

Water Right Number 3956-2

1. Considered 5-25, 19 77
2. Name of Applicant KEITH LOWARY
3. Post Office Address ABERDEEN
4. Amount of water claimed 2.6
5. Source of water supply GRAVEL PIT
6. Water to be used for IRRIGATION

Acres to be irrigated 180

7. Water to be diverted and used in BROWN County
about 1 SW Miles 1ST of ABERDEEN

8. Proof of Publication Received 1ST

Not received _____

9. Application Approved _____

Subject to _____

Not approved _____

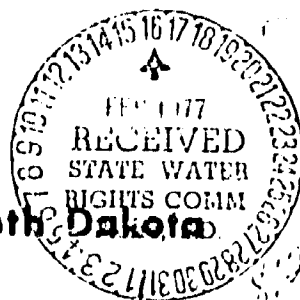
Action deferred _____

10. Remarks:

See platist

Map No. 5207-3 Water Division No. 3 JAMES RIVER District _____
 (Blanks to be filled by the Engineer for the W. H. C.)

RECEIVED
 WATER RESOURCES DEPT.
 JUL 10 1977
 STATE WATER RIGHTS COMM.



APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of Applicant KEITH LOWARY
 Postoffice address Box 1472, Aberdeen, S. Dak 57401
 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 _____
 4. Amount of water claimed (cubic feet per second) 2.6 cfs
 5. Source of water, supply GRAVEL PIT
 6. Location of point of diversion 700ds S, 400ds W of NE cor of Section 27--123-64
 County BROWN
 7. Annual period or periods during which water is to be used MAY / OCT
 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 120

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 27 123-64	20	NW 1/4 27 123-64	40
SW 1/4 " " "	40	NE 1/4 " " "	50
SE 1/4 " " "	20	SW 1/4 " " "	20

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 2 years. Additional time required to complete application of water to the proposed beneficial use 1 years.
 11. Choice of newspaper for Notice of Intent to Appropriate Water publication ABERDEEN AMERICAN NEWS
 12. Principal Features of the Proposed Water Supply System.

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

PUMP

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

PIPE

C. Works proposed to apply water to beneficial use.

TOWLINEEstimated Total Cost \$ 30,000

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 Brown

I, Keith Lowary 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 Keith LowarySubscribed and sworn to before me this 5 day of February 19 77

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 3956-3

KEITH LONIA BY

(Applicant)

Box 1872

ABERDEEN

2604 S. 2nd St. (Post Office Address)

SOUTH DAKOTA 57401

(State)

With the following modifications:

The irrigation well approved under this Permit is located near domestic wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in adequate domestic wells.

Date of first receipt of application FEBRUARY 16, 19 77

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

Date of receipt of corrected application MAY 16, 19 77

Approved MAY 25, 19 77, Recorded in Book 18 Page 304

WATER RIGHT PERMIT NO. 3956-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 3956-3 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 MAY 16, 19 77
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before MAY 25, 19 78
3. The whole of said work is to be completed on or before MAY 25, 19 79
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MAY 25, 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 2.6 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before MAY 25, 19 80; said water to be used during the following described annual period: MAY - OCTOBER

Witness my hand this 15th day of AUGUST, 19 77

WATER RIGHTS COMMISSION

By:

John H. Hark
Chief Engineer, Executive Officer

Certificate of Construction Issued —, 19 —

Water License Issued —, 19 —

CALLED
4-27-77

KEITH LOWARY

GRAVEL PIT

3 ACRES IN SIZE

GRAVEL THICKNESS

IS FROM

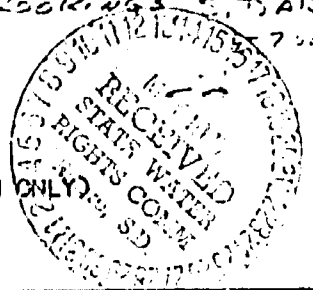
2' to 30' or 28 ft.

gw

CONSERVATION
COMMISSION
FORM W1 #1

WATER QUALITY DATA
AS PER RDS
BROOKINGS, S.D.

STATE CONSERVATION COMMISSION
SUPPORTING INFORMATION
FOR APPROPRIATION OF GROUND WATER IN ACCORDANCE
WITH SDCL 46-6-3 AS AMENDED
(THIS FORM REQUIRED FOR PROPOSED GROUND WATER IRRIGATION ONLY)



NAME KEITH LOUARY
ADDRESS BOX 1872, BROOKINGS, S. DAK 57401
COUNTY BROWN

LEGAL DESCRIPTION

1. WELL LOCATION GRUEL 1.1 700ds S, 400ds W of NE COR SEC 27 123-64
2. LOCATION OF AREA TO BE IRRIGATED PART E 1/2 27, 123-64

TYPE OF IRRIGATION

3. GRAVITY _____ TOWLINE _____ CENTER PIVOT _____ GUN _____
4. CROPS TO BE IRRIGATED WHEAT / PARSNIP

WATER QUALITY

5. SAMPLE NUMBER 1011E- 77-538
6. SALINITY (EC X 10⁶) 724 (meq/l)
7. SODIUM (SAR) 0.33
8. RESIDUAL SODIUM CARBONATE (meq/l.) 0

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.

Keith Louary
APPLICANT'S SIGNATURE

SUBSCRIBED AND SWORN BEFORE ME THIS
____ DAY OF _____ 19 ____

Thomas Louary
(TITLE OR SEAL)

Albert J. [Signature]
APPROVED/DENIED

(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: Keith Lowery
 Address: P.O. Box 1872
Aberdeen, SD 57401

Date Rec'd: April 5, 1977
 Sample No. 77-538
 Identification Don't Fit
1E1, Sec. 27, T 123N, R 64W

WATER ANALYSIS

Calcium (Ca)	108	ppm*	5.40	me/l**
Magnesium (Mg)	17	ppm	1.38	me/l
Sodium (Na)	14	ppm	0.61	me/l
Potassium (K)	30	ppm	0.78	me/l
Sulfate (SO ₄)	217	ppm	4.51	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	10	ppm	0.37	me/l
Bicarbonate (HCO ₃)	222	ppm	3.64	me/l
Carbonate (CO ₃)		ppm		me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Hardness (EDTA as CaCO ₃)		ppm		g.p.g.***
Alkalinity (Methyl Orange)	182	ppm (as CaCO ₃)		
Alkalinity (Phenolphthalein)	0	ppm (as CaCO ₃)		
Electrical Conductivity	724	micromhos per cm at 25° C.		
Sodium Adsorption Ratio	0.33			
Sodium	7.75	% of cations		
Residual sodium carbonate	0.00	me/l		
pH	7.45			
Others:				

*ppm=parts per million

**me/l=millequivalents per liter

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

COMMENTS: Total cations 8.17 me/l
 Total anions 8.42 me/l

By: Shirley Litten

Service Performed

Amount Due

Irrigation analysis

\$15.00

Make checks payable to: Water Quality Laboratory

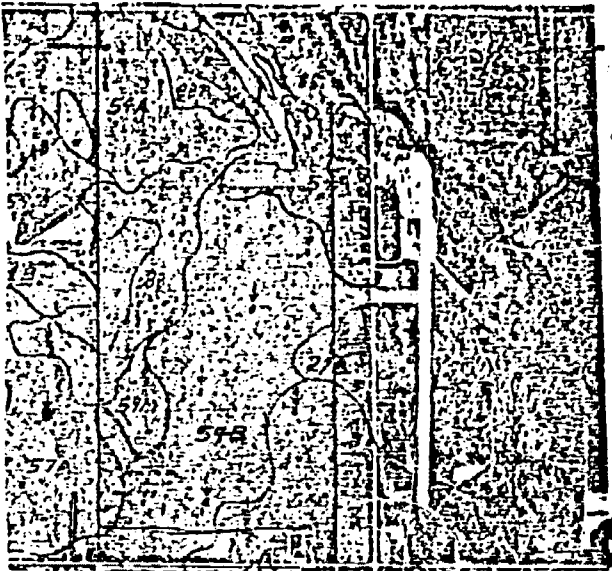
Cut along dotted line and return the lower portion with payment

Sample No. 77-538

Amount Enclosed \$

Signed

MAP



Fl 27-123-64
LESS 140 ACRES.

NARRATIVE

Fl 27-123-64	54A - WILLIAMS / CAUDOR LUMAS	0-3
Fl 27-123-64	54B - " " "	3-6
Fl 27-123-64	59M - CAUDOR / MIRANDA "	0-2
Fl 27-123-64	88 - RANSLO / LADFIELD 2/1	

April 18, 1977

Mr. Keith Lowary
P.O. Box 1872
Aberdeen, SD 57401

Dear Mr. Lowary:

Your water sample (Lab. No. 77-538) 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.

Your water, as indicated by this analysis, is satisfactory for use on the soils you indicate will be irrigated. If a salt problem or a water table problem should develop, contact extension personnel for assistance.

The WI-1, soils information, and a copy of the water analysis are being forwarded to the State Conservation Commission for their action.

Sincerely yours,

L. O. Fina

L. O. Fina
Water Quality Lab

LOF:ckb

Enclosures

cc: State Conservation Commission

D. Pahl, Extension Service

P.S. Although this is quite good quality water, you have a serious soil problem with the Miranda and Cavour soils. They both have serious claypan problems and will tend to cause water ponding, salt rise, crops drowning, etc. You will probably find deep chiseling or other tillage to be a necessary practice. They will not be very productive for corn, but small grains and alfalfa may perform o.k. Salt management will be important—keep some water in the soil profile in the fall, and natural leaching may be sufficient.

No. 3956-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Brown) ss.

I, Dianne Brenden hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Aberdeen American News
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 Aberdeen of Brown

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

May 17, 1977

May 24, 1977

Dianne Brenden
(Signature)

Principal Clerk
(Title)

May 24, 1977
(Date Signed)

(No. 342—May 17-24—2T)
NOTICE INTENT TO
APPROPRIATE WATER
Notice is hereby given that Keith
Lowery whose post office address is
Aberdeen, South Dakota, has made
an application in accordance with
the provisions of the water laws of
South Dakota for a permit to ap-
propriate for beneficial use 2.6 cubic
feet of water per second of time from
ground water (gravel pit) through
the Lowery No. 1, the point of
diversion of which is to be located in
the NE¼ NE¼ of Section 27, Twp.
123N, Range 64W. Said water to be
used for the purpose of providing
irrigation on portions of the
following described land: W¼ NE¼,
SE¼ NE¼, N¼ SE¼, SW¼ SE¼,
Section 27, T123N, R64W.
This application No. 3956-3 will be
considered by the Water Rights
Comm. at their office at Pierre
upon the 25th day of May, 1977, at
10:00 A.M. All interested persons
may appear and be heard.
WATER RIGHTS COMMISSION
By: Burton F. Jones
Water Rights Specialist



AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF BROWN

ss.

Sheryl Horan BEING DULY SWORN, ON HIS OATH SAYS:

That the ABERDEEN AMERICAN NEWS is a DAILY newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned, that affiant is an employee and principal clerk of said publisher and has personal knowledge of all the facts stated in this affidavit; that the advertisement headed Notice of Intent to Appropriate
Water

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each week for 2 successive weeks. The first publication being made on the 17th day of May, 1977. The second publication being made on the 24th day of May, 1977. The third publication being made on the day of . The fourth publication being made on the day of . The fifth publication being made on the day of . The sixth publication being made on the day of . The seventh publication being made on the day of . The eighth publication being made on the day of . The ninth publication being made on the day of .

That said newspaper is a legal newspaper, being published five days or more each week, having a bona fide circulation of more than two hundred copies daily, having been published in the English language within the said County of Brown for more than one year next prior to the first publication of said notice, and is printed in whole in an office maintained at the place of publication of said newspaper. That the whole amount of the fee paid for the publication of the annexed notice is \$ 11.97, which inures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Sheryl Horan
Subscribed and sworn to before me this 29th day of

July 1977

Edward A. Steinhilber
Notary Public, Brown County, S. D.

My commission expires 12-19-83
Daily circulation 22,244

(110.342—May 17-24—27)
NOTICE INTENT TO
APPROPRIATE WATER
Notice is hereby given that Keith Lowery whose post office address is Aberdeen, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.6 cubic feet of water per second of time from ground water (gravel pit) through the Lowery No. 1, the point of diversion of which is to be located in the NE1/4 NE1/4 of Section 27, Two, 123N, Range 64W. Said water to be used for the purpose of providing irrigation on portions of the following described land: NW1/4 NE1/4, NW1/4 NE1/4, SW1/4 NE1/4, SW1/4 NE1/4, NW1/4 SE1/4, NW1/4 SE1/4, SW1/4 SE1/4, SW1/4 SE1/4, Section 27, T123N, R64W. This application No. 3954-J will be considered by the Water Rights Commission at their office at Pierre upon the 25th day of May, 1977, at 10:00 A.M. All interested persons may appear and be heard.
WATER RIGHTS COMMISSION
By: Burton F. Jones
Water Rights Specialist



Publication Fees \$ _____

Received Payment, _____

Aberdeen News Co.

By _____

No. 3956-3Publish first publication, on or before May 17, 19 77**NOTICE
INTENT TO APPROPRIATE WATER**

Pierre, South Dakota 57501

May 16, 19 77Notice is hereby given that Keith Lowary

whose post office address is Aberdeen, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.6 cubic feet of water per second of time from new ground water (gravel pit) through the Lowary # 1, the point of diversion of which is to be located in the _____

NE 1/4 NE 1/4

of Section 27, Twp. 123N, Range 64W. Said water to be used for the purpose of providing irrigation on the following described land:

W 1/2 NE 1/4, SE 1/4 NE 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, Section 27, T123N, R64W

This application No. 3956-3 will be considered by the Water Rights Commission at their office at Pierre upon the 25th day of May, 19 77, at 10:00 A.M. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION

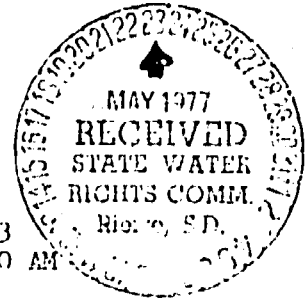
By:

BURTON F. JONES
Water Rights Specialist

BFJ/bw

cc: Keith Lowary, Box 1872, Aberdeen, SD 57401

Rur. Route #3
Aberdeen, SD 57101
20 May 1977



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

RE: Application #3956-3
25 May 1977 - 10:00 AM

We, the undersigned, all being property and home owners in Section 27, Township 123N, Range 64W, do hereby request that the irrigation permit applied for by Keith Lowary for certain sections of the above described land, not be issued.

The reason for our request is that we are dependent upon surface wells for our domestic use and, due to the extreme drought conditions of the past several years, the level in these wells has already dropped considerably.

We feel that any amount of pumping for irrigation purposes, however small, will seriously affect these wells and may even make them altogether useless. In addition, Mr. Lowary is continuing to sell lots to prospective home builders with the implied, if not express, knowledge that there is adequate water for domestic use. Under these circumstances, we feel that he should not be allowed to further deplete an already short water supply.

Ronald W. Angerhofer

Michael J. Angerhofer

Elda Angerhofer

Mr. & Mrs. Don Endman

Mr. & Mrs. Darrell Overby

Mr. & Mrs. Richard W. Miller

Mr. & Mrs. James G. Anderson

Mr. & Mrs. Leonard T. Rath

Mr. & Mrs. Keith Rath

Mr. & Mrs. John W. Rader

Mr. & Mrs. John Schuch

Elda A. Angerhofer



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

March 23, 1987

KEITH LOWARY
2604 SW 281
ABERDEEN, SD 57401

NOTICE

Re: Violation of Requirement To Submit 1986 Irrigation
Questionnaire

Our records indicate that the 1986 Irrigation Questionnaire has not been submitted for Permit No(s). 3956-3. 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 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 pm, May 6, 1987 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

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

1. Amend Permit No(s). 3956-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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

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

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

 **Department of
Water & Natural Resources**

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

April 15, 1987

3956-3

Keith Lowary
2604 SW 281
Aberdeen, SD 57401

Dear Mr. Lowary:

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. 3956-2 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

Permit No. 3956-3

Jamea River - Water District

Other permit/license(s) associated with project: None

Contact Person & Address: Keith Lowary, 2604 South Highway 281, Aberdeen SD 57401

Report Of Examination Of Works

On, August 23, 2000, I made a thorough examination of the water use system constructed by Keith Lowary of 2604 South Highway 281, Aberdeen SD 57401 holder of Permit No. 3956-3, bearing the priority of May 16, 1977, authorizing the diversion of 2.6 cu. ft. per second of the water for irrigation purposes, in Brown County.

The system is in the following condition good. The point of diversion is located from the NE corner of Section 27 T123N-R64W it is 1500 feet west and 569 feet south with a longitude of -98.521766 and a latitude of 45.443530. The works are capable of diverting and conveying to the place of use 1.78 cu. ft. per second of water that is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows:

All land is in Section 27 T123N-R64W

NW 1/4 NE 1/4 = 21 Acres

SW 1/4 NE 1/4 = 40 Acres

NW 1/4 SE 1/4 = 33 Acres

SW 1/4 SE 1/4 = 14 Acres

SE 1/4 SE 1/4 = 6 Acres

NE 1/4 SE 1/4 = 30 Acres

SE 1/4 NE 1/4 = 30 Acres

comprising a total of 174 acres of land and the license should be issued for 1.78 cfs.

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes
- 3) Irrigation questionnaires checked to determine if permit owner started irrigation by the end of construction period yes
- 4) Exceptions to compliance are: none

Report On the Specifics of the System

System Type:

Gun:

- 1) Make Easyrain
- 2) Nozzle size unknown inches
- 3) Capacity 450 GPM
- 4) Hose size 6 to gun 4 inches

Sideroll:

- 1) Length 1320 feet
- 2) Diameter of pipe unknown inches
- 3) Sprinkler spacing unknown feet

COMMENTS: With the sideroll equipment it has no end gun. It is under low pressure. It has a capacity of 350 gpm. It has a gun hose size of 4 inches. With the gun equipment it can irrigate 10 acres of land at a time.

Stacy J. Johnson

Stacy J. Johnson
Natural Resources Engineer
DENR, Water Rights Program

1-9-01

Date



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 19, 2001

3956-3

Keith Lowary
2604 S Highway 281
Aberdeen SD 57401

Dear Mr. Lowary:

On August 23, 2000 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 3956-3, was completed by Stacy J. Johnson, a staff engineer with our program. Your final water right document, the water license, can now be issued.

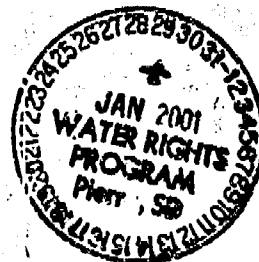
State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Glenda Marks
Water Rights Program
(605) 773-3352



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

No 416745

Pierre, January 29

2001

RECEIVED OF Keith Lowery, 2684 S Highway 281, Aberdeen SD 57401
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct
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. 3956-3

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

Total

50 00

50 00

(Any Other Work Provided by Law)

By

Chief Engineer

David E. Erbe
gme

Licensing of Acreage Outside of Permitted AreaNAME: Keith LowaryADDRESS: 2604 South Highway 281, Aberdeen SD 57401TELEPHONE: (605) 225-9669DATE: January 9, 2001 COUNTY: BrownAUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The acreage developed for irrigation is 174 acres as compared to 180 acres authorized by the permit. Licensing of the permit will result in a reduction in the amount of water appropriated.

UNPERMITTED ACREAGE:

- Contiguous to Permitted Acreage
Yes, they are six acres in the SE 1/4 SE 1/4 of Section 27 T123N-R64W.
- Owned by Same Property Owner
Yes
- Developed Prior to Expiration of Construction Period
Yes

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the 6 acres area be included in the water license.

Stacy J. Johnson
Stacy J. Johnson, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.

Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program

Approval of Location Change and/or Additional Diversion Point(s)

NAME: Keith Lowary

ADDRESS: 2604 South Highway 281, Aberdeen SD 57401

DATE: January 18, 2001

COUNTY: Brown

TELEPHONE: (605) 225-9669

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- Developed water source same as permitted source and no additional water appropriated

Yes

- If irrigation, no new land is irrigated

No

- Review of Existing Diversions

Dugout was to be located in the NE 1/4 NE 1/4 as per water permit application. Dugout is located in the NW 1/4 NE 1/4.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.

Stacy J. Johnson

Stacy J. Johnson, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.

Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 04 2001

3956-3

Keith Lowary
2604 S Hwy 281
Aberdeen, SD 57401

Dear Mr. Lowary:

Enclosed is Water License No. 3956-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416745 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 3956-3

(1) Keith Lowary, 2604 S Hwy 281, Aberdeen SD 57401 made Application No. 3956-3, February 16, 1977 for a water permit to divert 2.6 cubic feet of water per second from gravel pit, Brown County, South Dakota for irrigation purposes. Permit No. 3956-3, with a priority date of May 16, 1977 was approved May 25, 1977 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 25, 1979 and for the application to beneficial use of said water on or before May 25, 1980.

An investigation conducted for licensing purposes found acreage developed for irrigation outside of the area described on the permit and the diversion point was not in the location authorized by the permit. Pursuant to SDCL 46-5-30.5 and 46-5-13.1, the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.78 cubic feet of water per second for beneficial use. The location of the diversion point (gravel pit) is 1,500 feet west and 569 feet south from the northeast corner of Section 27-T123N-R64W (NW ¼ NE ¼).

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

Section 27-T123N-R64W			
NW ¼ NE ¼	21 acres	NW ¼ SE ¼	33 acres
SW ¼ NE ¼	40 acres	SW ¼ SE ¼	14 acres
SE ¼ NE ¼	30 acres	SE ¼ SE ¼	6 acres
		NE ¼ SE ¼	30 acres
Total 144 acres			

(4) Pursuant to South Dakota Water Law 46-5-30.1 Keith Lowary, 2604 S Hwy 281, Aberdeen SD 57401 the holder and/or owner of Water Right No. 3956-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from a gravel pit with a priority date of May 16, 1977 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Right No. 3956-3 and subject to South Dakota State Law.

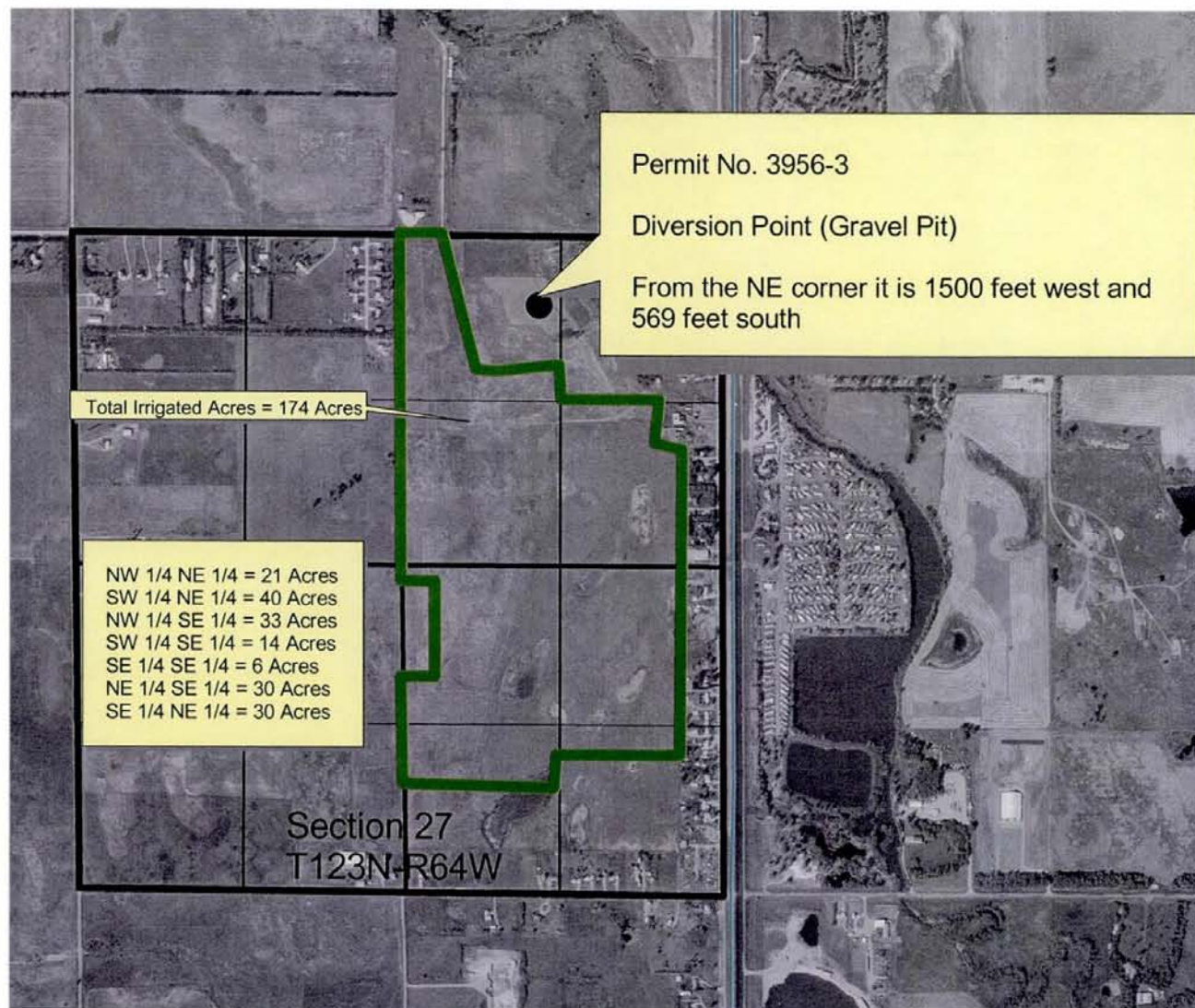
Garland Erbele

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

APR 04 2001

date





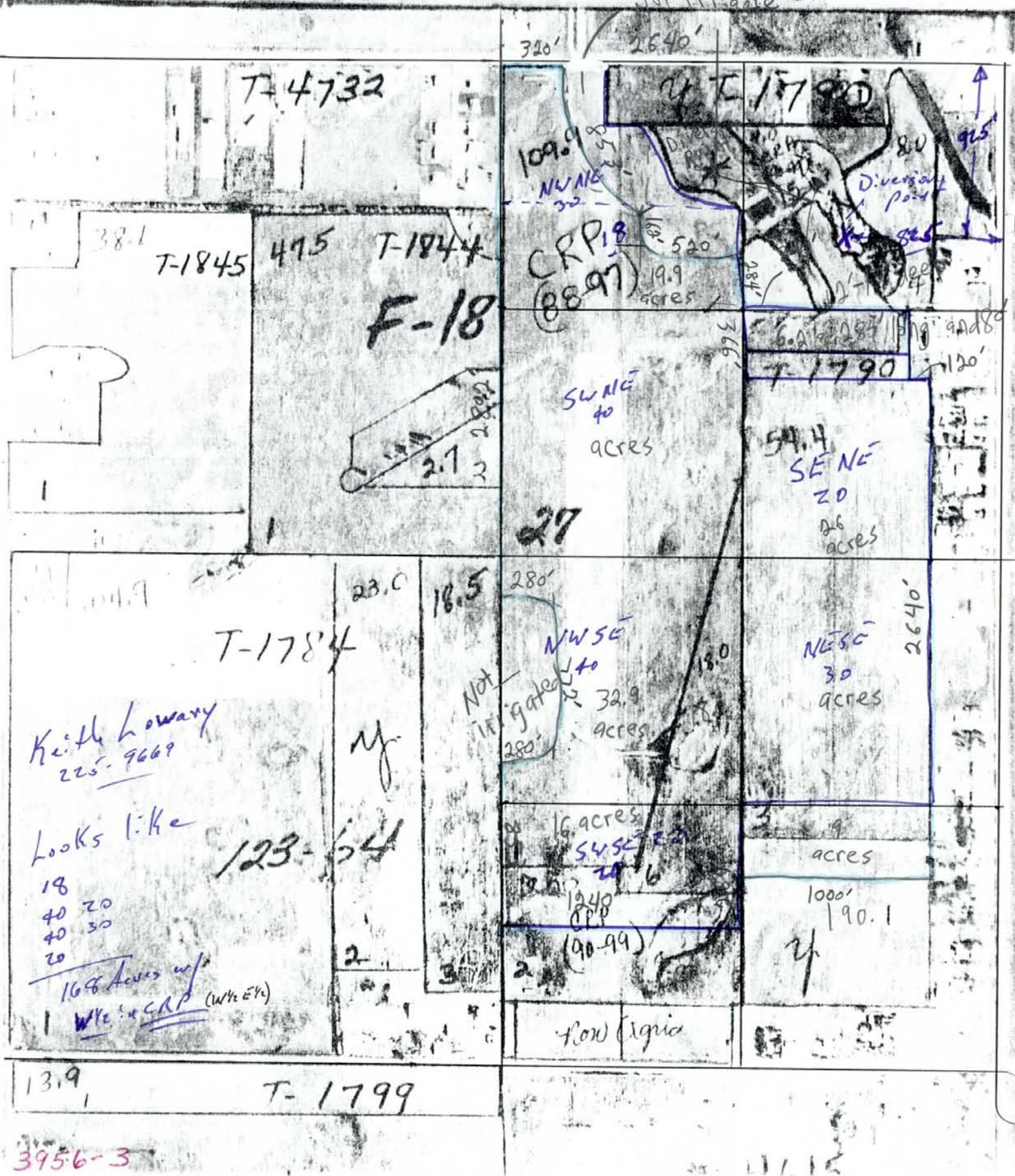
Stacy J Johnson 12-11-00

Stacy J Johnson
Natural Resources Engineer
SD DENR Water Rights Program

0.5 0 0.5 1 Miles

3956-3

NOT 1559410



NOT TO SCALE

T-4732

2 T-1790

38.1

T-1845

415

T-1844

F-18

109.9

CRP
(88-97)

T-1790

54.4

27

City
NA

104.9

23.0

18.5

T-1784

My

123-64

2

3

18.0

CRP
(90-99)

Now Agric

13.9

T-1799

3956-3

4

4/15

MAP PREPARED BY
R.K. ULRICH
DC-565 - BROWN CO.
R.K. Ulrich Inc.

27.5

N.A.

79.3

76C

45.3

47.5

30' GRAVEL P.T.

Point

2.7

55.7

76.3

104.9

18.5

27

27

123-64

100.7

76C

OK

MAP NO. 55207-5 AREA 3952-5