

Water Right Number 4046-3

1. Considered 7-27, 19 77
2. Name of Applicant WERNERSTRUCK, INC.
3. Post Office Address WOLSEY
4. Amount of Water claimed NO ADDITIONAL
5. Source of Water supply 100' DEEP WELL
6. Water to be used for IRRIGATION
Acres to be irrigated 280
7. Water to be diverted and used in BEADLE County
about 3N, 1W miles of WOLSEY
8. Proof of Publication
Received ~~4th~~ 7-27-77
Not Received _____
9. Application
Approved 3-28-74
Subject to WI 660's pnc
Not Approved _____
Action Deferred _____
10. Remarks:

No. 4046-3Map No. 2729-3 Water Division No. 3 JAMES RIVER District
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of Applicant Werner Struck Inc.
Postoffice address RR 2 Box 92 Wolsey State South Dakota
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract and Direct Labor
3. Name of diversion work WERNER STRUCK
4. Amount of water claimed (cubic feet per second) NO ADDITIONAL
5. Source of water supply GROUND WATER
6. Location of point of diversion SE 1/4 Sec. 3 11N 64W

County Beadle

7. Annual period or periods during which water is to be used April - November
8. Use to be made of water. (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
9. For irrigation use. Total number of acres to be irrigated 280

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	40		
SW 1/4	40		
W 1/2 NE 1/4	50		
W 1/2 SE 1/4	50		

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 2 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Plainsman
12. Principal Features of the Proposed Water Supply System.

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

Bowl pump

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

Mainline

C. Works proposed to apply water to beneficial use.

Supplementary Well for Irrigation System
on Sec. 34 112 N 64 W

Estimated Total Cost \$ _____

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 BeadleI, Duane Struck

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

Duane Struck

Subscribed and sworn to before me this

day of July 19 77

Notary Public (or other qualified officer)

Betty Westlund
Lawrence H. Westlund II

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 4046-3
WERNERSTRUCK, INC. P.R. #2, Box 92, WOLSEY
 (Applicant) (Post Office Address)
SOUTH DAKOTA 57334 With the following modifications:
 (State)

The irrigation well approved under this Permit will be located near domestic wells and other irrigation 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 or in irrigation wells having prior water rights.

Priority for this permit is established under Permit No. 3449-3. Well approved under this Permit shall be spaced so that there is at least 660 feet between wells.

Lands covered under this Permit is also covered under Permit No. 3449-3.

Combinations of diversions under the two permits shall not exceed the Statutory limit of 1 c.f.s. for each 70 acres of land to be irrigated.

Date of first receipt of application JULY 5, 19 77
 Date of return to applicant for correction, amendments or changes required _____, 19 ____
 Date of receipt of corrected application _____, 19 ____
 Approved MARCH 28, 19 79, Recorded in Book 20 Page 257

WATER RIGHT PERMIT NO. 4046-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 4046-3 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 SEPTEMBER 3, 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before MARCH 28, 19 80
3. The whole of said work is to be completed on or before MARCH 28, 19 81
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MARCH 28, 19 83
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 NO ADD'L 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 2 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 MARCH 28, 19 83; said water to be used during the following described annual period: APRIL - NOVEMBER

Witness my hand this 6th day of APRIL, 19 79

WATER RIGHTS COMMISSION

By:

John Hatch
 Civil Engineer, Executive Officer

Certificate of Construction Issued _____, 19 ____

Water License Issued _____, 19 ____

SEE PERMIT NO 3449-3
FOR WATER QUALITY DATA

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 SEE PERMIT NO 3449-B FOR
WELL LOG

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

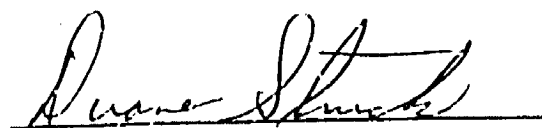
Depth to water (ground surface to water level) _____

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

On same owner's property 150 rds. On property owned by others 320+ 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.


Signature of Applicant

PRINTER'S AFFIDAVIT

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE

SS.

I, Jeannette C. Lusk

being duly sworn on oath, say that THE DAILY PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bonafide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date; that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am publisher

of said newspaper and know the facts herein stated. The annexed notice headed

Notice of Hearing

was published for two successive weeks once each week, the same day each week, in said newspaper, and not in any supplement of the said newspaper, the first publication on the 13th day of July, 1977, and the last publication on the 20th day of July, 1977. That the full amount of the fee charged for publishing the same, to-wit:

Twenty four and 40/100 Dollars inures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Jeannette C. Lusk

Subscribed and sworn to before me this 13th day of

July, 19 77

A. J. [Signature]
Notary Public, South Dakota

My term expires 7-21-83

AFFIDAVIT OF AGENT OR ATTORNEY

STATE OF SOUTH DAKOTA,
COUNTY OF

SS.

I, being duly sworn on oath, say that I am the authorized attorney for the party foreclosing the mortgage described in the annexed notice; that no agreement or understanding for any division of the fees therefore has been made with any person whomsoever, and that no part thereof has been refunded or rebated by the party publishing this notice.

Subscribed and sworn to before me this day of

, 19

F.P. 7-13-77 R. 12-1-77 L.P. 7-20-77
NOTICE OF HEARING
ON APPLICATION
TO APPROPRIATE WATER
Pierre, South Dakota 57501
July 8, 1977

Notice is hereby given that Wernerstruck Inc. whose post office address is Wolsey, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-1 thru 46-2-11; 46-2-13; 46-3-1 thru 46-3-8; 46-3-10 thru 46-3-22; 46-4-1, 46-4-3, 46-4-5, 46-4-6.1, 46-4-10, 46-4-11 and Commission Rules ARSU 52:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use no additional water per second of time from ground water through the Wernerstruck Irrigation Project, the point of diversion of which is to be located in the NW 1/4 SE 1/4 of Section 3, Twp. 111N, Range 64W. Said water to be used for the purpose of providing irrigation on portions of the following described land: W 1/2, W 1/2 NE 1/4, W 1/2 SE 1/4, Section 34, T112N, R64W.

This Application No. 4046-3 will be considered by the Water Rights Commission at the Staurollie Inn, Brookings, S.D., upon the 27th day of July, 1977, at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

WATER RIGHTS COMMISSION
JAMES WINTERTON
Water Rights Specialist
K24 24.46 No. 45 (adv.)

Received
7-27-77

Publish first publication, on or before July 14, 1977NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

July 6, 1977Notice is hereby given that Wernerstruck Inc. whose

post office address is Wolsay, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, ~~Future Use 46-5-38, Temporary Permit 46-5-39, 46-5-40; Ground Water~~ 46-6-3, 46-6-5, 46-6-6.1, 46-6-10, 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, ~~Future Use 52:01:01:21~~

thru ~~52:01:01:24~~, for a permit to appropriate for beneficial use no additional ~~211.5~~ feetof water per second of time from the ground water throughthe Wernerstruck Irrigation Project, the point of diversion of which isto be located in the NW 1/4 SE 1/4

of Section 3, Twp. 111N, Range 64W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

NW 1/4, W 1/2 NE 1/4, W 1/2 SE 1/4, Section 34, T112N, R64WThis Application No. 4046-3 will be considered by the Water Rights Commission

at their Staurolite Inn upon the 27th day of July, 1977, at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

WATER RIGHTS COMMISSION

JA'SS WINTERTON
Water Rights Specialistcc. Wernerstruck, Wolsay, SD



No. 4046-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

August 9, 1977

Wernerstruck, Inc.
Rt. #1, Box 92
Wolsay, SD 57384

Dear Sirs:

The Water Rights Commission deferred action on your Application

No. 4046-3 at the July 27 - 28, 1977

Commission meeting, pending investigation by the Commission Staff.

If you have any questions, feel free to contact this Office.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/bw



7/2/6-3
BEADLE COUNTY DEFERRED

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

January 16, 1978

TO: Holders of Deferred Applications in Beadle County
FROM: John Hatch, Chief Engineer, Water Rights Commission
SUBJECT: Reconsideration of Deferred Applications

The Water Rights Commission will reconsider deferred Beadle County Water Right Applications at 4:00 P.M., January 25, 1978 at the South Dakota Education Association Building, 411 E. Capitol, Pierre, South Dakota.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-6-3, 46-6-5, 46-6-6.1, 46-6-10, 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

These Applications were deferred by the Water Rights Commission during 1977, pending Staff investigation.

After reconsideration of the deferred Applications the Commission can approve, defer, or deny all or part of any of these Applications.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/BFJ/bw



WERNERSTROCK

4046-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

January 30, 1978

TO: Holders of Deferred Applications in Beadle County

FROM: John Hatch, Chief Engineer Water Rights Commission

SUBJECT: Reconsideration of Deferred Applications

This is to inform you that the Water Rights Commission reviewed your Water Right Application at the January 25-26, 1978 meeting and decided, at this time, that it remain in a deferred status pending further investigation by the Commission Staff.

If you have any questions, feel free to contact this office.

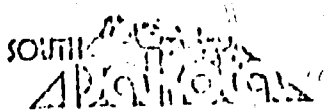
Very truly yours,

A handwritten signature in dark ink, appearing to read "John Hatch", written over a faint, circular official stamp.

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/BW/gy

4046-3



Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

March 14, 1979

TO: Holder of Deferred Applications in Beadle County
FROM: John Hatch, Chief Engineer, Water Rights Commission
SUBJECT: Reconsideration of Deferred Applications

The Water Rights Commission will reconsider deferred water right applications in Beadle County at 4:15 p.m., March 28, 1979, at the Community Room, Pierre City Hall, 222 East Dakota, Pierre South Dakota.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; 46-6-3; 46-6-5; 46-6-6.1; 46-6-10; 46-6-3.1; 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

These applications were previously deferred by the Water Rights Commission, pending Staff investigation.

After reconsideration of the deferred applications the Commission can approve, conditionally approve, defer, or deny all or part of the Application.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch", is written over the typed name.

JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjv



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181
January 29, 1988

4046-3

WERNERSTRUCK INC ZDuane Struck
PR #2 BOX 92B
WOLSEY, SD 57384

NOTICE

Re: Violation of Water Permit No(s). 4141-3, 4662-3A, 4663-3 and
1987 Irrigation Questionnaire Requirements

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 4141-3, 4662-3A, 4663-3. 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 hearing(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 4141-3, 4662-3A, 4663-3 qualification:

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

The hearing will also be to determine if Permit No(s) 1925-3, 4396-3, 4149-3, 4046-3 should be amended with the qualification to require the Questionnaire to be submitted each year.

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

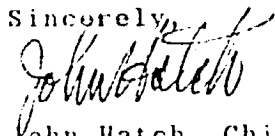
The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11, and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26.

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

1. Suspend Permit No(s). 4141-3, 4662-3A, 4663-3 until either the 1987 Questionnaire is submitted or for the period of up to one year;
2. Amend Permit No(s) 1925-3, 4396-3, 4149-3, 4046-3 also held by WERNERSTRUCK INC to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action;
4. Take no action.

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

Sincerely,

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

John Hatch, Chief Engineer
Water Rights Division

Note: If the questionnaire(s) are 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

February 10, 1988

3447-3	1925-3
3449-3	4046-3
4141-3	4149-3
4396-3	4662-3A
4663-3	

Duane Struck
RR 2, Box 92B
Wolsey SD 57384

Dear Mr. Struck:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 1925-3, 3447-3, 3449-3, 4046-3, 4141-3, 4149-3, 4396-3, 4662 3A, 4663-3 and the hearing date before the Water Management Board.

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

Very truly yours,

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

444-3

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

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

August 16, 1988

Duane Struck
RR 2 Box 92B
Wolsey, SD 57384

Dear Mr. Struck:

Enclosed are the three water permit applications which we discussed on Aug. 10, 1988. These applications should clear up the discrepancies which we have discovered during the inspection and licensing process. Both copies of each application should be signed and notarized. I have also enclosed the maps for your review. The combined fee for these three permits is \$575.00.

In addition to returning the applications, you will be required to submit a water sample for the irrigation well located in the NW1/4 NW1/4 of Sec. 28, T110N, R65W. The water sample is needed for the soil/water compatibility portion on one of the applications. The enclosed instruction sheet explains the procedure recommended for collecting the sample. I suggest that you describe the well location very completely and accurately on the label since there are two other wells also located on this section of land. All of the other wells pertaining to these applications already have validated water samples.

After you have returned the applications, fees and maps to our office and submitted the water sample to the water quality laboratory in Brookings, we can then continue with the process of licensing your remaining water permits. Thanks for your cooperation in this matter. If you have any questions, please contact us.

Sincerely,

James L. Wendte

James L. Wendte
Natural Resources Engineer
(605) 773-3352

enc



 **Department of
Water & Natural Resources**

Joe Fuss Building
523 East Capitol
Pierre, South Dakota 57501-0181

SEP 14 1989

5232-3

Wernerstruck, Inc.
RR 2, Box 92B
Wolsey SD 57384

Dear Sirs:

Enclosed is Water License No. 5232-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 411891 in the amount of \$50.00 which you paid for the inspection and issuance of the Water License.

The applicable portions of Water Permit Nos. 3449-3 and 4046-3 are incorporated into this Water License No. 5232-3.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 5232-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Very truly yours,



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

enclosures

