

1. Considered: _____, 19____ Water Right No. 4948-3
2. Name of Applicant Gerald A. Person
3. Post Office Address RR 2, Britton, SD 57430
4. Amount of Water Claimed 2.85 maximum acre feet _____
5. Source of Water Supply Dam 200 AF
6. Water to be used for IRR acres to be irrigated 200 210
7. County Marshall about 1 1/2 E, 7 miles SOUTH of BRITTON
8. PROOF OF PUBLICATION: Received 6-2-83 Not Received _____
- APPLICATION: Approved 6-9-83 Subject to LF-IR & ST SW 9/19/83
- Not Approved _____ Action Deferred _____

PRIORITY
2/23/83

Dated Received 2/23/83 Application complete-yes _____ no _____ FEE 275.00

Remarks _____

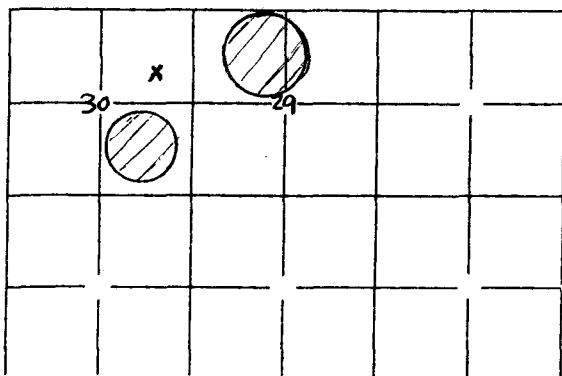
Corrected Application received 3/24/83 Period of Annual Use 4/1 to 10/31 Irr
1/1 to 12/31 Livestock

WATER
QUALITY

Received yes 3/15/83 no _____ APPROVED CONDITIONAL (Circle one)

WI-1 Description same as application-yes xx no _____ Remarks 4/13/83 When Map became
showed acreage in W 1/2 NE 4 not covered on orig. WI-1

Disapproved _____ Returned _____



'Diversion Point _____
SE 1/4 NE 1/4 Section 30-T126-R57W

Land to be irrigated W 1/2 NE 1/4
SE 1/4, Section 30 and NW 1/4 Section 29 both in
T126N R57W

WELL LOG

Driller _____ Licensed - yes _____ no _____

Depth _____

Remarks _____

MAP Map No. 4948-3 Map located in Water Right x Map file _____
 Type of Map Aerial Prepared by SCS-Larry Mette

+++++

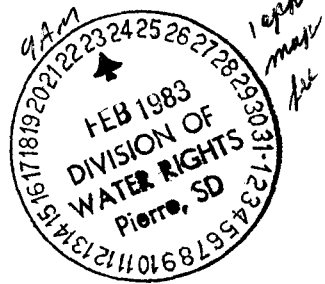
REVIEWED This Application was received within 30 days of the date received, accepted as complete, Number assigned and written up for advertisement before the Board on:

Betty Westlund
 (Signed)

+++++

PROTESTS Letters/Petitions in File - yes _____ no _____ Remarks _____

REMARKS Date
 F.F. & C. Final Decision, including F.F. & C. of Law were adopted _____
 OF LAW, Date
 FINAL Final Decision mailed to parties and/or parties notified that Final Decision was
 DECISIONS adopted _____
 ETC. Remarks _____

No. 4448-3Map No. 4448-3 Water Division No. 3 JAMES RIVER District
Above for Office Use 10160003

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

Check one of the following:

New ☒ Vested Right _____ Future Use _____

Change in Diversion _____ Additional Diversion _____

Change in Acreage _____ Additional Acreage _____

1. Name of Applicant Gerald A. Person Phone No. 448-2544
 Post Office Address RR 2 Box 123 Britton State South Dakota 57430
 (Street, RR, or Box) (Town) (Zip Code)
 If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) contract and own labor3. Name of diversion work Person Dam: #14. Amount of water claimed (cubic feet per second) 200 acre feet storage 2.85 MAX. ALLOWABLE5. Source of water supply water shed (DAM)6. Location of point of diversion SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 30, Township 126, Range 57;County Marshall7. Annual period or periods during which water is to be used LIVESTOCK Year Around IRR: APRIL THRU OCTOBER8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) livestock water & irrigation9. For irrigation use, Total number of acres to be irrigated 200-210 ACY

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.
SE $\frac{1}{4}$ of 30 126 - 57	100 A
NW $\frac{1}{4}$ of 29 126 - 57	75-100 A
W $\frac{1}{2}$ NE $\frac{1}{4}$ 29-126-57	35 A

Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system one month years. Additional time required to complete application of water to the proposed beneficial use 2 years.11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water Britton Journal

12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source. Earthen DamB. Works proposed to transport water to place of use. Irrigation pipe and livestock water system (plastic pipe)

C. Works proposed to apply water to beneficial use.

Sprinkler System (pivot system) and water fountains for livestockEstimated Total Cost \$ 70,000.00

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)
)ss.
County of MARSHALL)I, Gerald Person 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 Gerald A. PersonSubscribed and sworn to before me this 9th day of February, 19 83Kris Tolson (4-21-83)
Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 4948-3

Gerald A. Person
(Applicant)
South Dakota
(State)

RT. 2, Britton
(Post Office Address)

With the following qualifications.

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights ~~use~~ must be by-passed.

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

Approval of this permit authorizes storage of 200 acre feet annually.

Date of first receipt of application February 23, 1983
Date of return to applicant for correction, amendments or changes required February 28, 1983
Date of receipt of corrected application March 24, 1983
Approved June 9, 1983, Recorded in Book — Page —

WATER RIGHT PERMIT NO. 4948-3

The Water Management Board hereby grants and issues this Water Right Permit No. 4948-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is February 23, 1983
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before December 9, 1985
3. The whole of said work is to be completed on or before June 9, 1988
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is June 9, 1992
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 2.85 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 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 June 9, 1992; said water to be used during the following described annual period: April 1 — October 31

Witness my hand this 20th day of June, 1983

THE WATER MANAGEMENT BOARD

By: John H. Helt
Chief Engineer, Water Rights

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

D. Well Information NA

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

E. Dugout Information or Estimates NA

- (1) Surface dimensions, _____, Depth _____

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

- (1) Water Bearing Materials. (Attach a copy of test well log)

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Depth to water (ground surface to water level) _____

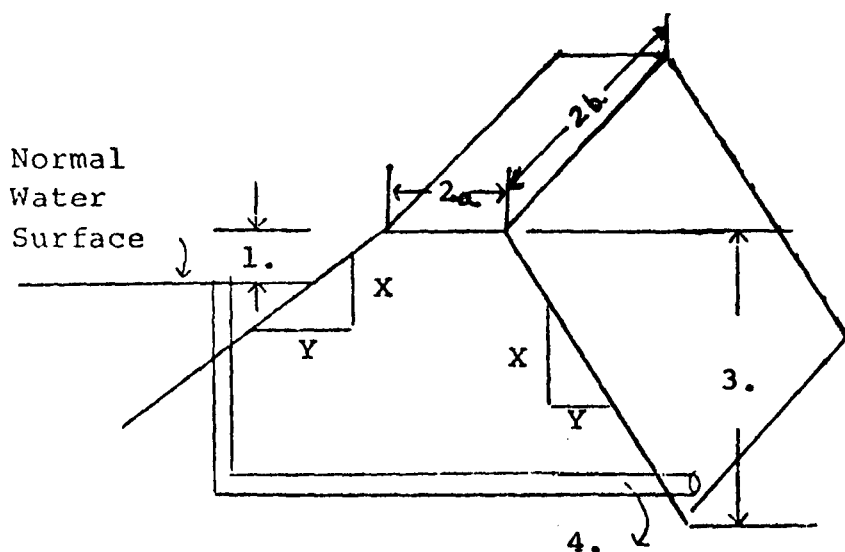
- (2) Distance to nearest existing household or livestock watering well.

On same owner's property _____ rds.

On property owned by others _____ rds.

G Water Storage Dams

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



1. Freeboard 4 feet
- 2a Crest width 14 feet b. length 500
3. Height of Dam 21 feet
4. Outlet dimensions:
Pipe diameter 36 inches
Spillway width 100 feet
- X & Y slope:
Upstream 3 to 1
Downstream 2 to 1
- Surface area of impoundment 23 acres
- Drainage area above dam 5,500 acres

M. Gerald A. Benson
Signature of Applicant

NOT TO SCALE

Gerald Person



Prepared by S.C. 12582nd
Lany D. Mathe

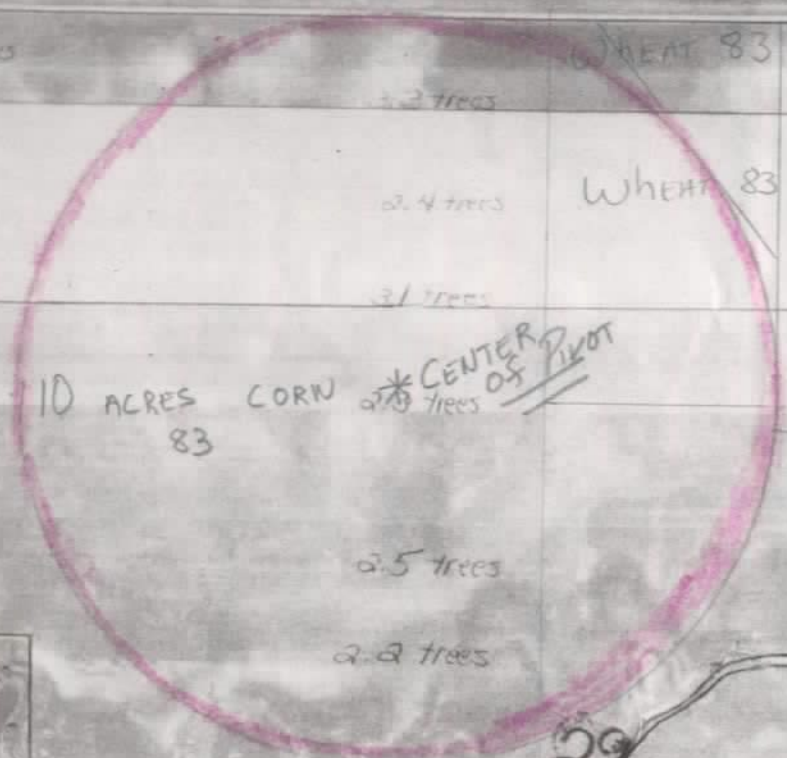
one of
two

Map & Appl # 4948-3

NOT TO SCALE

26
34.8
-3.3 trees
31.5
24
79.6
-5.5 trees
74.1

137.7
70
130.7



42.7
OATS +
ALF 83

85.0

113.5

64.5

126.57

111.7

126R

126.0
126.0

two of
two

Map & Appl # 4948-3

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 9164

February 23

83

Box 123 PIERRE,

Gerald A. Person, Route #2, Britton, SD 57430

RECEIVED OF

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

Fee for Application for Permit to Appropriate Water No. 4948-3 (examination, processing, recording and filing)	225	00
Fee for inspecting Construction, and issuing Cert. of Construction No.		
Fee for inspecting Beneficial Use, and issuing Water License No.		
Fee for issuing Location Certificate-Dry Draw, No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for (any other work as provided by law)		
TOTAL	225	00

WATER RIGHTS COMMISSION

By

John Hatch
Chief Engineer, Executive Officer

JOHN HATCH (ms)

LAW OFFICES
A. WILLIAM SPIRY
FARRAR AND SPIRY BUILDING
BRITTON, SOUTH DAKOTA 57430
(605) 448-2273



February 21, 1983

Betty Westlund
Water Rights Specialist
South Dakota Department of
Water & Natural Resources
Joe Foss Building
Pierre, SD 57501

RE: Gerald A. Person

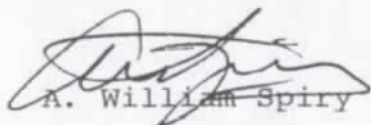
Dear Ms. Westlund:

Enclosed you will find the following documents: Application for Permit; Soil/Water Compatibility Permit Application Form; and check in the amount of Two Hundred Twenty-Five and NO/100 Dollars (\$225.00). The appropriate maps and soil map legends are also attached to the application.

If you have any questions, please feel free to contact me.

Thank you.

Most sincerely,


A. William Spiry

AWS:klt

Enclosures



Department of Agriculture

DIVISION OF CONSERVATION

Anderson Building, Room 322

Pierre, South Dakota 57501

Phone 605/773-3258

March 9, 1983

Gerald Person
RR
Britton, SD 57430



Dear Mr. Person:

In reviewing your soil and water compatibility application for the SE $\frac{1}{4}$ 30 and NW $\frac{1}{4}$ 29-126-57 = 200 acres, the irrigation staff is recommending a Conditional Approval of your application to the State Conservation Commission at their March 10, 1983 meeting. The Conditional Approval recommendation is based on your soils. The Restrictions and Management Recommendations are as follows:

RESTRICTIONS: - Indicated on red on the attached map.

KBE - Kloten - Buse Complex 15-40% slope.

FsE - Forman - Buse Loam 15-25% slope.

These soils are restricted from irrigation due to the steep slopes and erosion hazard.

Lo - Loamy Alluvial Land - it has a meandering stream channel through it and is subject to wetness due to flooding and a fluctuating water table is impractical for cultivation. This mapping unit is restricted from irrigation.

FsCZ - Forman - Buse Loams 6-9% slopes Eroded.

This area has a rapid run off and subject to erosion. The erosion hazard is severe. This mapping unit is restricted from irrigation.

MANAGEMENT RECOMMENDATIONS:

In the area mapped, Tonka Silt Loam (To) you may experience trafficability problems as well as crop reductions due to wetness. You may wish to leave this area in grass and/or alfalfa.

Due to the slow intake rates for the soils you intend to irrigate we suggest the use of reduced tillage and/or practices which leave the crop residue. The use of strip cropping may also be beneficial.

To aid in the leaching of salts we recommend the application of water after crop removal to maximize leaching in the spring.

If you have any questions concerning your application please feel free to contact this office.

Sincerely,

Jim Stukel
Irrigation Program Director

cf

SOIL/WATER COMPATIBILITY PERMIT APPLICATION FORM

Division of Conservation

Office Use Only

WR#

OWNERS NAME: Gerald A. Person

OWNERS ADDRESS: RR 2, Britton, SD 57430

COUNTY LAND LOCATED IN: Marshall PHONE: 448-2544

TENANT'S NAME AND ADDRESS: NA

LEGAL DESCRIPTION: (Show Legal Description to Nearest 10 Acres)

1. WELL LOCATION: NW 1/4 Sec 30-126-57

Depth: _____

2. SURFACE WATER SOURCE AND DIVERSION LOCATION: _____

Diversion Location: _____

Legal Description	Acres	Legal Description	Acres
<u>NW 1/4 of NE 1/4 of Section 30, T126, R57</u>			
<u>SE 1/4, Sec. 30-126-57</u>	<u>100</u>		
<u>NW 1/4, Sec. 29-126-57</u>	<u>100</u>		

3. SHOW ANY PORTION OF LAND THAT PRESENTLY HOLDS AN IRRIGATION PERMIT: YEAR OBTAINED None

LEGAL DESCRIPTION: _____

IN WHAT NAME: _____

4. LOCATION OF AREA TO BE IRRIGATED NOTE: **SOILS INFORMATION FOR THIS AREA MUST ACCOMPANY THE APPLICATION. (See instruction sheet)**

5. TYPE OF IRRIGATION: GRAVITY: _____ TOWLINE: _____ CENTER PIVOT: X GUN: _____ OTHER: _____ (Specify)

6. CROPS TO BE IRRIGATED: corn and alfalfa

WATER QUALITY: (TO BE COMPLETED BY SDSU WATER QUALITY LABORATORY)

7. WATER SAMPLE NUMBER: 83-0059 10. ADJUSTED (SAR): 1.57

8. SALINITY (EC X 10³): 1050 11. PERCENT SODIUM: 10.98

9. SODIUM (SAR): 0.59

I hereby certify that I personally obtained or that I personally observed that taking of a sample of the water to be used in irrigating the above-described land. I also hereby certify that the required procedures for the taking of the sample (see instruction sheet) were followed, and that the sample was taken at 3:00 a.m./p.m., on 2-8, 19 83, at the following location: same site on NW 1/4 of NE 1/4, Section 30, T.126, R.57, by (individual who took sample if other than applicant). I also hereby certify that the water sample taken has NOT been adulterated or tampered with in any manner, and is TRULY REPRESENTATIVE of the water which will be used in irrigating the above-described land.

Signature

I understand that the Division of Conservation or agents thereof may obtain water samples from wells and surface bodies to be used for irrigation purposes to validate water samples taken at the time of application. The Department of Agriculture may also gather technical information necessary to protect the land. (46-5-6.4).

SUBSCRIBED AND SWORN BEFORE ME THIS

18 DAY OF February, 19 83

(NOTARY PUBLIC)

APPLICANT'S SIGNATURE

Director, Division of Conservation

Date

APPROVED

DISAPPROVED

CONDITIONALLY APPROVED

IMPORTANT
Action by the Department of Agriculture or the State Conservation Commission is not the final action on any application. In all cases a WATER RIGHT must be obtained from the Board of Water Management, Foss Building, Pierre.

Conditional soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.



CONDITIONAL

#4019

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE
DIVISION OF CONSERVATIONNAME OF APPLICANT: Gerald PersonLEGAL DESCRIPTION: Sec 30 & 188; 29-126-57 = 200 acresSOIL RESTRICTIONS:THE SOIL(S) LISTED BELOW CANNOT BE IRRIGATED:

indicated on red on soils map

KHE - Kloten - Buse Complex 15-30% slope.

FmS - Forman - Buse Loam 15-25% slope.

Lo - Loamy Alluvial Land - it has a meandering stream channel through it and is subject to wetness due to flooding and a fluctuating water table is impractical for cultivation.

PsCA - Forman - Buse Loams 6-9% slopes Eroded.

This area has a rapid run off and subject to erosion. The erosion hazard is severe.

THE SOILS(S) LISTED BELOW CAN BE IRRIGATED
WITH THE FOLLOWING RESTRICTIONS:RECOMMENDED MANAGEMENT:

In the area mapped, Tonka Silt Loam (To) you may experience trafficability problems as well as crop reductions due to wetness. You may wish to leave this area in grass and/or alfalfa.

Due to the ^{slow} intake rates for the soils you intend to irrigate we suggest the use of reduced tillage and/or practices which leave the crop residue. The use of strip cropping may also be beneficial. To aid in the leaching of salts we recommend the application of water after crop removal to maximize leaching in the spring.

SIGNATURE

DATE

Copy

SD--CONS-31A
5/75

SOIL MAP

n Owner Gerald Person Operator Gerald Person

County Marshall State South Dakota

Soil survey sheet(s) or code No.(s) 43 Approximate scale 3.2" = 1 mile



Prepared by U.S. Department of Agriculture, Soil Conservation

Service cooperating with Marshall County Conservation District

30-126-57



29-126-57

INTERPRETIVE GROUPING	LAND USES AND SOILS INFORMATION ON YOUR OPERATING UNIT
IIc2 - KnA	Kranzburg silt loam - Deep, and moderately deep, loamy, well drained soils on nearly level (0 to 2%) uplands. Moisture is inadequate in most years and these soils have slight to moderate wind erosion hazard.
IIe2 - KnB IIe2 - FrB	Kranzburg silt loam - Forman-Aastad loams - Deep, loamy soils on gently undulating (2 to 6%) upland slopes. They have moderate wind and water erosion hazards.
IIIs2 - EsA	Estelline silt loam - Soils with 20 to 40 inches of loamy material over sand and gravel on nearly level (0 to 2%) uplands. The porous substrata limits water storage capacity and rooting depth. These soils have a moderate wind erosion hazard.
VIe1 - FsE	Forman Buse loams - Deep and moderately deep, loamy soils on hilly (15 to 25%) uplands and eroded soils on rolling (9 to 15%) uplands. Severe water erosion hazard and excessive runoff make these soils unsuited for cultivation.
VIw3 - Lo	Loamy alluvial loam - Loamy and sandy soils on bottom lands that frequently overflow. These soils are not suited for cultivation.
VIIe3 - KbE	Kloten-Buse complex - Moderately deep and deep, loamy soils on very hilly (25 to 50%) uplands. These soils have thin surface layers and severe water erosion hazard.
IIc2 - KrA	Kranzburg- Aberdeen silt loam - Deep, and moderately deep, loamy, well drained soils on nearly level (0 to 2%) uplands. Moisture is inadequate in most years and these soils have slight to moderate wind erosion hazard.
IIw1 - To	Tonka silt loam - Deep, loamy, somewhat poorly to poorly drained soils on flat slopes and in depressions. Choice of crops and time of tillage are sometimes limited by wetness.
IVe1 - FsC2	Forman-Buse loams, eroded - Deep and moderately deep, loamy soils on rolling (9 to 15%) uplands and eroded soils on undulating (6 to 9%) uplands. These soils have severe water erosion and moderate wind erosion hazards.

(Joins sheet 36)

5 000 Feet

(Joins sheet 43)

Scale 1:20 000

0
1 000
2 000
3 000
4 000
5 000

6 800 000 FEET

2 590 000 FEET

(Joins sheet 52)





Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

February 28, 1983

Gerald A Person
RR 2
Britton SD 57430

Dear Mr. Person:

Your application dated February 9, 1983 for a permit to appropriate water from a watershed through the Person Dam #1 was received February 23, 1983.

Your application is being returned to you because the acres described in the legal total 200. Total number of acres to be irrigated is stated as 120, which is correct?

The acres to be irrigated does not coincide with the legal description on the Soil/Water compatibility. The descriptions of irrigated acres must be the same.

Please make the necessary corrections and return the forms to this office for further processing.

To maintain your priority date on your application for permit to appropriate water, in accordance with SDCL 46-5-16, you will now have 60 days from the date of this letter to correct your application and have it submitted to this office.

Your receipt No. 4 9164 in the amount of \$225 is on file with your application.

Sincerely,

KEVIN LARSON
Water Resources Engineer

ks

enclosures



Water Rights Division
605 773-3352

March 8, 1983

Gerald A Person
RR 2
Britton SD 57430

Dear Mr. Person:

Enclosed please find your map submitted with your application. Please outline in red the exact lands to be irrigated in Section 30 and submit another aerial photograph of Section 29 showing the lands to be irrigated.

The WI-1 submitted with your application has been corrected with the correct land descriptions and forwarded to the State Conservation Commission with the soils maps.

Also, the acreage is listed as 200 acres and maximum amount of water allowed by law would be 2.85 cfs, therefore the fee required would be \$275. An additional \$50 fee will be required.

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

Sincerely,

KEVIN LARSON
Water Resources Engineer

KL:BW:ks

enclosure

cc: Jim Stukel
Div of Conservation

*3/21/83 called to see what she needed
told her 50⁰⁰ is all, by*

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 9204

211-3 PIERRE, March 24, 1983

RECEIVED OF Gerald A. Person, Route #2, Box 123, Britton, SD 57430

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

Fee for Application for Permit to Appropriate Water No. 4948-3 (examination, processing, recording and filing) -----	50	00
Fee for inspecting Construction, and issuing Cert. of Construction No.-----		
Fee for inspecting Beneficial Use, and issuing Water License No.-----		
Fee for issuing Location Certificate-Dry Draw, No.-----		
Fee for filing -----		
Fee for certified copy of -----		
Fee for Print copy of map -----		
Fee for Certifying -----		
Fee for -----		
(any other work as provided by law)		
TOTAL	50	00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer

JOHN HATCH/ms

Water Rights Division
605 773-3352

April 5, 1983

Gerald Person
Rt #2
Britton SD 57430

Dear Mr. Person:

Just a reminder that we have not received the map for your application
to appropriate water.

Sincerely,

BETTY WESTLUND
Water Rights Specialist

BW:ks

WATER RIGHTS DIVISION
Phone (605) 773-3352

April 13, 1983

Gerald A. Person
Route #2, Box 123
Britton, South Dakota 57430

Dear Mr. Person:

We received the maps for your application to appropriate 2.85 cfs to irrigate 100 acres in the SE $\frac{1}{4}$, Section 30 and 100 acres in NW $\frac{1}{4}$, Section 29, both in T-126N, R-57W.

The map received for Section 29 shows the center pivot circle as covering lands in the W $\frac{1}{2}$ of the NE $\frac{1}{4}$. This acreage is not on your application or on the WI-1 approval from the State Conservation Commission (copies enclosed).

If the map is correct and you will be irrigating lands in the NE $\frac{1}{4}$ of Section 29, T-126N, R-57W the application must be corrected. Also soil/water compatibility approval will be required for this acreage.

If you have any questions please contact this office.

Sincerely,

Betty Westlund
Water Rights Specialist

BW:ms

Enc.

bcc: Jim Stukel

State Conservation Commission

Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald PersonADDRESS: Britton COUNTY MarshallDATE: 15 April 83 TELEPHONE 448-2544RE: water right.

COMMENTS:

Mr. Person call wondering what was going on with his application. Seems he has received various letters from Water Rights and is confused about what we want.

Has contacted his attorney, representative and

Told him I would check on application and see what was going on with it, and have someone call him Monday.

April 20, 1983 C. Jones came in office and corrected appl. would over to SEC to correct W-1 for the add. change in W $\frac{1}{2}$ NE $\frac{1}{4}$ Sec 27-136-57 that was not on the original appl. bwi

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Sale

Department of Agriculture

DIVISION OF CONSERVATION

Anderson Building, Room 322 ● Pierre, South Dakota 57501
Phone 605/773-3258

April 20, 1983

Gerald A. Person
RR #2
Britton, S.D. 57430



Dear Mr. Person:

In reviewing your soil and water compatibility application for the NE 1/4 29-126-57, the irrigation staff is recommending a Conditional Approval of your application to the State Conservation Commission at their May 5, 1983 meeting. The Conditional Approval recommendation is based on your soils. The Restrictions and Management Recommendations are as follows:

RESTRICTIONS: (Indicated in red on the attached map)

Lo - Loamy Alluvial Land - it has a meandering stream channel through it and is subject to wetness due to flooding and a fluctuating water table is impractical for cultivation. This mapping unit is restricted from irrigation.

FsCZ - Forman. - Buse Loams 6-9% slopes eroded.

This area has a rapid run-off and is subject to erosion. The erosion hazard is severe. This mapping unit is restricted from irrigation.

MANAGEMENT RECOMMENDATIONS:

Due to the slow intake rates for the soils you intend to irrigate, we suggest the use of reduced tillage and/or practices which leave crop residue. The use of strip cropping may also be beneficial.

To aid in the leaching of salts, we recommend the application of water after crop removal to maximize leaching in the spring.

If you have any questions concerning your application, please feel free to contact this office.

Sincerely,

Jack Fifield

Jack Fifield, Director
DIVISION OF CONSERVATION

JF/ah

Enc.

APPLICATION NO. 4948-3, GERALD A PERSON

April 22, 1983

This application proposes to use a 200 acre foot storage dam on an unnamed creek to irrigate 210 acres. There are no permits above this application. However, this creek runs into a drainage ditch out of which Arther Jones holds a water permit for 200 acre feet of storage with a priority of March 7, 1977. We would recommend approval with the low flow bypass qualification.

Kevin C. Larson

KEVIN C LARSON

Water Resources Engineer

Report 12-5-88
Fryer permit
No. 4780-3 for
dam was built
above this dam
in sec 27.
J. Kott

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT APPLICATION
NO. 4948-3, Gerald A Person

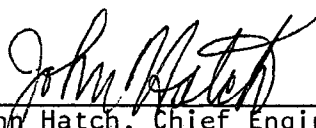
Pursuant to Section 4, House Bill 1002, 1983 Legislature, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 4948-3, Gerald A. Person, RR 2, Britton SD.

The Chief Engineer is recommending APPROVAL of Application No. 4948-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) that the proposed diversion can be developed without unlawful impairment of existing rights, 3) that the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be by-passed.

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

Approval of this permit authorizes storage of 200 acre feet annually. JH
The attached report is a part of this recommendation.



John Hatch, Chief Engineer
Water Rights Division
April 22, 1983

Instructions to Newspaper - Publish first publication of following Notice on or before
April 27, 1983 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE of HEARING on Application No. 4948-3 to Appropriate Water
~~and/or to Amend Water Permit or Water Right No. _____~~

Notice is hereby given that Gerald A Person whose mailing address is RR 2

Britton, South Dakota has made an application pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-14, Section 13 of HB 1001 enacted by 1983 Legislature; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, Section 32 of HB 1001; 46-5-1 thru 46-5-8, 46-5-10, thru 46-5-16, 46-5-24, 46-5-25, 46-5-31, Sections 38, 47, 59 & 67 of HB 1001, Sections 1, 4, 5, 6, 11, 12, 13, 16, 18, 19 & 21 of HB 1002; ~~(ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, (future use) 46-5-38 thru 46-5-40, Section 71 of HB 1001, (transfer lands) 46-5-33 thru 46-5-35, (10,000 AFA) 46-5-20.1, 46-5-8.1, and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:26, (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05;~~ (several of the preceeding SDCL Sections are amended by HB 1001 & 1002 of 1983 Legislature) for a permit to appropriate 2.85 cubic feet per second from a dam (200 acre feet of storage) through the Person Dam #1, the point of diversion to be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, T126N, R57W. Said ~~water~~ to be used for the purpose of providing irrigation on 210 acres located in the NW $\frac{1}{4}$; W $\frac{1}{2}$ NE $\frac{1}{4}$, Section 29 and SE $\frac{1}{4}$, Section 30, both in T126N, R57W

Pursuant to Section 4 of HB 1002 the Chief Engineer of the Water Rights Division recommends approval of Application No. 4948-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Federal Bldg, Room 301
200 4th St SW, Huron, South Dakota upon the 9th day of June, 1983 at ~~10:00 am.~~
1:30 pm.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with the Chief Engineer and the Applicant by May 30, 1983. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by May 30, 1983.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Right Division, DWNr, Joe Foss Bldg., Pierre SD (605 773-3352) for assistance prior to the hearing date.

No. _____

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County MARSHALL) ss.

I, C. L. Card hereby

certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the BRITTON JOURNAL

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

CITY of BRITTON

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

April 27, 1983

MAY 4, 1983

C. L. Card
(Signature)

Publisher
(Title)

May 27, 1983
(Date Signed)



Cost of Printing: \$ 35.14

10 1/2 lines - 8 1/2 pt. - 172 772 per line

27 (Apr. 27-May 4)

NOTICE OF HEARING
On Application
No. 4948-3 to
Appropriate Water

Notice is hereby given that Gerald A. Person, whose mailing address is RR2, Britton, South Dakota has made an application pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-14, Section 13 of HB 1001 enacted by 1983 legislature; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, Section 32 of HB 1001; 46-5-1 thru 46-5-8, 46-5-10, thru 46-5-16, 46-5-24, 46-5-25, 46-5-31, Sections 38, 47, 59 and 67 of HB 1001, Sections 1, 4, 5, 6, 11, 12, 13, 16, 18, 19 & 21 of HB 1002; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (several of the preceding SDCL Sections are amended by HB 1001 & 1002 of 1983 Legislature) for a permit to appropriate 2.85 cubic feet per second from a dam (200 acre feet of storage) through the Person Dam No. 1, the point of diversion to be located in the SE 1/4 NE 1/4 of Section 30, T26N, R57W. Said water to be used for the purpose of providing irrigation on 210 acres located in the NW 1/4; W 1/2 NE 1/4, Section 29 and SE 1/4, Section 30, both in T126N, R57W Pursuant to Section 4 of HB 1002 the Chief Engineer of the Water Rights Division recommends approval of Application No. 4948-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Federal Bldg. Room 301, 200 4th St. SW, Pierre, South Dakota upon the 9th day of June, 1983 at 1:30 p.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with the Chief Engineer and the Applicant by May 30, 1983.

The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by May 30, 1983.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Right Division, DWN, Joe Foss Bldg., Pierre, SD (605-773-3352) for assistance prior to the hearing date.

SOIL/WATER COMPATIBILITY PERMIT APPLICATION FORM

Division of Conservation

Office Use Only

WR#

OWNERS NAME: OWNERS ADDRESS:

COUNTY LAND LOCATED IN: PHONE:

TENANT'S NAME AND ADDRESS:

LEGAL DESCRIPTION: (Show Legal Description to Nearest 10 Acres)

1. ~~WATER DIVERSION~~ Dam: ~~Sec. 29-120-87~~

Depth

2. SURFACE WATER SOURCE AND DIVERSION LOCATION:

Diversion Location

Legal Description	Acres	Legal Description	Acres
Sec. 29-120-87	100		

3. SHOW ANY PORTION OF LAND THAT PRESENTLY HOLDS AN IRRIGATION PERMIT: YEAR OBTAINED

LEGAL DESCRIPTION:

IN WHAT NAME:

4. LOCATION OF AREA TO BE IRRIGATED NOTE: SOILS INFORMATION FOR THIS AREA MUST ACCOMPANY THE APPLICATION. (See instruction sheet)

5. TYPE OF IRRIGATION: GRAVITY: TOWLINE: CENTER PIVOT: GUN: OTHER: (Specify)

6. CROPS TO BE IRRIGATED: Corn and alfalfa

WATER QUALITY: (TO BE COMPLETED BY SDSU WATER QUALITY LABORATORY)

7. WATER SAMPLE NUMBER: 10. ADJUSTED (SAR): 1.07 (6.1)
8. SALINITY (EC X 10⁶): 1000 11. PERCENT SODIUM 10.98
9. SODIUM (SAR): 1.30

I hereby certify that I personally obtained or that I personally observed that taking of a sample of the water to be used in irrigating the above-described land. I also hereby certify that the required procedures for the taking of the sample (see instruction sheet) were followed, and that the sample was taken at 3:00 a.m./p.m., on 7/1, 1982, at the following location: Dam site of W103 of Sec. 29, T.106, R.27. by (individual who took sample if other than applicant). I also hereby certify that the water sample taken has NOT been adulterated or tampered with in any manner, and is TRULY REPRESENTATIVE of the water which will be used in irrigating the above-described land.

Signature

I understand that the Division of Conservation or agents thereof may obtain water samples from wells and surface bodies to be used for irrigation purposes to validate water samples taken at the time of application. The Department of Agriculture may also gather technical information necessary to protect the land. (46-5-6.4).

SUBSCRIBED AND SWORN BEFORE ME THIS

14th DAY OF April, 1982

(NOTARY PUBLIC)

APPLICANT'S SIGNATURE

Director, Division of Conservation

Date

APPROVED

DISAPPROVED

CONDITIONALLY APPROVED

IMPORTANT

Action by the Department of Agriculture or the State Conservation Commission is not the final action on any application. In all cases a WATER RIGHT must be obtained from the Board of Water Management, Foss Building, Pierre.

Conditional soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

CONDITIONAL APPROVALAPPL. #4034

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE
DIVISION OF CONSERVATION

NAME OF APPLICANT: Gerald PersonLEGAL DESCRIPTION: NE 1/4 Sec. 29-126-57 = 160 acresSOIL RESTRICTIONS:THE SOIL(S) LISTED BELOW CANNOT BE IRRIGATED:

Lo - Loamy Alluvial Land - it has a meandering stream channel through it and is subject to wetness due to flooding and a fluctuating water table is impractical for cultivation.

FsCZ - Forman - Base Loams 6-9% slopes eroded.

This area has a rapid run-off and is subject to erosion. The erosion hazard is severe.

THE SOILS(S) LISTED BELOW CAN BE IRRIGATED
WITH THE FOLLOWING RESTRICTIONS:RECOMMENDED MANAGEMENT:

Due to the slow intake rates for the soils you intend to irrigate, we suggest the use of reduced tillage and/or practices which leave the crop residue. The use of strip cropping may also be beneficial. To aid in the leaching of salts we recommend the application of water after crop removal to maximize leaching in the spring.

T. M. Light
SIGNATURE_____
DATE



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

4948-3

June 3, 1983

BRITTON JOURNAL
706 7th St
Britton SD 57430

Dear Sir:

Enclosed please find the bill you sent with the Affidavit of Publication for Application No. 4948-3, Gerald A Person. As stated in our letter to you, Mr. Person, the applicant is to pay the cost of advertising the Notice of Hearing.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Administrative Aide

enclosure

cc: Gerald A Person



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION

4948-3

June 21, 1983

Gerald A. Person
Route #2 Box 123
Britton, South Dakota 57430

Dear Mr. Person:

Enclosed herewith is your Water Permit No. 4948-3 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 4948-3.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH: ms

enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

WNR-809-5/83

NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USEPost Office BRITTON ^{Box #2} Box 123Date 6/28/1983TO: Water Rights
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

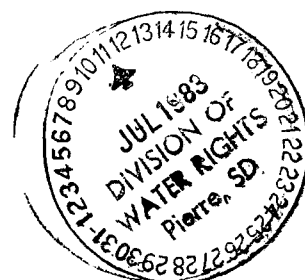
This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to maximum extent it is going to be used, not exceeding the amounts as specified in Water Right No. 4948-3.

Water Right Permit No. 4948-3 states that the diversion system is to be constructed by 6/9/1988, and that the water is put to beneficial use by 6/9/1992.

The diversion system was completed on 8/1981. Applying the water to beneficial use was completed on 6/20/83.

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

Donald Renson
(Signature)



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

Water Rights Division
605 773-3352

March 7, 1984

N O T I C E

Dear Sir:

The Water Management Board has directed that all owners of Water Permits, not in compliance with the Permit qualification:

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

be notified of this requirement.

Our records show we have not received the 1983 Irrigation Questionnaire for your Permit. The Questionnaire was requested:

- 1) November, 1983 initial request
- 2) December, 1983 followup request

Owners of water permits not in compliance with the Irrigation Questionnaire qualification are being given until April 2, 1984 to submit the 1983 questionnaire. The Board will consider disciplinary action including possible suspension of the permit on April 25, 1984 at 10:30 am in Room 216, Joe Foss Building, 523 E Capitol, Pierre, SD for all permits without questionnaires returned by April 2.

Another questionnaire is enclosed. Please advise if there are any questions or if you believe our records are not correct.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Division

March 26, 1984

4948-3

Gerald A. Person
RR#2, Box 123
Britton, South Dakota 57430

Dear Mr. Person:

This will acknowledge receipt of and thank you for the return of your 1983 Irrigation Questionnaire. A notice was sent to you March 7, 1984 regarding the Irrigation Questionnaire submittal violation of Water Permit No. 4948-3 and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

Please disregard the notice sent to you dated March 7, 1984. 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

d32306ks.wr



Department of Water & Natural Resources

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

March 23, 1987

GERALD A PERSON
RR 2 BOX 123
BRITTON, SD 57430

NOTICE

Re: Violation of Water Permit No(s). 4948-3, 5034-3

Our records indicate that the 1986 Irrigation Questionnaire has not been received for Permit No(s). 4948-3, 5034-3. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearings(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 4948-3, 5034-3 qualification:

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

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

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

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

1. Suspend Permit No(s). 4948-3, 5034-3 until either the 1986 Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

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


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

NOTE: If the questionnaire(s) is received in this office before the hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.



Department of Water & Natural Resources

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

April 3, 1987

4948-
5034-3

Gerald A Person
RR #2 Box 123
Britton, SD 57430

Dear Mr. Person:

This will acknowledge receipt of and thank you for the return of your 1986 Irrigation Questionnaires. A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water Permit Nos. 4948-3 and 5034-3 and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

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

If you have any questions, please contact us.

Very truly yours,

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

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

NAME OF PERSON OR FILE: Jerry Person

ADDRESS: Britton, S.D. COUNTY Marshall Co.

DATE: Apr. 8, 1986 TELEPHONE _____

RE: Merle or Curt Foster complaint - Delmer Rohr questionable

COMMENTS: whether or not he is concerned - has not called in.

Mr. Person called expressing a wish that we would settle whatever the problem is that the Fosters have with his irrigation dam. Delmer Rohr is the individual who is being adversely affected and he has not complained. ~~We will~~ I told him that Mr. Foster did not want us to come up there if Mr. Rohr had no problem with the flooding caused by Mr. Person's dam.

I told him if Mr. Rohr calls us, we will check it out otherwise there is no complaint against him at this time. If we are called up there, all parties in the matter will be contacted.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: James E. Wentworth

~~5034-3~~
4948-3

LAW OFFICES
A. WILLIAM SPIRY
FARRAR AND SPIRY BUILDING
BRITTON, SOUTH DAKOTA 57430
(605) 448-2274

ASSOCIATE:
DANNY R. SMEINS

April 8, 1986



Mr. Jim Winterton
Water & Natural Resources
Conservation Commission
State of South Dakota
Pierre, SD 57501

RE: Gerry Person, Britton, SD

Dear Mr. Winterton:

Pursuant to the telephone conversation that I had with you last week, you will advise me when you are coming to Britton to discuss Merle Foster's complaint against Gerry Person regarding his irrigation permit. I will then contact Mr. Person so that he is available to meet with you.

Your cooperation in keeping us informed is appreciated.

Thank you.

Most sincerely,

A. William Spiry

AWS:klt

cc: Mr. Gerry Person



Department of Water & Natural Resources

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

February 8, 1989

GERALD A PERSON
RR 2 BOX 123
BRITTON, SD 57430

NOTICE

RE: Violation of Water Permit No(s) 4948-3, 5034-3

Our records indicate that the 1988 Irrigation Questionnaire has not been submitted for Permit No(s). 4948-3, 5034-3. The request for the Questionnaire was dated October 26, 1988. The Water Management Board had directed that owners of water permits who have not submitted the 1988 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s). 4948-3, 5034-3 qualification:

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

The hearing will be held at 9:45 am, March 1, 1989 at the Howard Johnson's, Roosevelt Room, I-90 at LaCrosse, Rapid City SD.

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

1. Suspend Permit No(s). 4948-3, 5034-3 until the 1988 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

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

If the questionnaire is received in this office before the March 1st hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,

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





Department of Water & Natural Resources

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

February 24, 1989

4948-3
5034-3

Gerald A Person
RR #2 Box 123
Britton, SD 57430

Dear Mr. Person:

I am writing to acknowledge receipt of your 1988 irrigation questionnaires for Water Permit Nos. 4948-3 and 5034-3. You may disregard the February 8, 1989, Notice of failure to submit the 1988 irrigation questionnaire. With receipt of the questionnaires your name has been deleted from the March Water Management Board meeting agenda.

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

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division



GREAT FACES. GREAT PLACES.

February 1, 1991

GERALD A PERSON
RR 2 BOX 123
BRITTON SD 57430

DEPARTMENT OF WATER & NATURAL RESOURCES

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

NOTICE

RE: Violation of Water Permit No(s) 4948-3, 5034-3

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 4948-3, 5034-3. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s) 4948-3, 5034-3 qualification:

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

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

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

1. Suspend Permit No(s) 4948-3, 5034-3 until the 1990 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

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

If the questionnaire is received in this office before the February 27th hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,

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

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

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

1. ☒ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery
(Extra charge) (Extra charge)

3. Article Addressed to:

GERALD A PERSON
RR 2 BOX 123
BRITTON SD 57430

4. Article Number

D 694 057 407

Type of Service:

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

Always obtain signature of addressee
or agent and DATE DELIVERED.

5. Signature — Addressee

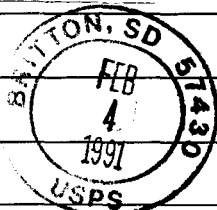
X

6. Signature — Agent

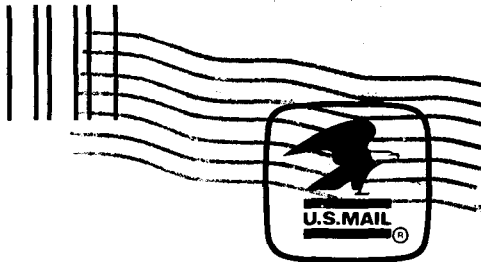
X

7. Date of Delivery

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



UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

**PENALTY FOR PRIVATE
USE, \$300**

**RETURN
TO**



**DEPARTMENT OF WATER & NATURAL RESOURCES
WATER RIGHTS DIVISION
523 E CAPITOL JOE FOSS BLDG
PIERRE SD 57501-3181**



DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 7, 1991

4948-3
5034-3

Gerald A Person
RR #2 Box 123
Britton, SD 57430

Dear Mr. Person:

I am writing to acknowledge receipt of your 1990 irrigation questionnaires for Water Permit Nos. 4948-3 and 5034-3. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaires. With receipt of the questionnaires, your name has been deleted from the February Water Management Board meeting agenda.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Duvall", is written over a horizontal line.

Ron Duvall, Natural Resources Engineer IV
Water Rights Division



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GERALD A PERSON
RR 2 BOX 123
BRITTON SD 57430

NOTICE

RE: Violation of Water Permit No(s) 4948-3 & 5034-3

Our records indicate that the 1991 Irrigation Questionnaire has not been submitted for Permit No(s) 4948-3 & 5034-3. The request for the Questionnaire was dated October 18, 1991. The Water Management Board has directed that owners of water permits who have not submitted the 1991 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will determine the action to be taken for violation of Water Permit No(s) 4948-3 & 5034-3 qualification:

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

The hearing will be held at 9:15 am, March 4, 1992, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 4948-3 & 5034-3 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 before the March 4th hearing date, you will no longer be in violation of your permit and your name will be deleted from the Board agenda.

Very truly yours,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 6, 1992

4948-3
5034-3

Gerald A Person
RR #2 Box 123
Britton, SD 57430

Dear Mr. Person:

I am writing to acknowledge receipt of your 1991 irrigation questionnaires for Water Permit Nos. 4948-3 and 5034-3. You may disregard the January 27, 1992, Notice of failure to submit the 1991 irrigation questionnaire. The questionnaires were received prior to the Water Management Board meeting and your name was deleted from the agenda.

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

Sincerely,

Genny McMath
Natural Resources Analyst
Water Rights Division

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

GERALD A PERSON
RR 2 BOX 123
BRITTON, SD 57430

4a. Article Number

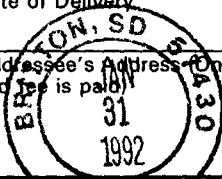
P 906 557 761

4b. Service Type

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

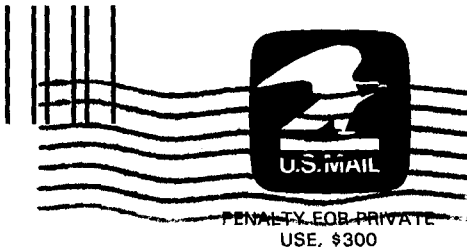
7. Date of Delivery**5. Signature (Addressee)****8. Addressee's Address - Only if requested and fee is paid****6. Signature (Agent)**

Gerald A. Person



UNITED STATES POSTAL SERVICE

Official Business



Print your name, address and ZIP Code here

DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES
DIVISION OF WATER RIGHTS
JOE FOSS BUILDING
PIERRE, SOUTH DAKOTA 57501



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 29, 1993

NOTICE

TO: GERALD A PERSON
RR 2 BOX 123
BRITTON SD 57430

FROM: Ron Duvall, Natural Resources Engineer IV
for JOHN HATCH, Chief Engineer
Water Rights Division

RE: Violation of Water Permit No(s) 4948-3

Our records indicate that the 1992 Irrigation Questionnaire has not been submitted for Permit No(s) 4948-3. The request for the Questionnaire was dated October 16, 1992. The Water Management Board has directed that owners of water permits who have not submitted the 1992 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will determine the action to be taken for violation of Water Permit No(s) 4948-3 qualification:

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

The hearing will be held at 9:30 am, March 3, 1993, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 4948-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law. Prior to February 22, 1993, contact the Water Rights Division, 523 E Capitol, Pierre SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the questionnaire(s) is(are) received in this office before the March 3rd hearing date, you will no longer be in violation of your permit and your name will be deleted from the Board agenda.

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

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

1. ☐ Show to whom delivered; date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

GERALD A PERSON
RR 2 BOX 123
BRITTON SD 57430

4. Article Number

Type of Service:

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

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

5. Signature — Addressee

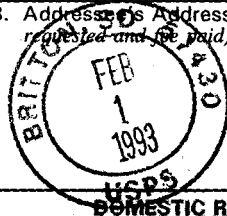
X *Gerald A Person*

6. Signature — Agent

X

7. Date of Delivery

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



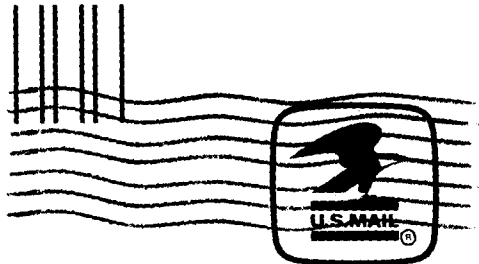
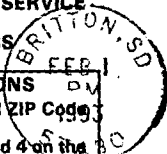
UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE
USE, \$300

**RETURN
TO**



Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES

DIVISION OF WATER RESOURCES

2014 S. MAIN ST.

SPRINGFIELD, SOUTH CAROLINA 29151



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 9, 1993

NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT

TO: GERALD A PERSON
RR 2 BOX 123
BRITTON SD 57430

FROM: Ron Duvall, Natural Resources Engineer IV
Water Rights Division
(605) 773-3352 *Ron Duvall*

SUBJECT: One Year Suspension of Water Permit No. 4948-3

Pursuant to the provisions of the notices dated January 29, 1993, and following the hearing of March 3, 1993, the Water Management Board has ordered:

That Water Permit No. 4948-3 be SUSPENDED until December 31, 1993. Suspension of the permit does not excuse the permit owner from the requirement to submit the 1992 irrigation questionnaire.

Suspension of a permit means water may not be pumped during the 1993 irrigation season. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

If you wish to petition the Water Management Board to rescind the suspension(s), you will need to submit a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 5-6, 1993 in Pierre. The letter should include your reasons for not completing the irrigation questionnaire prior to the March Board meeting.

CERTIFICATION

I hereby certify that on March 9, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 9, 1993, regarding NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT'S addressed as stated below:

4651-3: Donald Abraham, RR 2, Box 64, Elk Point, SD 57025.

833-2: Sadie & Bob Assman, RR 3, Box 144, Winner, SD 57580.

754-1: Lloyd & Barbara Campbell, HC 62, Box 8, McIntosh, SD 57641.

978-2: Robert Christensen, HCR 81, Box 47, Kennebec, SD 57544.

2080-2: Gary L. Dickinson, HC 72, Box 23, Tuthill, SD 57574.

4702-3, 5226-3: Dan Hanson, RR 1, Box 6A, Elk Point, SD 57025.

5070-3: Mike Wurtz-Jamesville Colony, RR 1, Box 51, Utica, SD 57067.

884B-1: Dale Johnson, Mgr. RR 3, Box 23AA, Vale, SD 57788.

1252-3: Dave Kokesh, Renter, Rt 1, Wagner, SD 57380.

4948-3: Gerald A. Person, RR 2, Box 123, Britton, SD 57430.

751-1: Prairie View, Inc., HC 75, Box 154, Sturgis, SD 57785.

2137-2: Frank Simpson, 1116 Jackson Bl., Rapid City, SD 57702.

1028-3: William M. Smith, Rt 1, Box 136, Mission Hills, SD 57046.

200-3: Teresa Wessel, RR 1, Box 127, Woonsocket, SD 57385.

5482-3: Wiese Brothers Farms, RR 1, Box 36A, Twin Brooks, SD
57269-9801.

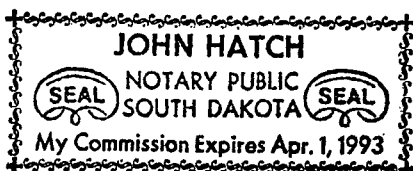
1341-3: Daniel J. Kamphuis, 8513 Keiser SE, Alto, MI 49302-9728.

Cheryl H. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 10th day of March, 1993.



John Hated
Notary Public



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 15, 1993

4948-3

Gerald A Person
RR #2 Box 123
Britton, SD 57430

Dear Mr. Person:

This will acknowledge receipt of your 1992 Irrigation Questionnaire. However, receipt of the questionnaire does not alter the March 3, 1993, Water Management Board decision to **Suspend** Water Permit No. 4948-3 for one year.

As stated in our March 9, 1993 Notice to you, suspension means water may not be pumped during the 1993 irrigation season. If you wish to petition the Water Management Board to rescind the suspension, you will need to submit a letter to our office requesting time on the May 5-6, 1993, Board agenda. The letter should include your reasons for not completing the irrigation questionnaire prior to the March Board meeting.

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

Very truly yours,

Ron Duvall, Natural Resources Engineer
Water Rights Division



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 29, 1993

NOTICE

TO: Gerald A Person, RR #2 Box 123, Britton, SD 57430

FROM: Eric Gronlund, Natural Resources Engineer III
Water Rights Division *Eric Gronlund*
(605) 773-3352

SUBJECT: Notice of Hearing to Consider Request for
Reconsideration of Suspended Water Permit No. 4948-3

The hearing on your April 29, 1993, request to the Water Management Board to reconsider suspension of Water Permit No. 4948-3 has been scheduled for 9:00 am, May 5, 1993, in the Floyd Matthew Training Center, 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.

After all evidence is taken at the hearing, the Board may issue a decision to rescind the suspension of your permit, defer action or take no action. The hearing is an adversary proceeding and any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Any decision rendered by the Board may be appealed to the Circuit Court or to the State Supreme Court as provided by law.

Prior to April 26, 1993, contact the Water Rights Division by writing to 523 E Capitol, Pierre, SD 57501-3181 or calling (605) 773-3352 to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

cc: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on April 29, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 29, 1993, regarding Notice of Hearing to Consider Request for Reconsideration of Suspended Water Permit No. 4948-3 addressed as stated below:

Gerald A. Person, RR 2, Box 123, Britton, SD 57430

Copy of "Notice" and a copy of the letter Gerald Person submitted to our office was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of May, 1993.



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

**REPORT ON
1992 SUSPENDED WATER PERMITS/RIGHTS
MAY 5, 1993**

On October 16, 1992, notices to submit 3,293 irrigation questionnaires and 268 chemigation reports were sent by First Class Mail. The permit holders were given until December 18, 1992 to return the questionnaires and/or chemigation reports.

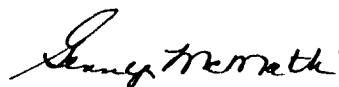
On January 29, 1993, 234 notices were mailed to those irrigators who had not returned irrigation questionnaires, and 44 notices were mailed to those irrigators who had not returned their chemigation reports. The notices, mailed by Certified Mail, Return-Receipt requested advised the permit holders that pursuant to SDCL 46-1-12 and 46-1-14, the Board could suspend or cancel their permits, if the required forms were not in the office prior to the Board hearing.

Board action taken March 3, 1993, resulted in the following:

1. Suspension of 16 water permits/rights (first violation of the irrigation questionnaire qualification) for the 1993 irrigation season;
2. Suspension of 4 water permits/rights (second violation of the irrigation questionnaire qualification) for the 1993, 1994, and 1995 irrigation seasons;
3. Cancellation of 5 water permits/rights (third violation of the irrigation questionnaire qualification, including violation for not reporting chemical use).

The following water permit/right holders have requested the Water Management Board to reconsider Board action to SUSPEND or CANCEL their permits/rights. Individual reports and letters are attached (pages 1-14)

1. Water Permit No. 1581-2 - Pat Taggart, Dallas, SD (Tripp County) SUSPENDED FOR 1993, 1994 and 1995 IRRIGATION SEASONS (pages 1-3)
2. Water Permit No. 4651-3 - Donald Abraham, Elk Point, SD (Union County) SUSPENDED FOR 1993 IRRIGATION SEASON (pages 4-5)
3. Water Right Nos. 781-1, 784-1, 791-1, 793-1 & 991-1, Curtiss Reitz, Ralph SD, (Harding County) CANCELLED (pages 6-8)
4. Water Right No. 1341-3, Daniel Kamphuis, Alto, MI (Campbell County) SUSPENDED FOR 1993 IRRIGATION SEASON (pages 9-10)
5. Water Permit No. 4948-3, Gerald Person, Britton, SD (Marshall Co.) SUSPENDED FOR 1993 IRRIGATION SEASON (pages 11-12)
6. Water Permit Nos. 4702-3 & 5226-3, Daniel J Hanson (Union County) SUSPENDED FOR 1993 IRRIGATION SEASON (pages 13-14)



Genny McMath
Natural Resources Analyst
Water Rights Division

Gerald A Person
Water Permit No. 4948-3

GENERAL

Application submitted by: Gerald A Person
RR #2 Box 123
Britton, SD 57430

Water Permit Approved: June 9, 1983

Permit Approved with the irrigation questionnaire
qualification.

FIVE YEAR HISTORY OF IRRIGATION QUESTIONNAIRE RETURNS

<u>Year</u>	<u>Date Request Mailed</u>	<u>Date Irrigation Ques. Returned</u>	<u>Date of any Board Action</u>
1988	October, 1988	February 21, 1989	none
1989	October, 1989	January 26, 1990	none
1990	October, 1990	February 7, 1991	none
1991	October, 1991	February 5, 1992	none
1992	October, 1992	March 12, 1993	March 3, 1993

PAST VIOLATION:

1. 1992 Irrigation Questionnaire Violation

January 29, 1993, Mr. Person was sent a "Notice of Violation" for nonreturn of his 1992 irrigation questionnaire and of the hearing scheduled before the Water Management Board to be held March 3, 1993. The "Notice" was sent Certified Mail, Return-Receipt requested. The Return Receipt card was signed by Debbie Person February 1, 1993.

March 3, 1993, the Water Management Board SUSPENDED Water Permit No. 4948-3 until December 31, 1993.

March 9, 1993, Mr. Person was notified of the Board action to suspend his permit for one year.

March 12, 1993, Mr. Person submitted his 1992 irrigation questionnaire.

March 15, 1993, Mr. Person was notified that although his questionnaire had been received, it did not alter the March 3rd decision of the Board to suspend his permit. The letter also informed him of what he needed to do if he wished to irrigate during 1993.

April 29, 1993, a letter was received from Mr. Person requesting a hearing before the Board.

WATER RIGHTS DIVISION
JOE FOSS BUILDING
523 EAST CAPITAL

DEAR CHIEF ENGINEER,

I WOULD LIKE TO REQUEST A HEARING ON MY
SUSPENDED WATER PERMIT. I DID NOT GET MY
QUESTIONER IN WHEN I SHOULD HAVE.

I WILL BE THERE AT 9:00 AM MAY 5TH 1993

GERALD PERSON

RR2 Box 123

BRITTON SO DARK

57430

Phone 448-2544 or 2381



CERTIFICATION

I hereby certify that on May 7, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, First Class postage, prepaid envelopes containing a Notice dated May 7, 1993, regarding Reinstatement of Water Permit No. 4948-3 addressed to:

Gerald A Person
RR 32 Box 123
Britton, SD 57430

Jaci R Konop

JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 10th day of May, 1993.



John Hatch
Notary Public
JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 7, 1993

NOTICE

TO: Gerald A Person, RR 32 Box 123, Britton, SD 57430

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

SUBJECT: Reinstatement of Water Permit No. 4948-3

Pursuant to your letter of April 29, 1993, and following a hearing by the Water Management Board May 5, 1993, the Board rescinded the March 3rd motion to suspend Water Permit No. 4948-3. This action reinstated Water Permit No. 4948-3, effective immediately.

The Water Management Board took into consideration that the irrigation questionnaire was now on file in the Division office and that this was your first violation. Your attendance at the hearing to explain the circumstances involving the delay in returning the questionnaire assisted the Board in making their determination.

The Board's motion to rescind the suspension of your water permit for the 1993 irrigation season included a statement that **"failure to submit future required irrigation questionnaires will result in a one year suspension or possible cancellation of the permit without reinstatement."**

Violations of any qualifications on irrigation permits and subsequent Board action become part of the permanent record. This notice will be placed in Water Permit No. 4948-3 and failure to submit future irrigation questionnaires will result in past violations being reviewed by the Water Management Board.

c: Diane Best, Assistant Attorney General



January 30, 1996

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: GERALD A PERSON, 1013 S MAIN, BRITTON, SD 57430 0068

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

SUBJECT: Violation of Water Permit No(s) 4948-3

Our records indicate that the 1995 Irrigation Questionnaire has not been submitted for Permit No(s) 4948-3. The request for the Questionnaire was dated October 20, 1995. The Water Management Board has directed that owners of water permits who have not submitted the 1995 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will determine the action to be taken for violation of Water Permit No(s) 4948-3 qualification:

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

The hearing will be held at 9:45 am, March 6, 1996 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 4948-3 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 1, 1996, 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.

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

GERALD A PERSON
1013 S MAIN
BRITTON SD 57430-0068

4a. Article Number

2 161 984 074

4b. Service Type

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

7. Date of Delivery

2-5-96

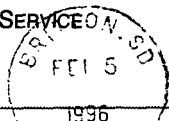
5. Received By: (Print Name)

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

6. Signature: (Addressee or Agent)

X *Sheela K. K. K.*

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

● Print your name, address, and ZIP Code in this box ●

DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES
WATER RIGHTS PROGRAM
SIOUX CAPITOL JOE FOSS BLDG.
PIERRE, SOUTH DAKOTA 57501



4948-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 5, 1996

4948-3

Gerald Person
1013 S Main
PO Box 68
Britton, SD 57430-0068

Dear Mr. Person:

I am writing to acknowledge receipt of your 1995 irrigation questionnaire. You may disregard the January 30, 1996, **Notice of Violation of Water Permit No. 4948-3.**

I completed a questionnaire for you based on our February 5th telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

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

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

File No. 4948-3 & 5777-3

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

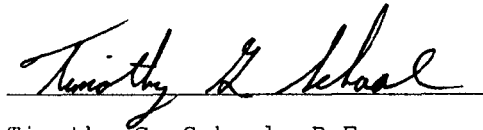
ADDRESS: PO Box 68, Britton SD 57430 COUNTY: Marshall

DATE: March 11, 1998

TELEPHONE: 448-2381 (work)

RE: Call from Curt Foster

Curt Foster called today and was upset about Gerald Person's dam. He still thinks Mr. Person is doing something wrong and asked about getting the Water Permits cancelled. I told him we were still waiting to get an "As Built" survey from Mr. Person and we would send Gerry another letter. We also talked about asking the Water Management Board for a declaratory ruling. Mr. Foster also asked about Irrigation Questionnaires and indicated Gerry has not irrigated in the last 5 years. I told Mr. Foster I would check them, but thought they may indicate no irrigation because of adequate moisture. I told Mr. Foster I would get back to him or send a letter.



Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 3, 1998

Curt Foster
RR #2, Box 126
Britton, SD 57430

Dear Mr. Foster:

Enclosed is a copy of the April 1, 1998, letter we sent Gerald Person regarding his irrigation dam. I also checked the irrigation questionnaires for the past 5 years. With the exception of reporting some irrigation in August of 1995 and 1996, your questionnaires (Isabel Fryer, Water Permit Nos. 5386-3 & 5577-3) and Mr. Person's questionnaires report no irrigation due to adequate moisture in your area.

If you have any questions, please feel free to contact me. I'm sure I will be up in your area this summer and will contact you regarding this matter.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program
(605) 773-3352

enclosure

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106



MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

April 1, 1998

Mr. Gerald Person
P.O. Box 68
Britton, SD 57430

Re: **Water Permit Application Nos. 5777-2 and 4948-3**

Dear Mr. Person:

The South Dakota Department of Environment and Natural Resources Water Rights Program has asked me to correspond with you in reference to your irrigation dam located in the NE 1/4 of Section 30, T126N, R57W.

The permitting and licensing for this dam has been an ongoing process for several years, including a previous hearing before the South Dakota Water Management Board. During this hearing, which was conducted on August 31, 1994, the Board held that required work on this dam must be undertaken on or before August 31, 1995.

At this time, several items must still be completed before the Water Rights Program will be able to proceed with the licensing of Water Permit No. 4948-3 or deferred Water Permit Application No. 5777-3.

According to a letter to the Water Rights Program dated March 26, 1997, you have breached the dike at the upper end of the reservoir; however, the Water Rights Program still needs to have an "As Built" survey from your engineer. The survey is needed to show that the new spillway was constructed at the elevation indicated by the Water Management Board. It should also indicate the size and elevation of the breach in the upper dike.

The required information was to have been completed by August 31, 1995. It is my understanding that you are continuing to utilize this dam. Please file the required information with the Water Rights Program within the next 30 days. Otherwise, the Water Rights Program will be in a position to initiate legal action against you for failing to comply with the above-stated

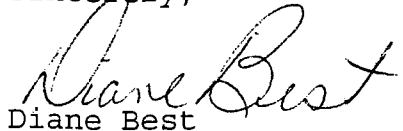
Mr. Gerald Person
April 1, 1998
Page 2

requirements. You may avoid additional proceedings if you fully comply in the next 30 days.

If you or your engineer have technical questions regarding compliance, please contact Tim Schaal at (605) 773-3352. Any questions from your attorney should be directed to me.

Thank you in advance for your prompt response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane Best".

Diane Best
Assistant Attorney General

DB/do
cc Walt Roehr
bcc Tim Schaal ✓



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 16, 1998

NOTICE

TO: Gerald A. Person
P. O. Box 68
Britton, SD 57430
and interested parties (see attached list)

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

SUBJECT: Notice of Requirement to Comply with Established Drop Inlet Elevation on Dam or in the alternative Notice of Hearing on Water Permit Application No. 5777-3 and Notice of Hearing on Suspension of Water Permit No. 4948-3

On August 31, 1994, the Water Management Board considered what action should be taken concerning your dam located in the S1/2 NE1/4 and NE1/4 SE1/4 Section 30, T126N, R57W. The Board adopted the staff recommendation requiring that within one year you construct a drop inlet spillway as a primary spillway at an elevation four feet below the elevation of the current earth spillway. The drop inlet structure was installed in the fall of 1995. The Board also ordered that a culvert be installed through the upstream dike, or the dike breached, to eliminate upstream flooding conditions.

Your dam is the source of water for irrigation of land authorized by Water Permit No. 4948-3 and for pending Water Permit Application No. 5777-3. Consideration of Application No. 5777-3 and the licensing of Permit No. 4948-3 have been deferred until you comply with the Board's directive.

Although the drop inlet was installed in 1995, it was not until April 29, 1998, that an "as constructed" survey and drawings of the dam were received by the Water Rights Program. Our review of this information found that the drop inlet spillway was constructed at an elevation **one foot** above the Board's ordered elevation. A letter from Diane Best, Assistant Attorney General, dated May 1, 1998, advised that a hearing before the Water Management Board would be scheduled if corrections are not made to comply with the Board established drop inlet elevation and a new "as constructed" survey is not completed within 60 days of her letter. Additionally, the Board ordered installation of a culvert through the upstream dike or that the dike be breached. The "as constructed" survey must show the invert elevation of the culvert or at the breach to show you have complied with this Board order.

Notice is hereby given to correct the elevation on the drop inlet spillway on the dam to comply with the Board's set elevation of four feet below the elevation of the earth spillway. The Water Management Board will conduct a public hearing to consider your compliance with the Board's directive. The Board will also consider deferred Water Permit Application No. 5777-3 and the suspension of Water Permit No. 4948-3. **This hearing will be held on July 8, 1998, at 11:00 AM at the Staurolite Inn, 2515 E. Sixth Street, U.S. Highway 14 and I-29, Brookings, South Dakota.** The hearing time is an estimate and may be delayed due to consideration of prior agenda items.

The Board has legal authority and jurisdiction to consider Water Permit Application No. 5777-3 and suspension of Water Permit No. 4948-3 in accordance with SDCL 46-1-4, 46-1-6(3), 46-2-9, 46-2-11, 46-1-12, 46-1-14, and 46-2A-9. Application No. 5777-3 proposes to authorize additional acreage and a diversion rate to reflect the irrigation system as constructed. Notice of Hearing on Application No. 5777-3 was previously published in 1993 pursuant to SDCL 46-2A-4. Applicable provisions of the published notice of hearing, which is enclosed, still apply at this hearing.

In 1993, the Chief Engineer recommended deferral of Water Permit Application 5777-3. The Application was deferred pending repairs on the spillway of the project involved. The repairs were deemed necessary for the integrity of the structure.

Based upon the April 27 1998, filing, you have not constructed the repairs as required by the Board. Your failure to lower the drop inlet spillway by one foot and submit an "as constructed" survey prior to the Board meeting will result in a Chief Engineer's recommendation for DENIAL of Application No. 5777-3 and SUSPENSION of Water Permit No. 4948-3. At the hearing, the Chief Engineer will assert that you have failed comply with both the Chief Engineer's notice and the Water Management Board's requirement to install a drop inlet spillway at a set elevation. Pursuant to SDCL 46-1-12 the Water Management Board may suspend a water permit if the Board finds that an individual permittee has violated any term of the permit.

At hearing the Board may 1) approve, 2) approve with qualifications, 3) defer, or 4) deny Application No. 5777-3 and may 1) suspend for one year, 2) modify the permit or 3) take no action on Permit No. 4948-3 based on the facts presented at the public hearing.

The scheduled hearing is an adversary proceeding. Any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. The decision based on the hearing may be appealed to the circuit court and the Supreme Court as provided by law.

The Chief Engineer's recommendation may be revised on Application No. 5777-3 and the hearing on suspension of Permit No. 4948-3 cancelled if you conform to the Board's requirements.

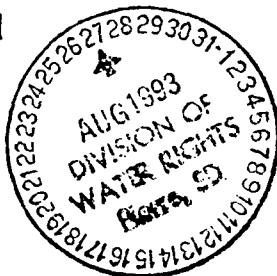
If you have any questions, please contact Tim Schaal at (605) 773-3352.

enclosure

c: Diane Best, Assistant Attorney General

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Marshall) ss



I, Charles L. Card

certify that the attached printed Notice was

taken from the Britton Journal

printed and published in Britton

County of Marshall and State of

South Dakota. The notice was published in the newspaper on the following two dates:

August 18, 1993

August 25, 1993

Cost of Printing: \$44.44

Charles L. Card
 (Signature)

publisher

(Title)

August 25, 1993

(Date Signed)

2T(Aug. 18-25)

NOTICE OF HEARING
 on Application No. 5777-3

to Appropriate Water
 and to Amend Water Permit No. 4948-3

Notice is given that Gerald A. Person, RR 2 Box 123, Britton, SD 57430 has filed an application for a water permit to appropriate an additional 0.56 cubic feet of water per second (cfs), add 29 acres and change the location of some of the irrigated acres authorized by Permit No. 4948-3. Water Permit No. 4948-3 authorizes the diversion of 2.85 cfs and storage of 200 ac-ft for the irrigation of 210 acres located in the NW1/4 and the W1/2 NE1/4 of Section 29 and SE1/4 of Section 30, all in T126N-R57W. An inspection of Permit No. 4948-3 found 239 acres being irrigated at a diversion rate of 3.41 cfs. The location of the 239 acres being irrigated is the NW1/4 and W1/2 NE1/4 of Section 29 and the SW1/4 NE1/4 and SE 1/4 of Section 30 which are irrigated from a 200 ac-ft storage dam located in the S1/2NE1/4 and NE1/4 SE1/4 of Section 30, all in T126N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 5777-3 until repairs are made to the spillway to ensure the integrity of the structure. This application will be considered by the Water Management Board at 10:00 a.m., December 1, 1993, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny this application based on the facts presented at the public hearing.

Any interested person that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by November 22, 1993. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352)." The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 22, 1993, at the above Water Rights Division address to request information on this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by November 22, 1993.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:01:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

Interested Parties in the Matter of Gerald Person Dam

Paul Bremmon
RR
Britton, SD 57430

Curt Jones
RR
Britton, SD 57430

Walter Roehr
RR 2, Box 121A
Britton, SD 57430

Jim Kann
RR 2, Box 125
Britton, SD 57430

Leon Jones
RR
Britton, SD 57430

Delmar Roehr
RR 2, Box 122
Britton, SD 57430

Jim Peters
RR 2, Box 130A
Britton, SD 57430

Philip W. Morgan
Attorney at Law
RR 2, Box 130A
Britton, SD 57430

CERTIFICATION

I hereby certify that on June 16, 1998, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 16, 1998, along with a copy of the list of Interested Parties and a copy of the Notice of Hearing, regarding Notice of Requirement to Comply with Established Drop Inlet Elevation on Dam or in the alternative Notice of Hearing on Water Permit application No. 5777-3 and Notice of Hearing on Suspension of Water Permit No. 4948-3, addressed as stated below, and on the attached Interested Parties list:

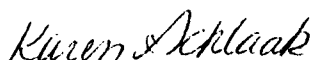
A copy of the above described Notice and attachments was sent Inter-office to:

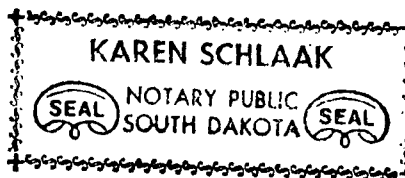
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 17th day of July, 1998


Notary Public



KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 1 1998

5777-3

Gerald A. Person
P.O. Box 68
Britton, SD 57430-0068

Dear Mr. Person:

Enclosed is Water License No. 5777-3 and Receipt No. 415868 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 5777-3 is the final document which completes the process of obtaining a water right.

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.

Very truly yours,

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

gm
enclosures

NOTE: The applicable portions of Water Permit No. 4948-3 have been incorporated into this water license.