

McMath, Genny

2826B-3

From: Gronlund, Eric
Sent: Tuesday, November 10, 2009 3:32 PM
To: McMath, Genny
Subject: Splitting of WR No. 2826-3, Edelen

Mr. Edelen called. Part of the land and wells under No. 2826-3 have been sold and he wanted to know the process for transferring the water right. Explained that a transfer of ownership form would need to be filled out for the portion that was sold and the WR would be split proportionately and reissued as an A & B number.

On WR No. 2826-3, Mr. Edelen will retain Wells #2 & # 4 and the irrigation systems in the SW NW 1/4 Section 15 and the S 1/2 SE 1/4 Section 16.

The land and wells with a new owner are: Wells # 1 & # 3 for the irrigation systems in the SW 1/4 Section 10 and the NW 1/4 NW 1/4 Section 15.

I sent a copy of the water right in your in-basket and attempted to highlight the ownership change. I offered for us to partially complete a transfer form and send it to him. He said he would take it to the new owner.

He said no rush

Eric Gronlund
Water Rights Program, DENR
Phone: (605) 773-3352
Fax: (605) 773-4068
Email: eric.gronlund@state.sd.us
Web: www.denr.sd.gov

02/22/2010

RECEIVED

JAN 25 2010

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2826B-3

Date:

1/18/10

I/We request that portions of Water Right No. 2826-3

formerly owned by: Joseph R Edelen

* be transferred to: (name & address)

Brook Bye
31472 458th Ave Vermillion
SD 57069

Telephone No. 605-624-6571

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

171 acres - SW 1/4 Section 10 and NW 1/4 NW 1/4 Section 15, T92N, R53W

I/We understand that the validity of Water Right No. 2826-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

* I/We Brook Bye, the new owner, certify that the above information is true and correct.

* Brook Bye
(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 1/25, 20 10

RECEIVED OF Joe Edelen 311 Canby St Vermillion SD 57069 for Brook Bye

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2826B-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	50 00

No. 04406

By

Joe Edelen
Chief Engineer

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2826B-3
DIVISION OF WATER RIGHT NO. 2826-3 INTO NOS. 2826A-3 & 2826B-3

(1) Joseph R Edelen Jr., 311 Canby St, Vermillion SD 57069 was issued Water Right No. 2826-3, September 8, 1998 for a water permit to divert 2.67 cubic feet of water per second (cfs) from ground water (four wells – Missouri: Elk Point Aquifer), Clay County, South Dakota for irrigation purposes. Water License No. 2826-3, with a priority date of June 23, 1976 was issued to the permit holder for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

On January 25, 2010, a transfer of ownership was filed for a portion of land described in the water right. Based on the ownership change, the water right is being divided and reissued to reflect separate ownership as follows:

- **No. 2826A-3 - Joseph R Edelen, 311 Canby St, Vermillion SD 57069:** authorizing diversion of 0.94 cfs from Well Nos. 2 and 4 located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15 and SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, T92N, R53W to irrigate 93 acres located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15 and the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 16, T92N, R53W.
- **No. 2826B-3 - Brook Bye, 31472 458th Ave., Vermillion SD 57069:** authorizing diversion of 1.73 cfs from Well Nos. 1 and 3 located in the center of the SW $\frac{1}{4}$ Section 10 and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15, T92N, R53W to irrigate 171 acres located in the SW $\frac{1}{4}$ Section 10 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15, T92N, R53W.

(2) It is certified that the water right holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.94 cubic feet of water per second for beneficial use. The location of the diversion points are:

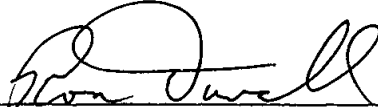
- Well No. 1: 1,300 feet east & 1,320 feet north of the SW corner of Section 10, T92N, R53W (center of SW $\frac{1}{4}$);
- Well No. 3: 635 feet east and 660 feet south of the NW corner of Section 15, T92N, R53W (NW $\frac{1}{4}$ NW $\frac{1}{4}$).

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

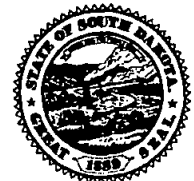
Section 15, T92N, R53W		Section 10, T92N, R53W	
NW $\frac{1}{4}$ NW $\frac{1}{4}$	31 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$	35 acres
		NE $\frac{1}{4}$ SW $\frac{1}{4}$	35 acres
		SW $\frac{1}{4}$ SW $\frac{1}{4}$	35 acres
		SE $\frac{1}{4}$ SW $\frac{1}{4}$	35 acres
Total 171 acres			

(4) Pursuant to South Dakota Water Law 46-5-30.1 Brook Bye, 31472 458th Ave., Vermillion SD 57069 the holder and owner of Water Right No. 2826B-3 is issued a license to appropriate water, the right to use 1.73 cubic feet of water per second from ground water (two wells) with a priority date of June 23, 1976 from the locations specified in (2) of this license. The water is to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2826-3.


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

4/27/10
date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

2826B-3

Brook Bye
31472 458th Ave
Vermillion SD 57069

Dear Mr. Bye:

Enclosed is your Reissued Water License No. 2826B-3. Based on an ownership change you filed on January 25, 2010, Water Right No. 2826-3 was divided and reissued as follows:

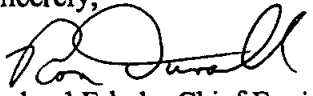
- **No. 2826A-3 - Joseph R Edelen, 311 Canby St, Vermillion SD 57069:** authorizing diversion of 0.94 cfs (approximately 422 gpm) from Well Nos. 2 & 4 to irrigate 93 acres located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15 and the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 16, T92N, R53W.
- **No. 2826B-3 - Brook Bye, 31472 458th Ave., Vermillion SD 57069:** authorizing diversion of 1.73 cfs (approximately 778 gpm) from Well Nos. 1 & 3 to irrigate 171 acres located in the SW $\frac{1}{4}$ Section 10 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15, T92N, R53W.

At the time of inspection back in 1993, the system consisted of one 10-tower center pivot and two 3-tower center pivots. The smaller center pivots were being towed between two quarter-quarters. Due to the system set up at the time, the water license was issued for a total of 2.67 cubic feet per second or roughly 1200 gallons per minute. With the ownership change occurring, the diversion authority of 2.67 cfs was pro-rated according to the acreage each of you own. In doing so, both you and Mr. Edelen may need to come in for a permit to increase your diversion rate to what you are actually using.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 2826B-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,


for Garland Erbele, Chief Engineer
Water Rights Program

enclosure

NOT TO SCALE

Map of a land survey in the 92-53 township and 15-33 range. The map shows several sections of land, each with a T-number, acreage, and other details.

Section 14 (NW 1/4): T-1409 (1443) 30.6 ac. 31 ac. 8" steel well #3. NW 1/4 NW 1/4. 635'.

Section 15 (NW 1/4): T-1022 (1397) 32.3 ac. 8" steel well #2. NW 1/4 NW 1/4. 635'.

Section 16 (NW 1/4): T-2134 (2137) 33.4 ac. NW NHEL.

Section 17 (NW 1/4): T-2120 (1889) 38.5 ac. NW NHEL.

Section 18 (NW 1/4): T-1837 (1088) 36.9 ac. NW NHEL.

Section 19 (NW 1/4): T-2110 (1861) 38.8 ac. NW NHEL.

Section 20 (NW 1/4): T-2109 (1962) 38.8 ac. NW NHEL.

Section 21 (NW 1/4): T-1004 (1587) 18.5 ac. NW NHEL.

Section 22 (NW 1/4): T-1042 (612) 31.8 ac. NW NHEL.

Section 23 (NW 1/4): T-1978 (612) 48.0 ac. NW NHEL.

Section 24 (NW 1/4): T-260 (2034) 123.7 ac. NW NHEL.

Section 25 (NW 1/4): T-2080 (1862) 10.5 ac. NW NHEL.

Section 26 (NW 1/4): T-2081 (1862) 10.5 ac. NW NHEL.

Section 27 (NW 1/4): T-2082 (1862) 10.5 ac. NW NHEL.

Section 28 (NW 1/4): T-2083 (1862) 10.5 ac. NW NHEL.

Section 29 (NW 1/4): T-2084 (1862) 10.5 ac. NW NHEL.

Section 30 (NW 1/4): T-2085 (1862) 10.5 ac. NW NHEL.

Section 31 (NW 1/4): T-2086 (1862) 10.5 ac. NW NHEL.

Section 32 (NW 1/4): T-2087 (1862) 10.5 ac. NW NHEL.

Section 33 (NW 1/4): T-2088 (1862) 10.5 ac. NW NHEL.

Section 34 (NW 1/4): T-2089 (1862) 10.5 ac. NW NHEL.

Section 35 (NW 1/4): T-2090 (1862) 10.5 ac. NW NHEL.

Section 36 (NW 1/4): T-2091 (1862) 10.5 ac. NW NHEL.

Section 37 (NW 1/4): T-2092 (1862) 10.5 ac. NW NHEL.

Section 38 (NW 1/4): T-2093 (1862) 10.5 ac. NW NHEL.

Section 39 (NW 1/4): T-2094 (1862) 10.5 ac. NW NHEL.

Section 40 (NW 1/4): T-2095 (1862) 10.5 ac. NW NHEL.

Section 41 (NW 1/4): T-2096 (1862) 10.5 ac. NW NHEL.

Section 42 (NW 1/4): T-2097 (1862) 10.5 ac. NW NHEL.

Section 43 (NW 1/4): T-2098 (1862) 10.5 ac. NW NHEL.

Section 44 (NW 1/4): T-2099 (1862) 10.5 ac. NW NHEL.

Section 45 (NW 1/4): T-2100 (1862) 10.5 ac. NW NHEL.

Section 46 (NW 1/4): T-2101 (1862) 10.5 ac. NW NHEL.

Section 47 (NW 1/4): T-2102 (1862) 10.5 ac. NW NHEL.

Section 48 (NW 1/4): T-2103 (1862) 10.5 ac. NW NHEL.

Section 49 (NW 1/4): T-2104 (1862) 10.5 ac. NW NHEL.

Section 50 (NW 1/4): T-2105 (1862) 10.5 ac. NW NHEL.

Section 51 (NW 1/4): T-2106 (1862) 10.5 ac. NW NHEL.

Section 52 (NW 1/4): T-2107 (1862) 10.5 ac. NW NHEL.

Section 53 (NW 1/4): T-2108 (1862) 10.5 ac. NW NHEL.

Section 54 (NW 1/4): T-2109 (1862) 10.5 ac. NW NHEL.

Section 55 (NW 1/4): T-2110 (1862) 10.5 ac. NW NHEL.

Section 56 (NW 1/4): T-2111 (1862) 10.5 ac. NW NHEL.

Section 57 (NW 1/4): T-2112 (1862) 10.5 ac. NW NHEL.

Section 58 (NW 1/4): T-2113 (1862) 10.5 ac. NW NHEL.

Section 59 (NW 1/4): T-2114 (1862) 10.5 ac. NW NHEL.

Section 60 (NW 1/4): T-2115 (1862) 10.5 ac. NW NHEL.

Section 61 (NW 1/4): T-2116 (1862) 10.5 ac. NW NHEL.

Section 62 (NW 1/4): T-2117 (1862) 10.5 ac. NW NHEL.

Section 63 (NW 1/4): T-2118 (1862) 10.5 ac. NW NHEL.

Section 64 (NW 1/4): T-2119 (1862) 10.5 ac. NW NHEL.

Section 65 (NW 1/4): T-2120 (1862) 10.5 ac. NW NHEL.

Section 66 (NW 1/4): T-2121 (1862) 10.5 ac. NW NHEL.

Section 67 (NW 1/4): T-2122 (1862) 10.5 ac. NW NHEL.

Section 68 (NW 1/4): T-2123 (1862) 10.5 ac. NW NHEL.

Section 69 (NW 1/4): T-2124 (1862) 10.5 ac. NW NHEL.

Section 70 (NW 1/4): T-2125 (1862) 10.5 ac. NW NHEL.

Section 71 (NW 1/4): T-2126 (1862) 10.5 ac. NW NHEL.

Section 72 (NW 1/4): T-2127 (1862) 10.5 ac. NW NHEL.

Section 73 (NW 1/4): T-2128 (1862) 10.5 ac. NW NHEL.

Section 74 (NW 1/4): T-2129 (1862) 10.5 ac. NW NHEL.

Section 75 (NW 1/4): T-2130 (1862) 10.5 ac. NW NHEL.

Section 76 (NW 1/4): T-2131 (1862) 10.5 ac. NW NHEL.

Section 77 (NW 1/4): T-2132 (1862) 10.5 ac. NW NHEL.

Section 78 (NW 1/4): T-2133 (1862) 10.5 ac. NW NHEL.

Section 79 (NW 1/4): T-2134 (1862) 10.5 ac. NW NHEL.

Section 80 (NW 1/4): T-2135 (1862) 10.5 ac. NW NHEL.

Section 81 (NW 1/4): T-2136 (1862) 10.5 ac. NW NHEL.

Section 82 (NW 1/4): T-2137 (1862) 10.5 ac. NW NHEL.

Section 83 (NW 1/4): T-2138 (1862) 10.5 ac. NW NHEL.

Section 84 (NW 1/4): T-2139 (1862) 10.5 ac. NW NHEL.

Section 85 (NW 1/4): T-2140 (1862) 10.5 ac. NW NHEL.

Section 86 (NW 1/4): T-2141 (1862) 10.5 ac. NW NHEL.

Section 87 (NW 1/4): T-2142 (1862) 10.5 ac. NW NHEL.

Section 88 (NW 1/4): T-2143 (1862) 10.5 ac. NW NHEL.

Section 89 (NW 1/4): T-2144 (1862) 10.5 ac. NW NHEL.

Section 90 (NW 1/4): T-2145 (1862) 10.5 ac. NW NHEL.

Section 91 (NW 1/4): T-2146 (1862) 10.5 ac. NW NHEL.

Section 92 (NW 1/4): T-2147 (1862) 10.5 ac. NW NHEL.

Section 93 (NW 1/4): T-2148 (1862) 10.5 ac. NW NHEL.

Section 94 (NW 1/4): T-2149 (1862) 10.5 ac. NW NHEL.

Section 95 (NW 1/4): T-2150 (1862) 10.5 ac. NW NHEL.

Section 96 (NW 1/4): T-2151 (1862) 10.5 ac. NW NHEL.

Section 97 (NW 1/4): T-2152 (1862) 10.5 ac. NW NHEL.

Section 98 (NW 1/4): T-2153 (1862) 10.5 ac. NW NHEL.

Section 99 (NW 1/4): T-2154 (1862) 10.5 ac. NW NHEL.

Section 100 (NW 1/4): T-2155 (1862) 10.5 ac. NW NHEL.

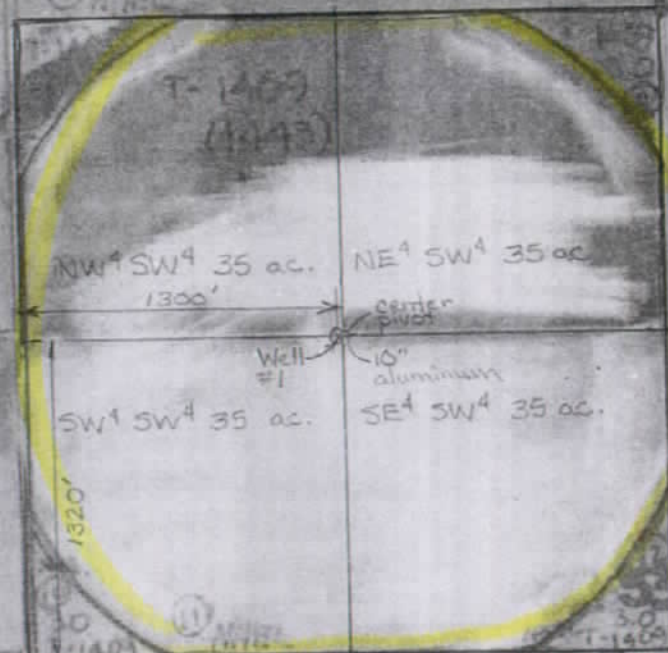
Section 101 (NW 1/4): T-2156 (1862) 10.5 ac. NW

2826-3

NOT TO SCALE

T-1023
(1397)
158.9

Prepared by:

*Lynn Beck*Lynn Beck
Natural Resource Engineer III
DENR, Water Rights Division
11-17-93Total Acres 264T-1409
(1445)
30.6T-2134
(2137)
33.484L T-493
(1580)
73.5

① NHSL

T-2135
(2137)
63.0

10

① NHSL

T-2135
(2137)
69.6T-1050
(1878)T-2121
(1888)
78.3T-1050
(1878)
99.7

⑧ NHSL

T-2120
(1889)
33.5T-1837
(1088)
36.9

② NHSL

③ NHSL

④ NHSL

T-1421
(1394)
18.6T-1430
(1419)
10.7T-1431
(1419)
7.2T-1432
(1419)
18.6T-1050
(1878)
6.6T-1050
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6.6



2826B-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 24, 2013

NOTICE

TO: BROOK BYE, 31472 458TH AVE, VERMILLION, SD 57069

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

SUBJECT: Reporting Requirement for 2012 Irrigation Questionnaire(s)

Our records indicate that the 2012 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2826B-3 & 7019-3. The request for the Questionnaire was dated October 12, 2012. The Water Management Board has directed that owners of water permits who have not submitted the 2012 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2826B-3 & 7019-3 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) 2826B-3 & 7019-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office 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.

2826B-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 25, 2013

2826B-3
7019-3

Brook Bye
31472 458th Ave
Vermillion SD 57069

Dear Mr. Bye:

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

You may disregard the January 18, 2013, "Notice" concerning reporting requirements for Water Right Nos. 2826B-3 and 7019-3. 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