

Water Right Number 3562-3

1. Considered 2.23, 19 77
2. Name of Applicant John Frank, Jr.
3. Post Office Address Blumen
4. Amount of Water claimed 8.37
5. Source of Water supply Runoff - 3 down. 420 AC FT
6. Water to be used for irrigation
Acres to be irrigated 586
7. Water to be diverted and used in Hughes County
about W edge miles 1.5 of Blumen
8. Proof of Publication Received 157 5-2-77
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action Deferred _____
10. Remarks:

No. 3374-3Map No. 2341-3 Water Division No. 3 Missouri River District
(Blanks to be Filled by the Engineer & the W. R. C.)

APPLICATION FOR PERMIT

To Appropriately Water within the State of South Dakota

(NOTE: Draw a line through items not applicable)

1. Name of Applicant John Bourk, Jr.
 Postoffice address Blunt State South Dakota
 If a corporation show date and place of incorporation N/A
2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract
3. Name of diversion work Bourk Irrigation Project #2
4. Amount of water claimed (cubic feet per second) 8.37
5. Source of water supply Run off
6. Location of point of diversion 2900' south and 800' west of NE corner of Section 6,
T112N. R76W. Hughes County.
 County Hughes
7. Annual period or periods during which water is to be used Irrigation Season
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 586

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.
NW 1/4 Sec 6, T112N, R76W	238		
SW 1/4 Sec 6, T112N, R76W	238		
NE 1/4 Sec 6, T112N, R76W	90		
SE 1/4 Sec 6, T112N, R76W	20		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system five years. Additional time required to complete application of water to the proposed beneficial use four years.
11. Choice of newspaper for Notice of Intent to Appropriately Water publication Pierre - Fort Pierre Times
12. Principal Features of the Proposed Water Supply System.

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

Pumps

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

Pipeline

C. Works proposed to apply water to beneficial use.

Sprinkler Irrigation SystemEstimated Total Cost \$ 135,000.00

Attachment: 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 Hughes

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

Signed

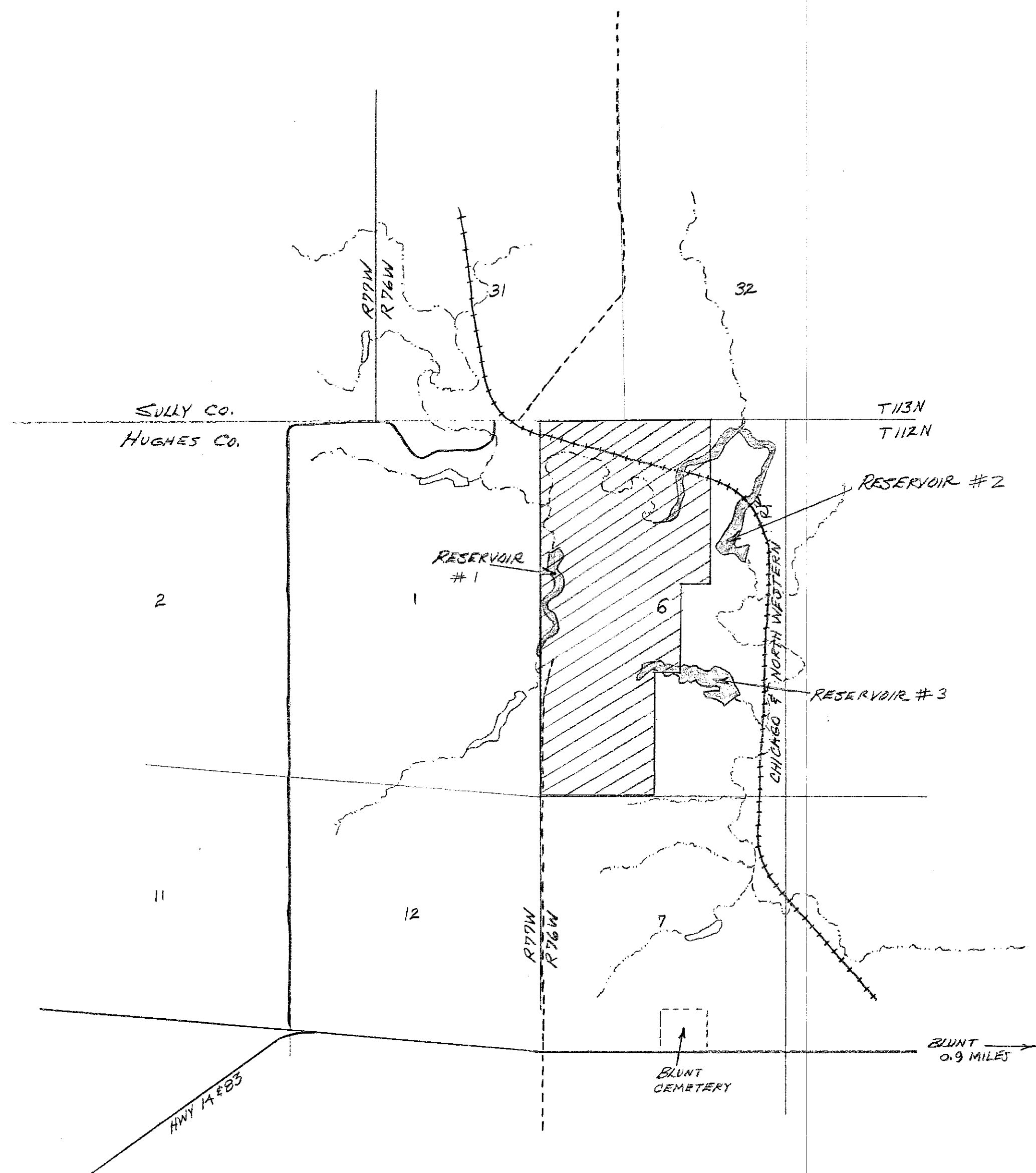
Subscribed and sworn to before me this

3rd

day of

February1977

Notary Public (or other qualified officer)



T112N - R76W				
NE 1/4	SEC 6	90	AC.	
NW 1/4	SEC 6	238	AC.	
SW 1/4	SEC 6	238	AC.	
SE 1/4	SEC 6	20	AC.	

STATE OF SOUTH DAKOTA)
COUNTY OF STANLEY ss

I, M. JAMES OEHLERKING, REGISTERED PROFESSIONAL ENGINEER NO. 2722, IN THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT AT THE REQUEST OF JOHN BOURK JR., PRESENT OWNER, I HAVE SHOWN THE LANDS TO BE IRRIGATED WITHIN THE BOUNDARIES IN FEBRUARY, 1977, FOR WHICH APPLICATION FOR APPROPRIATIVE WATER RIGHT IS MADE AND THAT THIS MAP IS A TRUE REPRESENTATION THEREOF. WITNESS MY HAND AND SEAL THIS 3rd DAY OF FEBRUARY, 19 77.

M. James Oehlerking
REGISTERED PROFESSIONAL ENGINEER

WATER APPROPRIATION MAP		
OWNER: <u>JOHN BOURK, JR.</u>	SCALE: <u>1/24000</u>	DRAWN BY: <u>IKVINE</u>
		REVISED
DATE: <u>2/2/77</u>	APPROVED BY:	DRAWING NUMBER:

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 3567-3
JOHN BOURK, JR. BLUNT
 (Applicant) (Post Office Address)

SOUTH DAKOTA 57522 With the following modifications:
 (State)

LOW FLOWS AS NEEDED FOR DOWNSTREAM DOMESTIC USE, INCLUDING
 LIVESTOCK WATERING, MUST BE BY-PASSED

APPROVAL OF THIS PERMIT AUTHORIZES STORAGE OF 620
 ACRE FEET OF WATER ANNUALLY.

Date of first receipt of application FEBRUARY 3, 19 77
 Date of return to applicant for correction, amendments or changes required ---, 19 ---
 Date of receipt of corrected application ---, 19 ---
 Approved FEBRUARY 23, 19 77, Recorded in Book 18 Page 111

WATER RIGHT PERMIT NO. 3567-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 3567-3 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 FEBRUARY 3, 19 77
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before AUGUST 23, 19 79
3. The whole of said work is to be completed on or before FEBRUARY 23, 19 82
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is FEBRUARY 23, 19 86
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 8.37 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 FEBRUARY 23, 19 86; said water to be used during the
 following described annual period: DURING IRRIGATION SEASON

Witness my hand this 3RD day of MAY, 19 77

WATER RIGHTS COMMISSION

By:

John Halse
 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 _____

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 _____ rds. On property owned by others _____ 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.

	Reservoir #1	Reservoir #2	Reservoir #3
Height	25'	20'	50'
Max. Water Depth	20'	15'	45'
Surface Area	8 Acres	29 Acres	14 Acres
Storage Capacity	60 A-Ft	150 A-Ft	210 A-Ft


Signature of Applicant

Form 6 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 3562-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
County Hughes)

I, James E. Thompson hereby
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Pierre Times

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

City of Pierre

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

February 12, 1977

February 19, 1977

James E. Thompson
(Signature)

(Title)

February 28th, 1977
(Date Signed)

NOTICE
INTENT TO
APPROPRIATE WATER
No. 3562-3

Notice is hereby given that
John Bourk, Jr., whose post
office address is Blunt, 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 8.37 cubic feet
of water per second of time
from local runoff through the
Bourk Irrigation Project No. 2,
the point of diversion of which
is to be located in the SW¼
NW¼, NE¼ SE¼ & SE¼ NE¼
of Section 6, Twp. 112N,
Range 76W. Said water to be
used for the purpose of
providing irrigation on portions
of the following described
land:

W¼, W½ E½, Section 6,
T112N, R76W.

This application No. 3562-3
will be considered by the Water
Rights Commission at their
office at Pierre upon the 23rd
day of February, 1977, at
10:00 A.M. All interested
persons may appear and be
heard.

WATER RIGHTS
COMMISSION

By: Burton F. Jones
Water Rights Specialist
Publish: Feb. 12, 1977



(No. 3562-3Publish first publication, on or before February 12, 1977NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

February 4, 1977

Notice is hereby given that John Bourk, Jr.
whose post office address is Blunt, 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
8.37 cubic feet of water per second of time from the local runoff through the
Bourk Irrigation Project # 2, the point of diversion of which is to be located in the _____

SW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ & SE $\frac{1}{4}$ NE $\frac{1}{4}$

of Section 6, Twp. 112N, Range 76W. Said water to be used for the purpose
of providing irrigation on the following described land:

W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, Section 6, T112N, R76W

This application No. 3562-3 will be considered by the Water Rights Commission at their office at
Pierre upon the 23rd day of February, 1977, at 10:00 A.M. All interested
persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFI/bw

cc: John Bourk, Jr., Blunt, SD 57522



Department of Water & Natural Resources

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

NOTICE

September 13, 1983

TO: John L. Bourk
Box 198
Blunt, South Dakota 57522

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

Re: Violation of Permit No(s). 4767-3
by Failure to Submit Required 1982 Irrigation Questionnaire

The Water Management Board has directed that hearing(s) be held to determine what action the Board should take for violation of the Water Permit No(s). 4767-3 qualification that requires the Irrigation Water Use Questionnaire to be submitted each year.

The hearing(s) will also be to determine if Permit No(s). 2043-3 and 3562-3 should be amended to require the Questionnaire to be submitted each year.

The hearing(s) will be at 2:30 p.m., October 5, 1983, Civil Defense Room, Basement, State Capitol Building, Pierre, South Dakota. Water Rights Division records do not show that the 1982 Irrigation Questionnaire for Permit No(s). 4767-3 has been received. The questionnaire was requested on the following dates:

1. September 1982 initial request
2. December 1982 follow-up request
3. March 22, 1983 Notice that submittal of questionnaire is a qualification to water permit.
4. August 1983 Notice that Board had directed owners of permits not in compliance with the Irrigation Questionnaire qualification be given until August 30, 1983 to submit the 1982 questionnaire with any permit owner in violation after August 30 to be given notice for hearing before the Board.

Equal Opportunity Employer

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). 4767-3 until either the 1982 Questionnaire is submitted or for a period of up to one year;
2. Amend Permits No(s). 2043-3 and 3562-3 also held by John L. Bourk to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action;
4. Take no action.

These hearing(s) are 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.

C91305gm.4r

356
Water Rights Division
605 773-3352

September 20, 1983

4767-3

John L. Bourk
Box 158
Blunt SD 57522

Dear Mr. Bourk:

This letter will acknowledge receipt of and thank you for the return of your 1982 Irrigation Questionnaire. A notice was sent to you September 13, 1983 regarding the Irrigation Questionnaire submittal violation of Permit No. 4767-3 and the date hearings are to be held before the Water Management Board to determine any action to be taken concerning the violation. Our records now show that you have returned the 1982 Irrigation Questionnaire and are no longer in violation of your permit.

Please disregard the notice sent to you dated September 13, 1983. 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

JH:ks



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 L Bourk
Box 198
Blunt SD 57522

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

SUBJECT: Amendment to Water Permit No(s). ~~3562-3~~ & 2043-3

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). 3562-3 & 2043-3 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.

Equal Opportunity Employer

 **Department of
Water & Natural Resources**

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

Attachment to Water Permit No. 3562-3

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. 3562-3 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
503 East Capitol
Pierre, South Dakota 57501-3181

March 23, 1987

JOHN L. HATCH
PLUMT, SD 57522

NOTICE

Re: Violation of Water Permit No(s). 4767-3, 2043-3, 3562-3

Our records indicate that the 1986 Irrigation Questionnaire has not been received for Permit No(s). 4767-3, 2043-3, 3562-3. 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 hearing(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 4767-3, 2043-3, 3562-3 qualification:

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

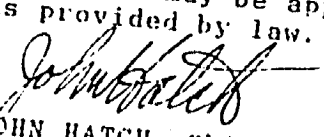
The hearing(s) will be at 2:00 pm, May 6, 1987, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

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). 4767-3, 2043-3, 3562-3 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.

SOUTH DAKOTA
Department of
Water & Natural Resources

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

April 15, 1987

2043-3
3562-3
4767-3

John L Bourk
Box 158
Blunt, SD 57522

Dear Mr. Bourk:

This will acknowledge receipt of and thank you for the return of your 1986 Irrigation Questionnaires. A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water Permit Nos. 2043-3, 3562-3 and 4767-3 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



Department of Water & Natural Resources

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

January 29, 1988

JOHN BOURK JR
BOX 158
BLUNT, SD 57522

NOTICE

Re: Violation of Water Permit No(s) 3562-3

Our records indicate that the 1987 Irrigation Questionnaire has not been received for Permit No(s). 3562-3. 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). 3562-3 qualification:

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

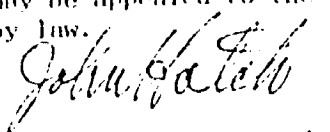
The hearing(s) will be at 9:00 am, March 2, 1988, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

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.

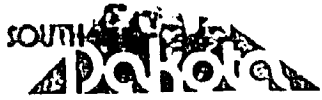
Following the hearing(s) the Water Management Board can:

1. Suspend Permit No(s). 3562-3 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
523 East Capitol
Pierre, South Dakota 57501-3181

March 14, 1988

NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT

TO: JOHN BOURK JR
BOX 158
BLUNT, SD 57522

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

SUBJECT: One Year Suspension Of Water Permit No(s). 3562-3

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). 3562-3 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.

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.

↑ (Extra charge) ↑

4. Article Number
P 501 738 943

Type of Service:

☐ Registered	☐ Insured
☒ Certified	☐ COD
☐ Express Mail	

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

SECRET - CONFIDENTIAL

X *[Signature]*
6. Signature - Agent
X *[Signature]*

6. Signature - Agent

✓✓✓✓✓

7. Date of Delivery

MAR 13 1988

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

 **Department of
Water & Natural Resources**

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

April 6, 1988

2043-3
3562-3

John L Bourk
Box 158
Blunt, SD 57522

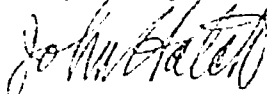
Dear Mr. Bourk:

I am writing to advise you that our records now show that 1987 irrigation questionnaires have been completed for Water Permit Nos. 2043-3 and 3562-3. During your April 5, 1988, visit to this office, you indicated that the irrigation data for your permits were reported all on one form. You further stated that all of your permits should be listed as John Bourk and that the "Jr." (listed on Permit No. 3562-3), should be deleted.

The Water Management Board did take action to suspend your permits at their March 2, 1988 meeting, however, since the questionnaire data was in our office prior to the hearing, your name has been deleted from the list of permits suspended at the hearing.

If you have any questions, please contact us.

Very truly yours,



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



Department of Water & Natural Resources

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

February 9, 1990

JOHN L. BOURK
BOX 158
BLUNT, SD 57522

NOTICE

RE: Violation of Water Permit No(s). 4767-3, 3562-3, 2043-3

Our records indicate that the 1989 Irrigation Questionnaire has not been submitted for Permit No(s). 4767-3, 3562-3, 2043-3. The request for the Questionnaire was dated October 13, 1989. The Water Management Board had directed that owners of water permits who have not submitted the 1988 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s). 4767-3, 3562-3, 2043-3 qualification:

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

The hearing will be held at 9:30 am, March 7, 1990 at the Howard Johnson's, Roosevelt-Jefferson Room, I-90 at LaCrosse, Rapid City SD.

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

1. Suspend Permit No(s). 4767-3, 3562-3, 2043-3 until the 1989 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
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 before the March 7th hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,

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

 **Department of
Water & Natural Resources**

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

February 23, 1990

2043-3

4767-3

3562-3

John L Bourk
Box 158
Blunt SD 57522

Dear Mr. Bourk:

I am writing to acknowledge receipt of your 1989 irrigation questionnaire for Water Permit Nos. 2043-3, 4767-3 and 3562-3. You may disregard the February 9, 1990 Notice of failure to submit the 1989 irrigation questionnaire. Your questionnaire was received prior to the March Water Management Board meeting and your name was deleted from the agenda pertaining to the hearing.

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

Sincerely,

Ron Duvall /k/s

RON DUVALL
Natural Resources Engineer
Water Rights Division



DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

GREAT FACES. GREAT PLACES.

February 1, 1991

JOHN L. BOURK
BOX 158
BLUNT SD 57522

NOTICE

RE: Violation of Water Permit No(s) 2043-3, 3562-3, 4767-3

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 2043-3, 3562-3, 4767-3. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s) 2043-3, 3562-3, 4767-3 qualification:

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

The hearing will be held at 9:15 am, February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, Pierre SD.

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

1. Suspend Permit No(s) 2043-3, 3562-3, 4767-3 until the 1990 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
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 before the February 27th hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,

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

South Dakota



DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

February 21, 1991

2043-3
3562-3
4767-3

John L Bourk
Box 158
Blunt, SD 57522

Dear Mr. Bourk:

I am writing to acknowledge receipt of your 1990 irrigation questionnaires for Water Permit Nos. 2043-3, 3562-3 and 4767-3. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaire. With receipt of the questionnaires, your name has been deleted from the February Water Management Board meeting agenda.

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

Sincerely,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division

Permit No. 3562-3Missouri (10140103) Water District:

Report Of Examination Of Works And/Or Application of Water To Beneficial Use:

I have this day made a thorough examination of the water use system constructed by John Bourk of Box 158, Blunt, SD 57522 holder of Permit No. 3562-3, bearing the priority of February 3, 1977 authorizing the diversion of 8.37 cu. ft. per second and the storage of 420 acre-feet of the waters of runoff for irrigation purposes, in Hughes County.

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

A. Works used to divert the water:

A 33.5 brake Hp Deutz motor is used to power a Cornell pump. The pump is mobile and capable of being transported to either dam.

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

There was approximately 4,000 feet of 10" pipe laying in Mr. Bourk's farmyard which is used to divert water from the two dams to flood irrigate the alfalfa field. The field had not been irrigated yet in 1991.

C. Works used to apply water to beneficial use:

According to Mr. Bourk water is pumped to specific points in the field and then to flow by gravity over the field.

The system is in the following condition good. The point of diversion is located 5500' north & 330' east (SW1/4 NW1/4 - Dam #1), 5300' north & 4850' east (NE1/4 NE1/4 - Dam #2) from the SW1/4 Section 6, T112N, R76W. The works are capable of diverting and conveying to the place of use 1.34 cu. ft. per second of water and/or storing 68 acre-feet of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

NW1/4 Section 6, T112N, R76W - 155 acres

NE1/4 Section 6, T112N, R76W - 56 acres

comprising a total of 211 acres of land and the license should be issued for 1.34 cfs and/or 68 acre-feet of storage.

Applicable permit qualifications have been complied with ☒ Yes ☐ No

Exceptions to compliance are:

Date: 6/28/91

Eric S. Gronlund

ERIC S. GRONLUND
Natural Resources Engineer III

LICENSE FOR PERMIT, NUMBER 3562-3

(pagination required, remove before printing)

1. Legal location of wells: N/A
Dams and Structures #1 - 5500' north & 330 east (W1/2 NW1/4), #2 - 5300' north & 4850 east (E1/2 NE1/4) from the SW1/4 corner Section 6, T112N, R76W
2. Well Information: Well Drilling Firm
Completion Report? Yes No No. of Wells Depth(s) feet
Casing a) diameter inches Screen a) type
b) length feet b) length feet
c) type Static Water Level feet
Pump a) make Cornell Motor a) make Deutz
b) model 4RB60B4-5 b) model no. F2L912 5508098
c) serial E2300 9 c) horsepower rating 33.5 Brake Hp
d) capacity 600 GPM d) serial no.
e) turbine pump - no. of stages
f) operating PSI
3. Distribution lines or canals
a) size inches
b) type
c) length feet
4. Dam Information: #1 & #2
a) height to crest 30, 22 feet m) Outlet tubes:
b) height to primary spillway 26, 8 feet 1) diameter inches
c) height to secondary spillway feet 2) type
d) crest width 21, 12 feet 3) valved (Y/N)
e) crest length 330, 360 feet 4) valve type
f) spillway length 300, 400 feet 5) location on structure: W1/2 NW/14 Sec.6
g) spillway width 20, 75 at top and 20 at bottom feet
h) approx. storage 52, 16 AC-FT n) Category of Dam both are 3
i) approx. storage to crest AC-FT
j) date constructed
k) inspection sheet completed? (Y/N)
l) name of contractor
5. System Type gated pipe:
1) length 4000 feet
2) diameter 10 inches
3) spacing of gates inches 8) capacity (GPM)

5. System Type Continued:

Indicate any other permit(s) which are associated with project

- | | | |
|-----------------|----|---|
| Yes | No | Check Items |
| <u>NA</u> | | 1. Soil and water permit lands agree with lands being irrigated and lands listed on permit? <u>pre-Soil/Water</u> |
| <u>Low Flow</u> | | 2. Special qualifications to permit being abided by? |
| <u>Yes</u> | | 3. All structures, wells and lands on map? |
| <u>Yes-1980</u> | | 4. Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period? |
| <u>No</u> | | 5. Is chemigation used? |
| | | 6. If yes, does equipment comply with chemigation rules? |

REMARKS: Inspection of Water Permit No. 3562-2, John Bourk

- Reservoir/Dam #3 never used for irrigation according to Mr. Bourk.
- The SW1/4 and SE1/4 of Section 6, T112N, R76W never irrigated.
- The pipe/towline was not set up at time of inspection. Pipe was in farm yard, however Mr. Bourk indicated he irrigated last year.
- The irrigated acreage was alfalfa.
- Dam #1 had 4 feet of freeboard.
- Dam #2 had 14 feet freeboard, the spillway appears to be the old drainage which has been excessively scoured, tons of rock have been dumped in to prevent further scouring.

South Dakota

GREAT FACES. GREAT PLACES.

August 26, 1991

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

2043-3

3562-3

4767-3

John L Bourk
Box 158
Blunt, SD 57522

Dear Mr. Bourk:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit Nos. 2043-3, 3562-3 and 4767-3, has been completed. Your final water right document for each, the Water License, can now be issued. Upon licensing, Water Permit No. 2043-3 will be incorporated into No. 4767-3 (because they involve the same system).

Statutes require that we charge a \$50.00 fee for the inspection and issuance of each Water License. Upon receipt of the \$100.00 fee from you (\$50.00 for No. 3562-3 and \$50.00 for No. 4767-3), we will begin processing your Water Licenses.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the license fees have been paid. Please contact us if you have any questions.

Sincerely,

Genny McMath

Genny McMath
Natural Resources Analyst
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412822

Pierre, September 5, 1991

RECEIVED OF John L. Bourk, Box 158, Blunt, SD 57522

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. 3562-3	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 H. Hatcher (Signature)
Chief Engineer

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 3562-3

(1) John Bourk of Box 158, Blunt, SD 57522 made Application No. 3562-3, February 3, 1977 for a water permit to appropriate 8.37 cubic feet of water per second from runoff, Hughes County, South Dakota for irrigation purposes. Permit No. 3562-3 with a priority date of February 3, 1977 was approved February 23, 1977 and issued to applicant(s) for diversion of water with construction of the described water supply system to be completed on or before February 23, 1982 and for the application to beneficial use of said water on or before February 23, 1986.

(2) It is certified that the applicant 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 1.34 cubic feet of water per second and store 68 acre feet of water annually for beneficial use. The location of the diversion points are: Dam #1 - 5500'N and 330'E of the SW 1/4 corner (SW 1/4 NW 1/4) and Dam #2 - 5300'N and 4850'E of the SW 1/4 corner (NE 1/4 NE 1/4) Section 6, T112N, R76W.

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

T112N, R76W Section 6	NW 1/4	155 Acres
	W 1/2 NE 1/4	56 Acres
Total-----		211 Acres

(4) Pursuant to Section 46-5-30.1 John Bourk of Box 158, Blunt, SD 57522 the holder(s) and/or owner(s) of Water Permit No. 3562-3 is issued a license to appropriate water, the right to use 1.34 cubic feet of water per second and store 68 acre feet of water annually from runoff with a priority date of February 3, 1977 from the location 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 any limitations or qualifications listed in Water Permit No. 3562-3 and subject to South Dakota State Law.


SEP 16 1991
JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources



SEP 16 1991

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

John Bourk
Box 158
Blunt, SD 57522

Dear Mr. Bourk:

Enclosed is Water License No. 3562-3. This is the final water right document completing your process of obtaining a water right. Enclosed is Receipt No. 412822 in the amount of \$50.00 which you paid for the inspection and issuance of this water license.

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

Very truly yours,

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

enclosures



3562-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JOHN L BOURK
BOX 158
BLUNT SD 57522

NOTICE

RE: Violation of Water Permit No(s) 3562-3 & 4767-3

Our records indicate that the 1993 Irrigation Questionnaire has not been submitted for Permit No(s) 3562-3 & 4767-3. The request for the Questionnaire was dated October 18, 1993. The Water Management Board has directed that owners of water permits who have not submitted the 1993 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will determine the action to be taken for violation of Water Permit No(s) 3562-3 & 4767-3 qualification:

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

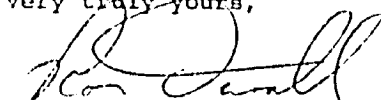
The hearing will be held at 8:45 am, April 6, 1994, at the Golden Hills Resort, 900 Miners Ave, Lead, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. According to SDCL 46-1-12, the Board may suspend a permit 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) 3562-3 & 4767-3 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 April 1, 1994, you will no longer be in violation of your permit and your name will be deleted from the Board agenda.

Very truly yours,


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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

JOHN L BOURK
BOX 158
BLUNT SD 57522

35623

4a. Article Number

P837 692 620

4b. Service Type

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

7. Date of Delivery

2-17-94

5. Signature (Addressee)

6. Signature (Agent)

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

P.O. Box 158

PS Form 3811, December 1991 ☆ U.S.G.P.O. : 1992-307-530

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.



3562-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 22, 1994

3562-3
4767-3

John L Bourk
Box 158
Blunt, SD 57522

Dear Mr. Bourk:

I am writing to acknowledge receipt of your 1993 irrigation questionnaires. You may disregard the February 16, 1994, Notice of Violation of Water Permit Nos. 3562-3 and 4767-3.

The questionnaires were 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

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

3562-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 22, 1994

Jim Bonnicksen
Blunt, SD 57522

Dear Mr. Bonnicksen:

Enclosed are copies of Water Right Nos. 3562-3 and 4767-3. These water rights are listed in the name of John Bourk.

Mr. Bourk stopped by our office last week and submitted the 1993 Irrigation questionnaires. He indicated that you would be operating the irrigation systems for him in the future. I have made a notation in the water right files to send future Irrigation questionnaires to you. This does not change ownership of the water rights, it merely allows us to send correspondence to you as the operator.

The 1994 irrigation questionnaires will be mailed out in October, 1994. The questionnaires will list a permit number, but do not include the legal description. The enclosed water right copies reflect the acreage authorized for each water right number. You may keep the copies for your records.

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

Sincerely,

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

Genny McMath
Environmental Scientist
Water Rights Division

enclosures

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Clayton Colson, 19381 US Hwy 83, Blunt, SD 57522

DATE: November 22, 1999

TELEPHONE: 605 264-5503

RE: ownership of land described in Water Right No. 3562-3

COMMENTS:

The 1999 irrigation questionnaire submitted by Jim Bonnichsen (operator for John Bourk, Blunt, SD) stated that the land was sold to "Colsons".

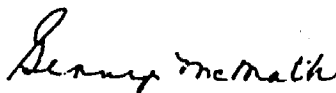
I contacted Clayton Colson to see if he was the one that purchased the land. He said him and his brother bought the land in Section 6. I explained what the water right authorized and how to go about filing the ownership change.

Mr. Colson stated that they did not irrigate in 1999. He didn't know if they would irrigate the land at all but wanted to keep the right to do so. I explained how to maintain a water right and the legal excuse criteria. Since the water right authorizes two storage dams, they will need to maintain the water right at least for domestic purposes for the dams.

I told Mr. Colson that I would send him excerpts of the water rights laws and rules dealing with this issue. Sometime within the next couple years he could decide and let us know if he would be utilizing the irrigation portion or not.

RECOMMENDED ACTION:

Send Mr. Colson a copy of the water right, a transfer of ownership form, excerpts of the water laws/rules and a sample irrigation questionnaire.



Genny McMath
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 22, 1999

3562-3

Clayton Colson
19381 US Hwy 83
Blunt, SD 57522

Dear Mr. Colson:

Thank you for taking the time to visit with me today about ownership of land described in Water Right No. 3562-3.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing the ownership change. Please fill in the portion titled "*be transferred to: (name & address)*". Upon completion, please sign the form in the presence of a notary public and return it to our office with a \$2.50 filing fee. The check or money order may be made payable to the "Water Rights Program".

Also enclosed are the following (you may keep these for your records):

- Excerpts of the SD Water Right Laws and Water Management Board Rules
- Copy of Water Right No. 3562-3
- A sample irrigation questionnaire

The transfer of ownership should be taken care of as soon as possible. If you have any questions when reviewing any of the enclosed information, please get in touch with me.

Sincerely,

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

enclosures

3562-3

SENDER COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Received by (Please Print Clearly) <u>Michelle Colson</u> B. Date of Delivery <u>1/22/01</u>	
1. Article Addressed to: CLAYTON COLSON, MGR 19381 US HWY 83 BLUNT SD 57522		C. Signature <u>X Michelle Colson</u> ☐ Agent ☐ Addressee	
		D. Is delivery address different from item 1? ☐ Yes ☒ No If YES, enter delivery address below:	
2. Article Number (Copy from service label) <u>7000 0600 0024 9814 2614</u>		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-11-0952



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 4, 2000

3562-3

Clayton Colson
19381 US Hwy 8
Blunt, SD 57522

Dear Mr. Colson:

I am contacting you in regard to ownership of land described in Water Right No. 3562-3. The permit is currently listed in the name of John Bourk. In November, 1999, I visited with you regarding ownership of the permit.

It was my understanding when we last spoke that you did not know whether or not you would be irrigating. Past irrigation questionnaire records reflect the land has not been irrigated 10 out of the last 12 years.

Water must be placed to beneficial use at least once every three years in order to maintain a water right. This three-year period may be waived if legal excuse exists for not irrigating. Legal excuse as defined in Water Management Board Rules includes, but is not limited to, the following: 1) unavailability of water to satisfy a permit or right; 2) legal proceedings which prevent the use of water; or 3) water use under existing climatic conditions would result in a waste of water.

If legal excuse does not exist for the years of nonuse, the irrigation portion of the water right may have been lost due to abandonment and/or forfeiture. The water right authorizes use of two storage dams. Even if the irrigation portion of the water right is no longer being used, the water right can be amended by reissuing the water license for stock water purposes.

I am enclosing another "Notice of Transfer of Ownership" form for changing ownership of Water Right No. 3562-3. Even if the irrigation portion has been abandoned, the water right should still be transferred to your name.

Please get in touch with me as soon as possible concerning ownership of the water right and whether or not you feel legal excuse exists for the years of nonuse. If I can answer any questions for you, please get in touch with me.

Sincerely,

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



3562-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 19, 2001

NOTICE

TO: CLAYTON COLSON, MGR, 19381 US HWY 83, BLUNT, SD 57522

FROM: Ron Du'all, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2000 Irrigation Questionnaire(s)

Our records indicate that the 2000 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 3562-3. The request for the Questionnaire was dated October 20, 2000. The Water Management Board has directed that owners of water permits who have not submitted the 2000 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) 3562-3 qualification:

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

The hearing will be held at 10:00 am, March 7, 2001 in 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. 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) 3562-3 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 2, 2001, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath 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.

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Jim Finley

DATE: March 1, 2001

RE: Water Right No. 3562-3

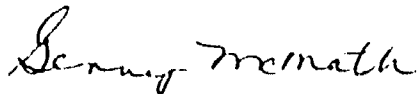
COMMENTS:

Mr. Finley called to let us know that he now owns the land formerly owned by John Bourk. Mr. Bourk sold the land to Clayton Colson who in turn sold it to Mr. Finley.

He indicated he did not irrigate in 2000. He went on to say that the land hasn't been irrigated in several years. The storage dams are still there. I explained that a water right can be lost due to abandonment or forfeiture if irrigation has not taken place for a period of longer than 3 years. I also explained legal excuse to him and he indicated he did not know why the previous owners did not irrigate.

I told him the water right would still need to be transferred to him due to the storage dams, however before he started irrigating he should take the necessary steps to ensure he had a water right. I explained that the issue may have to be brought before the Board for a declaratory ruling or he would have the right to apply for a new water permit.

He indicated he may apply for a new water permit but would like to go ahead and have the current water right transferred to his name. He said Mr. Colson had given him the transfer form.



Genny McMath
Environmental Scientist



3562-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2002

NOTICE

TO: CLAYTON COLSON, MGR, 19381 US HWY 83, BLUNT, SD 57522
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)

Our records indicate that the 2001 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 3562-3. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 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) 3562-3 qualification:

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

The hearing will be held at 10:00 am, March 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 3562-3 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 8, 2002, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath 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.

3562-3

SENDER - COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Received by (Please Print Clearly) <u>Michele Colson</u> B. Date of Delivery <u>11/18/02</u> C. Signature <u>X Michele Colson</u> ☐ Agent ☐ Addressee D. Is delivery address different from item 1? ☒ Yes If YES, enter delivery address below: ☐ No	
1. Article Addressed to. CLAYTON COLSON, MGR 19381 US HWY 83 BLUNT SD 57522		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Return Receipt for Merchandise ☐ Registered ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes	
2. 7001 2510 0004 4797 4463		511392021222321252621 JAN 2003 WATER RIGHTS GRAM P.O. BOX 101	

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Jim Finley, Blunt, SD

DATE: February 20, 2002

TELEPHONE: 962-6242

RE: ownership of land described in Water Right No. 3562-3

COMMENTS:

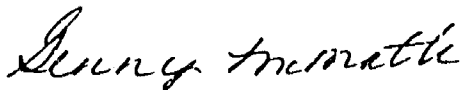
A notice was sent to Clayton Colson concerning submission of the 2001 irrigation questionnaire. In reviewing the microfilm I found that Mr. Colson no longer owns the land that Mr. Finley owns the land. A year ago he indicated he would be transferring the water right and no follow-up was done after that time.

I called Mr. Finley regarding possible irrigation done under the water right in 2001. He said the land has not been irrigated and he didn't know if it would be again. He said the last couple years have been wet enough but for the most part, it is no longer economically feasible to irrigate.

I mentioned to him that we should still have the water right transferred to him because the water right covers two storage dams. One of the dams exceeds 25 acre feet and would require permitting.

The issue regarding the irrigation questionnaire has been taken care of. Prior to next year's mailing, we need to determine if the irrigation portion of the water right has been abandoned or forfeited.

I explained to Mr. Finley that based on what he decided, we could either bring the matter to the Board to have them decide if the water right was valid or we could amend the water right to delete the irrigation portion and authorize use of water from the dams for domestic livestock watering purposes.



Genny McMath
Environmental Scientist



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 21, 2002

3562-3

Jim Finley
410 N Hughes
Blunt, SD 57522

Dear Mr. Finley:

Thank you for taking the time to visit with me on February 20th about Water Right No. 3562-3. The water right is currently listed in the name of John Bourk. I have enclosed a copy for your review.

As I indicated to you on the phone, water must be placed to beneficial use at least once every three years in order to maintain a water right. This three-year period may be waived if legal excuse exists for not irrigating. Legal excuse as defined in Water Management Board Rules includes, but is not limited to, the following: 1) unavailability of water to satisfy a permit or right; 2) legal proceedings which prevent the use of water; or 3) water use under existing climatic conditions would result in a waste of water.

If legal excuse does not exist for the years of nonuse, the irrigation portion of the water right may have been lost due to abandonment and/or forfeiture. The water right authorizes use of two storage dams. Even if the irrigation portion of the water right is no longer being used, the water right can be amended by reissuing the water license for stock water purposes.

I am enclosing a "Notice of Transfer of Ownership" form for changing ownership of Water Right No. 3562-3. Please complete the form as needed and then sign it in the presence of a notary public. Upon completion, please return the form to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

Once the water right is transferred, a decision should be made about the irrigation portion of the water right. The following are options to consider:

- 1) Amend the water right to delete the irrigation portion leaving the storage dams authorized for stock water use only (this would eliminate having to fill out a yearly irrigation questionnaire);
- 2) Take the matter to the Water Management Board to have them determine if the irrigation portion is still valid.

Please get in touch with me as soon as possible concerning ownership of the water right and whether or not you believe legal excuse exists for the years of nonuse.

Sincerely,

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

NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED

APR 10 2002

**WATER RIGHTS
PROGRAM**

No. 3562-3

Date:

11We request that Water Right No. 3562-3

formerly owned by: John Bourk, Box 158, Blunt, SD 57522

be transferred to: (name & address) FINLEY FARMING INC.

Box 39, BLUNT SD 57522

Telephone No. 605 962 6242

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

211 acres - NW ¼ and W ¼ NE ¼ Section 6, T112N, R76W

I/We understand that the validity of Water Right No. 3562-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

STATE OF SOUTH DAKOTA)

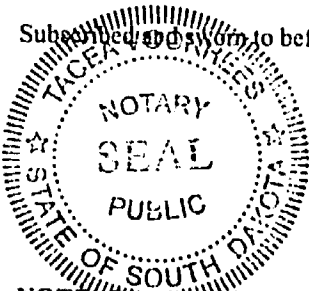
County of Hughes)

I/We H. M. C. J. S. J. being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

FILEY FARMING INC
(Signed)

(Signed)

Subscribed and sworn to before me this 1st day of April, 192002



Tania J. J. J. J.
(Notary Public)

(Notary Public)

My Notary Expires: 5-9-02

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

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

112 417136

Pierre, April 10, 2002

RECEIVED OF Finley Farming Inc., Box 39, Blunt, SD 57522

the following amount in fees for services rendered as provided for by law: (John Bourk)

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

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

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

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

Fee for Filing Transfer Form 3562-3

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By Darland Eshel
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 10, 2002

3562-3

H James Finley, President
Finley Farming Inc
Box 39
Blunt, SD 57522

Dear Mr. Finley:

Thank you for following up on the ownership change for Water Right No. 3562-3. The transfer has been completed. The water right formerly listed in the name of John Bourk is now listed in the name of Finley Farming, Inc.

Enclosed is your Receipt No. 417136 in the amount of \$2.50. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure



3562-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 14, 2004

NOTICE

TO: FINLEY FARMING INC, JIM FINLEY, BOX 39, BLUNT, SD 57522
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(s) has not been submitted for Permit No(s) 3562-3. 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(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) 3562-3 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 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. 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) 3562-3 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 February 27, 2004, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath 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.



3562-3

Track & Confirm

Current Status

You entered 2301 3460 0000 8515 9050

Your item was delivered at 2:22 pm on January 16, 2004 in BLUNT, SD 57522. The item was signed for by J FINLEY.

[Shipment Details >](#)

Notification Options

▶ Track & Confirm by email [What is this?](#) [Go >](#)

▶ Request Proof of Delivery [What is this?](#) [Go >](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

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Preserving the Trust

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U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2301 3460 0000 8515 9050

FINLEY FARMING INC
JIM FINLEY
BOX 39
BLUNT SD 57522

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

CHECK ONE (POSTAL USE ONLY)

☐ Priority Mail®
☐ Package Services

PS Form 153, July 2001

(See Reverse)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 23, 2004

3562-3

Jim Finley
Finley Farming Inc
Box 39
Blunt SD 57522

Dear Mr. Finley:

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. 3562-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

You indicated on the form that you did not have a system or adequate water. In February of 2002 I visited with you about the water right and you indicated at that time you were not certain if you would be irrigating or not. The water right authorizes storage of water in two dams for irrigation purposes. Currently, the irrigation portion of the water right may be subject to cancellation due to abandonment and/or forfeiture. The Water Management Board is the entity that makes determinations of whether or not water rights have been maintained. I am enclosing excerpts of our water laws and Board rules concerning these issues.

Please review the enclosed information and get in with me touch so we can discuss what needs to be done to update your water right. Thank you in advance for your help.

Sincerely,

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

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Jim Finley, Finley Farming Inc., Box 39, Blunt SD 57522

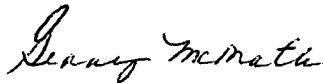
DATE: January 29, 2004

RE: Water Right No. 3562-3

COMMENTS:

Mr. Finley called in reference to a letter I sent to him concerning the possible cancellation of the irrigation portion of his water right. He just wanted clarification on what was happening. He agreed that he was not using the irrigation portion and probably would not irrigate until crop prices were better.

I discussed the storage dams with him and he said they catch runoff water and are used for stock watering purposes. He said he may renovate one of them this spring or summer. I told him that he could clean them out if needed or repair whatever needed repair as long as the amount of storage did not increase. He understood and was agreeable to cancellation of the irrigation portion of his water right as long as he could reapply if he ever decided to irrigate.



Genny McMath
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 22, 2004

NOTICE OF CANCELLATION

TO: Jim Finley, Finley Farming Inc., Box 39, Blunt SD 57522

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

SUBJECT: Cancellation of the irrigation portion of Water Right No. 3562-3

Water Right No. 3562-3 authorizes diversion of water from runoff into two storage dams to be used for irrigation purposes. Records on file with the Water Rights Program indicate the land has only been irrigated twice in the last 16 years. The water right holder has confirmed that he does not currently irrigate however does use the storage dams for livestock watering purposes. The Chief Engineer of the Water Rights Program is recommending cancellation of the irrigation portion of Water Right No. 3562-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of the irrigation portion of Water Right No. 3562-3 at **10:00 am, May 12, 2004**, in the **Chamber of Commerce Community Room, 800 W Dakota Avenue, Pierre, SD.**

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 3562-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by April 30, 2004. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing may be an adversarial proceeding. 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. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by April 30, 2004.

Prior to April 30, 2004, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

Please note:

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by April 30, 2004.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182
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**RECOMMENDATION OF CHIEF ENGINEER
FOR WATER RIGHT NO. 3562-3, FINLEY FARMING INC.**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 3562-3.

The Chief Engineer is recommending cancellation of the irrigation portion of Water Right No. 3562-3. The water right holder has confirmed that the land has not been irrigated in several years. The two storage dams exist and are being used for livestock watering purposes. The irrigation portion has been abandoned and/or forfeited.

RON DUVALL, Natural Resources Engineer
for Garland Erbele, Chief Engineer
March 22, 2004

Note:

Cancellation of the irrigation portion of the water right does not prohibit a new application for this project in the future. If the irrigated portion is cancelled, the water right holder still has the authority to impound water in two storage dams for domestic use.

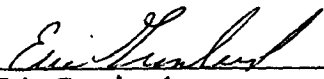
CERTIFICATION

I hereby certify that on March 22, 2004 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 22, 2004 regarding Notice of Cancellation of Water Right Nos. 247-3, 2601-3 and Cancellation of the irrigation portion of Water Right No. 3562-3 addressed as stated below:

3562-3
Jim Finley
Finley Farming Inc
Box 39
Blunt SD 57522

2601-3
Al & Carla Lang
Dakota Bison
713 W Grand Crossing
Mobridge SD 57601

247-3
Kevin Kehl
Kehl Family Limited Partnership
PO Box 1234
Clinton IA 52733-1234


Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 22nd day of March, 2004.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007

Licensing of Irrigation Water Permit for Stock Watering

NAME: Jim Finley, Finley Farming Inc

ADDRESS: Box 39, Blunt SD 57522

DATE: May 20, 2004 **COUNTY:** Hughes

AUTHORITY

Pursuant to SDCL 46-5-31.1, if permitted irrigation use from a storage dam is abandoned or forfeited but the storage dam is used for stock watering, stock watering may be added to the license or permit upon the request of the permit or license holder.

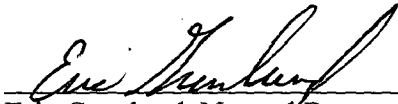
HISTORY:

Water Right No. 3562-3 authorized diversion of water from two storage dams to irrigate 211 acres. On January 29, 2004, the water right holder confirmed the land is no longer irrigated however the storage dams catch runoff water and are used for stock watering purposes. The two storage dams have a combined storage capacity of 68 acre feet.

On May 12, 2004, the Water Management Board took action to cancel the irrigation portion of Water Right No. 3562-3 for abandonment and/or forfeiture.

RECOMMENDED ACTION

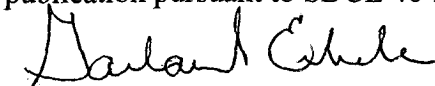
Based on the above, it is recommended that the water license be reissued for stock watering.



Eric Gronlund, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-31.1 that:

~~This addition of stock watering does not impair existing water rights and no diversion of water will be made from the stock dam. Licensing of the water permit for stock watering may occur without application or publication pursuant to SDCL 46-2A-4.~~



Garland Erbele, Chief Engineer
Water Rights Program

STATE OF SOUTH DAKOTA

REISSUED WATER LICENSE NO. 3562-3

(1) John Bourk, Blunt SD was issued Water License No. 3562-3, September 16, 1991 for a right to divert 1.34 cubic feet of water per second from runoff impounded in two storage dams, located in Hughes County, South Dakota for irrigation purposes. Water Right No. 3562-3, with a priority date of February 3, 1977 was issued to the permit holder for diversion of water with construction of the described water supply system completed and the application to beneficial use of water completed.

On April 10, 2002, Water Right No. 3562-3 was transferred to Finley Farming Inc.

On May 12, 2004, the Water Management Board cancelled the irrigation portion of the water right due to abandonment and/or forfeiture. The storage dams still exist and collect runoff for stock watering purposes.

Pursuant to SDCL 46-5-31.1, stock watering may be added as a water use to the license provided no diversion is made from the dam. The Chief Engineer made a finding that the addition of stock watering does not impair existing water rights.

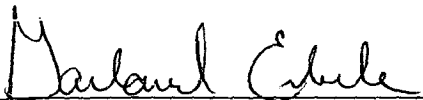
(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, Jim Finley, Finley Farming Inc., Box 39, Blunt SD 57522 the holder and/or owner of Water Right No. 3562-3 is issued a license, bearing a priority date of February 3, 1977 to impound a total of 68 acre feet of water from runoff in two storage dams for domestic livestock watering purposes.

The storage dams are located as follows:

- Dam #1: 5,500 feet N and 330 feet E of the SW $\frac{1}{4}$ corner Section 6, T112N, R76W (SW $\frac{1}{4}$ NW $\frac{1}{4}$);
- Dam #2: 5,300 feet N and 4,850 feet E of the SW $\frac{1}{4}$ corner Section 6, T112N, R76W (NE $\frac{1}{4}$ NE $\frac{1}{4}$).

A 1991 investigation of the storage dams found Dam #1 storing 52 acre feet of water and Dam #2 storing 16 acre feet of water.

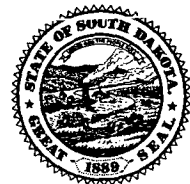
(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 3562-3.



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

MAY 25 2004

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAY 25 2004

3562-3

Jim Finley
Finley Farming Inc
Box 39
Blunt SD 57522

Dear Mr. Finley:

Enclosed is your Reissued Water License No. 3562-3. No. 3562-3 authorizes impoundment of 68 acre feet of water in two storage dams for livestock watering purposes.

On May 12, 2004, the Water Management Board cancelled the irrigation portion of your water right due to abandonment and/or forfeiture. The action removed the irrigation component of your water right but allows you to continue to collect storm runoff water in the two dams for stock water.

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

Sincerely,

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

enclosure

