notary Public
State of South Dakota

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

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

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

413197

Pierre, April 29, 19 92

RECEIVED OF Alex and Ann Falk, 1501 N 4th St. Aberdeen, SD 57401
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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>Water</u> Permit No. <u>2709-5</u>	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By *John Hatch/GMC*
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

April 29, 1992

2709-3

Dale Kastner
US Army Corps of Engineers
Pierre Real Estate Office
PO Box 670
Pierre, SD 57501

Dear Mr. Kastner:

Enclosed, for your records, is a copy of a "Notice of Transfer of Ownership" filed by Alex and Ann Falk for Water Permit No. 2709-3. Water Permit No. 2709-3, formerly owned by Lowell C Hansen, II, is for irrigation of 1,289 acres utilizing water from the Missouri River.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst
Water Rights Division
(605) 773-3352



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

May 6, 1992

No. 2709-3

Alex A. and Ann L. Falk
1301 North Fourth Street
Aberdeen, SD 57401

Dear Mr. and Ms. Falk:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Permit No. 2709-3.

Our records now show you as the owner of Water Permit No. 2709-3.

Sincerely,

A handwritten signature in cursive script, reading "Cheryl F. Frost".

Cheryl F. Frost
Secretary
Water Rights Division
605 773-3352

enclosure



January 29, 1993

2709-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

NOTICE

TO: ALEX & ANN FALK
1301 N 4TH STREET
ABERDEEN, SD 57401

FROM: Ron Duvall, Natural Resources Engineer IV
for JOHN HATCH, Chief Engineer
Water Rights Division

RE: Failure to Report Chemical Use under Water Permit No(s) 2709-3

The first notice to file chemigation report(s) for Permit No(s) 2709-3 was dated . Our records indicate that we have not received the 1992 chemigation report for Permits No(s) 2709-3. The Water Management Board has directed that owners of water permits who have not submitted the 1992 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing held by the Board is to determine what action is to be taken concerning violation of Administrative rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 9:30 A.M. on March 3, 1993, at the Floyd Mattlew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 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 or up to three years for the 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). 2709-3 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. Prior to February 22, 1993, contact the Water Rights Division, 523 E. Capitol, Pierre, SD 57501-3181 (505 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the chemigation report(s) is(are) received by this office prior to the March 3, 1993 hearing, you will no longer be in violation and your name will be deleted from the Board agenda.



2709-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

February 11, 1993

Alex Falk
1301 N 4TH Street
Aberdeen, SD 57401

Dear Sir:

I am writing to acknowledge receipt of your phone call concerning the 1992 chemigation questionnaire. You may disregard the January 29, 1993 notice of "Failure To Submit Chemigation Questionnaire." I have filled out the questionnaire with the information you provided over the phone and your name is deleted from the Water Management Board agenda.

If you have any questions, please contact me at 605-773-3352.

Sincerely,

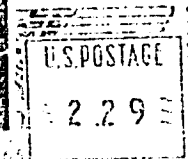
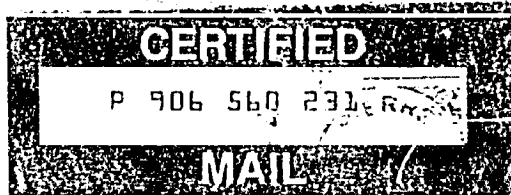
A handwritten signature in cursive script, reading "Barry A. McLaury".

Barry A. McLaury
Natural Resources Analyst
Water Rights Division



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

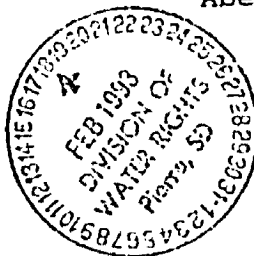


2709-3



LIN
2-1-93
RG#10

Alex & Ann Falk
1301 N 4th St
Aberdeen SD 57401



Name
1st Notice
2nd Notice
Return



2709-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

February 18, 1993

2709-3

NOTICE

TO: Alex & Ann Falk, 1301 N 4th St, Aberdeen, SD 57401
FROM: Ron Duvall, Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division 
SUBJECT: Failure to Report Chemical Use under Water Permit No.
2709-3

The attached notice was sent certified mail, return-receipt requested. The post office has returned the certified mail return-receipt requested envelope to our office marked "unclaimed". The envelope indicated the post office notified you February 1 and February 9, 1993 to pick up and sign for the certified mail.

If you have any questions, please contact Barry McLaury, (605) 773-3352.

enclosure

John H. Allen
Notary Public

2709-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501 3181

February 16, 1994

ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN SD 57401

NOTICE

RE: Violation of Requirement to Submit 1993 Irrigation Questionnaire

Our records indicate that the 1993 Irrigation Questionnaire has not been submitted for Permit No(s) 2709-3. The request for the Questionnaire was dated October 18, 1993. The Water Management Board has directed that owners of water permits who have not submitted the 1993 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 8:45 am, April 6, 1994, at the Golden Hills Resort, 900 Miners Ave, Lead, 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 SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 2709-3 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 April 1, 1994, your name will be deleted from the Board agenda.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ron Duvall", is written over the "Very truly yours," text.

Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352

2709-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

February 16, 1994

NOTICE

TO: ALEX & ANN FALK
1301 N 4TH STREET
ABERDEEN, SD 57401

FROM: Ron Duvall, Natural Resources Engineer IV
for JOHN HATCH, Chief Engineer
Water Rights Division

RE: Failure to Report Chemical Use under Water Permit No(s) 2709-3

The first notice to file chemigation report(s) for Permit No(s) 2709-3 was dated October 18, 1993. Our records indicate that we have not received the 1993 chemigation report for Permits No(s) 2709-3. The Water Management Board has directed that owners of water permits who have not submitted the 1993 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing held by the Board is to determine what action is to be taken concerning violation of Administrative rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 8:45 A.M. on April 6, 1994, at the Golden Hills Resort, 900 Miners Avenue, Lead, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 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 or up to three years for the 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). 2709-3 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. Prior to April 1, 1994, contact the Water Rights Division, 523 E. Capitol, Pierre, SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the chemigation report(s) is(are) received by this office prior to April 1, 1994, you will no longer be in violation and your name will be deleted from the Board agenda.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address

2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: Alex. Ann Jack ²⁷⁰⁹⁻³ 1301 N 4th ST Aberdeen 57401 Helen Rhodes	4a. Article Number P 837 692-447 4b. Service Type ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise 7. Date of Delivery 2/17/94
5. Signature (Addressee)	8. Addressee's Address (Only if requested and fee is paid)
6. Signature (Agent)	

2709-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

March 9, 1994

NOTICE

TO: ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN, SD 57401

FROM: Ron Duvall, Natural Resources Engineer IV
For John Hatch, Chief Engineer,
Water Rights Division
(605) 773-3352

SUBJECT: April 6, 1994 Water Management Board Meeting --
Irrigation Questionnaire Violation(s)
RE: , 2709-3

On February 16, 1994, a notice was sent to you concerning submission of the 1993 irrigation questionnaire(s). The time and location of the April 6th hearing have been changed.

The hearing is now scheduled as follows:

9:30 a.m., April 6, 1994, in the Conference Room of
the Floyd Matthew Training Center, Joe Foss Building.
523 E Capitol, Pierre, SD.

All other provisions of the February 16th notice still apply. If the questionnaire(s) are received in this office prior to April 1, 1994, your name will be deleted from the agenda.

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

2709-3

CERTIFICATION

I hereby certify that on March 9, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 9, 1994, regarding April 6, 1994, Water Management Board Meeting -- Irrigation Questionnaire Violation(s) on the following Water Rights/Permits and addresses as stated below:

- 2709-3: Alex A./Ann L. Falk, 1301 N. 4th St., Aberdeen, SD 57401.
2763-3 & 4281-3: Alfred LaCroix, Jr., RR 1, Box 350, Jefferson, SD 57038.
5238-3 & 2520-3: B. Deloris Jensen, RR 2, Box 107, Beresford, SD 57004-9578.
2534-3: Barry Imsland, RR 2, Box 26, Conde, SD 57434.
1677A-3: Burnett Quam, RR 1, Box 222, Elk Point, SD 57025.
1814-3: Caroline & Garry S. Kerkvliet, RFD 2, Box 145, Castlewood, SD 57223.
4773-3 & 1880-3: City of Brookings, Theodore Kryger, F.O., P.O. Box 270, Brookings, SD 57006-0270.
180-3 & 291-3: Craig Flyger, RR 1, Box 22, Parker, SD 57053.
1076-2, 1236-2 & 2167-2: Dale Heese, HCR 88, Box 36, Millboro, SD 57580-7417.
1488-2: Dan Donelan, HCR 33, Box 23, Mission Ridge, SD 57532.
417-1A & 417-1B: Darrell C. Anderson, 1700 Kings Rd., Rapid City, SD 57702.
540-2: Darrell E. Heldman, Box 402, Edgemont, SD 57735.
1503-2: Dave Hemmingson, HCR 3, Box 11, Philip, SD 57567.
792-1: David L. & Mary Lou Mollman, HC 63, Box 62, Ludlow, SD 57755.
4093-3: Dell Rapids Golf & Rec Assoc, Mike Solem, Box 165, Dell Rapids, SD 57022.
2394-3 & 2395-3: Dennis Jones, RR 1, Box 55, Bath, SD 57427.
1275-2: Donald Kaiser, HCR 89, Box 303, Hermosa, SD 57744.
1556-3: Ed & Dale Fawcett, Inc., Box 3D, Ree Heights, SD 57371.
1555-3: Ed & Dale Fawcett, Inc., HCR 64, Box 155, Miller, SD 57362.
2622-3: Evelyn Bernard, RR 1, Box 35, Jefferson, SD 57038.
526-2: Fred & Dan McFarland, P.O. Box 2110, Rapid City, SD 57709.
1390A-1: Fred W. Carlson, 716 10th Ave., Belle Fourche, SD 57717.
3026-3: G. Waldner, Hillcrest Colony, Box 17, Garden City, SD 57236.
1291-3 & 2474-3: Gary Hanson, Operator, RR 2, Box 224, Elk Point, SD 57025.
407-2, 408-2 & 409-2: Gerrit DeJong, HCR 81, Box 50, Kennebec, SD 57544-9503.
4209-3: Harold Nelson & Son, RR 2, Box 156, Yankton, SD 57078.
5315-3: Hillcrest Golf/Country Club, T. Cihak, President, 2206 Mulberry, Yankton, SD 57078.
2595-3 & 4379-3: James B. Zell, Rt 1, Box 350, Cavour, SD 57324.
4687-3A & 4687-3B: James L. Sutton, Box 33, Onida, SD 57564.
5203-3: Jeffery O. & Sally J. Nelson, RR 2, Box 2080, Brandon, SD 57005-9606.
475-2 & 1114-2: John Pitkin, Rex Ranch, Box 92, Nenzel, SD 69219.
961-3, 1050-3, 1120-3 & 1223-3: Kevin Dettler, HC 71, Box 29, Doland, SD 57436.

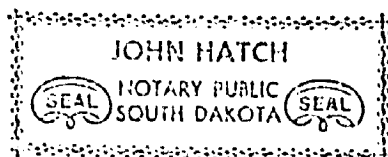
4524-3 & 4524-3A: Leon Lengkeek, 1605 Buffalo TR, Brookings, SD 57006.
 4443-3: Lonnie H. Nelson, RR 2, Box 156, Yankton, SD 57078.
 5010-3: Loren & Joyce Forrest, RR 1, Box 213, Laverne, MN 56156.
 156-3, 157-3, 164-3 & 1878-3: Marene Flyger, Box 362, Hurley, SD 57036.
 2242-3: Mark Quam, RR 2, Box 456, Elk Point, SD 57025.
 1523-2 & 1525-2: May & Sons, Inc., HC 53, Box 21, Interior, SD 57750.
 3550-3: Melvin A. Schmidt, Rt 2, Box 127, Parker, SD 57053.
 1714-2 & 2063-2, 400-2 & 401-2: Melvin E. Brassfield, Box 24, Caputa, SD 57725.
 5353-3: Michael A. Koslowski, RR 1, Box 44, Waubay, SD 57273.
 4910A-3: Michael L. Kreber, RR 1, Box 89, Tabor, SD 57063.
 2120-2: Mick Zink, HC 88, Box 51, Wewela, SD 57578.
 5205-3: Oahe Shores Golf Association, Dennis Moser, P.O. Box 174, Pollock, SD 57648.
 1684-3 & 2742-3: Paul Daly, P.O. Box 379, Ft. Thompson, SD 57339-0379.
 5736-3: Robert Streeter, 2645 Country VW, Monroe, WI 53566.
 235-3: Russell Doolittle, RR 1, Box 53, Wolsey, SD 57384.
 1264-3A: Steffen Brothers, Inc., HCR 37, Box 132, Pierre, SD 57501-9514.
 424-1: Steve Smeenk, Rt 1, Box 134, Newell, SD 57760.
 399-2: Thomas & Robin Jagow, HC 56, Box 39, Buffalo Gap, SD 57722.
 5225-3: Town of Pollock, Lila Renner, F.O., P.O. Box 57, Pollock, SD 57648-0057.
 925-1: Warren N. Gollither, RR 1, Box 237D, Spearfish, SD 5783.
 897-2: Wilbert & Judith Ohlmann, HCR 69, Box 663, Midland, SD 57552.
 1402A-2: William & James O'Kief, HC 68, Box 32, Wood Lake, NE 69221.
 4646A-3: William A. Stoddard, 821 S. Walts Ave., Sioux Falls, SD 57104.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
 COUNTY OF HUGHES)

Sworn to, before me, this 10th day of March, 1994.



John Hatch
(Notary Public)

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



2709-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

March 23, 1994

2709-3

Alex A & Ann L Falk
1301 N 4th Street
Aberdeen, SD 57401

Dear Mr. & Mrs. Falk:

I am writing to acknowledge receipt of your 1993 irrigation questionnaire and chemical reporting form. You may disregard the February 16, 1994, **Notice of Violation of the Requirement to Submit the 1993 Irrigation Questionnaire and also the Notice of Failure to Report Chemical Use.**

The questionnaire and chemical use form were received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



2709-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 7, 1995

ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN SD 57401

NOTICE

RE: Violation of Requirement to Submit 1994 Irrigation Questionnaire

Our records indicate that the 1994 Irrigation Questionnaire has not been submitted for Permit No 2709-3. The request for the Questionnaire was dated November 3, 1994. The Water Management Board has directed that owners of water permits who have not submitted the 1994 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:30 am, March 8, 1995, in the Crown Room, 3rd Floor, Kings Inn Best Western Convention Center, 220 S 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 SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No 2709-3 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 is received in this office on/or before March 3, 1995 your name will be deleted from the Board agenda.

Very truly yours,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & L.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. ☐ Addressee's Address
 - 2. ☐ Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN, SD 57401

4a. Article Number

2709-3 P837 1322 699

4b. Service Type

- ☐ Registered ☐ Insured
- ☒ Certified ☐ COD
- ☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

12-8-95 DS

5. Signature (Addressee)

Alex Falk

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991

U.S. GPO: 1993-352-714

DOMESTIC RETURN RECEIPT



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 7, 1995

NOTICE

TO: ALEX & ANN FALK
1301 W 4TH STREET
ABERDEEN, SD 57401

FROM: Ron Duvall, Natural Resources Engineer IV
for JOHN HATCH, Chief Engineer
Water Rights Division

RE: Failure to Report Chemical Use under Water Permit No(s) 2709-3

The first notice to file chemigation report(s) for Permit No(s) 2709-3 was dated November 3, 1994. Our records indicate that we have not received the 1994 chemigation report for Permits No(s) 2709-3. The Water Management Board has directed that owners of water permits who have not submitted the 1994 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing held by the Board is to determine what action is to be taken concerning violation of Administrative rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 9:30 A.M. on March 8, 1995, in the Crown Room, 3RD Floor, Kings Inn Best Western Convention Center, 220 South Pierre Street, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 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 or up to three years for the 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). 2709-3 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. Prior to March 3, 1995, contact the Water Rights Division, 523 E. Capitol, Pierre, SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the chemigation report(s) is(are) received by this office prior to March 3, 1995, you will no longer be in violation and your name will be deleted from the Board agenda.

2709-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

March 3, 1995

2709-3

Alex & Ann Falk
1301 N 4th Street
Aberdeen, SD 57401

Dear Mr. & Mrs. Falk:

I am writing to acknowledge receipt of your 1994 irrigation questionnaire and chemigation report. You may disregard the February 7, 1995, **Notice of Violation of Water Permit** and the **Notice of Failure to Report Chemical Use under Water Permit No. 2709-3.**

The questionnaire and chemigation report were received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



2709-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

January 30, 1996

NOTICE

TO: ALEX A/ANN L FALK, 1301 N 4TH ST, ABERDEEN, SD 57401

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Violation of Requirement to Submit 1995 Irrigation Questionnaire

Our records indicate that the 1995 Irrigation Questionnaire has not been submitted for Permit No(s) 2709-3. The request for the Questionnaire was dated October 20, 1995. The Water Management Board has directed that owners of water permits who have not submitted the 1995 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:45 am, March 6, 1996, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, 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) 2709-3 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 1, 1996 your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN SD 57401

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X *Ann L Falk*

PS Form 3811, December 1994

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

4a. Article Number

2 348 318 844

4b. Service Type

☐ Registered

☐ Express Mail

☐ Return Receipt for Merchandise

☒ Certified

☐ Insured

☐ COD

7. Date of Delivery

12/29/94

8. Addressee's Address (Only if requested and fee is paid)

Domestic Return Receipt

Thank you for using Return Receipt Service.



January 30, 1996

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

NOTICE

TO: ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN SD 57401

FROM: Ron Duvall, Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Program

RE: Failure to Report Chemical Use under Water Permit No(s) 2709-3

The first notice to file chemigation report(s) for Permit No(s) 2709-3 was dated 10/20/95. Our records indicate that we have not received the 1995 chemigation report for Permits No(s) 2709-3. The Water Management Board has directed that owners of water permits who have not submitted the 1995 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing held by the Board is to determine what action is to be taken concerning violation of administrative rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 9:45 A.M. on March 6, 1996, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 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 or up to three years for the 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). 2709-3 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 chemigation report(s) is(are) received by this office on/or before March 1, 1996 your name will be deleted from the board agenda.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 East 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.



2709-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 23, 1996

Alex & Ann Falk
1301 N 4th St
Aberdeen SD 57401

2709-3

Dear Mr. & Mrs. Falk:

I am writing to acknowledge receipt of your 1995 irrigation questionnaire and chemical reporting form. You may disregard the January 30, 1996, Notice of Violation of the Requirement to Submit the 1995 Irrigation Questionnaire and the Notice of Failure to Report Chemical Use.

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

If you have any questions, please contact me.

Sincerely,

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

SENDER:

- Complete items 1 and/or 2.
 - Complete items 3, 4a, and 4b.
 - Print your name and address on card to you.
 - Attach this form to the front of the mailpiece, or on the back if space does not permit.
 - Write "Return Receipt Requested" on the mailpiece below the article number.
 - The Return Receipt will show to whom the article was delivered and the date delivered.
- How can return this

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN SD 57401

4a. Article Number

P 378 081 339

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

2-6-97 (2)

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X [Signature]

8. Addressee's Address (Only if requested and fee is paid)

2709-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 4, 1997

NOTICE

TO: ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN SD 57401

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

RE: Failure to Report Chemical Use under Water Permit No(s) 2709-3

The first notice to file chemigation report(s) for Permit No(s) 2709-3 was dated 10/24/96. Our records indicate that we have not received the 1996 chemigation report for Permits No(s) 2709-3. The Water Management Board has directed that owners of water permits who have not submitted the 1996 chemigation report(s) be given notice of violation and hearing before the board. The hearing held by the board is to determine what action is to be taken concerning violation of Administrative Rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical applied.

The hearing will be held at 2:30 PM on March 5, 1997, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 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 or up to three years for the 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). 2709-3 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 chemigation report(s) is(are) received by this office on/or before February 28, 1997 your name will be deleted from the board agenda.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 East 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.



February 4, 1997

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

NOTICE

TO: ALEX A/ANN L FALK, 1301 N 4TH ST, ABERDEEN, SD 57401

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Violation of Requirement to Submit 1996 Irrigation Questionnaire

Our records indicate that the 1996 Irrigation Questionnaire has not been submitted for Permit No(s) 2709-3. The request for the Questionnaire was dated October 24, 1996. The Water Management Board has directed that owners of water permits who have not submitted the 1996 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 2:30 pm, March 5, 1997, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, 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) 2709-3 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 February 28, 1997, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 21, 1997

2709-3

Alex & Ann Falk
1301 N 4th St
Aberdeen, SD 57401

Dear Mr. Falk:

I am writing to acknowledge receipt of your 1996 irrigation questionnaire and chemical reporting form. You may disregard the February 4, 1997, Notice of Violation of the Requirement to Submit the 1996 Irrigation Questionnaire and the Notice of Failure to Report Chemical Use.

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

If you have any questions, please contact me.

Sincerely,

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

2709-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

January 9, 1998

NOTICE

TO: ALEX A/ANN L FALK, 1301 N 4TH ST, ABERDEEN SD 57401

**FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program**

RE: Requirement to Report 1997 Chemical Use

The first notice to file chemigation report(s) for Permit No(s) 2709-3 was dated October 17, 1997. Our records indicate that we have not received your 1997 chemigation report(s). The Water Management Board has directed that owners of water permits who have not submitted the 1997 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing is to determine what action is to be taken concerning violation of Administrative rule 74.02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application

The hearing will be held at 9:45 am, February 25, 1998, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 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 or up to three years for the 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). 2709-3 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. Prior to February 20, 1998, contact the Water Rights Program, 523 E. Capitol, Pierre, SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the chemigation report(s) is(are) received by this office prior to February 20, 1998 you will no longer be in violation and your name will be deleted from the Board agenda.



January 9, 1998

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

NOTICE

TO: ALEX A/ANN L FALK, 1301 N 4TH ST, ABERDEEN, SD 57401

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1997 Irrigation Questionnaire(s)

Our records indicate that the 1997 Irrigation Questionnaire has not been submitted for Permit No(s) 2709-3. The request for the Questionnaire was dated October 17, 1997. The Water Management Board has directed that owners of water permits who have not submitted the 1997 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 9:45 am, February 25, 1998, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, 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) 2709-3 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 February 20, 1998, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

27093

ALEX A/ANN L FALK
1301 N 4TH ST
ABERDEEN SD 57401

4a. Article Number

2179 157 197

b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

c. Date of Delivery

1-16-85

5. Received By: (Print Name)

6. Addressee's Address (Only if requested and fee is paid)

7. Signature: (Addressee or Agent)

X *[Signature]*

PS Form 3811, December 1994

102595-97-B-0172

Domestic Return Receipt

Thank you for using Return Receipt Service.

2709-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

January 27, 1998

2709-3

Alex & Ann Falk
1301 N 4th St
Aberdeen, SD 57401

Dear Mr. & Mrs. Falk:

I am writing to acknowledge receipt of your 1997 irrigation questionnaire and chemical reporting form. You may disregard the January 9, 1998, "Notices" concerning reporting requirements for Water Permit No. 2709-3.

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

If you have any questions, please contact me.

Sincerely,

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



January 22, 1999

2709-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOTICE

TO: ALEX A/ANN L FALK, 1301 N 4TH ST, ABERDEEN, SD 57401

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1998 Irrigation Questionnaire(s)

Our records indicate that the 1998 Irrigation Questionnaire has not been submitted for Permit No(s) 2709-3. The request for the Questionnaire was dated October 16, 1998. The Water Management Board has directed that owners of water permits who have not submitted the 1998 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 9:45 am, March 3, 1999, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, 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) 2709-3 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 1, 1999, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 22, 1999

NOTICE

TO: ALEX A/ANN L FALK, 1301 N 4TH ST, ABERDEEN SD 57401

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

RE: Requirement to Report 1998 Chemical Use

The first notice to file chemigation report(s) for Permit No(s) 2709-3 was dated October 16, 1998. Our records indicate that we have not received your 1998 chemigation report(s). The Water Management Board has directed that owners of water permits who have not submitted the 1998 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing is to determine what action is to be taken concerning violation of Administrative rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 9:45 am, March 3, 1999, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 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 or up to three years for the 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). 2709-3 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. Prior to March 3, 1999, contact the Water Rights Program, 523 E. Capitol, Pierre, SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the chemigation report(s) is(are) received by this office prior to March 1, 1999 you will no longer be in violation and your name will be deleted from the Board agenda.

2709-3

SENDER: • Complete items 1 and 2 for additional services. • Complete items 3, 4a, and 4b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): ☐ Addressee's Address ☐ Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: ALEX A/ANN L FALK 1301 N 4TH ST ABERDEEN SD 57401		4a. Article Number 2119 141663	
		4b. Service Type ☐ Registered ☒ Certified ☐ Express Mail ☐ Insured ☐ Return Receipt for Merchandise ☐ COD	
		7. Date of Delivery 1-23-94	
5. Received By: (Print Name)		8. Addressee's Address (Only if requested and fee is paid)	
6. Signature: (Addressee or Agent) <i>[Signature]</i>			
PS Form 3841, December 1994		102595-97-B-0179 Domestic Return Receipt	

Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 17, 1999

2709-3

Alex & Ann Falk
1301 N 4th St
Aberdeen, SD 57401

Dear Mr. & Mrs. Falk:

I am writing to acknowledge receipt of your 1998 irrigation questionnaire and chemical reporting form. You may disregard the January 22, 1999, "Notices" concerning reporting requirements for Water Permit No 2709-3.

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

If you have any questions, please contact me.

Sincerely,

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



2709-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

APR 10 2000

Alex A. and Ann L. Falk
1301 N. 4th St.
Aberdeen, SD 57401

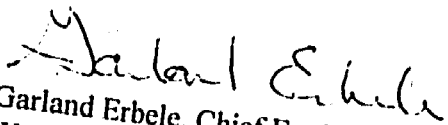
6165-3

Dear Mr. and Ms. Falk:

Enclosed are Water Permit and Water License No. 6165-3. Water License No. 6165-3 is the final document which completes the process of obtaining a water right.

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

Sincerely,


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

ks
enclosures

NOTE: The applicable portions of No. 2709-3 are incorporated into this Water License No. 6165-3.

2709-3

RECEIVED

NOV 16 2007

WATER RIGHTS
PROGRAM



**Rabo
AgriFinance**

November 15, 2007

Department of Environment
And Natural Resources
523 E. Capitol
Pierre, SD 57501

Kris Adler
Loan Closing Specialist
Office One CityPlace Drive
Address Suite 200
St. Louis, MO 63141
Tel 314-687-4109
Fax 314-687-4432
kristin.adler@raboag.com

RE: Loan 106729 - FALK
Water Permit No. 2709-3
Water Permit No. 6165-3

Dear Sir or Madam:

Enclosed herein is the check no. 042128 in the amount of \$5.00 for the filing fee in regard to the enclosed Original Notice of Conditional Assignment of Ownership in regard to above referenced Borrower and Water Permits.

Also enclosed please find a copy of the South Dakota Mortgage for your information.

Please have the Notice of Conditional Assignment of Ownership filed and return to the undersigned in the postage paid addressed envelope.

If you have any questions, please feel free to call the undersigned at the above number. Thank you for your cooperation in this matter.

Sincerely,

Kris Adler,
Loan Closing Specialist

Enclosures

RECEIVED

NOV 16 2007

WATER RIGHTS
PROGRAM

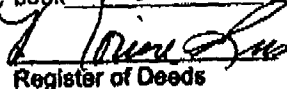
#4699

STATE OF SOUTH DAKOTA } ss.
County of Hughes

Filed for record this 7 day of Nov. 2007

2:30 o'clock P.M., and recorded in

book 07 page 4406


Register of Deeds

Deputy

Fee \$28.00 pd.

Loan No. 13106729

PREPARED BY:
JOHN P. MANNING V
RABO AGRIFINANCE, INC.
P.O. BOX 411995
ST. LOUIS MO 63141
314-687-4000

RETURN RECORDED DOCUMENT TO
RABO AGRIFINANCE, INC.
ONE CITY PLACE DRIVE, SUITE 200
ST. LOUIS, MISSOURI 63141

SOUTH DAKOTA MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT ("Mortgage"), dated as of the 1ST day of NOVEMBER, 2007, is made between ALEX A. FALK and ANNIE M. FALK, whose principal residence is 1411 N. 4TH STREET, ABERDEEN, SD 57401, and all other persons executing this Mortgage, hereinafter called "Mortgagor," and AXA EQUITABLE LIFE INSURANCE COMPANY, a NEW YORK corporation, whose address is: TWELFTH FLOOR, 1290 AVENUE OF THE AMERICAS, NEW YORK, NEW YORK 10104, hereinafter called "Mortgagee."

WITNESSETH that the Mortgagor by these presents does grant, bargain, sell, convey, transfer, assign, mortgage, pledge, warrant and confirm unto the Mortgagee all the property (the "Real Estate") hereinafter described, to wit:

- I. The following described real property located in HUGHES COUNTY, SOUTH DAKOTA, to wit:

See attached Exhibit "A", which is incorporated herein by reference.

- II. The Mortgagor's interest as lessor in all leases (including, but not limited to, oil, gas and mineral leases) now or hereafter affecting the above described real property or any part thereof reserving, however, unto the Mortgagor the right, prior to any default hereunder, to collect and retain the income accruing under said leases.

TOGETHER WITH (1) all easements, rights-of-way and rights appurtenant to said Real Estate or used in connection therewith or as a means of access thereto; (2) all tenements,

Initials



hereditaments and appurtenances thereto, including all water and water rights appertaining thereto; (3) Mortgagor's interest as lessor in all leases affecting said Real Estate; (4) all buildings, structures, improvements, fixtures, attachments, appliances, equipment, machinery and other articles now or hereafter erected on, affixed or attached to, or located in or on said Real Estate which are real property, and all substitutions, replacements, additions and accessions thereof or thereto; (5) all rents, issues, profits, royalties, bonuses, income and other benefits derived from or produced by said Real Estate (subject, however, to the assignment of rents and profits to Mortgagee herein); and (6) all right, title, estate, interest, and other claim or demand, including, without limitation, all claims or demands to the proceeds of all insurance now or hereafter in effect with respect to said Real Estate, which Mortgagor now has or may hereafter acquire in said Real Estate, and all awards made for the taking by condemnation or the power of eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of said Real Estate.

AND ALSO, Mortgagor, as debtor, irrevocably grants and assigns to Mortgagee, as secured party, a security interest in all of the following collateral which is personal property now or hereafter owned by Mortgagor or in which Mortgagor now or hereafter has any rights and which is now or hereafter located on or at, or affixed or attached to, or produced from, or used in connection with said Real Estate, including but not limited to: All personal property described in Exhibit "B" attached hereto and made a part hereof and articles of personal or mixed property of every kind and nature whatsoever, including, without limitation, all (a) goods, including without limitation, equipment and machinery (excluding, however, automobiles, trucks, tractors, trailers, wheeled vehicles, planting and tillage equipment), watering and irrigation apparatus, pumps, motors, generators, pipes, center pivot irrigators and sprinklers, windmills, fences, fixtures, fittings, appliances, farm products, crops growing or to be grown, timber standing or to be cut, minerals or the like (including oil and gas), raw materials, inventory and work in process; (b) all water stock and water rights and, to the extent listed on the attached Exhibit "B", all investment property, including without limitation, certificated and uncertificated securities, securities entitlements, securities accounts and commodities accounts, including all stock, bonds and commodities contracts; (c) all permits and licenses used in the operation of the Real Estate and, to the extent listed on the attached Exhibit "B", general intangibles, including without limitation payment intangibles and software; (d) accounts, including without limitation all of Mortgagor's right to any payment arising out of the sale, lease or license of all kinds of tangible and intangible personal property, contract rights, general intangibles, instruments, documents, chattel paper, accounts receivable, deposits, fees, charges and other payments, income and cash receipts that are otherwise described in this paragraph; (e) personal property of the same general kind or class as otherwise described in this paragraph which Mortgagor may now own or hereafter acquire, wherever located, used or usable in the operation of or relating to the Real Estate; and all products and proceeds from the sale or other disposal thereof, including, without limitation, all payments under any insurance policies, substitutions and replacements, additions, accessions of or to said collateral and any indemnity, warranty or guaranty relating to any of the foregoing (all of the foregoing property shall be hereinafter collectively referred to as the "Collateral"; the Real Estate and the Collateral shall hereinafter be collectively referred to as the "Property"). **PROVIDED HOWEVER**, that nothing in this Mortgage shall prevent Mortgagor from obtaining secured crop financing which may include the perfection of a lien by the crop lender on the crops growing or to be grown for a period not to exceed the beginning of the next crop



year. If Mortgagor exercises its right to place a single crop lien on the crops grown or to be grown on the Real Estate hereunder, such crop lien shall automatically be a superior lien to the lien on such crop created hereby without the need for any consent or subordination from Mortgagee.

TO HAVE AND TO HOLD THE SAME unto the Mortgagee, its successors and assigns, forever as security for the payment to the Mortgagee, at its principal office or at such other place as the holder hereof may from time to time designate in writing, of the principal sum of ONE MILLION NINE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,900,000.00), with interest thereon at the initial rate of SIX AND EIGHTY-FIVE HUNDREDTHS per centum (6.85%) per annum according to the terms of a certain [adjustable interest rate] promissory note (the "Note") in said principal amount bearing even date herewith and executed by:

ALEX A. FALK
ANNIE M. FALK
BIG BEND RANCH PARTNERSHIP, a South Dakota General Partnership

and providing for the payment thereof, with interest and other appurtenant charges as follows:

\$24,000.00 principal plus accrued interest on JULY 1, 2008, and \$24,000.00 principal plus accrued interest on the first day of each JANUARY and JULY thereafter until JULY 1, 2022 (the "Maturity Date"), when the entire unpaid balance of the principal and interest shall become due and payable, with interest on the unpaid principal balance thereof from the date of the loan disbursement, initially at the rate of SIX AND EIGHTY-FIVE HUNDREDTHS percent (6.85%) per annum, payable on each JULY 1, 2008, and SEMI-ANNUALLY on JULY 1 and JANUARY 1 thereafter, all in lawful money of the United States of America. Interest on the principal amount hereof from the day of disbursement to the first day of the regular installment period immediately following, is payable concurrently with and in addition to said first regular installment, but this provision applies only where the period from the day of disbursement to the first installment due date exceeds the regular installment period.

and finally maturing JULY 1, 2022, subject to acceleration of maturity on default in the payment of any installment of principal or interest as specified in said note.

PROVIDED, ALWAYS, that if the Mortgagor, his heirs, representatives, successors or assigns, shall pay unto the Mortgagee, its successors or assigns, the said sum of money mentioned in the Note and the interest thereon at the times and place in the manner specified in the Note, and all other sums that may become due and owing to the Mortgagee pursuant to any of the terms, covenants and conditions hereof, and perform all the conditions and covenants contained in this Mortgage, then these presents and the estate hereby granted shall cease, determine and be void, otherwise to remain in full force and effect.

AND SUBJECT to the covenants and conditions hereinafter set forth.

FIRST. The Mortgagor hereby covenants and agrees, to the extent permitted by law, as follows: (a) to pay promptly when due the principal and interest and other sums of money provided for in the Note and in this Mortgage or either; (b) to pay all taxes, assessments and other charges (including ditch, canal, reservoir, or other water charges, taxes or assessments) imposed by law upon the Property (c) to keep the Property and improvements on the Real Estate in good condition and repair and not to commit or suffer waste thereof, and except as authorized in any schedule annexed hereto and forming a part hereof, neither to remove nor permit the removal of any timber, buildings, oil, gas, minerals, stone, rock, clay, fertilizer, gravel or top soil without the prior written consent of the Mortgagee; (d) to maintain and deliver to the Mortgagee policies of insurance against such hazards on the buildings now or hereafter located on the Real Estate as the Mortgagee may require from time to time, in such companies and amounts and with such loss payable clauses as shall be satisfactory to the Mortgagee; in the event of loss the Mortgagee is expressly authorized to settle or compromise claims under said policies and the proceeds shall be paid to the Mortgagee who may apply same or any part thereof on the indebtedness secured hereby or towards the reconstruction or repair of said buildings or release same to the Mortgagor; (e) to pay any lien, claim or charge against the Real Estate which might take precedence over the lien hereof; (f) to pay on demand all legal expenses, title searches, or attorney fees reasonably incurred or paid by the Mortgagee to collect the Note or foreclose or protect the lien of the Mortgage; (g) to do any and all acts all in a timely and proper manner, requested by Mortgagee to protect and preserve the security interests granted hereunder, pursuant to the Uniform Commercial Code ("UCC") as in effect from time to time in the state where the Collateral is located except to the extent the UCC provides for the application of the law of the state of location of the Mortgagor in which event the UCC as in effect from time to time, in such state shall apply, in a form satisfactory to Mortgagee, and the payment of the cost of filing such statements in all public offices requested by Mortgagee; and to do any and all acts as shall hereafter be reasonably requested by Mortgagee to effectuate the intent hereof and to render all of the Property available for the security and satisfaction of the indebtedness secured hereby and to enable Mortgagee to sell and/or convey the Property pursuant to the terms hereof; (h) in the event Mortgagor shall fail to comply with the provisions of (a) through (g) above, the Mortgagee may take such action as is necessary to remedy such failure and all sums paid by the Mortgagee pursuant hereto with interest at the rate hereinafter provided shall constitute a lien upon the Property, shall be secured by this Mortgage, and shall be immediately due and repayable to the Mortgagee; (i) not to sell the Real Estate or any portions thereof, or, if the Mortgagor is a corporation not more than 0% of its corporate stock shall be sold, traded or disposed of to persons other than the present owners prior to the time the indebtedness secured hereby shall have been reduced (exclusive of prepayments not permitted by the note) to \$0; (j) if the Real Estate or any portion thereof shall be taken or damaged under the power of eminent domain, the award for any property so taken or damaged (including severance damages to the remaining premises) shall be paid to the Mortgagee and applied in full or in part at the option of the Mortgagee in reduction of the indebtedness hereby secured; (k) the Mortgagee shall have the right to inspect the Property at such reasonable times as the Mortgagee may desire to determine the Mortgagor's compliance with the covenants contained in the Mortgage; (l) the Mortgagee may release from the lien hereof any part of the above described Property without requiring any consideration therefor, and (m) Mortgagor is lawfully seized of said Real Estate in fee simple, the same is free from liens, security interests, encumbrances and any adverse claims of any kind whatsoever except as may otherwise be

specifically noted herein or waived in writing by the Mortgagee, Mortgagor will execute or procure any further necessary assurances of title and does hereby warrant generally the title to said Real Estate and will forever defend the same against the claims and demands of all persons whomsoever, and Mortgagor's separate estate, whether vested, contingent or in expectancy, is hereby conveyed and Mortgagor does hereby expressly waive, release and relinquish all rights and benefits of any homestead, dower, curtesy, appraisement, exemption and stay laws of this state. It is agreed that the interest provided for in subsection (h) above shall be 5% per annum above the contract/adjustable or the highest lawful rate permitted by contract under applicable law, whichever is less.

SECOND. Mortgagor agrees that all of said Collateral which is erected on, affixed or attached to, or located in or on said Real Estate shall be deemed to be real property and a part of said Real Estate. No fixtures or equipment (including watering and irrigation apparatus) shall be removed from said Real Estate without the prior written consent of Mortgagee, except that Mortgagor shall have the right, without such consent, to remove and dispose of free from the security interest hereof such fixtures and equipment as may from time to time become worn out or obsolete, provided that Mortgagor shall, simultaneously with or prior to such removal, replace such removed fixtures or equipment with replacement fixtures or equipment having a value, quality and utility at least equal to the removed fixtures or equipment. All agreements of Mortgagor herein, and all rights of Mortgagee herein, relating to said Real Estate shall apply to said Collateral whether or not expressly referred to herein. This Mortgage is a financing statement and covers goods included in said Collateral which are or are to become fixtures and is to be recorded in the real estate records. Mortgagor is the record owner of said Real Estate.

THIRD. If the Mortgagor shall default in the payment of the Note or in the performance of any of the covenants or agreements herein or in the Note or in any agreement collateral hereto contained, or if the then owner of the Property shall make an assignment for the benefit of creditors or shall file a petition for relief under the Bankruptcy Code of 1978, as amended, or under any similar statute, or shall be adjudicated bankrupt or insolvent, or if any receiver, liquidator or trustee shall be appointed for such then owner of any of his property, then in such event, the entire indebtedness hereby secured shall, at the option of the Mortgagee, be due and collectible at once by judicial foreclosure proceedings, or by advertisement as provided by statute or the rules of practice relating thereto and in such event this provision shall be deemed as authorizing and constituting a power of sale as mentioned in said statutes or rules and any amendatory thereof; that in addition to the rights and remedies herein, the Mortgagee is hereby authorized and empowered at its option to exercise forthwith and from time to time any further rights and remedies available to the Mortgagee under the laws of the state wherein the Property is situate. Mortgagee may pursue every legal and equitable remedy available at law and including, without limiting the generality of the foregoing, the remedies of a grantee under the UCC (regardless of whether the UCC has been enacted in the jurisdiction where rights or remedies are asserted), the right to take possession of the Collateral and enter the Real Estate on which the Collateral or any part thereof may be situated and remove the same therefrom, the right to resell the Collateral at any place Mortgagee elects and deliver a bill of sale therefor, the right to require Mortgagor to make the Collateral available to Mortgagee at a place designated by Mortgagee and reasonably convenient to both parties, and without removal, the right to render the Collateral unusable and to dispose of the Collateral; provided that unless the Collateral is perishable or threatens to decline speedily in value, Mortgagee shall send

Mortgagor at least ten (10) days prior written notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition is to be made, by United States mail, postage prepaid, to the address set forth above, and Mortgagee may bid and purchase Collateral at public or private sale.

FOURTH. Mortgagor acknowledges that his/her current financial position is an important factor in Mortgagee's decision to advance the funds represented by the aforementioned Note. Mortgagor therefore has agreed, in order to provide assurance to Mortgagee with regard to Mortgagor's financial position, that it shall be an event of default for Mortgagor to allow any lien or encumbrance, other than this Mortgage and the lien for taxes which are not yet due and payable, to be placed on all or any part of the Real Estate and allowed to remain a lien for 30 days EXCEPT a lien junior and inferior to this Mortgage may be placed on all or a part of said Real Estate in favor of N/A in a principal amount not to exceed ZERO DOLLARS (\$0) to be placed of record no later than N/A.

FIFTH. The covenants herein contained shall bind, and the benefits and advantages thereof shall inure to the respective heirs, executors, administrators, successors, and assigns of the parties hereto. In this Mortgage unless the context otherwise requires words in the singular number include the plural and in the plural include the singular, and words in the masculine gender include the feminine and the neuter. Whenever the term "Mortgagor" shall include more than one person or entity, their liability hereunder shall be joint and several.

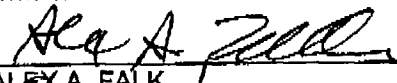
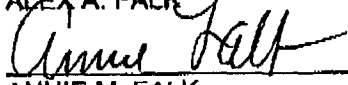
SIXTH. Mortgagor shall not suffer any waste of the Property and will not permit or conduct either the generation, treatment, storage or disposal of hazardous waste, as defined in the Resource Conservation and Recovery Act, or the disposal on the Real Estate of petroleum or any hazardous substance, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, and will perform all remedial actions reasonably necessary as the result of the presence of any such hazardous wastes, petroleum or hazardous substances on, at or near the Real Estate. Mortgagor shall be personally liable for and agrees to indemnify, defend with counsel satisfactory to Mortgagee and hold Mortgagee harmless against any loss, damage, or liability suffered by Mortgagee, including but not limited to attorney's fees, due to the presence of any such hazardous waste, petroleum or hazardous substance at, on or near the Real Estate, and Mortgagor shall be liable for compliance (and for costs associated therewith) with any directive or order by any governmental entity relating to the presence of any such hazardous waste, petroleum or hazardous substance on, at, or near the Real Estate. Mortgagor will deliver promptly to Mortgagee (i) copies of any documents received from the United States Environmental Protection Agency and/or any state, county or municipal environmental or health agency concerning Mortgagor's operations upon the Real Estate; and (ii) copies of any documents submitted by Mortgagor to the United States Environmental Protection Agency and/or any state, county or municipal environmental or health agency concerning operations on the Real Estate. Mortgagor agrees that, notwithstanding any provision to the contrary in this Mortgage, this indemnification and hold harmless shall survive the release or reconveyance of this Mortgage, whether pursuant to payment in full of the Note, or judicial or non-judicial foreclosure under this Mortgage, or otherwise.

SEVENTH. Mortgagor, its successors and assigns and each of them, represent and warrant that the Property involved in this transaction does not represent the proceeds of some form of unlawful activity under any state, federal or foreign law.

EIGHTH. This Mortgage constitutes a security agreement within the meaning of the UCC with respect to any part of the Property which may now or hereafter be characterized by law as personal property, and in the event of any default under this Mortgage which continues beyond the applicable notice and cure period, if any, the Mortgagee shall have all the rights and remedies of a secured party under the UCC, as well as all other rights and remedies available hereunder or under this Mortgage at law or in equity. Mortgagor authorizes Mortgagee to file one or more financing statements and continuation statements describing the Collateral and hereby ratifies any such financing statement or continuation statement previously filed by Mortgagee. Mortgagor will, from time to time, within ten (10) days after request by the Mortgagee, execute, acknowledge and deliver any financing statement, continuation statement or other document that the Mortgagee might request in order to perfect, protect, preserve, continue, extend or maintain the security interest created by and the priority of this Mortgage and will, on demand, pay any expenses incurred by the Mortgagee in the preparation, execution and filing of any such documents. Mortgagor represents and warrants that: (a) all Collateral is located in the state in which the Real Estate is located; (b) Mortgagor's chief executive office or principal residence is Mortgagor's address set forth in the first paragraph of this Mortgage; (c) Mortgagor's state of organization, if applicable, is as set forth in the first paragraph of this Mortgage; and (d) Mortgagor's exact legal name is as set forth in the first paragraph of this Mortgage.

NINTH. This Mortgage shall be governed by and construed and interpreted in accordance with the internal laws of the state in which the Real Estate is located, except and only to the extent the UCC provides otherwise.

IN WITNESS WHEREOF, each of the undersigned has signed, sealed and delivered this Mortgage as of the day, month and year first above written.


ALEX A. FALK

ANNIE M. FALK

Mortgagor's Tax Identification Number:

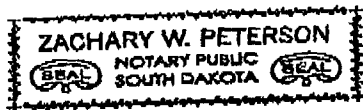
503-66-3632

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF BROWN)

On this 5 day of November, 2007, before me, Zachary W. Peterson, the undersigned officer, personally appeared ALEX A. FALK and ANNIE M. FALK, husband and wife, known to me or satisfactorily proven to be the person whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)



Zachary W. Peterson
Notary Public

Zachary W. Peterson
Print or Type Name

My commission expires: 8/31/2012

AF AK

Exhibit "A"

Legal Description

TOWNSHIP 109 NORTH, RANGE 75 WEST OF THE 5TH P.M., HUGHES COUNTY,
SOUTH DAKOTA;

SECTION 8: E1/2, less right-of-way and E1/2SW1/4SW1/4 less USA Take;

SECTION 9: All, less right-of-way;

SECTION 16: All, less right-of-way;

SECTION 17: All, less USA Take;

SECTION 20: E1/2;

SECTION 21: NE1/4, less right-of-way.

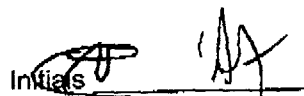
Initials 

Exhibit "B"**Personal Property**

All fixtures, water rights, irrigation equipment, including but not limited to watering and irrigation apparatus, pumps, motors, generators, pipes, center pivot irrigators and sprinklers, frost protection apparatus, windmills, fences, fixtures, fittings, appliances, also including all grain bins, dump shed, legs, grain dryer, augers, conveyors, loading and unloading systems, stirators, dryer fans, scales, L P tanks whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles and accounts proceeds).

All easements, right-of-way, licenses and permits including without limitation water permit no. 2709-3 and water permit no. 6165-3; right of use or occupancy, privileges, tenements, appendages, hereditaments and appurtenances and other rights and privileges belonging to or in any way appertaining to the real property described in Exhibit "A", whether now or in the future; and Corps of Engineers Contract #DACW 45-2-77-6089 issued 6/28/1977.

NOTICE OF CONDITIONAL ASSIGNMENT OF OWNERSHIP

**To: Chief Engineer
Water Rights Division
Department of Environment & Natural Resources
523 East Capitol
Pierre, South Dakota 57501-3181**

RECEIVED

NOV 16 2007

**WATER RIGHTS
PROGRAM**

Date: November 1, 2007

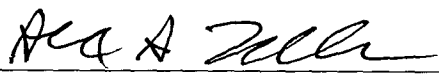
Please take notice that Alex A. Falk and Annie M. Falk, husband and wife, have granted to AXA Equitable Life Insurance Company, One CityPlace Dr., Suite 200, St. Louis, Missouri 63141 (the "Lender") a security interest in certain easements, water rights, water permits, and water licenses, evidencing water rights appurtenant to certain real property more fully described in Schedule "A" attached to this Notice and incorporated herein by this reference, including without limitation the following water permits and licenses:

Water Permit No. 6165-3

The security interest granted by Alex A. Falk and Annie M. Falk to the Lender secures the principal sum of \$1,900,000.00, with interest thereon at the initial rate of Six and Eighty-five Hundredths percent (6.85%) per annum according to the terms of a certain Adjustable Rate Promissory Note, as well as other obligations as provided in the Security Agreement and other loan documents.

You are requested to file this Notice of Conditional Assignment in the appropriate file at the Division of Water Rights as evidence of the security interest granted to the Lender in all such water permits and water rights.

A fee of \$2.50 is attached to cover the filing fees as required under SDCL § 46-2-13.


ALEX A. FALK

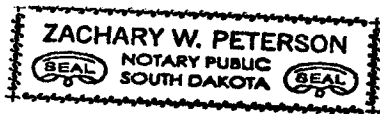

ANNIE M. FALK

[illegible]

On this 5 day of November, 2007, before me, Zachary W. Peterson, the undersigned officer, personally appeared Alex A. Falk and Annie M. Falk, husband and wife, known to me or satisfactorily proven to be the person whose names subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)



Zachary W. Peterson
Notary Public

Zachary W. Peterson
Print or Type Name

My commission expires: 8/31/2012

Exhibit "A"

Legal Description

TOWNSHIP 109 NORTH, RANGE 75 WEST OF THE 5TH P.M., HUGHES COUNTY,
SOUTH DAKOTA;

SECTION 8: E1/2, less right-of-way and E1/2SW1/4SW1/4 less USA Take;

SECTION 9: All, less right-of-way;

SECTION 16: All, less right-of-way;

SECTION 17: All, less USA Take;

SECTION 20: E1/2;

SECTION 21: NE1/4, less right-of-way.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 11/16, 20 07

RECEIVED OF Rabo Agrifinance Inc PO Box 411995 St Louis MO 63141

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

Fee for Application for Permit No. _____ and to put water to beneficial use _____	to Appropriate Water, to construct	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 _____	2709-3		
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. _____	2	50
Fee for Renewal of Well Pump Installer's License No. _____	for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2	

No.

03208

By *Garland Erbe*
Chief Engineer

2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 27, 2008

2709-3
6165-3

Kris Adler
Rabo AgriFinance
One City Place Dr Suite 200
St Louis MO 63141

RE: Alex A and Annie M Falk to AXA Equitable Life Insurance Company

Dear Ms. Adler:

I am writing in regard to Water Right Nos. 2709-3 and 6165-3. The "*Conditional Assignment of Ownership*" filed November 15, 2007 was received on November 16th and effective the day it arrived.

Enclosed are your Receipt Nos. 03208 and 03209 in the amounts of \$2.50 each. The fee was paid for filing of the assignments.

For informational purposes for your records, all of the land authorized for irrigation purposes is now covered under Water Right No. 6165-3. At the time of licensing, No. 2709-3 was incorporated into No. 6165-3.

If you have any questions, please contact me.

Sincerely,

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

enclosures