

2766-3

1. Considered 7-21, 1976
2. Name of Applicant REINHOLD MOSER
3. Post Office Address POLLOCK
4. Amount of water claimed 2.5
5. Source of water supply MISSOURI RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 216
7. Water to be diverted and used in CAMPBELL county
about 3N, 7W miles of POLLOCK
8. Proof of Publication Received 1/1
Not received
9. Application Approved
Subject to
Not Approved
Action deferred
10. Remarks:

No. 2766-3
 Map No. 2122-3 Water Division No. 3 MISSOURI RIVER District
 (Blanks to be filled by the Engineer for the W. H. C.)



APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE: Draw a line through items not applicable)

1. Name of Applicant REINHOLD MOSER
 Postoffice address POLLOCK, State S.D. 57648
 If a corporation show date and place of incorporation _____
 2. Method of accomplishing work (contract, employment of others, or by direct labor) CONTRACT
 3. Name of diversion work MOSER IRRIGATION UNIT #1
 4. Amount of water claimed (cubic feet per second) 2500 ft. / sec.
 5. Source of water supply NATURAL FLOWS OF MISSOURI RIVER
 6. Location of point of diversion SE 1/4 OF SEC. 8, T128N. R 79W

- County CAMPBELL
 7. Annual period or periods during which water is to be used MAY 1 - NOV. 1
 8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) IRRIGATION
 9. For irrigation use, Total number of acres to be irrigated 2160 Acres

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.
SE 1/4 OF SW 1/4 S. 4, 128-79	40	NE 1/4 OF SE 1/4 S. 4-128-79	36
SE 1/4 NE 1/4 OF SW 1/4 S. 4 "	20	SE 1/4 OF SE 1/4 " " "	40
SW 1/4 OF SE 1/4 S. 4-128-79	40		
NW 1/4 OF " " " "	40		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 5 years.
 11. Choice of newspaper for Notice of Intent to Appropriately Water publication POLLOCK PIONEER
 12. Principal Features of the Proposed Water Supply System, POLLOCK, S.D.

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

PORTABLE IRRIGATION PUMP

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

IRRIGATION PIPE

C. Works proposed to apply water to beneficial use.

SIDE ROLL IRRIGATION UNITEstimated Total Cost \$ 35,000.00

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

STATE OF SOUTH DAKOTA

County of CAMPBELL

I REINHOLD MOSER the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend and am able to complete the necessary construction

Signed Reinhold MoserSubscribed and sworn to before me this 7th day of June 1976

Notary Public (or oil or qualified officer)

Forrest Dale, Register of Deeds
 Notary Public (or oil or qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 2766-3REINHOLD MOSER

(Applicant)

POLLOCK

(Post Office Address)

SOUTH DAKOTA 57648

(State)

With the following modifications.

Date of first receipt of application JUNE 15, 19 76Date of return to applicant for correction, amendments or changes required —, 19 —Date of receipt of corrected application —, 19 —Approved JULY 22, 19 76, Recorded in Book 15 Page 301WATER RIGHT PERMIT NO. 2766-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 2766-3 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 JUNE 15, 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 22, 19 79
3. The whole of said work is to be completed on or before JULY 22, 19 81
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JULY 22, 19 81
5. The water appropriated shall be used for the purpose of IRRIGATION

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

7. The amount of the appropriation herein granted shall not exceed 2.5 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 cubic 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 JULY 22, 19 81; said water to be used during the following described annual period: MAY 1 - NOVEMBER 1

Witness my hand this 19TH day of AUGUST, 19 76

WATER RIGHTS COMMISSION

By:

John Hatch

Chief Engineer, Executive Officer

Certificate of Construction Issued —, 19 —Water License Issued —, 19 —

Form 6. - Notice of Intent to Appropriate Water

No. 2766-3

Publish first publication, on or before

July 6, 1976

NOTICE OF INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

June 17, 1976

Notice is hereby given that Reinhold Moser

whose post office address is Pollock, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.5 cubic feet of water per second of time from the Missouri River through the Moser Irrigation Unit #1, the point of diversion of which is to be located in the _____

SE 1/4 NE 1

of Section 19, Twp. 123N, Range 79W. Said water to be used for the purpose of providing irrigation on the following described land:
portions of

S 1/2, Section 4, T123N, R79W

This application No. 2766-3 will be considered by the Water Rights Commission at the Court House at Winner, S.D.

upon the 21st day of July, 1976 at 10:00 A.M. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

BFJ/bw

cc:

Reinhold Moser, Pollock, S.D. #57648

Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 2766-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Campbell) ss.

I, E.L. MACHAY hereby

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

Water was taken from the Pollock Diversion

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

Town of Pollock

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

JULY 1 - 1976

" 8 - "

E.L. Machay
(Signature)

owner
(Title)

Aug. 11 - 1976
(Date Signed)



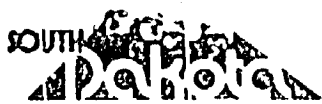
NOTICE OF INTENT
TO APPROPRIATE WATER

Notice is hereby given that
Reinhold Moser whose post office
address is Pollock, South Dakota,
has made an application in
accordance with the provisions
of the water laws of South Dakota
for a permit to appropriate
for beneficial use 2.5 cubic feet of
water per second of time from
the Missouri River through the
Moser Irrigation Unit No. 1, the
point of diversion of which is to
be located in the SE 1/4 NE 1/4
of Section 10, Twp. 128N, Range
79W. Said water to be used for
the purpose of providing irrigation
on portions of the following described
land: S1/2, Section 4,
T128N, R79W.

This application No. 2766-3 will
be considered by the Water Rights
Commission at the Court House
at Wigner, S. D. upon the 21st
day of July, 1976, at 10:00 A. M.
All interested persons may appear
and be heard.

WATER RIGHTS COMMISSION

By: Furton F. Jones
2:7.2 Water Rights Specialist



2766-3

Department of Water & Natural Resources

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

January 29, 1988

REINHOLD MOSER
BOX 37
POLLOCK, SD 57648

NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation
Questionnaire

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 2766-3. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:00 am, March 2, 1988 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

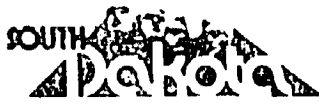
The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) 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.

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

NOTE: If the questionnaire(s) is received in this office before the March 2 hearing date, your name will be deleted from the agenda for the hearing.



Department of Water & Natural Resources

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

February 9, 1988

2766-3

Reinhold Moser
Box 37
Pollock SD 57648

Dear Mr. Moser:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 2766-3 and the hearing date before the Water Management Board.

Since your questionnaire was received prior to the March 2, 1988 Water Management Board Meeting, your name has been deleted from the Board Meeting agenda. If you have any questions, please contact us.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352



2766-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

FACSIMILE TRANSMITTAL COVER SHEET

TRANSMITTAL DATE: December 15, 1997

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Tim Maher

DESTINATION: Dakota Properties, 2900 E Broadway Ln, Bismarck, ND 58501

PHONE: **FAX:** 701 224-1247

MESSAGE:

The "Notice of Transfer of Ownership" form will need to be signed by the "new owner" of the property in the presence of a notary public. A \$2.50 filing fee is required for filing an ownership change.

The ownership change is effective as soon as the filing fee and completed form are returned to our office.

I included a copy of the water permit just in case you didn't have one. Please give me a call if you have any questions.

Genny McMath
Genny

FROM: GENNY MCMATH **AGENCY:** DENR - WATER RIGHTS PROGRAM

ADDRESS: JOE FOSS BUILDING, 523 E CAPITOL, PIERRE, SD 57501-3181

PHONE: (605) 773-3352 **FAX:** (605) 773-4068

****THIS TRANSMISSION INCLUDES 4 PAGES INCLUDING THIS PAGE****

IF THERE IS ANY PROBLEM WITH THIS TRANSMITTAL, PLEASE CALL (605) 773-3352.

THANK YOU



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 30, 1997

George Spiehs
US Army Corps of Engineers
Pierre Real Estate Office
PO Box 670
Pierre, SD 57501-0670

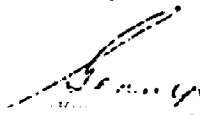
Dear George:

Enclosed is a copy of a "Notice of Transfer of Ownership" which transfers Water Permit No. 2766-3 from Reinhold Moser to Tom E Gunderson.

For information purposes, Water Permit No. 2766-3 authorizes diversion of water from the Missouri River to irrigate 216 acres in portions of the S½ Section 4, T128N, R79W.

If you have any questions, please give me a call.

Sincerely,



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

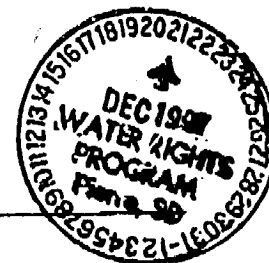
enclosure

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2766-3

Date:



We request that Water Permit No. 2766-3

formerly owned by: Reinhold Moser

be transferred to: (name & address) Tom E. Gunderson, 4150 149 Avenue NW, Bismarck,

North Dakota 58501

Telephone No. 701-222-2333

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

216 acres in the 5½ Section 4, T128N, R79W

I/We understand that the validity of Water Permit No. 2766-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

STATE OF SOUTH DAKOTA)

County of San Diego N.D.

I/We _____ 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.

[Signature]
Secy.
(Signed)

Subscribed and sworn to before me this 17th day of December, 19 97

Alexander J. Gray
(Notary Public)

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

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NO 415577

Pierre, December 29, 1997

RECEIVED OF Dakota Properties RE, Inc., (To E. Gurderson), 1016 E. Central Ave., Bismarck, ND
the following amount in fees for services rendered as provided for by law: 58501

Fee for Application for Permit No. _____ to Appropriate Water, to construct
and to put water to beneficial use _____

Fee for Application for Permit No. _____ to Appropriate Water, for Future
Use _____

Fee to retain Future Use Permit No. _____ after period of seven years.

Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water
License No. _____

Fee for Filing Transfer Form Water Permit No. 2766-3

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By _____
Chief Engineer

John Hatch

2766-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 17, 1998

No. 2766-3

Tim Maher
Dakota Properties RE, Inc.
1016 E. Central Ave.
Bismarck, ND 58501

Dear Mr. Maher:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Permit No. 2766-3.

Our records now show Tom E. Gunderson as the owner of Water Permit No. 2766-3.

Sincerely,

A handwritten signature in cursive script that reads 'Cheryl F. Frost'.

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

enclosure

c: Tom E. Gunderson, 4150 149 Ave. NW, Bismarck, ND 58501.



GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 3, 1991

Reinhold Moser
Box 37
Pollock SD 57648

Dear Mr. Moser:

A recent review of your Water Right Permit No. 2766-3 and the irrigation questionnaires you have submitted revealed that you are claiming to use more water than your permit allows. On the irrigation questionnaires, you consistently report pumping at 1800 gallons per minute (GPM) which is 4.0 cubic feet per second (cfs). Your permit is for 1122 GPM or 2.5 cfs.

There may be a mistake in your GPM calculations; 1800 GPM applied 24 hours per day is a very large quantity of water for 200 acres of corn/alfalfa. The statutory limitation on the amount of water that may be applied is 450 GPM for each 70 acres irrigated. Your stated application rate is much greater than this statutory limitation. Please review your calculations to confirm the actual amount of water you are pumping. I am enclosing a copy of your current permit for your reference.

Please write a note or give us a call to let us know what your pump rate is. Our address is "Water Rights Division, 523 E. Capitol, Pierre, SD 57501". If you wish to phone, you may contact Don Frye at 605-773-3352. Please reply at your earliest convenience.

Sincerely yours,

ERIC GRONLUND, Natural Resources Engineer
Division of Water Rights

enclosure

REPORT ON WATER PERMIT NO. 2766-3

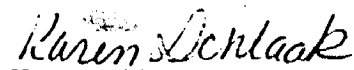
Tom E Gunderson

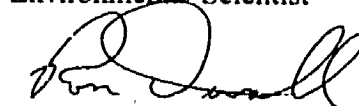
September 12, 2000

Water Permit No. 2766-3 appropriates 2.5 cubic feet of water per second from the Missouri River located at any point in the NE $\frac{1}{4}$ Section 8 to irrigate 216 acres located in the S $\frac{1}{2}$ Section 4; all in T128N-R79W. Readvertisement of this permit is necessary to correct the legal description of the location of the diversion point prior to issuance of the water license. The legal description was incorrectly advertised in the Pollock Pioneer on July 1 and 8, 1976 as being located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10-T128N-R79W. An investigation of Water Permit No. 2766-3 found a total of 130 acres located in the SE $\frac{1}{4}$ Section 4 developed for irrigation, with the diversion point located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 8; all in T128N-R79W. This readvertisement does not authorize any increase in the developed water appropriation or irrigated acreage.

Conclusions

1. This is a readvertisement of the Notice of Application for Water Permit No. 2766-3.
2. This readvertisement is necessary to correct the legal description of the diversion point prior to issuance of the water license. The correct legal description was identified on the map and permit application.
3. The correct legal description of the diversion point is any point in the NE $\frac{1}{4}$ Section 8-T128N-R79W.


Karen Schlaak
Environmental Scientist


Ron Duvall
Natural Resources Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR READVERTISED WATER
PERMIT APPLICATION NO. 2766-3, Tom E. Gunderson**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning readvertised Water Permit Application No. 2766-3, Tom E. Gunderson, 4150 148th Avenue NW, Bismarck, ND 58501.

The Chief Engineer is recommending APPROVAL of readvertised Application No. 2766-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualification:

This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on readvertised application for additional information.

Garland Erbele, Chief Engineer
October 20, 2000



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 24, 2000

Prairie Pioneer
Box 218
Pollock SD 57648-0218

Attn: Legal Department

Enclosed is a Readvertisement of Notice of Hearing on Permit No. 2766-3 to be published twice. Please publish the first notice on November 2, 2000 with the second publication 7 days later.

Please bill the Water Rights Program for the cost of the advertisement.

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

No.2766-3

Date _____

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

We are in receipt of your letter of October 24, 2000, enclosing Readvertisement of Notice of Hearing to Appropriate Water by Permit No. 2766-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 24, 2000

Tom E Gunderson
4150 149th Ave NW
Bismarck ND 58501

Dear Mr. Gunderson:

The original notice of application published in 1976 for Water Permit No. 2766-3 contained an error in the legal description. The original notice stated that the location of Missouri River diversion point was located in SE ¼ NE ¼ section 10-T128N-R79W. The correct location any point in the NE ¼ Section 8-T128N-R79W. Therefore, the notice of hearing needs to be readvertised to correct the error.

This publication error was found after Ron Duvall conducted the licensing investigation of your water permit in July. This readvertisement is necessary to ensure your water right is free from any legal entanglements due to insufficient public notice.

A notice of hearing has been sent to the Publisher of the Pollock Pioneer printed at Pollock SD (Ph # 605 889-2320). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the readvertisement are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Water Rights Program.

Once this readvertisement is completed, the water permit will be ready for licensing. A licensing fee of \$50.00 needs to be submitted prior to licensing. Please submit this \$50.00 fee at this time. Please contact us if you have any questions.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

c: Allen Reiersen, Renter

Readvertisement of Notice of Application No. 2766-3 to Appropriate Water

Notice is given of readvertisement of Water Permit No. 2766-3 held by Tom E Gunderson, 4150 149th Ave NW, Bismarck ND 58501. Water Permit No. 2766-3 appropriates 2.5 cubic feet of water per second from the Missouri River located at any point in the NE ¼ Section 8 to irrigate 216 acres located in the S ½ Section 4; all in T128N-R79W. Readvertisement of this permit is necessary to correct the legal description of the location of the diversion point prior to issuance of the water license. The legal description was incorrectly advertised in the Pollock Pioneer on July 1 and 8, 1976 as being located in the SE ¼ NE ¼ Section 10-T128N-R79W. An investigation of Water Permit No. 2766-3 found a total of 130 acres located in the SE ¼ Section 4 developed for irrigation, with the diversion point located in the NE ¼ NE ¼ Section 8; all in T128N-R79W. This readvertisement does not authorize any increase in the developed water appropriation or irrigated acreage.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Readvertised Application No. 2766-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 20, 2000.

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

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Campbell) SS

I, Leah Burke

certify that the attached printed Notice was taken

from the Prairie Pioneer

printed and published in Pollock,

County of Campbell, and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

11/2/00

11/9/00

Cost of Printing \$40.86

Leah P. Burke

(Signature)

publika

(Title)

11/9/00

(Date Signed)

Readvertisement of Notice of Application No. 2766-3 to Appropriate Water

Notice is given of readvertisement of Water Permit No. 2766-3 held by Tom E. Gunderson, 4150 149th Ave. NW, Bismarck, ND 58501. Water Permit No. 2766-3 appropriates 2.5 cubic feet of water per second from the Missouri River located at any point in the NE1/4 Section 8 to irrigate 216 acres located in the S1/2 Section 4; all in T128N-R79W. Readvertisement of this permit is necessary to correct the legal description of the location of the diversion point prior to issuance of the water license. The legal description was incorrectly advertised in the Pollock Pioneer on July 1 and 8, 1976 as being located in the SE1/4 NE1/4 Section 10-T128N-R79W. An investigation of Water Permit No. 2766-3 found a total of 130 acres located in the SE 1/4 Section 4 developed for irrigation, with the diversion point located in the NE1/4 NE1/4 Section 8; all in T128N-R79W. This readvertisement does not authorize any increase in the developed water appropriation or irrigated

acreage. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Readvertised Application No. 2766-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605/773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 20, 2000.

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

44-45



PAYMENT REQUEST FORM

PAYEE: Prairie Pioneer
PO Box 218
Pollock SD 57648-0218

FROM: Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Readvertisement of Notice of Application No. 2766-3 held by Tom E Gunderson.

AMOUNT: \$40.86

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION: Garland Ehlers 11/13/00

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

Permit No. 2766-3
Missouri River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, July 10, 2000, made a thorough examination of the water use system owned by Tom E Gunderson of 4150 149th Ave NW, Bismarck ND 58501 holder of Permit No. 2766-3, bearing the priority of June 15, 1976 authorizing the diversion of 2.5 cu. ft. per second of the waters of Missouri River for irrigation purposes, in Campbell County.

Inspection contact & relationship to permit holder, if applicable: Allen Reiersen, rentor

A. Works used to divert the water:

Pump:

- 1) Make Submersible (2 units)
- 2) Size 30 hp each

Motor:

- 1) Make Marathon
- 2) Horsepower rating 75 hp

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

- 1) Type PVC
- 2) Size 8 inches
- 3) Length $\approx$ 6,500 feet

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Valley
- 2) Number of towers 8
- 3) End gun Y
- 4) Low pressure
- 5) Capacity 1,200 GPM

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y
- 3) Exceptions to compliance are: none (needs to have diversion point location readvertised)

Report of Examination of Works

Permit No. 2766-3

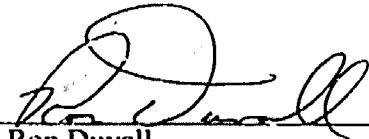
The system is in good condition with the point(s) of diversion located as follows: Missouri River: Any point in NE $\frac{1}{4}$ section 8-128N-79W -- at time of inspection point located at 1,300 feet W and 200 feet S from the NE corner section 8-128N-79W. The works are capable of diverting and conveying to the place of use 2.67 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows: All in section 4-128N-79W

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 31 acres
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 34 acres

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 34 acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 31 acres

comprising a total of 130 acres of land and the license should be issued for 1.85 cfs.

Comments or other permit(s) associated with the project: none | All structures, wells and lands on map Y



Ron Duvall
Natural Resources Engineer
DENR, Water Rights Program

Date report completed: September 8, 2000

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416670

Pierre, ~~November 3~~, 2000

RECEIVED OF Missouri River Land & Cattle Co., 4150 149th Ave NW, Bismarck ND 58501
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct
and to put water to beneficial use _____

Fee for Application for Permit No. _____ to Appropriate Water, for Future
Use _____

Fee to retain Future Use Permit No. _____ after period of seven years.

Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water
License No. 2766-3

50 00

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By Harland Erbe
Chief Engineer

100

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2766-3

(1) Reinhold Moser, Pollock SD made Application No. 2766-3, June 15, 1976 for a water permit to divert 2.5 cubic feet of water per second from the Missouri River, Campbell County, South Dakota for irrigation purposes. Permit No. 2766-3, with a priority date of June 15, 1976 was approved July 22, 1976 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 22, 1981 and for the application to beneficial use of said water on or before July 22, 1981.

On December 21, 1997, Water Permit No. 2766-3 was transferred to Tom E Gunderson.

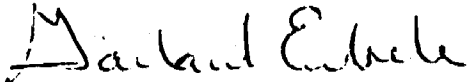
The permit was readvertised November 2 and 9, 2000 to correct an error on the original notice of hearing in the legal description of the location of the diversion point. The readvertisement did not authorize an increase in the acreage or developed diversion rate.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.85 cubic feet of water per second for beneficial use. The location of the diversion point is any point in the NE ¼ Section 8-T128N-R79W.

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

Section 4-T128N-R79W	NE ¼ SE ¼	31 acres
	NW ¼ SE ¼	34 acres
	SW ¼ SE ¼	34 acres
	SE ¼ SE ¼	31 acres
Total 130 acres		

(4) Pursuant to South Dakota Water Law 46-5-30.1 Tom E Gunderson, 4150 149th Ave NW, Bismarck ND 58501 the holder and/or owner of Water Right No. 2766-3 is issued a license to appropriate water, the right to use 1.85 cubic feet of water per second from the Missouri River with a priority date of June 15, 1976 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Right No. 2766-3 and subject to South Dakota State Law.


GARLAND ERBELE, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

DEC 12 2000

date





DEC 12 2000

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

2766-3

Tom E Gunderson
4150 149th Ave NW
Bismarck ND 58501

Dear Mr. Gunderson:

Enclosed is Water License No. 2766-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416670 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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

NOTE: The investigation found your irrigation system is capable of diverting 2.67 cubic feet of water per second (cfs) which is equivalent to approximately 1200 gallons per minute. The statutory limit for 130 acres is 1.85 cfs (equivalent to approximately 830 gpm). Diversion of water under this water license is limited to 1.85 cfs.

enclosures

2766-3

SENDER, COMPLETE THIS SECTION		RECEIVER, COMPLETE THIS SECTION	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Received by (Please Print Clearly) _____ B. Date of Delivery <u>1-22-01</u>	
1. Article Addressed to: ALLEN REIERSON, RENTER PO BOX 424 POLLOCK SD 57648 0424		C. Signature <u>X</u> <i>Allen Renter</i> ☐ Agent ☐ Addressee D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
2. Article Number (Copy from service label) <u>7099 3220 0004 5201 0738</u>		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
PS Form 3811, July 1999		4. Restricted Delivery? (Extra Fee) ☐ Yes Domestic Return Receipt 102595-00-M-0952	

SENDER, COMPLETE THIS SECTION		RECEIVER, COMPLETE THIS SECTION	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Received by (Please Print Clearly) <u>C. E. Isbernd</u> B. Date of Delivery <u>1-22-01</u>	
1. Article Addressed to: Tom & Marjorie Gunderson 4150 149th NW Bismarck ND 58501		C. Signature <u>X</u> <i>C. E. Isbernd</i> ☐ Agent ☐ Addressee D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
2. Article Number (Copy from service label) <u>7099 3220 0004 5201 0745</u>		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
PS Form 3811, July 1999		4. Restricted Delivery? (Extra Fee) ☐ Yes Domestic Return Receipt 102595-00-M-0952	



2766-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 19, 2001

NOTICE

TO: ALLEN REIERSON, RENTER, PO BOX 424, POLLOCK, SD 57648 0424
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2000 Irrigation Questionnaires

Our records indicate that the 2000 Irrigation Questionnaires have not been submitted for Permit Nos. 1341-3, 2219A-3 and 2766-3. The request for the Questionnaires was dated October 20, 2000. The Water Management Board has directed that owners of water permits who have not submitted the 2000 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No. 2766-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit Nos. 1341-3 & 2219A-3 qualification:

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

The hearing will be held at 10:00 am, March 7, 2001 in 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. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit Nos. 1341-3 & 2219A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No. 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office on/or before March 2, 2001, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (605) 773-3352.

c: TOM & MARJORIE GUNDERSON, 4150 149TH NW, BISMARCK, ND 58501

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 1, 2001

1341-3
2219A-3
2766-3

Allen Reiersen
PO Box 424
Pollock, SD 57648-0424

Dear Mr. Reiersen:

I am writing to acknowledge receipt of your 2000 irrigation questionnaires. You may disregard the January 19, 2001, "Notice" concerning reporting requirements for Water Right Nos. 1341-3, 2219A-3 and 2766-3.

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

If you have any questions, please contact me.

Sincerely,

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

c: Tom & Marjorie Gunderson



2766-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 4, 2004

1341-3
2219A-3
2766-3

Tom & Marjorie Gunderson
1401 Bayview Ct
Bismarck ND 58504-7087

Dear Mr. & Mrs. Gunderson:

Enclosed is a "Notice" dated October 22, 2004 concerning your 2004 irrigation questionnaires. The notice was originally mailed to 1213 E Coulee Rd, Bismarck, ND. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures

2766-3

McMath, Genny

From: McMath, Genny
Sent: Friday, December 10, 2004 9:02 AM
To: 'TGunder100@aol.com'
Subject: RE: Water Rights

Mr. & Mrs. Gunderson,

To date, I have not heard back from you as to whether or not you prefer me to mail the transfer forms to Mr. Schwab with copies of the water rights or if you wanted me to mail them to you. I will send them out today to Mr. Schwab. We are still in need of the 2004 irrigation questionnaires. If you need assistance in filling them out, please contact me and we can work through them on the phone. Thank you for your help.

Genny McMath

-----Original Message-----

From: McMath, Genny
Sent: Monday, November 29, 2004 9:15 AM
To: 'TGunder100@aol.com'
Cc: Erbele, Garland
Subject: FW: Water Rights

Mr. & Mrs. Gunderson:

I reviewed our water right files and found only the three that you mentioned below (1341-3, 2219A-3 and 2766-3) listed in your names. Transferring water rights is a fairly simple procedure. The new owner of the land will need to complete a "Notice of Transfer of Ownership" form for each water right being transferred. I can partially complete the forms by including the legal descriptions of the land. Mr. Schwab will need to sign the forms and return them to our program with a required filing fee of \$2.50 each.

I can go ahead and mail him the forms for Nos. 2219A-3 and 2766-3. Did he get copies of the water rights from you or should I include them with the forms? Also, one more question - who farmed the land in 2004? The reason I ask is that I need to get the annual irrigation questionnaires for all three water rights.

Thank you getting in touch with Garland about the ownership changes.

Genny McMath
Water Rights Program
605 773-3352

-----Original Message-----

From: Erbele, Garland
Sent: Monday, November 29, 2004 8:55 AM
To: McMath, Genny
Subject: FW: Water Rights

Genny, would you work with this couple on getting their water rights transferred. Also check on additional water rights.
Thanks.

-----Original Message-----

From: TGunder100@aol.com [mailto:TGunder100@aol.com]

Sent: Wednesday, November 24, 2004 7:23 AM

To: garland.erbele@state.sd.us

Subject: Water Rights

We are in the process of selling some of my properties in Campbell County, SD and wish to transfer some of my water rights to Sherwin Schwab, 13939 376th Av, Mina, SD (605-225-4483). We wish to keep Water Right No. 1341-3 and transfer No. 2766-3 and No. 2219A-3 to Sherwin Schwab. What are the procedures? Do we have any other Water Rights Permits in Campbell County?
Tom and Marjorie Gunderson
1401 Bayview Court
Bismarck, ND 58504
701-250-3202 Work
701-222-2333 Home
701-226-1902 Cell



December 10, 2004

2766-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

2219A-3
2766-3

Sherwin Schwab
13939 376th Ave
Mina SD 57451

Dear Mr. Schwab:

I am contacting you in regard to ownership of land described in Water Right Nos. 2219A-3 and 2766-3. They are currently listed in the name of Tom and Marjorie Gunderson. The Gunderson's have notified our office that they wish to transfer these water rights to you. I am enclosing a copy of the water rights for your review.

Also enclosed are partially completed Notice of Transfer of Ownership forms for filing an ownership change. Please review the forms and make any necessary corrections. Upon completion, please sign and return them to our office with a required filing fee of \$2.50 each (total of \$5.00). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions concerning the water rights or filing of the ownership changes, please contact me.

Sincerely,

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

enclosures



January 4, 2005

2766-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

1341-3
2219A-3
2766-3

Tom & Marjorie Gunderson
1401 Bayview Ct
Bismarck ND 58504-7087

Dear Mr. & Mrs. Gunderson:

I am writing in regard to your water rights and to the 2004 irrigation questionnaires. On November 24th, you emailed Garland Erbele, the Chief Engineer of the Water Rights Program and indicated you were in the process of selling your land. I responded to your email and asked whether or not you wished to have me send the transfer of ownership forms to you or to the new owner. My email also included a question on where the 2004 irrigation questionnaires should be directed. To date, we have not received a response from you.

I did go ahead and take the liberty of mailing two "Notice of Transfer of Ownership" forms to Sherwin Schwab for Water Right Nos. 2219A-3 and 2766-3. We have not received anything back from him yet.

The irrigation questionnaires were due in our office on December 3rd. The notices to irrigators concerning delinquent irrigation questionnaires will be mailed from our office in less than two weeks. The notices will contain a time and date of a hearing to be held by the Water Management Board to consider violations for non-returned irrigation questionnaires. Please get in touch with us prior to that time as to whether or not the land was irrigated and if so, how we can help you get the forms filled out if you have questions on them.

Sincerely,

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



2766-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2005

NOTICE

TO: TOM & MARJORIE GUNDERSON, 1401 BAYVIEW CT, BISMARCK, ND 58504 7087
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaires

Our records indicate that the 2004 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2766-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 1341-3 & 2219A-3 qualification:

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

The hearing will be held at 8:30 am, March 2, 2005 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1341-3 & 2219A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office on/or before February 25, 2005, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (605) 773-3352.

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

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

JAN 28 2005

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

No. 2766-3 WATER RIGHTS PROGRAM

Date: _____

I/We request that Water Right No. 2766-3

formerly owned by: Tom E Gunderson

be transferred to: (name & address) Sherwin Schwab & Judith Schwab

291 So. Sunset Dr.

Mina S.D. 57451

Telephone No. 605 225 4483

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

130 acres - SE 1/4 Section 4, T128N, R79W

I/We understand that the validity of Water Right No. 2766-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Sherwin & Judith Schwab the new owner, certify that the above information is true and correct.

Sherwin Schwab
Judith A. Schwab
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 20, 20 05

RECEIVED OF Sherwin Schwab, 291 S Sunset Dr, Mina SD 57462

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2	50
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2766-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

CANCELLED

By

J. Darland Erbele

Chief Engineer

gm



2766-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 28, 2005

2219A-3
2766-3

Sherwin & Judith Schwab
291 S Sunset Dr
Mina SD 57451

Dear Mr. & Mrs. Schwab:

Thank you for following up on the ownership change for Water Right Nos. 2219A-3 and 2766-3. The transfers have been completed. The water rights formerly listed in the name of Tom & Marjorie Gunderson are now listed in your name.

Enclosed are your Receipt Nos. 001659 and 001660 in the amount of \$2.50 each. If I can answer any questions for you, please contact me.

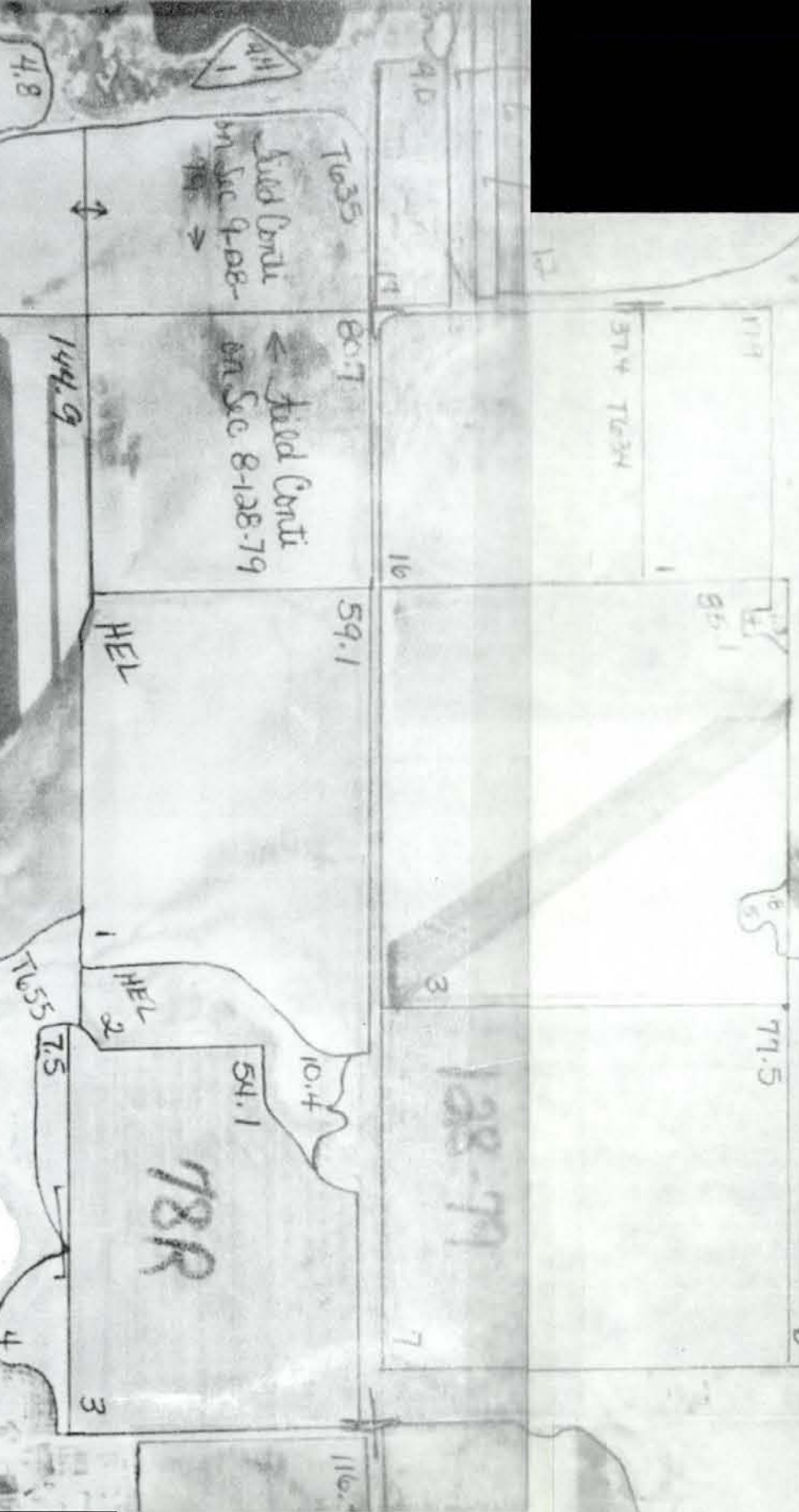
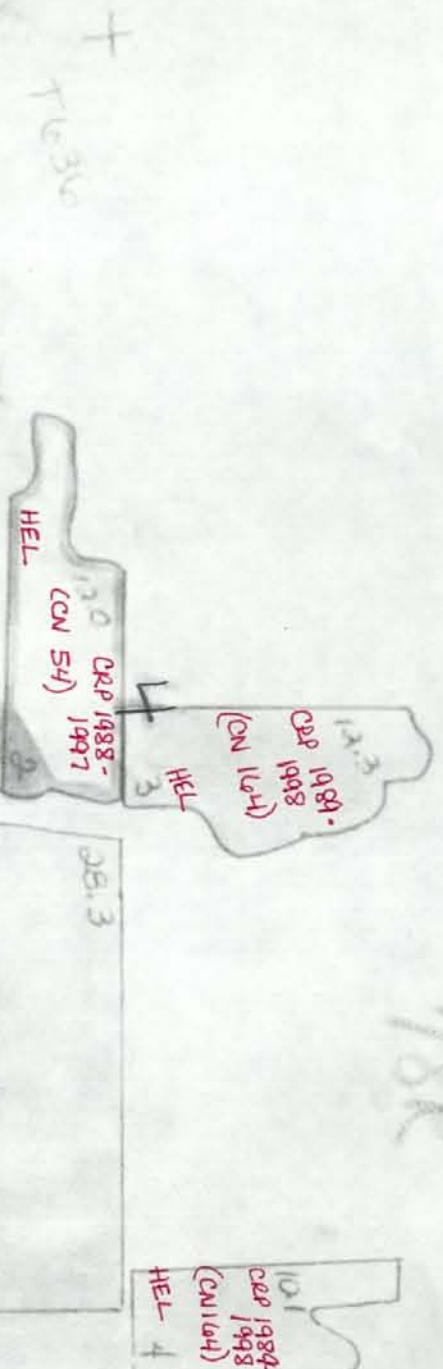
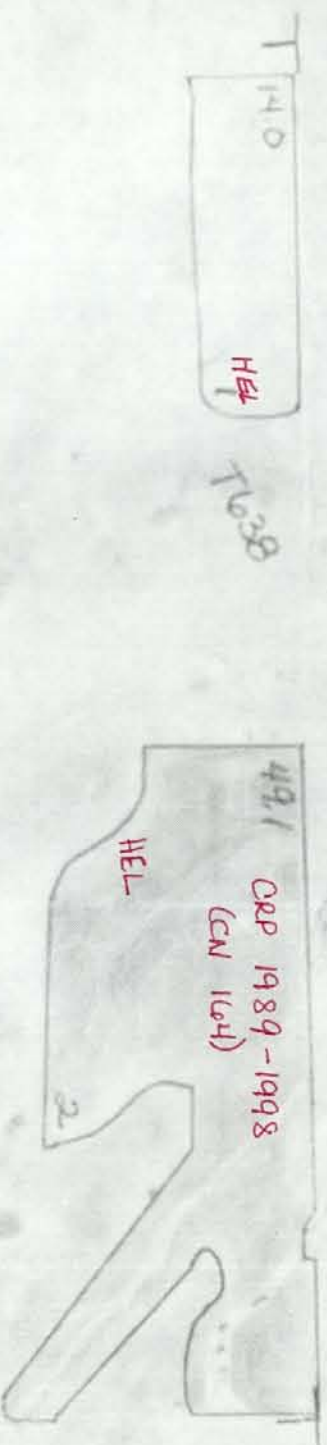
Mr. Gunderson indicated you leased the land during the 2004 irrigation season and would have the questionnaires for the above water rights. In the event you do not have them, I am enclosing another set. These need to be completed as soon as possible and returned to us before February 25, 2005.

Sincerely,

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

enclosures

NOT TO SCALE



NOT TO SCALE



6-9-

(Side Rolls may be smaller)



2766-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2006

NOTICE

TO: SHERWIN & JUDITH SCHWAB, 291 S SUNSET DR, MINA, SD 57451

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

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaires

Our records indicate that the 2005 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2766-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2219A-3 qualification:

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

The hearing will be held at 10:30 am, March 2, 2006 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2219A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office on/or before **February 24, 2006**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (605) 773-3352.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 2, 2006

2219A-3
2766-3

Sherwin & Judith Schwab
291 S Sunset Dr
Mina SD 57451

Dear Mr. & Mrs. Schwab:

I am writing to acknowledge receipt of your 2005 irrigation questionnaires. I completed questionnaires for you based on our February 1st telephone conversation. The forms reflect that no irrigation took place in 2005 due to low water levels on the Missouri River.

You may disregard the January 24, 2006, "Notice" concerning reporting requirements for Water Right Nos. 2219A-3 and 2766-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

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

Sincerely,

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



2766-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 18, 2013

NOTICE

TO: SHERWIN & JUDITH SCHWAB, 291 S SUNSET DR, MINA, SD 57451

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

SUBJECT: Reporting Requirement for 2012 Irrigation Questionnaires

Our records indicate that the 2012 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 12, 2012. The Water Management Board has directed that owners of water permits who have not submitted the 2012 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2766-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2219A-3 qualification:

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

The hearing will be held at **8:30 am, March 7, 2013** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2219A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

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

<http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 8, 2013

2766-3 & 2219A-3

SHERWIN & JUDITH SCHWAB
291 S SUNSET DR
MINA, SD 57451

Dear Sherwin & Judith:

I am writing to acknowledge receipt of your 2012 irrigation questionnaires.

You may disregard the January 18, 2013, "Notice" concerning reporting requirements for Water Permit Nos. 2766-3 & 2219A-3. The information was received in our office prior to the Water Management Board meeting and your name was deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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



2766-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2015

NOTICE

TO: SHERWIN & JUDITH SCHWAB, 291 S SUNSET DR, MINA, SD 57451

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

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaires

Our records indicate your 2014 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2766-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2219A-3 qualification:

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

The hearing will be held at **10:00 am, March 4, 2015** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2219A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 22, 2015

2219A-3
2766-3

Sherwin & Judith Schwab
291 S Sunset Dr
Mina SD 57451

Dear Mr. & Mrs. Schwab:

I am writing to acknowledge receipt of your 2014 irrigation questionnaires.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for Water Right Nos. 2219A-3 and 2766-3. The information was received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

I wanted to take this opportunity to remind you about the permitting still required for irrigation taking place in the SW ¼ Section 4, T128N, R79W. Back in 2011 we forwarded you a partially completed application form and a map outlining the area needing permitted. Enclosed is an additional copy of the 2011 correspondence, application and map.

If the application and map do not accurately reflect acreage being irrigated, please make the changes as needed. Please complete the application and submit it to us with the required fee by **February 27, 2015**. Keep in mind you do not have authorization to irrigate the land in the SW ¼ of Section 4 without obtaining a water permit.

If you have any questions concerning the application process, please contact Eric Gronlund with our program at 605 773-3352.

Sincerely,

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

enclosures



2766-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: SHERWIN & JUDITH SCHWAB, 291 S SUNSET DR, MINA, SD 57451
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaires

Our records indicate your 2015 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2766-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2219A-3 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2219A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 9, 2015

2219A-3
2766-3

Sherwin & Judith Schwab
291 S Sunset Dr
Mina SD 57451

Dear Mr. & Mrs. Schwab:

I am writing to acknowledge receipt of your 2015 irrigation questionnaires.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right Nos. 2219A-3 and 2766-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Genny McMath'.

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2017

NOTICE

TO: SHERWIN & JUDITH SCHWAB, 291 S SUNSET DR, MINA, SD 57451

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

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaires

Our records indicate your 2016 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2766-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2219A-3 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2219A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **March 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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.



2766-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 25, 2017

2219A-3
2766-3

Sherwin & Judith Schwab
291 S Sunset Dr
Mina SD 57451

Dear Mr. & Mrs. Schwab:

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

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Right Nos. 2219A-3 and 2766-3. 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
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Sherwin & Judith Schwab

DATE: February 20, 2019

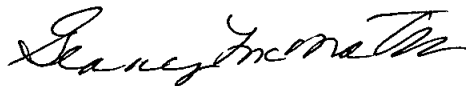
RE: address for water permits/rights

The annual irrigation questionnaires for Nos. 2219A-3, 2766-3 and 8319-3 were being directed to 291 S Sunset Drive, Mina SD. The 2018 forms were returned by the Post office marked "temporarily away".

I got in touch with Sheldon Schwab via an email on file to find out where to send the forms. He requested I send them to his address of 116 Park Ave, Mina SD. The address on Sunset Drive is his parents address and they typically leave in October each year for a warmer climate. Sheldon indicated he was the one who filled out the forms anyway.

For purposes of the annual irrigation questionnaire, they will be directed to:

Sheldon Schwab, Mgr
116 Park Ave
Mina SD 57451



Genny McMath
Water Rights Program



2766-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: SHELDON SCHWAB, MGR, 116 PARK AVE, MINA, SD 57451

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaires

Our records indicate your 2019 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2766-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2219A-3 & 8319-3 qualification:

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

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

1. Suspend or cancel Permit No(s) 2219A-3 & 8319-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2766-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: NEGHSY**

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.

2766-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 29, 2020

2219A-3
2766-3
8319-3

Sheldon Schwab
116 Park Ave
Mina SD 57451

Dear Mr. Schwab:

I am writing to acknowledge receipt of the information for your 2019 irrigation questionnaires. Thank you for calling. I completed forms for you indicating no water was pumped in 2019.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Right Nos. 2219A-3 & 2766-3 and Water Permit No. 8319-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Genny McMath". The signature is fluid and cursive, with the first name "Genny" being more prominent.

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