



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

APR 22 2003

4862B-3

Milton Swayze  
RR 2 Box 18  
Wilmot SD 57279

Dear Mr. Swayze:

Enclosed is your Reissued Water License No. 4862B-3. Also enclosed is your Receipt No. 000687 in the amount of \$2.50 which you paid for filing the ownership change.

Water Right No. 4862-3 was divided and reissued to reflect separate ownership as follows:

- No. 4862A-3, Orris Swayze, authorizes diversion of 0.87 cfs from two storage dams to irrigate 243 acres in the NW  $\frac{1}{4}$  SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 11; NW  $\frac{1}{4}$  and SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 12, N  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 13, T123N, R51W;
- No. 4862B-3, Milton Swayze, authorizes diversion of 0.91 cfs from two storage dams to irrigate 255 acres in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 1; SE  $\frac{1}{4}$  Section 2; NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 11; and the N  $\frac{1}{2}$  SW  $\frac{1}{4}$  Section 12, all in T123N, R51W.

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**  
**REISSUED WATER LICENSE NO. 4862B-3**  
**DIVISION OF NO. 4862-3 INTO NOS. 4862A-3 & 4862B-3**

---

(1) Orris & Milton Swayze, RR 2 Box 18, Wilmot SD 57279 were issued Water License No. 4862-3, June 12, 1997 for a water right to divert 1.78 cubic feet of water per second (cfs) from two storage dams (41 acre feet storage capacity), Roberts County, South Dakota for irrigation purposes. Water License No. 4862-3, with priority dates of June 13, 1974, April 1, 1976, February 22, 1977, December 9, 1980 and January 4, 1982 was issued to the permit holders for diversion of water with construction of the described water supply system completed and the application to beneficial use of water completed.

On March 17, 2003, Orris & Milton Swayze filed ownership changes with the water right. Water Right No. 4862-3 is being divided and reissued to reflect separate ownership as follows:

- No. 4862A-3, Orris Swayze, authorizes diversion of 0.87 cfs from two storage dams to irrigate 243 acres in the NW  $\frac{1}{4}$  SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 11; NW  $\frac{1}{4}$  and SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 12, N  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 13, T123N, R51W;
- No. 4862B-3, Milton Swayze, authorizes diversion of 0.91 cfs from two storage dams to irrigate 255 acres in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 1; SE  $\frac{1}{4}$  Section 2; NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 11; and the N  $\frac{1}{2}$  SW  $\frac{1}{4}$  Section 12, all in T123N, R51W.

(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, Milton Swayze, RR #2 Box 18, Wilmot, SD 57279 the holder and/or owner of Water Right No. 4862B-3 is issued a license, bearing priority dates of June 13, 1974, April 1, 1976, December 9, 1980 and January 4, 1982 to appropriate 0.91 cubic feet of water per second from two storage dams to irrigate 255 acres.

The storage dams are located:     NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 11, T123N, R51W (21 acre feet storage capacity)  
                                                 SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 11, T123N, R51W (20 acre feet storage capacity)

The 255 acres authorized for irrigation are as follows:

| Legal Description       |                                   | Acres       | Priority Dates                  |
|-------------------------|-----------------------------------|-------------|---------------------------------|
| Section 1, T123N, R51W  | SW $\frac{1}{4}$ SW $\frac{1}{4}$ | 37.00 acres | January 4, 1982                 |
| Section 2, T123N, R51W  | NW $\frac{1}{4}$ SE $\frac{1}{4}$ | 31.00 acres | December 9, 1980                |
|                         | NE $\frac{1}{4}$ SE $\frac{1}{4}$ | 31.00 acres | December 9, 1980                |
|                         | SE $\frac{1}{4}$ SE $\frac{1}{4}$ | 31.00 acres | December 9, 1980                |
|                         | SW $\frac{1}{4}$ SE $\frac{1}{4}$ | 31.00 acres | December 9, 1980                |
| Section 11, T123N, R51W | NE $\frac{1}{4}$ NE $\frac{1}{4}$ | 20.00 acres | December 9, 1980                |
| Section 12, T123N, R51W | NW $\frac{1}{4}$ SW $\frac{1}{4}$ | 38.00 acres | June 13, 1974 and April 1, 1976 |
|                         | NE $\frac{1}{4}$ SW $\frac{1}{4}$ | 36.00 acres | June 13, 1974 and April 1, 1976 |

**Page 2**

**Water License No. 4862B-3**

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 4862-3 including the following now applicable qualification:

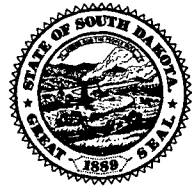
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

*Garland Erbele*

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

APR 22 2003

date



4862B-3

Permit No. 2673-3,3599-3,4610-3 & 4862-3  
Minnesota River - Water District

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

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

On August 29, 1990 I made a thorough examination of the water use system constructed by Orris and Milton Swayze of RR2 Box 18, Wilmot SD 57279 holder of Permit Nos. 2673-3, 3599-3, 4610-3 and 4862-3, bearing the priority of June 13, 1974 (1.30cfs); April, 1 1976 (2.06cfs); February 22, 1977 (0.57cfs); December, 9 1980 (2.50cfs); January 4, 1982 (no add'l) authorizing the diversion of 6.43 cu. ft. per second and the storage of 41 acre-feet of the waters of surface water for irrigation purposes, in ~~Grant~~ <sup>Roberts</sup> County.

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

- A. Works used to divert the water:  
A 6 inch pump with an 800gpm capacity.
- B. Works used to transport water to place of use:  
7900 feet of aluminum 6,7 and 8 inch pipe.
- C. Works used to apply water to beneficial use:  
A Zimmatic center pivot and a Nelson Easy Rain big gun.

The system is in the following condition fair. The point of diversion is located NE1/4 NE1/4 and SE1/4 SE1/4 of Section 11 T123N-R51W (2 dams). The works are capable of diverting and conveying to the place of use 1.78 cu. ft. per second of water and storing 41 acre-feet of water which is to be used for. Water has been put to beneficial use to the maximum extent as follows:

**All land located in T123N-R51W:**

|             |                    |                    |                    |
|-------------|--------------------|--------------------|--------------------|
| SECTION 1:  | SW1/4 SW1/4 - 37ac |                    |                    |
| SECTION 2:  | NW1/4 SE1/4 - 31ac | NE1/4 SE1/4 - 31ac | SE1/4 SE1/4 - 31ac |
|             | SW1/4 SE1/4 - 31ac |                    |                    |
| SECTION 11: | NE1/4 NE1/4 - 20ac | NW1/4 SE1/4 - 38ac | SE1/4 SE1/4 - 12ac |
| SECTION 12: | NW1/4 NW1/4 - 31ac | NE1/4 NW1/4 - 31ac | SE1/4 NW1/4 - 31ac |
|             | SW1/4 NW1/4 - 31ac | NW1/4 SW1/4 - 38ac | NE1/4 SW1/4 - 36ac |
|             | SW1/4 SW1/4 - 15ac |                    |                    |
| SECTION 13: | NW1/4 NW1/4 - 36ac | NE1/4 NW1/4 - 18ac |                    |

comprising a total of 498 acres of land and the license should be issued for 1.78 cfs and 41 acre-feet of storage.

Applicable permit qualifications have been complied with: **Yes**

Exceptions to compliance are: **NONE**

Date: 8/29/90



Mark D. Rath  
Natural Resources Engineer  
DENR, Water Rights Division

**REPORT ON INSPECTION OF PERMIT NO. 2093-3, 2673-3, 3599-3, 4610-3 & 4862-3**

**DATE OF INSPECTION: August 29, 1990**

Other permit(s) associated with the project:

**DIVERSION POINT LEGAL LOCATION: NE1/4 NE1/4 and SE1/4 SE1/4 of Section 11 T123N-R51W**

**Pump:**

- 1) Make Berkley
- 2) Model 3EPBL
- 3) Size 6 inch
- 4) Capacity 800 GPM

**Motor:**

- 1) Make Century
- 2) Model No. 6-323061-01
- 3) Horsepower rating 60 hp

**DISTRIBUTION LINES OR CANALS:**

- 1) Type Aluminum
- 2) Size 8, 7 & 6 inches
- 3) Length 7900 feet

**SYSTEM TYPE:**

**Center pivot:**

- 1) Make Zimmatic Towable
- 2) Overall length 1280 feet
- 3) Number of towers 7
- 4) End gun Y
- 5) low pressure
- 6) Capacity 800 GPM

**Gun:**

- 1) Make Nelson Easy Rain
- 2) Nozzle size 1.5 inches

- 3) Capacity 650 GPM
- 4) Hose size 4.5 inches

**DAM INFORMATION: South Dam**

- 1) Height to crest 16 feet
- 2) Height to primary spillway 14 feet
- 3) Height to secondary spillway 15 ft
- 4) Crest width 15 feet
- 5) Crest length 300 feet
- 6) Spillway length 50 feet
- 7) Spillway width 25 feet
- 8) Approx. storage 20 ac-ft
- 9) Approx. storage to crest 50 ac-ft
- 10) Date constructed: 1974
- 11) Outlet tubes:
  - a) diameter 12 inches
  - b) type cmpl
  - c) valved N
  - d) valve type

**DAM INFORMATION: North Dam**

- 1) Height to crest 24 feet
- 2) Height to primary spillway 17 feet
- 3) Height to secondary spillway 19 ft
- 4) Crest width 10 feet
- 5) Crest length 500 feet
- 6) Spillway length 50 feet
- 7) Spillway width 40 feet
- 8) Approx. storage 21 ac-ft
- 9) Approx. storage to crest 50 ac-ft
- 10) Date constructed: 1980
- 11) Outlet tubes:
  - a) diameter 6 inches
  - b) type steel
  - c) valved Y
  - d) valve type plate

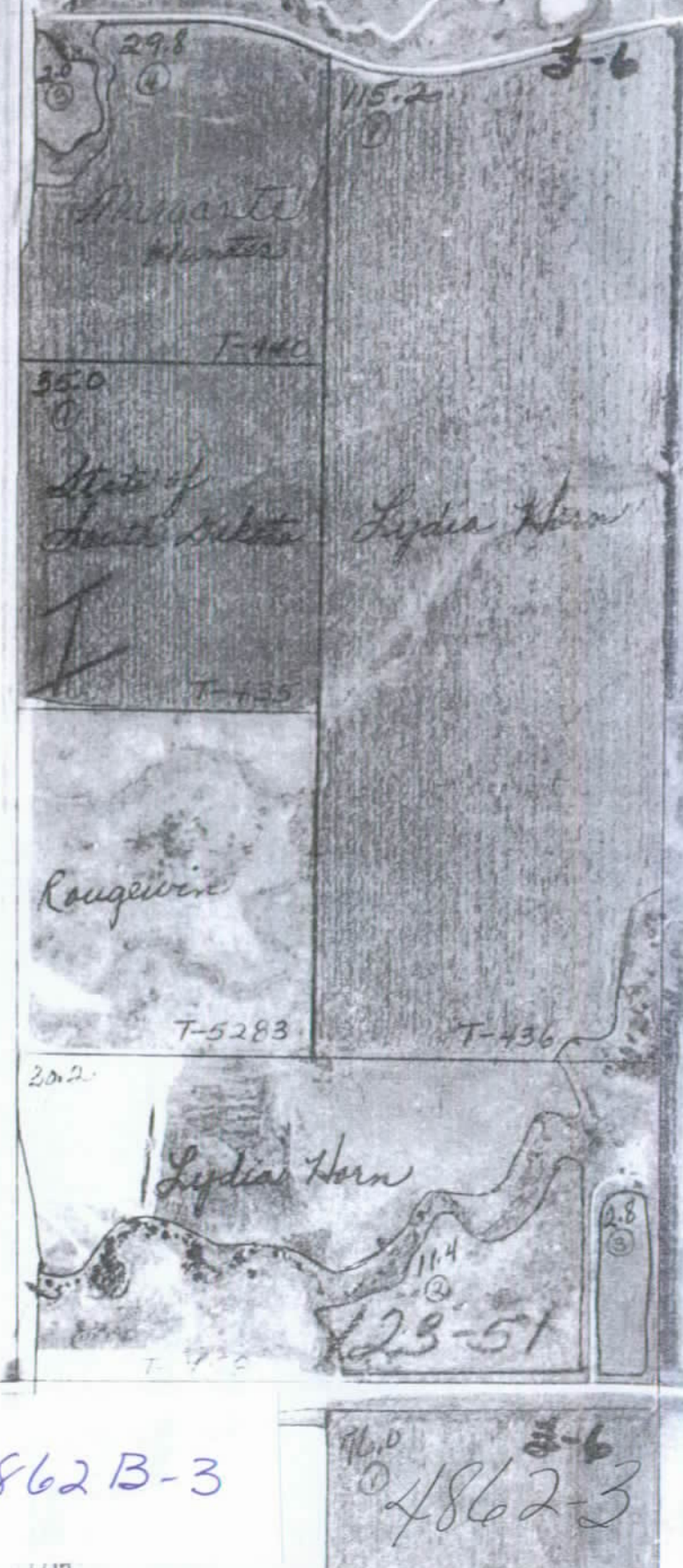
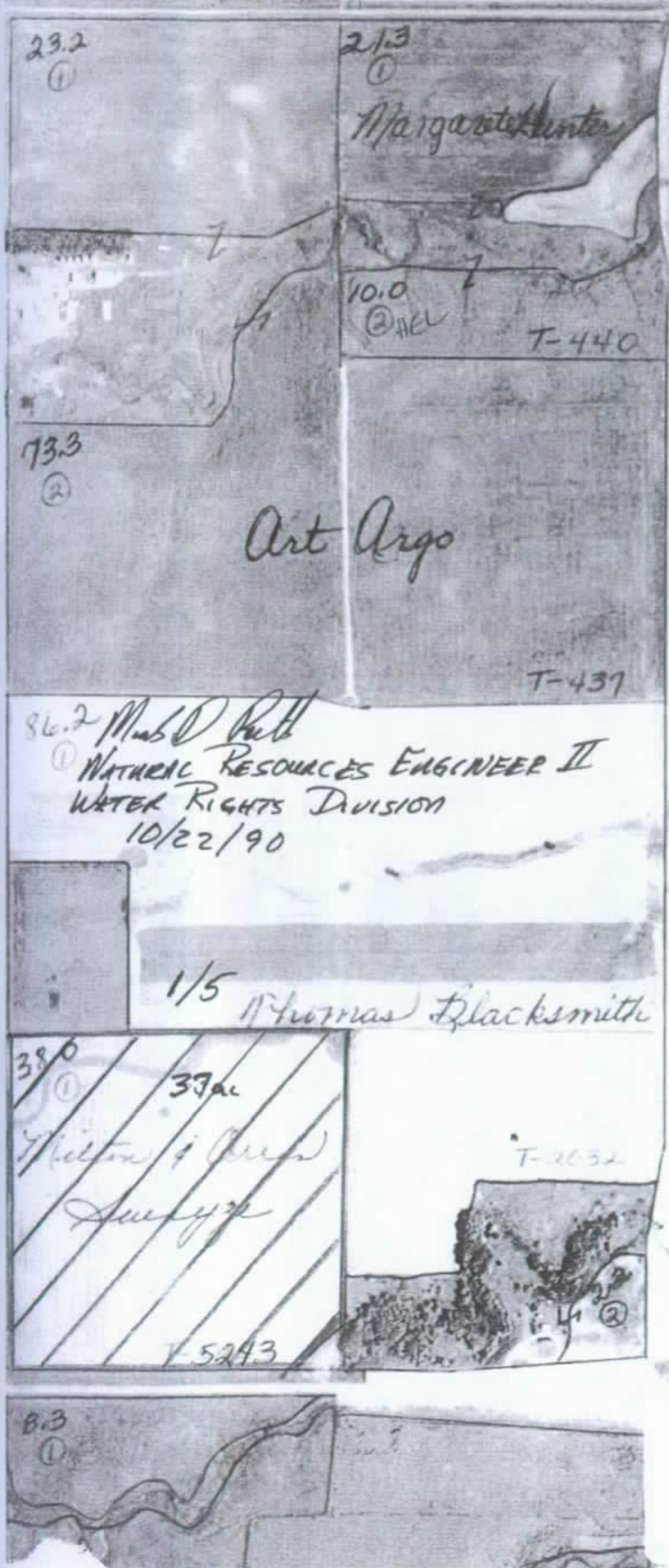
**CHEMIGATION EQUIPMENT:**

- 1) Does chemigate N

**PERMIT QUALIFICATIONS AND REGULATIONS:**

- 1) Special qualifications to permit being abided by Y
- 3) All structures, wells and lands on map Y
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y

# NOT TO SCALE



4862 B-3

2109  
NOT TO SCALE

90

48.0  
①

115.0  
①

2-6

Art Argo

Mark D. Roth  
NATURAL RESOURCES ENGINEER II  
WATER RIGHTS DIVISION

10/20/90 Argo, Jr. Dale & David Argo

Arnold Kurasch Est

2/5

T-10166

Charles Pond

63.2  
②

47.0  
③

149.0  
①

T-438

31ac

31ac

Cris Swayze

31ac

31ac

112351

T-428

10169  
T-433

15.2  
②

40.3  
①

4862B-3

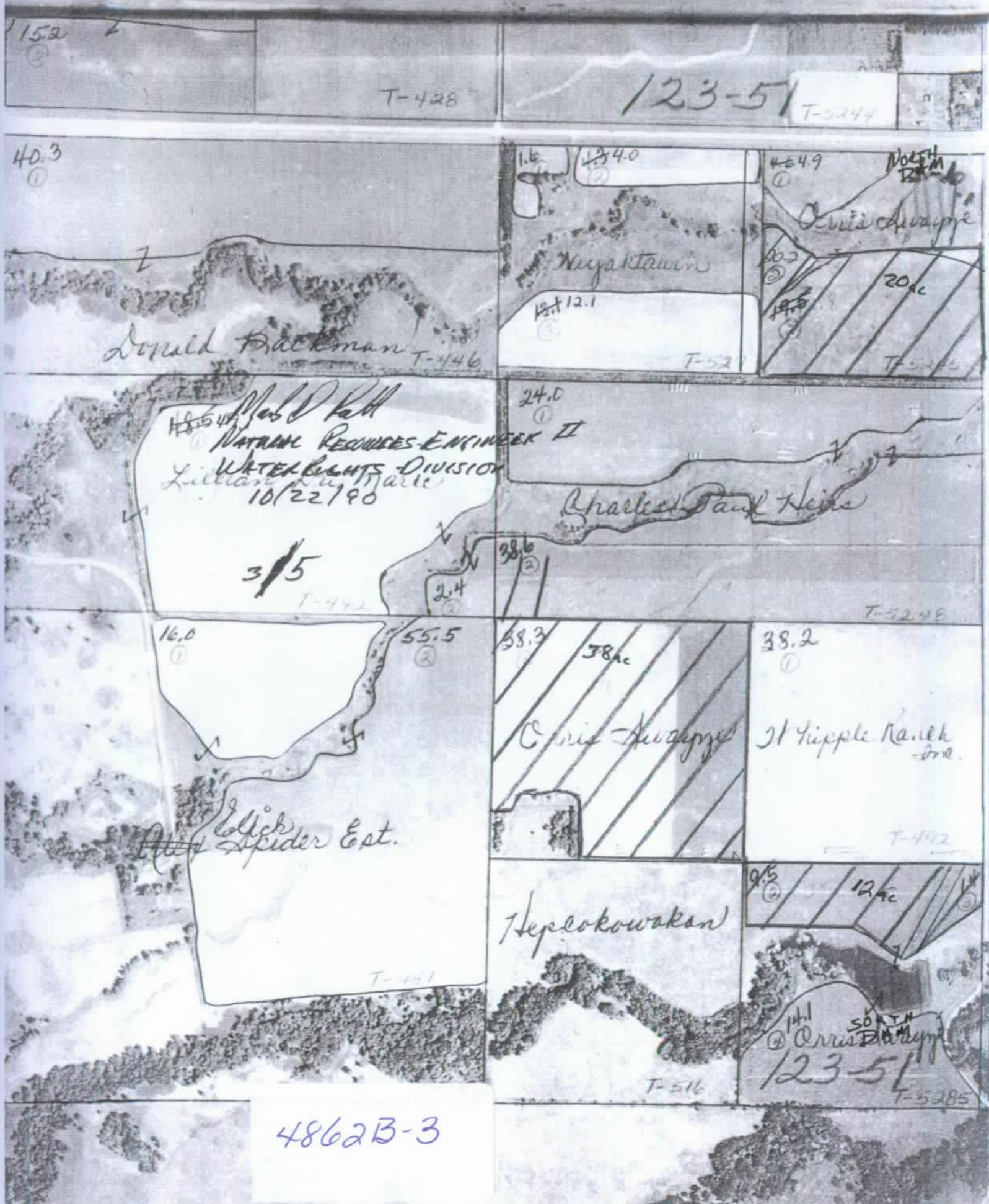
1.6 4.3

4.6  
①

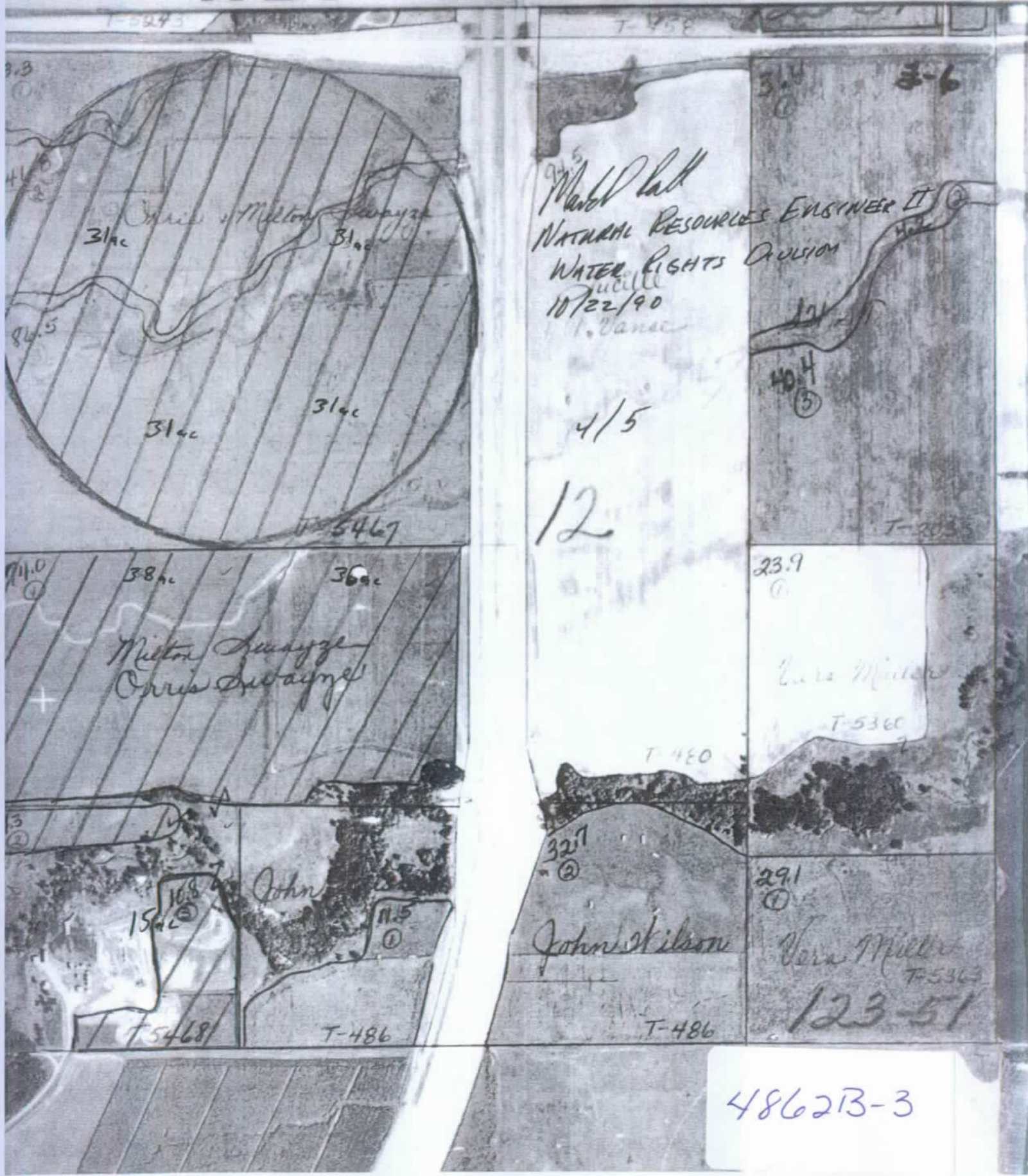
3-6

Cris Swayze

## NOT TO SCALE



NOT TO SCALE



Attn Water  
Rights

10 Mar 03

Department of Environment and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

Dear Sir:

As per telephone conversation my brother and I are going to put our farm into our individual names and would also want the water rights in our individual names:  
We would like each permit to allow diversion of water from either dam or both diversion points:

Enclosed are the land descriptions for each owner.

Sincerely

Orris Swayze and Milton Swayze



RR 2 PO 18  
Wilmot, SD 57279

Ph 605 938 4141

Farm Credit Services of America  
SUMMARY APPRAISAL REPORT - AGRICULTURAL REAL ESTATE

**SUMMARY**

Client: Farm Credit Services of America  
Name: Milton Swayze  
Appraiser: REISCH, P

Log Number: 12  
Date Inspected: 02/25/2003  
Value Date: 02/25/2003

Appraisal Purpose: Estimate market value  
Intended Use: New real estate loan  
Appraisal Report Option as provided in Standard 2 of the Uniform Standards of Professional Appraisal Practice (USPAP): Summary

**RIGHTS APPRAISED**

Fee Simple: X  
Leased fee:  
Water Rights: X  
Other:

Irrigation Equipment: X  
Facility Equipment:  
Public Domain Land Lease:  
Mineral Rights:

Explanation and Limitation of Rights Appraised: All rights appraised are subject to existing easements of record. Includes water license and buried pipe on section 2.  
Does not include pump, power, or pivot.

**LEGAL DESCRIPTION**

State: SOUTH DAKOTA County: ROBERTS

|                                                | SEC | TWP  | RNG | PM | ACRES  |
|------------------------------------------------|-----|------|-----|----|--------|
| SW 1/4 SW 1/4                                  | 1   | 123N | 51W | 5  | 40.00  |
| SE 1/4                                         | 2   | 123N | 51W | 5  | 160.00 |
| NE 1/4 NE 1/4 except N 1/2 N 1/2 NE 1/4 NE 1/4 | 11  | 123N | 51W | 5  | 37.50  |
| N 1/2 SW 1/4 except I-29                       | 12  | 123N | 51W | 5  | 76.53  |

SW 1/4 SW 1/4

12 123N 51W

15



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

March 12, 2003

4862A-3  
4862B-3

Orris & Milton Swayze  
RR 2 Box 18  
Wilmot SD 57279

Dear Mr. Swayze:

Enclosed are partially completed "Notice of Transfer of Ownership" forms for use in filing an ownership change with Water Right No. 4862-3. It is our understanding that both of you still own the land but are requesting the water right be divided to reflect separate ownership.

I have included a copy of the description of lands irrigated which reflects how the forms were completed. Please review the forms and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50 (each). The check or money order for the fee can be made payable to the Water Rights Program.

Once we receive the forms and filing fee back from both of you, the water right will be divided into 4862A-3 (Orris Swayze, 228 acres) and 4862B-3 (Milton Swayze – 270 acres). The two storage dams will be listed on both water rights.

If I can answer any questions for you, please let me know.

Sincerely,

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

enclosures

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 17, 20 03

RECEIVED OF Milton Swayze, RR 2 Box 18, Wilmet SD 57279

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. _____            |       |      |
| Fee for Filing Transfer Form <u>4862B-3</u>                                                                    | 2     | 56   |
| Fee for _____                                                                                                  |       |      |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |      |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                             |       |      |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         |       |      |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |      |
| (Any Other Work Provided by Law)                                                                               | TOTAL | 2.50 |

No.

000037

By

Darlene Erbe

Chief Engineer

*gm*

## NOTICE OF TRANSFER OF OWNERSHIP

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

No. 4862B-3

Date: \_\_\_\_\_

I/We request that Water Right No. 4862B-3

formerly owned by: Orris & Milton Swayze

be transferred to: (name & address) Milton Swayze

\_\_\_\_\_  
Telephone No.

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

**270 acres – SW ¼ SW ¼ Section 1; SE ¼ Section 2; NE ¼ NE ¼ Section 11; N ½ SW ¼ and**

**~~SW ¼ SW ¼ Section 12~~, all in T123N, R51W**

I/We understand that the validity of Water Right No. 4862B-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.**

I/We Milton Swayze, the new owner, certify that the above information is true and correct.

Milton Swayze  
(Signed by new owner)

RECEIVED  
MAR 17 2003  
WATER RIGHTS  
PROGRAM

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

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

File No. 4862A-3  
4862B-3

**WATER RIGHTS PROGRAM -- FILE DOCUMENTATION**

**NAME & ADDRESS:** Orris Swayze, RR #2 Box 18, Wilmot SD 57279

**DATE:** April 18, 2003

**TELEPHONE:**

**RE:** Division of Water Right

**COMMENTS:**

I called and visited with Mr. Swayze concerning the existence of a well. The original water permit described a well to be used with the system. The inspection report did not mention a well, however prior to dividing the water right into two, I wanted to make sure only the two storage dams were being used. Mr. Swayze confirmed the use of the dams and indicated they do not pump from ground water as they originally applied to do.

In reference to the correct address for the reissued water rights, Mr. Swayze indicated we should send correspondence to "RR #2 Box 18" for both water rights.



Genny McMath  
Environmental Scientist



4862B-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](http://www.state.sd.us/denr)

January 14, 2004

**NOTICE**

TO: MILTON SWAYZE, RR 2 BOX 18, WILMOT, SD 57279

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) 4862B-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) 4862B-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) 4862B-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.



4862B-3

## Track & Confirm

### Current Status

You entered 2301 3460 0000 8515 9715

Your item was delivered at 11:23 am on January 15, 2004 in WILMOT, SD 57279. The item was signed for by M SWAYZE.

[Shipment Details >](#)

### Notification Options

▶ Track & Confirm by email

[What is this?](#)

[Go >](#)

▶ Request Proof of Delivery

[What is this?](#)

[Go >](#)



POSTAL INSPECTORS  
Preserving the Trust

[site map](#) [contact us](#) [government services](#)

Copyright © 1999-2002 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

### Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

SIGNATURE CONFIRMATION NUMBER:  
2301 3460 0000 8515 9715

MILTON SWAYZE  
RR 2 BOX 18  
WILMOT SD 57279

Waiver of Signature ☐ YES ☐ NO

Postmark  
Here

#### POSTAL CUSTOMER:

Keep this receipt. For Inquiries:  
Access internet web site at  
[www.usps.com](http://www.usps.com)  
or call 1-800-222-1811

☐ Priority Mail®  
☐ Package Services



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 30, 2004

4862B-3

Milton Swayze  
RR 2 Box 18  
Wilmot SD 57279

Dear Mr. Swayze:

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. 4862B-3.

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

If you have any questions, please contact me.

Sincerely,

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



4862B-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 20, 2005

NOTICE

TO: MILTON SWAYZE, 13644 461ST AVE, WILMOT, SD 57279

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

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire(s)

Our records indicate that the 2004 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 4862B-3. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 Irrigation Questionnaire(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) 4862B-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 2, 2005 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 4862B-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 25, 2005**, 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.



4862B-3

## Track & Confirm

### Current Status

You entered 2301 3460 0000 8516 0926

Your item was delivered at 10:35 am on January 21, 2005 in WILMOT, SD 57279. The item was signed for by M SWAYZE.

[Shipment Details >](#)

### Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

### Notification Options

▶ Track & Confirm by email

[What is this?](#)

[Go >](#)

▶ Request Proof of Delivery

[What is this?](#)

[Go >](#)



POSTAL INSPECTORS  
Preserving the Trust

[site map](#) [contact us](#) [government services](#)

Copyright © 1999-2002 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

## U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:  
2301 3460 0000 8516 0926

MILTON SWAYZE  
13644 461ST AVE  
WILMOT SD 57279

Waiver of Signature ☐ YES ☐ NO

Postmark  
Here

### POSTAL CUSTOMER:

Keep this receipt. For Inquiries:  
Access internet web site at  
[www.usps.com](http://www.usps.com)  
or call 1-800-222-1811

### CHECK ONE (POSTAL USE ONLY)

- ☐ Priority Mail®  
☐ Package Services

(See Reverse)

PS Form 153, July 2004



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

March 4, 2005

NOTICE OF ONE YEAR SUSPENSION OF WATER RIGHT

TO: Milton Swayze, 13644 461<sup>st</sup> Ave, Wilmot SD 57279

FROM: Garland Erbele Chief Engineer  
Water Rights Program *Garland Erbele*

SUBJECT: One Year Suspension of Water Right No. 4862B-3

On March 2, 2005, the Water Management Board ordered:

**That effective April 4, 2005, Water Right No. 4862B-3 be suspended for the 2005 irrigation season for failure to submit the 2004 irrigation questionnaire.**

**If the 2004 irrigation questionnaire is received prior to April 4, 2005 the suspension will not take effect.**

Suspension of a water right means water may not be pumped during the 2005 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2005 unless the irrigation questionnaire is submitted by April 4<sup>th</sup>.

After April 4<sup>th</sup>, you may petition the Water Management Board to rescind the suspension. You will need to submit the 2004 irrigation questionnaire and a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 4, 2005 in Pierre, SD. The letter should include your reasons for not completing the 2004 irrigation questionnaire. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

Please contact Genny McMath (605) 773-3352, if you have any questions.

## CERTIFICATION

I hereby certify that on March 4, 2005, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 4, 2005 regarding Notice of One Year Suspension of Water Permit Nos. 5658-3, 1632-2, 1530-2, 3311-3, 2497-3, 4862B-3, 4759-3, 1473-2 & 1502-2 addressed as stated below:

5658-3  
Robert Emmick  
45345 311<sup>th</sup> St  
Meckling SD 57044

1632-2  
Chris Horlock  
5471 Hidden Valley Ln  
Rapid City SD 57702

1530-2  
Vern Keszler  
30317 289<sup>th</sup> St  
Clearfield SD 57580

3311-3  
Kirby Oswald  
12157 323<sup>rd</sup> Ave  
Eureka SD 57437-7104

2497-3  
Louie Schleusner  
Schleusner Dairy  
17434 460<sup>th</sup> Ave  
Watertown SD 57201

4862B-3  
Milton Swayze  
13644 461<sup>st</sup> Ave  
Wilmot SD 57279

4759-3  
Daniel A Conkling  
500 Linn St  
Yankton SD 57078

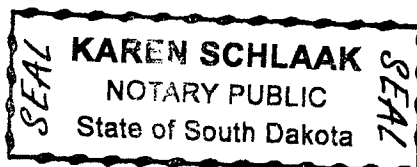
1473-2 & 1502-2  
Randy Bachelor Mgr  
HC 78 Box 60A  
White River SD 57579

  
Eric Gronlund  
Natural Resource Engineer  
Water Rights

STATE OF SOUTH DAKOTA     )  
                                          ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 7<sup>th</sup> day of March, 2005.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2007



**WATER RIGHTS PROGRAM -- FILE DOCUMENTATION**

**NAME & ADDRESS:** Orris Swayze, PO Box 214, Wilmot SD 57279

**DATE:** March 7, 2005

**TELEPHONE:**

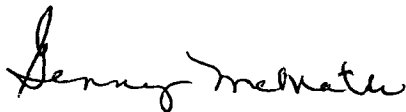
**RE:** 2004 irrigation questionnaire for Water Right No. 4862B-3

**COMMENTS:**

Orris Swayze called concerning the 2004 irrigation questionnaire for his brother's water right. He indicated the information for Milton's water right (4862B-3) was included on the irrigation questionnaire for No. 4862A-3 (which is listed in Orris's name). He indicated he did not realize he should have made a notation to that affect when returning the form.

I told Mr. Swayze that since the information was in the office prior to the deadline – no suspension will occur. We would also send him a letter to verify that the information was on file and that they could irrigate this year.

He indicated that on next year's form, he will specify which acreage was irrigated and clarify which water right is being reported on.



Genny McMath  
Water Rights Program



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

March 7, 2005

4862B-3

Milton Swayze  
13644 461<sup>st</sup> Ave  
Wilmot SD 57279

Dear Mr. Swayze:

On March 2<sup>nd</sup>, the Water Management Board ordered Water Right No. 4862B-3 be suspended if the 2004 irrigation questionnaire was not received prior to April 4, 2005. The questionnaire information for your water right has been received.

Since the irrigation questionnaire is on file, no violation has occurred and no suspension will take place. You are hereby authorized to irrigate during the 2005 irrigation season.

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

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program

c: Orris Swayze, PO Box 214, Wilmot SD 57279



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 22, 2010

NOTICE

TO: MILTON SWAYZE, 13644 461ST AVE, WILMOT, SD 57279

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

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaire(s)

Our records indicate that the 2009 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 4862B-3. The request for the Questionnaire was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 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) 4862B-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 10, 2010** 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) 4862B-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 5, 2010**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us). If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq.aspx>

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

[Track & Confirm](#)[FAQs](#)

## Track & Confirm

### Search Results

Label/Receipt Number: 2303 2160 0000 0802 9464

Service(s): **Signature Confirmation™**Status: **Delivered**

Your item was delivered at 1:43 PM on January 26, 2010 in WILMOT, SD 57279. The item was signed for by M SWAYZE.

### Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

### Detailed Results:

- Delivered, January 26, 2010, 1:43 pm, WILMOT, SD 57279
- Notice Left, January 23, 2010, 8:37 am, WILMOT, SD 57279
- Arrival at Post Office, January 23, 2010, 8:10 am, WILMOT, SD 57279

### Notification Options

#### Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

#### Proof of Delivery

Verify who signed for your item by email, fax, or mail. [Go >](#)[Site Map](#)[Customer Service](#)[Forms](#)[Gov't Services](#)[Careers](#)[Privacy Policy](#)[Terms of Use](#)[Business Customer Gateway](#)

Copyright© 2010 USPS. All Rights Reserved.

No FEAR Act EEO Data

FOIA

### U.S. Postal Service™ Signature Confirmation™ Receipt

SIGNATURE CONFIRMATION NUMBER:  
2303 2160 0000 0802 9464MILTON SWAYZE  
13644 461ST AVE  
WILMOT SD 57279

nailing.

Waiver of Signature ☐ YES ☐ NOPostmark  
Here

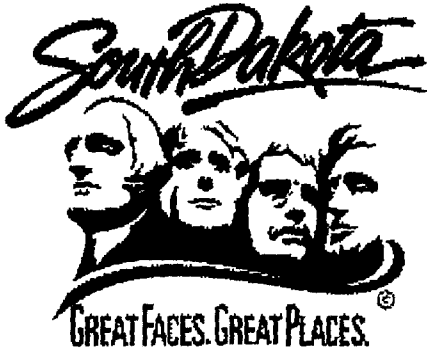
#### POSTAL CUSTOMER:

Keep this receipt. For inquiries:  
Access internet web site at  
[www.usps.com](http://www.usps.com)®  
or call 1-800-222-1811

#### CHECK ONE (POSTAL USE ONLY)

- ☐ Priority Mail™ Service  
☐ First-Class Mail® parcel  
☐ Package Services parcel

PS Form 153, May 2002



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

February 3, 2010

4862B-3

Milton Swayze  
13644 461<sup>st</sup> Ave  
Wilmot SD 57279

Dear Mr. Swayze:

I am writing to acknowledge receipt of your 2009 irrigation questionnaire. You may disregard the January 22, 2010, "Notice" concerning reporting requirements for Water Right No. 4862B-3.

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

If you have any questions, please contact me.

Sincerely,

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

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

February 11, 2010

4862B-3

Randy Backman  
45538 BIA 700  
Peever SD 57257

Dear Mr. Backman:

Thank you for contacting us concerning the ownership change needed for Water Right No. 4862B-3. I have included a copy of the water right for your records.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

Each year in October we mail out irrigation questionnaires to irrigators in South Dakota for reporting how much water they used during that specific crop year. I am including a copy of the 2007 questionnaire that Milton Swayze submitted for this land to give you an idea of what type of records to keep track of during the irrigation season.

If you have any questions, please contact me.

Sincerely,

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

enclosures