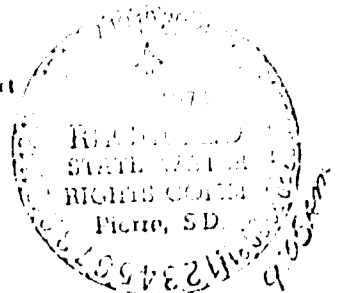


Water Right Number 3264-3

1. Considered 1-26, 1977
2. Name of Applicant JOE HEBER
3. Post Office Address BELL
4. Amount of water claimed 1.62
5. Source of water supply 14' DEEP DUGOUT
6. Water to be used for IRRIGATION  
Acres to be irrigated 100
7. Water to be diverted and used in SPINK County  
about 10W, 5N Miles        of REDFIELD
8. Proof of Publication Received 1-3-77  
Not received
9. Application Approved                       
Subject to                       
Not approved                       
Action deferred
10. Remarks:

No. 3264-3Map No. 2551-3 Water Division No. 3 JAMES RIVER District \_\_\_\_\_  
(Blanks to be Filled by the Engineer for the W. R. 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 Joe Heber John J Heber  
Post-office address RR #1, Box 482, Ell, SD State SD 37483  
If a corporation show date and place of incorporation \_\_\_\_\_  
2. Method of accomplishing work (contract, employment of others, or by direct labor) Direct Labor  
3. Name of diversion work Joe Heber  
4. Amount of water claimed (cubic feet per second) 7.2 (1000 Gallons per minute)  
5. Source of water supply Travel Pit  
6. Location of point of diversion NW 1/4 19-117-65  
7. Annual period or periods during which water is to be used April to November  
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 100

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

| Land Description                  | No. Acres Irr. | Land Description | No. Acres Irr. |
|-----------------------------------|----------------|------------------|----------------|
| <u>Center of NW 1/4 19-117-65</u> | <u>100</u>     |                  |                |
|                                   |                |                  |                |
|                                   |                |                  |                |
|                                   |                |                  |                |

Attach sheet if more space is needed

10. Time required to complete construction of water supply system \_\_\_\_\_ years Additional time required to complete application of water to the proposed beneficial use \_\_\_\_\_ year  
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Redwood Press  
12. Principal Features of the Proposed Water Supply System.  
A. Works proposed to divert water from its natural source.  
Travel Pit  
B. Works proposed to transport water to place of use.  
C. Works proposed to apply water to beneficial use.

Estimated Total Cost \$20,000.-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 SpinkI, Joe Heber, 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 constructionSigned Joe HeberSubscribed and sworn to before me this 14 day of October 1976

Notary Public (or other qualified officer)

# WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 3264-3  
JOE HEBER John J Heber ZELL (RR #1, Box 48)  
 (Applicant) (Post Office Address)  
SOUTH DAKOTA 57483 With the following modifications:  
 (State)

Date of first receipt of application OCTOBER 19 19 76  
 Date of return to applicant for correction, amendments or changes required \_\_\_\_\_ 19 \_\_\_\_  
 Date of receipt of corrected application OCTOBER 29 19 76  
 Approved JANUARY 27 19 77 Recorded in Book 17 Page 67

WATER RIGHT PERMIT NO. 3264-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 3264-3 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 OCTOBER 19 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JULY 27 19 77
3. The whole of said work is to be completed on or before JANUARY 27 19 78
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 27 19 80
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 1.42 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before JANUARY 27 19 80; said water to be used during the following described annual period: APRIL - NOVEMBER

Witness my hand this 7<sup>TH</sup> day of APRIL 19 77

WATER RIGHTS COMMISSION

By: John H. Hall  
 Chief Engineer, Executive Officer

Certificate of Construction Issued \_\_\_\_\_ 19 \_\_\_\_

Water License Issued \_\_\_\_\_ 19 \_\_\_\_

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

- (1) Drill Hole, Diameter \_\_\_\_\_, Depth \_\_\_\_\_
- (2) Casing, Type \_\_\_\_\_ Diameter \_\_\_\_\_ Thickness \_\_\_\_\_  
(wood, concrete, steel, etc.)
- (3) Perforated Screen.  
Type \_\_\_\_\_, Diameter \_\_\_\_\_, Length \_\_\_\_\_
- (4) Gravel Pack, Thickness \_\_\_\_\_, Length of gravel pack \_\_\_\_\_

E. Dugout Information or Estimates

- (1) Surface dimensions \_\_\_\_\_, Depth \_\_\_\_\_

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials \_\_\_\_\_  
*Gravel Pit*

Depth to top of water bearing material \_\_\_\_\_

Depth to bottom of water bearing material \_\_\_\_\_

Thickness of water bearing material \_\_\_\_\_

Depth to water (ground surface to water level) \_\_\_\_\_

- (2) Distance to nearest existing household or livestock watering wells.

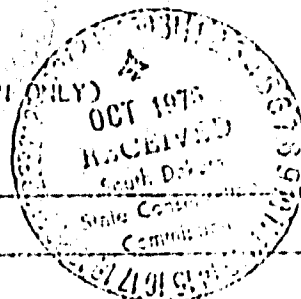
On same owner's property 700 rds. On property owned by others 220 rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

*Joe Weber*  
\_\_\_\_\_  
Signature of Applicant

STATE CONSERVATION COMMISSION  
SUPPORTING INFORMATION  
FOR APPROPRIATION OF GROUND WATER IN ACCORDANCE  
WITH SDCL 46-E-3 AS AMENDED  
(THIS FORM REQUIRED FOR PROPOSED GROUND WATER IRRIGATION ONLY)



NAME Joe Weber  
ADDRESS Well, S. Dak. 57483  
COUNTY Spink

LEGAL DESCRIPTION

1. WELL LOCATION clug-out 117-45 Northwest 1/4 of section 19 Grandditch trap  
2. LOCATION OF AREA TO BE IRRIGATED about 100 acres

TYPE OF IRRIGATION

3. GRAVITY \_\_\_\_\_ TOWLINE \_\_\_\_\_ CENTER PIVOT \_\_\_\_\_ GUN 1  
4. CROPS TO BE IRRIGATED Corn or Alfalfa

WATER QUALITY

5. SAMPLE NUMBER 76-1636  
6. SALINITY (EC x 10<sup>6</sup>) 9.51 (moderately high)  
7. SODIUM (SAR) 4.02 (low)  
8. RESIDUAL SODIUM CARBONATE (meq/l.) 0.57

I do hereby certify that a chemical analysis of the ground water representative of that used to irrigate shall be acquired from South Dakota State University and; the soils information has been acquired from \_\_\_\_\_ Conservation District, County Extension office or Soil Conservation Service.

and:

that the legal description for the location of the well and land to be irrigated is true and correct.

SUBSCRIBED AND SWORN BEFORE ME THIS  
14 DAY OF October 19 76.

Charles Reed  
(TITLE OR SEAL)

My Commission Expires Nov. 12, 1978

Joe Weber  
APPLICANT'S SIGNATURE

Approval does not imply that this project can be carried out successfully in all circumstances. Individual management will, to a large degree, determine the relative success of this venture.

Albert J. Dittman  
APPROVED/DEPARTMENT

(SOILS INFORMATION ON REVERSE SIDE)

**REPORT OF ANALYSIS**  
**Water Quality Laboratory**  
**Water Resources Research Institute**  
**South Dakota State University**  
**Brookings, South Dakota 57006**

Submitted by: Joe Heber  
 Address: Zell, SD 57483

Date Rec'd: October 20, 1976  
 Sample No.: 76-1636  
 Identification: Ingot  
W-1, Sec. 19, T. 12N, R. 65

**WATER ANALYSIS**

|                                       |       |                             |      |           |
|---------------------------------------|-------|-----------------------------|------|-----------|
| Calcium (Ca)                          | 44    | ppm*                        | 2.20 | me/l**    |
| Magnesium (Mg)                        | 34    | ppm                         | 2.70 | me/l      |
| Sodium (Na)                           | 146   | ppm                         | 6.36 | me/l      |
| Potassium (K)                         | 7     | ppm                         | 0.38 | me/l      |
| Sulfate (SO <sub>4</sub> )            | 143   | ppm                         | 2.97 | me/l      |
| Nitrate (as N)                        |       | ppm                         |      | me/l      |
| Chloride (Cl)                         | 53    | ppm                         | 1.48 | me/l      |
| Bicarbonate (HCO <sub>3</sub> )       | 339   | ppm                         | 5.56 | me/l      |
| Carbonate (CO <sub>3</sub> )          |       | ppm                         |      | me/l      |
| Iron (Fe)                             |       | ppm                         |      | me/l      |
| Fluoride (F)                          |       | ppm                         |      | me/l      |
| Hardness (EDTA as CaCO <sub>3</sub> ) |       | ppm                         |      | g.p.g.*** |
| Alkalinity (Methyl Orange)            | 278   | ppm (as CaCO <sub>3</sub> ) |      |           |
| Alkalinity (Phenolphthalein)          | 0     | ppm (as CaCO <sub>3</sub> ) |      |           |
| Electrical Conductivity               | 951   | micromhos per cm at 25° C.  |      |           |
| Sodium Adsorption Ratio               | 4.02  |                             |      |           |
| Sodium                                | 55.12 | % of cations                |      |           |
| Residual sodium carbonate             | 0.57  | me/l                        |      |           |
| pH                                    | 8.01  |                             |      |           |

Others:

\*ppm=parts per million

\*\*me/l=millequivalents per liter

\*\*\*g.p.g.=grains per gallon

COMMENTS: Total cations 11.52 me/l  
 Total anions 10.01 me/l

By: Shirley Mitten

Service Performed

Amount Due

Irrigation analysis

\$8.00 PAID

Make checks payable to: Water Quality Laboratory

Cut along dotted line and return the lower portion with payment

Sample No. 76-1636

Amount Enclosed \$.....

Signed.....

October 27, 1976



Mr. Joe Heber  
Zell, SD 57483

Dear Mr. Heber:

Your water sample (Lab. No. 76-1636) has been analyzed and the results are reported on the accompanying sheet, which is your copy to keep.

I am also enclosing a copy of AES pamphlet #13 for your use. The quality of your water for irrigation use is plotted approximately by means of the red cross in the chart on the outside back cover.

This water is marginal for use on the soils you intend to irrigate and should be considered for use only under the following conditions:

(1) It will be used no more than 3 times (preferably less) in any growing season.

(2) The soil will be completely filled with water so natural leaching can occur, by irrigating in the late fall just before freeze-up, at least one year out of 3.

(3) Water applications will be made each irrigation to completely re-wet the entire depleted soil within the rooting zone of the crop being grown. This may require 3-5 inches of water each irrigation with fine soils.

(4) If a salt problem or soil dispersion occurs, contact extension personnel or this office for management recommendations.

Sincerely yours,

*L. O. Fine*

L. O. Fine  
Water Quality Lab

LOF:ckb

Enclosures

cc: State Conservation Commission

P.S. You must not attempt to irrigate the Glaypan soil on the west and south sides of the tract. Nothing but disappointment would be the result.

NB-7

No. 3364-3Publish first publication, on or before January 13, 19 77NOTICE  
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

December 17, 19 77Notice is hereby given that Joe Heberwhose post office address is Zell, 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 1.42 cubic feet of water per second of time from the ground water (gravel pit) through theHeber #1

the point of diversion of which is to be located in the

NE 1/4 NW 1/4of Section 19, Twp. 119N, Range 65W. Said water to be used for the purpose of providing irrigation on the following described land:NW 1/4, Section 19, T119N, R65WThis application No. 3364-3 will be considered by the Water Rights Commission at their office at Pierre upon the 26th day of January, 19 77, 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: Joe Heber, Zell, S.D. 57483

No. 3264-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Spink ) ss.

I, Harold D Jones hereby

certify that the annexed printed copy of Notice of Intent to Appropriate  
Water was taken from the Leadfield Press

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

city of Leadfield

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

December 23

December 30

Harold D Jones  
(Signature)

editor  
(Title)

December 30, 1976  
(Date Signed)

No. 40

No. 3264-3  
NOTICE OF INTENT TO APPROPRIATE WATER  
Pierre, South Dakota 57801  
December 17, 1976  
Notice is hereby given that Joe Heber whose post office address is Zell, 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 1.42 cubic feet of water per second of time from ground water (gravel pit, throat) the Heber No. 17 the point of diversion of which is to be located in the E 1/4 NW 1/4 of Section 10, Twp. 119N, Range 65W. Said water to be used for the purpose of providing irrigation on portions of the following described land: NW 1/4, Section 19, T119N, R65W. This application No. 3264-3 will be considered by the Water Rights Commission at their office at Pierre, upon the 26th day of January, 1977, at 10:00 A.M. All interested persons may appear and be heard.  
WATER RIGHTS COMMISSION  
By: BURTON F. JONES  
Water Rights Specialist

BFJbw  
cc: Joe Heber, Zell, S.D. 57483  
(December 23, 30)



RECEIPT  
WATER RIGHTS COMMISSION  
State of South Dakota

No 4 7991

PIERRE, February 18, 1981

RECEIVED OF John J. Heber, RR 1, Box 48, Zell, SD 57483

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

|                                                                                                                       |      |
|-----------------------------------------------------------------------------------------------------------------------|------|
| Fee for Application for Permit to Appropriate Water No. .... (examination,<br>processing, recording and filing) ..... |      |
| Fee for inspecting Construction, and issuing Cert. of Construction No. ....                                           |      |
| Fee for inspecting Beneficial Use, and issuing Water License No. ....                                                 |      |
| Fee for issuing Location Certificate-Dry Draw, No. ....                                                               | 2.50 |
| Fee for filling ..... transfer of WR# 3264-3 .....                                                                    |      |
| Fee for certified copy of .....                                                                                       |      |
| Fee for Print copy of map .....                                                                                       |      |
| Fee for Certifying .....                                                                                              |      |
| Fee for .....<br>(any other work as provided by law)                                                                  |      |
| TOTAL                                                                                                                 | 2.50 |

WATER RIGHTS COMMISSION

By *John Hatch*  
Chief Engineer, Executive Officer  
JOHN HATCH / C.E.

NO. 3264-3

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights  
Foss Building  
Pierre, SD 57501

Date: February 10, 1981

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

Center of NW 1/4 Sec. 19-117-65

formerly owned by Joe Heber, Zell, SD 57483

has been transferred to John J. Heber, RR 1, Box 48, Zell, SD 57483

together with any rights to the beneficial use of water thereon as evidenced by  
Water Right Permit No. 3264-3 as provided for in SDCL 46-5-32 and 46-5-33.

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

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

STATE OF SOUTH DAKOTA )  
County of Sancti ) ss.

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

John J. Heber  
(Signed)

Subscribed and sworn to before me this 13 Day of February, 1981.

Albert H. W. W.  
(Notary Public)

Form 10.

No. 3264-3



NOTICE OF COMPLETION OF WORKS AND/OR  
APPLICATION OF WATER TO BENEFICIAL USE

Post Office Will, S. D.

Date June 10 1977

TO: Water Rights Commission  
Joe Foss Building  
Pierre, South Dakota 57501

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to the maximum extent it is going to be used, not exceeding the amounts as specified in Water Right Permit No. 3264-3.

Water Right Permit No. 3264-3 states that the diversion system is to be constructed by Jan 27 1978 and that the water is to be put to beneficial use by June 27 1980.

The diversion system was completed on May 30 1977. Applying the water to beneficial use was completed on June 1 1977.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

John F. Heber  
(Signature)  
for Joe Heber



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

January 18, 1985

John J Heber  
RR 1 Box 48  
Zell SD 57483

Dear Mr. Heber:

On October 22, 1984, I visited your farm for the final inspection of your water permit No. 3264-3. The purpose of the final inspection is to compare the original conditions of the permit with what you have developed. After all necessary corrections are made, the water permit is licensed and becomes a water right.

Permit No. 3264-3 will be readvertised in the REDFIELD PRESS on January 23 and 30, 1985. The advertisement is to correct an error in the original notice which was published on December 23 and 30, 1976. The lands you are presently irrigating were advertised as being in T119N instead of the correct location which is T117N. The readvertisement cost will be payed by the Division of Water Rights.

Sincerely,

RON DUVALL  
Water Resources Engineer

RD:ks

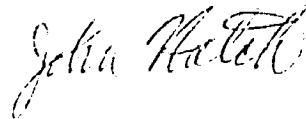
enclosures

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT

APPLICATION NO. 3264-3, John J Heber

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning readvertisement of Water Permit Application No. 3264-3, John J Heber, RR 1, Box 48, Zell SD to correct an advertisement error that was made in 1976.

The Chief Engineer is recommending APPROVAL of Application No. 3264-3 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) in the public interest.

A handwritten signature in cursive script, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer  
January 18, 1985

Instruction to Newspaper - Publish first publication of the following Notice on or before January 23, 1985 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 3264-3 to Appropriate Water  
and/or to Amend Water Permit or Water Rights No. \_\_\_\_\_

Notice is hereby given that John J Heber whose mailing address is RR 1, Box 48, Zell, South Dakota has made an application for a permit

on October 19, 1976. This is a correction of the original notice published on December 23 and 30, 1976. The permit application was to irrigate lands including the NW $\frac{1}{4}$  of Section 19, T117N, R65W. This notice corrects an advertising error by changing the land description from the NW $\frac{1}{4}$  of Section 19, T119N, R65W to the correct description which is the NW $\frac{1}{4}$  of Section 19, T117N, R65W. The corrected land description is a total and is not in addition to the original application. Therefore, 1.42 cubic feet per second is to be diverted from a gravel pit in the E $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 19, T117N, R65W and 100 acres are to be irrigated in the NW $\frac{1}{4}$  of Section 19, T117N, R65W.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends

Approval of Application No. 3264-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Joe Foss Building, Room 216, 523 E Capitol, Pierre SD on March 6 19 85 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the Applicant and the Chief Engineer by February 22, 1985. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; ~~(ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05.~~

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWHR, Joe Foss Bldg. Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by February 22, 1985.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County Spink

I, Pamela Rose

certify that the annexed printed copy of Not

Water was taken from the Redfield

A newspaper which during the whole time c  
herein after stated, has been and is printed at

Redfield Press of Redf

County of Spink a  
that the said notice was published in said r  
two dates:

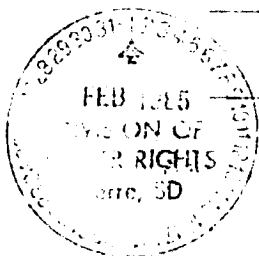
January 23, 1985

January 30, 1985

Pamela  
(Signature)

(Title)

1/31/  
(Date Signed)



Cost of Printing: 20.00

(Amount) \$20.00

1/11/1985 10:11:24

No. 14

NOTICE OF HEARING  
ON APPLICATION NO. 3264-3  
TO APPROPRIATE WATER

Notice is hereby given that John J. Heber whose mailing address is RR 1, Box 48, Zell, South Dakota has made an application for a permit on October 19, 1976. This is a correction of the original notice published on December 23, and 30, 1976. The permit application was to irrigate lands including the NW $\frac{1}{4}$  of Section 19, T117N, R65W. This notice corrects an advertising error by changing the land description from the NW $\frac{1}{4}$  of Section 19, T119N, R65W to the correct description which is the NW $\frac{1}{4}$  of Section 19, T117N, R65W. The corrected land description is a total and is not in addition to the original application. Therefore, 1.42 cubic feet per second is to be diverted from a gravel pit in the E $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 19, T117N, R65W and 100 acres are to be irrigated in the NW $\frac{1}{4}$  of Section 19, T117N, R65W.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends Approval of Application No. 3264-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Joe Foss Building, Room 216, 523 E. Capitol, Pierre, SD on March 6, 1985 at 10:00 a.m. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must

file a written petition with BOTH the Applicant and the Chief Engineer by February 22, 1985. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reason for the petitioner's opposition to or support of the application and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWRN Joe Foss Bld, Pierre, SD (605 773-3355) for assistance prior to the hearing. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by February 22, 1985.

(Jan. 23, 30)



**Department of  
Water & Natural Resources**

Joe Foss Building  
623 East Capitol  
Pierre, South Dakota 57501

Division of Water Rights  
605 773-3352

No. 3264-3

June 11, 1985

John J. Heber  
RR#1, Box 48  
Zell, South Dakota 57483

Dear Mr. Heber:

The inspection of your water use system and inspection of the extent of the application of water to beneficial use, as developed under your Water Right No. 3264-3 has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuing of the Water License. Upon receipt of the \$50.00 fee from you, your Water License will be sent to you.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until this \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

Maximo Stirling  
Staff Assistant

ms/

NOTE: On form of payment, please include the number of the water permit.  
This insures proper handling of the fee.

LICENSE FOR PERMIT NUMBER 3264-3

1. Legal location of wells: \_\_\_\_\_

\_\_\_\_\_

dams & structures: \_\_\_\_\_

2. Well information: Well Drilling Firm \_\_\_\_\_

No. of wells \_\_\_\_\_ Depth \_\_\_\_\_

Casing a) diameter \_\_\_\_\_ Screen a) type \_\_\_\_\_  
b) length \_\_\_\_\_ b) length \_\_\_\_\_  
c) type \_\_\_\_\_ Static Water Level \_\_\_\_\_

Pump a) make \_\_\_\_\_ Motor a) make \_\_\_\_\_  
b) model \_\_\_\_\_ b) model no. \_\_\_\_\_  
c) size \_\_\_\_\_ c) horsepower rating \_\_\_\_\_  
d) capacity \_\_\_\_\_ GPM d) motor efficiency rating \_\_\_\_\_  
e) turbine pump \_\_\_\_\_  
no. of stages \_\_\_\_\_

3. Distribution lines:

a) size of lines 8 in.  
b) type Aluminum  
c) length 2,220

4. Dam information:

a) height to crest \_\_\_\_\_  
b) height to spillway \_\_\_\_\_  
c) crest width \_\_\_\_\_  
d) crest length \_\_\_\_\_  
e) spillway length \_\_\_\_\_  
f) spillway width \_\_\_\_\_  
g) approx. storage \_\_\_\_\_

i) Outlet tubes:

1) diameter \_\_\_\_\_  
2) type \_\_\_\_\_  
3) valued (Y/N) \_\_\_\_\_  
4) valve type \_\_\_\_\_  
5) location on structure \_\_\_\_\_

h) Distribution lines or canals:

1) size \_\_\_\_\_  
2) type \_\_\_\_\_  
3) length \_\_\_\_\_

5. System Type: a) sideroll:

1) length \_\_\_\_\_ feet  
2) diameter of pipe \_\_\_\_\_  
3) make, model & number of sprinklers \_\_\_\_\_  
4) spacing of sprinklers \_\_\_\_\_  
5) nozzle size \_\_\_\_\_

b) towline:

1) length \_\_\_\_\_ feet  
2) make, model & number of sprinklers \_\_\_\_\_  
3) spacing of sprinklers \_\_\_\_\_  
4) nozzle size \_\_\_\_\_

5. System Type: c) center pivot

- 1) make \_\_\_\_\_
- 2) number of towers \_\_\_\_\_
- 3) distance between towers \_\_\_\_\_
- 4) overall length \_\_\_\_\_
- 5) End gun (Y/N) \_\_\_\_\_
- 6) high or low pressure \_\_\_\_\_
- 7) make & size of nozzles \_\_\_\_\_
- 8) PSI reading while system is running \_\_\_\_\_
- 9) GPM \_\_\_\_\_

d) Gate Pipe

- 1) length \_\_\_\_\_
- 2) diameter \_\_\_\_\_
- 3) spacing of gates \_\_\_\_\_

e) Siphons

- 1) number \_\_\_\_\_
- 2) size \_\_\_\_\_

f) Portable boom

- 1) make \_\_\_\_\_
- 2) serial number \_\_\_\_\_
- 3) nozzle size \_\_\_\_\_
- 4) capacity (GPM) \_\_\_\_\_
- 5) PSI \_\_\_\_\_

g) Gun Water Winch

- 1) make WW 45
- 2) serial number 1244
- 3) nozzle size Nelson P200, 1.4 in.
- 4) capacity (GPM) 550
- 5) PSI 80
- 6) hose size 5 in.
- 7) hose length 660 ft.

h) Hydromatic

- 1) make \_\_\_\_\_
- 2) model \_\_\_\_\_
- 3) serial number \_\_\_\_\_
- 4) length \_\_\_\_\_
- 5) nozzle size \_\_\_\_\_
- 6) spacing \_\_\_\_\_
- 7) PSI \_\_\_\_\_
- 8) capacity (GPM) \_\_\_\_\_

YES

NO

Check Items

✓

\_\_\_\_\_

1. Soil and water permit lands agree with lands being irrigated and lands listed on permit.

✓

\_\_\_\_\_

2. Special Qualifications to permit being abided by.

✓

\_\_\_\_\_

3. All Structures, wells and lands on map.

REMARKS:

motor: Deutz, 5 cyl.  
diesel, 73 hp.  
N.R. 5732-185

pump: Berkeley, imp. 13 1/2 in.  
S.N. 7735589  
M.N. B3JQBM

Permit No. 3264-3James River Water District**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

TO: Chief Engineer, Division of Water Rights, DWNR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by John J. Heber\_\_\_\_\_ of RR 1, Box 48, Zell, SD 57483 holder of  
Permit No. 3264-3, bearing the priority of October 19 19 76 authorizingthe diversion of 1.42 cu. ft. per second of the waters of a gravel pit  
for irrigation purposes, in Spink County.

I have to report on the conditions of the same as follows:

motor: Deutz, 5 cyl. pump: Berkeley, imp. 1 3/4 in.  
diesel, 73 hp. S.N. 7735589  
N.R. 5732485 M.N. B3JC3M

A. Works used to divert the water:

Pipeline: size - 8 in.

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

type - Aluminumlength - 2,220 ft

C. Works used to apply water to beneficial use:

Water Winch: make - WW 45S.N. - 1244nozzle: size - Nelson P200, 1.4 in.capacity - 550 gpmpressure - 80 psihose size - 5 inhose length - 660 ftThe system is in the following condition goodThe point of diversion is located gravel pit: 1450 ft N and 590 ft W from center of  
sec. 19 - T117N - R65WThe works are capable of diverting and conveying to the place of use 1.22  
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:

|                                             | Acres       |
|---------------------------------------------|-------------|
| <u>NW 1/4 NW 1/4 sec. 19 - T117N - R65W</u> | <u>30.0</u> |
| <u>NE 1/4 NW 1/4 "</u>                      | <u>36.0</u> |
| <u>SW 1/4 NW 1/4 "</u>                      | <u>9.2</u>  |
| <u>SE 1/4 NW 1/4 "</u>                      | <u>23.1</u> |

comprising a total of 98.3 acres of land and the license should be issued for 1.22 cfsApplicable permit qualifications have been complied with ☒ Yes ☐ No

Exceptions to compliance are \_\_\_\_\_

Date 10/25/84Ron Duvall  
signature

**State of South Dakota**  
**Water License No. 3264-3**

(1) Joe Heber  
of Zell, South Dakota  
made Application No. 3264-3 October 19, 1976 for a water permit to appropriate  
1.42 cubic feet per second of water from a gravel pit  
Spink County, South Dakota for Irrigation purposes.  
Permit No. 3264-3, with a priority date of October 19, 1976  
was approved January 27, 1977 and issued to applicant(s) for diversion of water with construction of the described  
water supply system to be completed on or before January 27, 1978 and for the application to beneficial use of said  
water on or before January 27, 1980.

February 18, 1981, Water Permit No. 3264-3 was transferred to John J. Heber,  
Zell, South Dakota.

and

(2) It is certified that the application 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 1.22 cubic feet per second of water  
for beneficial use. The location of the diversion point(s) is 1450'N and 590'W from the Center of  
Section 19, T117N, R65W (BA)

and

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to the following extent, to irrigate the following land all in T117N, R65W

|            |                                   |            |      |
|------------|-----------------------------------|------------|------|
| Section 19 | NW $\frac{1}{4}$ NW $\frac{1}{4}$ | 30.0 Acres | (BB) |
|            | NE $\frac{1}{4}$ NW $\frac{1}{4}$ | 36.0 Acres | (BA) |
|            | SW $\frac{1}{4}$ NW $\frac{1}{4}$ | 9.2 Acres  | (BC) |
|            | SE $\frac{1}{4}$ NW $\frac{1}{4}$ | 23.1 Acres | (BD) |
|            | TOTAL                             | 98.3 ACRES |      |

(4) Pursuant to §16-5-20.1 John J. Heber  
of RR#1, Box 48, Zell, South Dakota 57483  
the holder(s) and/or owner(s) of Water Permit No. 3264-3 is issued a license to appropriate water, the right to use  
1.22 cubic feet per second of water from groundwater with a priority date  
of October 19, 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 Permit No. 3264-3 and subject  
to South Dakota State Law.

*John Hatch*  
Chief Engineer, Water Resources Division  
Department of Water and Natural Resources

JOHN HATCH

DEC 29 1985

# RECEIPT

Division of Water Rights

No 4 10071-

South Dakota Department of Water and Natural Resources

Pierre, June 14, 1985

RECEIVED OF John J. Heber, RR#1, Box 43, Zell, SD 57463

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

|                                                                                                                            |       |       |
|----------------------------------------------------------------------------------------------------------------------------|-------|-------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____ |       |       |
| Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____                                         |       |       |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                                     |       |       |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____                        | 50    | 00    |
| Fee for Filing Transfer Form _____                                                                                         |       |       |
| Fee for Filing Extension Request _____                                                                                     |       |       |
| Fee for Certified Copy of _____                                                                                            |       |       |
| Fee for Print Copy of Map _____                                                                                            |       |       |
| Fee for Certifying _____                                                                                                   |       |       |
| Fee for _____                                                                                                              |       |       |
| (Any Other Work Provided by Law)                                                                                           | Total | 50 00 |

By ( ) John J. Heber  
Chief Engineer CHIEF ENGINEER  
JOHN HEBER



No. 3264-3

# Department of Water & Natural Resources

Joa Foss Building  
523 East Capitol  
Pierre, South Dakota 57501

WATER RIGHTS DIVISION  
Phone (605) 773-3352

DEC 20 1985

John J. Heber  
RR#1, Box 48  
Zell, South Dakota 57483

Dear Mr. Heber:

Enclosed herewith is, Water License No. 3264-3. This is the final water right document completing your process of obtaining a water right.

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

Very truly yours,

JOHN HATCH, Chief Engineer  
Water Rights Division

JH:ms

Enclosures

WNR-817 3/83  
Transmittal of Water License

 **Department of  
Water & Natural Resources**

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

March 31, 1986

John J. Heber  
RR 1, Box 48  
Zell, SD 57483

Notice

Re: Violation of Requirement to Submit 1985 Irrigation Questionnaire

Our records indicate that the 1985 Irrigation Questionnaire has not been submitted for Water Permit No(s). 3264-3. The request for the Questionnaire was dated November 13, 1985. The Water Management Board has directed that owners of water permits who have not submitted 1985 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.

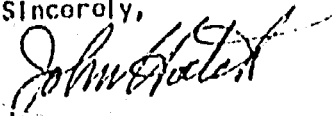
The hearings will be held at 2:00 p.m., May 14, 1986 in Room 216, Joe Foss Building, Pierre, South Dakota.

The hearing(s) 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. Those 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). 3264-3 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.

Sincerely,



John Hatch, Chief Engineer  
Water Rights Division  
(605) 773-3352

Note: If the questionnaire(s) is received in this office before the May 14 hearing date, your name will be deleted from the agenda for the hearings.

 **Department of  
Water & Natural Resources**  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

May 20, 1986

NOTICE OF AMENDMENT TO WATER PERMIT(s)

To: John J Heber  
RR 1 Box 48  
Zell SD 57433

FROM: John Hatch, Chief Engineer  
Water Rights Division  
605 773-3352



SUBJECT: Amendment to Water Permit No(s). 3264-3

Pursuant to the provisions of the notice dated March 31, 1986, and following the Hearing May 14, 1986, the Water Management Board has amended Water Permit No(s). 3264-3 to add the following qualification:

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

The addition of this qualification to your Permit means that failure to submit the required irrigation questionnaire in the future could result in suspension of the water permit and no use of water for up to one year for the first violation. Please include the enclosed attachment with your permit.

 **Department of  
Water & Natural Resources**

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

Attachment to Water Permit No. 3264-3

Pursuant to the provisions of the notice dated May 20, 1986, and following the Hearing May 14, 1986, the Water Management Board has amended Water Permit No. 3264-3 to add the following qualification:

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

*Equal Opportunity Employer*

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

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

March 23, 1987

JOHN J HEBER  
RR #1 BOX 48  
ZELL, SD 57483

NOTICE

Re: Violation of Water Permit No(s). 3264-3

Our records indicate that the 1986 Irrigation Questionnaire has not been received for Permit No(s). 3264-3. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearings(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 3264-3 qualification:

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

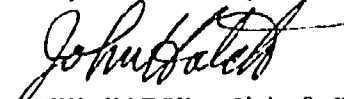
The hearing(s) will be at 2:00 pm, May 6, 1987, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing(s) 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. Suspend Permit No(s). 3264-3 until either the 1986 Questionnaire is submitted or for a period of up to one 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 hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.



# Department of Water & Natural Resources

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3121

April 13, 1987

3264-3

John J Heber  
RR #1 Box 48  
Zell, SD 57483

Dear Mr. Heber:

This will acknowledge receipt of and thank you for the return of your 1986 Irrigation Questionnaire. A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water Permit No. 3264-3 and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

Please disregard the notice sent to you dated March 23, 1987. Your name has been deleted from the agenda pertaining to these hearings.

If you have any questions, please contact us.

Very truly yours,

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

3264-3

**SOUTH DAKOTA**  
**Department of**  
**Water & Natural Resources**

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

January 29, 1988

JOHN J. HEBER  
RR #1 BOX 48  
ZELL, SD 57483

**NOTICE**

Re: Violation of Water Permit No(s). 3264-3

Our records indicate that the 1987 Irrigation Questionnaire has not been received for Permit No(s). 3264-3. 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 permit violation and of hearing(s) before the Board. The hearings(s) will be held to determine action to be taken by the board for violation of Water Permit No(s). 3264-3 qualification:

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

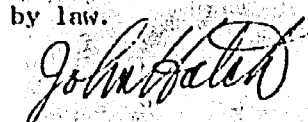
The hearing(s) will be at 9:00 am, March 2, 1988, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing(s) 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. Suspend Permit No(s). 3264-3 until either the 1987 Questionnaire is submitted or for a period of up to one 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, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.



# Department of Water & Natural Resources

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

March 14, 1988

## NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT

TO: JOHN J HERBER  
RR #1 BOX 48  
ZELL, SD 57483

FROM: John Hatch, Chief Engineer  
Water Rights Division  
605-773-3352

SUBJECT: One Year Suspension Of Water Permit No(s). 3264-3

Pursuant to the provisions of the notice dated January 29, 1988, and following the hearing of March 2, 1988, the Water Management Board has ordered:

That Water Permit No(s). 3264-3 be **SUSPENDED** until December 31, 1988.

Suspension of a permit means water may not be pumped during the 1988 irrigation season. Decisions of the Board may be appealed to the Circuit Court and the Supreme Court as provided by law.

**SENDER:** Complete Items 1 and 2 when additional services are desired, and complete Items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. ☐ Restricted Delivery  
 †(Extra charge) †(Extra charge)

JOHN J HEBER  
 RR #1 BOX 48  
 ZELL, SD 57483

4. Article Number  
**P 501 738 974**

Type of Service:  
☐ Registered ☐ Insured  
☒ Certified ☐ COD  
☐ Express Mail

Always obtain signature of addressee or agent and **DATE DELIVERED.**

6. Signature - Agent  
☒ *John J Heber*

7. Date of Delivery  
**3-15-88 EDC**

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

PS Form 3811, Mar. 1987

\* U.S.G.P.O. 1987-178-258

DOMESTIC RETURN RECEIPT

JOHN J. HEBER  
RR #1 BOX 48  
ZELL, SD 57483

March 30, 1988

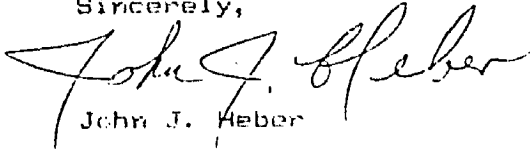
South Dakota Department of  
Water & Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3181

ATTENTION JOHN HATCH

Dear Sir:

On March 14, 1988, I received a notice of one year suspension of my Water Permit No. 3264-3. I would like to meet with the Board, to explain that the 1987 Irrigation Questionnaire not being filled out and returned, was an oversight on my part, and to appeal this suspension by the Board. Enclosed, is the completed 1987 Irrigation Questionnaire, I fully regret the inconvenience I have caused.

Sincerely,

  
John J. Heber





# Department of Water & Natural Resources

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

April 14, 1988

## NOTICE

TO: John J Heber, RR #1 Box 48, Zell, SD 57483

FROM: JOHN HATCH, Chief Engineer  
Water Rights Division  
605 773-3352 *John Hatch*

SUBJECT: Notice of Hearing to Consider Request for  
Reconsideration of Suspended Water Right No. 3264-3

The hearing on your March 30, 1988 request to the Water Management Board to reconsider suspension of Water Right No. 3264-3 has been scheduled for 9:15 am, May 11, 1988, in Room 216, Joe Foss Building, 523 E Capitol, Pierre, SD.

As stated in the notice to you dated January 29, 1988, 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.

After all evidence is taken at the hearing, the Board may issue a decision to rescind the suspension of your permits, defer action or taken no action. The hearing is an adversary proceeding and any party 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 at the hearing. Any decision rendered by the Board may be appealed to the Circuit Court or to the State Supreme Court as provided by law.

cc: Harold Deering, Assistant Attorney General

### CERTIFICATION

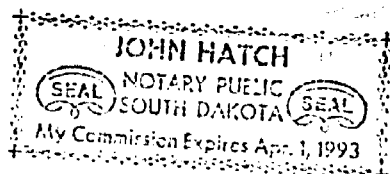
I hereby certify that on April 14, 1968 I have personally deposited with the U.S. Mail, a postage prepaid envelope containing Notice of Hearing to Consider Request for Reconsideration of Suspended Permit addressed as follows:

John J Heber  
RR 1, Box 48  
Zell SD 57483

*Karen Schlaak*  
KAREN SCHLAACK  
Senior Secretary

STATE OF SOUTH DAKOTA )  
 ) SS  
COUNTY OF HUGHES )

Sworn to, before me, this 15<sup>th</sup> day of April, 1988.



John Hatch  
Notary Public

John J Heber  
Water Right No. 3264-3

#### GENERAL

Application submitted by: Joe Heber  
Zell, SD 57483

Permit Approved: January 27, 1977

Permit Transferred February 18, 1981 to:  
John J Heber  
RR #1 Box 48  
Zell, SD 57483

Permit Licensed: December 20, 1985

Water Right was Amended May 14, 1986 to include the  
Irrigation Questionnaire Qualification for violation of the  
requirement to submit the 1985 irrigation questionnaire

#### FIVE YEAR HISTORY OF IRRIGATION QUESTIONNAIRE RETURNS

| Year | Date<br><u>Request Mailed</u> | Date Irrigation<br>Questionnaire<br><u>Returned</u> | Date of Any<br><u>Board Action</u> |
|------|-------------------------------|-----------------------------------------------------|------------------------------------|
| 1983 | November, 1983                | March 14, 1984                                      | none                               |
| 1984 | October, 1984                 | April 19, 1985                                      | none                               |
| 1985 | November, 1985                | did not return form                                 | May 14, 1986                       |
| 1986 | November, 1986                | April 1, 1987 (by phone)                            | none                               |
| 1987 | October, 1987                 | March 30, 1988                                      | March 2, 1988                      |

#### PAST VIOLATIONS

1. Violation of Requirement to Submit 1985 Irrigation  
Questionnaire:

March 31, 1986, Mr. Heber was given notice of violation of  
the requirement to submit the 1985 irrigation questionnaire  
and of the hearing scheduled before the Water Management  
Board to be held May 14, 1986.

May 14, 1986, The Water Management Board amended Water  
Right No. 3264-3 to add the Irrigation Questionnaire  
Qualification.

May 20, 1986, Mr. Heber was notified of the Board action to  
amend Water Right No. 3264-3.

2. 1986 Irrigation Questionnaire Violation

March 23, 1987, Mr. Heber was given notice of permit violation for non-return of his 1986 irrigation questionnaire and of the hearing scheduled before the Water Management Board to be held May 6, 1987.

April 1, 1987, Mr. Heber provided the irrigation questionnaire data by telephone. The water right was then deleted from the list of permits/rights brought before the Water Management Board May 6, 1987.

3. 1987 Irrigation Questionnaire Violation

January 29, 1988, Mr. Heber was given notice of permit violation for non-return of his 1987 irrigation questionnaire and of the hearing scheduled before the Water Management Board to be held March 2, 1988.

March 2, 1988, The Water Management Board suspended Water Right No. 3264-3 until December 31, 1988.

March 14, 1988, Mr. Heber was notified of the Board action to suspend his water right.

March 30, 1988, the 1987 irrigation questionnaire was received along with a letter requesting time to meet with the Water Management Board to explain why his questionnaire was not returned and to appeal the suspension.

April 14, 1988, Mr. Heber was sent a Notice of Hearing to Consider Request for Reconsideration of Suspended Water Right No. 3264-3.



# Department of Water & Natural Resources

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

May 13, 1988

## NOTICE

TO: John J Heber  
RR 1, Box 48  
Zell SD 57483

FROM: John Hatch, Chief Engineer  
Water Rights Division  
(605) 773-3352

SUBJECT: Reinstatement of Suspended Water Permits and Notice of  
One Year Suspension Without Reinstatement for Future  
Irrigation Questionnaire Violations

The Water Management Board, following the May 11, 1988, hearing  
passed the following motion:

"That the owners of Water Permits No. 1372-2 (Earl Sonnenschein & Sons); 1731-2 (Buckles Ranch); 235-3 (Russell Doolittle); 2171-3, 2497-3, 3229-3 (Harlan Stadheim); 2174-3, 2175-3, 2413-3, 3223-3, 4353-3, 5026-3, 5038-3 (Poinsett Hutterian Brethren); 3264-3 (John Heber); 3479-3, 4237-3 (Bob Kohnen) 3825-3 (Rod Page, operator); 4017-3 (Martin Ronning); 4257-3 (Patricia Ronning & Jeanette Hurrell); 4521-3 (Tom/William Maher & Harvey Buhl); 4564-3, 4611-3 (Wendell Bishop); 4660-3 (Dihl Grohs); 4732-3 (Gerald Benjamin); 4741-3 (Lois J Elsinger); 4827-3 (Gary Smith); 4844-3 (Gerald Goetsch); 4966-3 (Delano Hofer); 4985-3, 4992-3, 5043-3, 5044-3 (Ray & David Hanson); 4754-3 (Richard Beare); and 375-2 (Rhea Brill), have now submitted the 1987 irrigation questionnaires for these permits, that a 60 day suspension period has been completed and that these permits are reinstated effective immediately. The owners of the permits are also NOTIFIED that failure to submit future required irrigation questionnaires will result in a one year suspension without reinstatement."

If you have any questions, please contact us.

cc: Water Management Board



## CERTIFICATION

I hereby certify that on May 13, 1988 I have personally deposited with the U.S. Mail, a postage prepaid envelope containing Notice of Reinstatement of Suspended Water Permits addressed as follows:

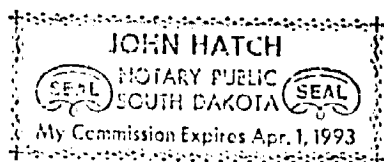
John J Heber  
RR 1, Box 48  
Zell SD 57483

Karen Schlaak

KAREN SCHLAAK  
Senior Secretary

STATE OF SOUTH DAKOTA )  
 ) SS  
COUNTY OF HUGHES )

Sworn to, before me, this 16<sup>th</sup> day of May, 1988.



John Hatch  
Notary Public



3264-3

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 22, 1999

NOTICE

TO: JOHN J HEBER, RR 3 BOX 48, ZELL SD 57469

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

RE: Requirement to Report 1998 Chemical Use

The first notice to file chemigation report(s) for Permit No(s) 3264-3 was dated October 16, 1998. Our records indicate that we have not received your 1998 chemigation report(s). The Water Management Board has directed that owners of water permits who have not submitted the 1998 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing is to determine what action is to be taken concerning violation of Administrative rule 74-02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 9:45 am, March 3, 1999, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation or up to three years for the second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s). 3264-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law. Prior to March 3, 1999, contact the Water Rights Program, 523 E. Capitol, Pierre, SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

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



January 22, 1999

3264-3  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

NOTICE

TO: JOHN J HEBER, RR 3 BOX 48, ZELL, SD 57469

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

SUBJECT: Reporting Requirement for 1998 Irrigation Questionnaire(s)

Our records indicate that the 1998 Irrigation Questionnaire has not been submitted for Permit No(s) 3264-3. The request for the Questionnaire was dated October 16, 1998. The Water Management Board has directed that owners of water permits who have not submitted the 1998 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 9:45 am, March 3, 1999, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 3264-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before March 1, 1999, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

3264-3

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

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

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

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

Consult postmaster for fees.

**3. Article Addressed to:**

JOHN J HEBER  
RR 3 BOX 48  
ZELL SD 57469

**4a. Article Number**

2119 141 674

**4b. Service Type**

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

**7. Date of Delivery**

23 Jan 99

**5. Received By: (Print Name)**

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

**6. Signature: (Addressee or Agent)**

X *[Signature]*

Thank you for using Return Receipt Service.



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

January 25, 1999

3264-3

John Heber  
17148 373<sup>rd</sup> Ave  
Zell, SD 57469

Dear Mr. Heber:

I am writing to acknowledge receipt of your 1998 irrigation questionnaire and chemigation report. You may disregard the January 22, 1999, "Notices" concerning reporting requirements for Water Permit No. 3264-3.

I completed a questionnaire and chemigation report for you based on our January 25<sup>th</sup> telephone conversation. 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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

January 14, 2004

**NOTICE**

TO: JOHN J HEBER, 17148 373RD AVE, ZELL, SD 57469

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

SUBJECT: Reporting Requirement for 2003 Irrigation Questionnaire(s)

Our records indicate that the 2003 Irrigation Questionnaire has not been submitted for Permit No(s) 3264-3. The request for the Questionnaire was dated October 17, 2003. The Water Management Board has directed that owners of water permits who have not submitted the 2003 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 8:30 am, March 3, 2004, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 3264-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **February 27, 2004**, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



3264-3

## Track & Confirm

### Current Status

You entered 2301 3460 0000 8515 8435

Your item was delivered at 11:15 am on January 15, 2004 in REDFIELD, SD 57469. The item was signed for by J HEBER.

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JOHN J HEBER  
17148 373RD AVE  
ZELL SD 57469

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Waiver of Signature ☐ YES ☐ NO

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3264-3

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January 22, 2004

3264-3

John J Heber  
17148 373<sup>rd</sup> Ave  
Zell SD 57469

Dear Mr. Heber:

I am writing to acknowledge receipt of your 2003 irrigation questionnaire. You may disregard the January 14, 2004, "Notice" concerning reporting requirements for Water Right No. 3264-3.

I completed a questionnaire for you based on our January 16<sup>th</sup> telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

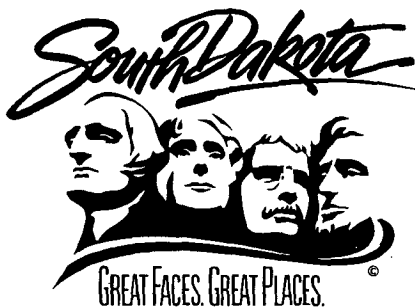
Our records show that you have not irrigated since 1987. Water must be placed to beneficial use at least once every three years in order to maintain the water right. This three-year period may be waived if legal excuse exists for not irrigating. If no legal excuse exists, your water right may be subject to cancellation for abandonment and/or forfeiture.

I am enclosing excerpts of our water laws and Water Management Board rules dealing with these issues. The Water Management Board is the only entity that can determine the status of your water right. Please review the enclosed information and get in touch with us concerning the reasons for the 16 years of non-use of water.

Sincerely,

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

enclosure



3264-3  
**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

January 20, 2005

**NOTICE**

TO: JOHN J HEBER, 17148 373RD AVE, ZELL, SD 57469

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

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire

Our records indicate that the 2004 Irrigation Questionnaire has not been submitted for Permit No. 3264-3. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

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

1. Amend Permit No. 3264-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire is received in this office on/or before February 25, 2005, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



3264-3

## Track & Confirm

### Current Status

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JOHN J HEBER  
17148 373RD AVE  
ZELL SD 57469

Waiver of Signature ☐ YES ☐ NO

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January 26, 2005

3264-3

John Heber  
17148 373<sup>rd</sup> Ave  
Zell SD 57483

Dear Mr. Heber:

I am writing to acknowledge receipt of your 2004 irrigation questionnaire. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Right No. 3264-3.

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.

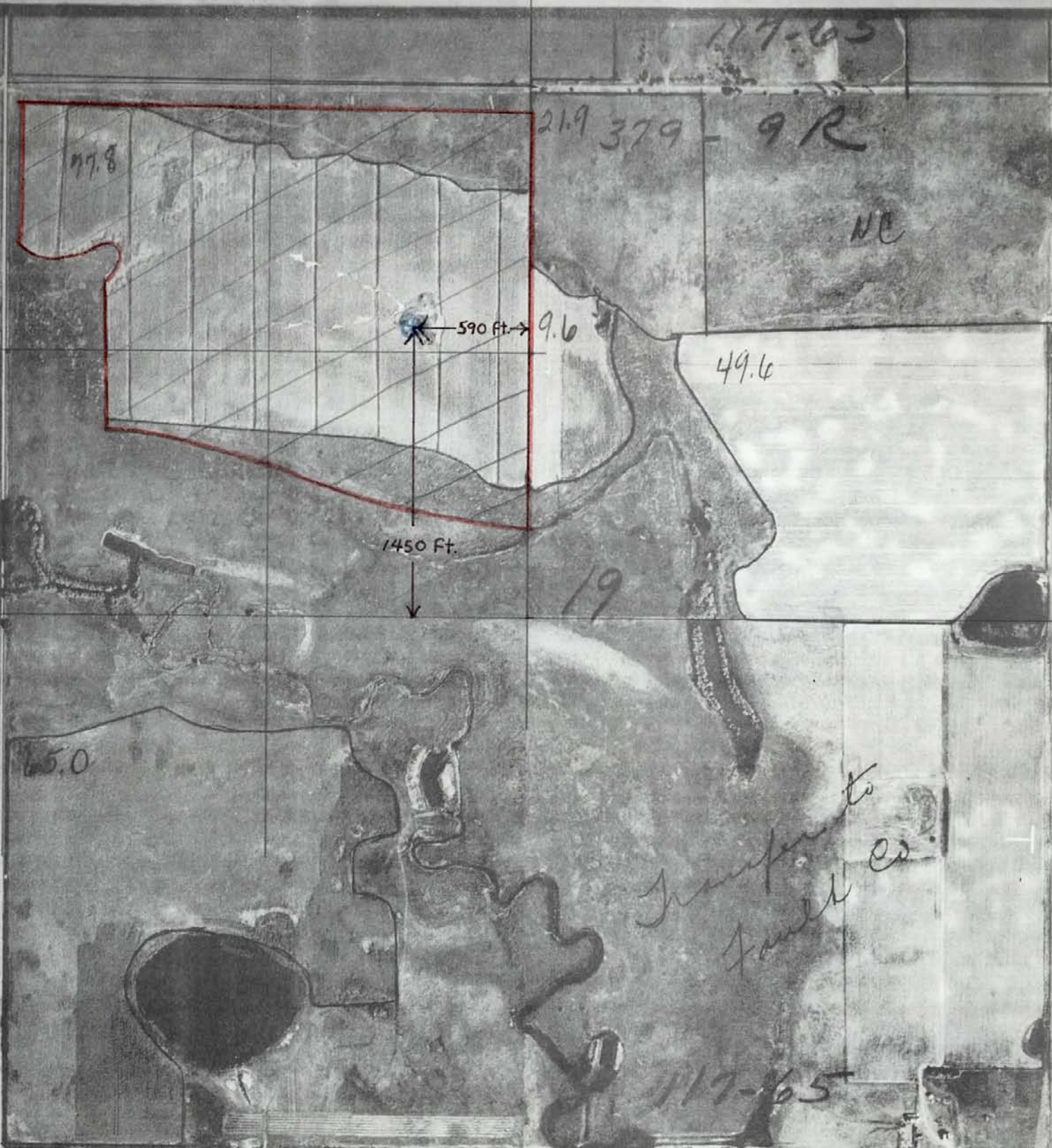
Sincerely,

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

NOT TO SCALE

3264-3

4128



Ron Duvall

Water Resources Eng.

10/25/84

W/R 3264-3

Map 2551-3