

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Brad Salman, Northern Con-Agg, Inc,
3231 Fernbrook Lane North,
Plymouth, MN 55447

DATE: June 11, 2007

TELEPHONE: 763 509-9344

RE: Ownership of land described in Water Right No. 5166-3

COMMENTS:

Mr. Salman sent in a letter and map showing ownership of the land in Section 16, T118N, R52W as authorized for irrigation under No. 5166-3.

- S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 16: Codington County Properties (a subsidiary of Northern Con Agg)
- SW $\frac{1}{4}$ Section 16: John Nordgaard, 542 Terrace Dr., Grand Forks ND 58201
- SW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 16: Northern Con Agg Inc

The water right will be divided and reissued according to ownership.

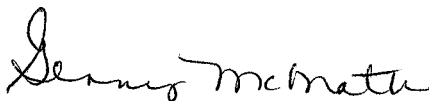
I discussed with Mr. Salman the status of irrigation on land that Codington County Properties and Northern Con Agg owned. The land owned by Codington County Properties is not being irrigated and will not be irrigated. This portion will be scheduled for cancellation consideration.

The land Northern Con Agg owns in the E $\frac{1}{2}$ Section 16 for the most part is not irrigated but the pivot in the SW $\frac{1}{4}$ still swings over and covers a very small portion of the SE $\frac{1}{4}$. They do not irrigate the remainder of the acreage. Send a "Notice of Transfer of Ownership" form to Northern Con Agg for the land in the E $\frac{1}{2}$ Section 16.

June 11, 2007: I called and spoke with Terry Endres who operates the irrigation system in the SW $\frac{1}{4}$ Section 16 for John Nordgaard. There are 131 acres licensed in that quarter. He thought the pivot irrigated about 5 acres in the SE $\frac{1}{4}$. He indicated he thought the pivot put out about 1000 gallons per minute.

Things to do:

- Send a "Notice of Transfer of Ownership" to Northern Con Agg for the land they own;
- Divide 5166-3 into 5166A-3, 5166B-3 and 5166C-3 to reflect separate ownership
5166A-3: John Nordgaard (SW $\frac{1}{4}$ Section 16, T118N, R52W)
5166B-3: Northern Con Agg, Inc (SW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 16, T118N, R52W)
5166C-3: Codington County Properties (S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 16, T118N, R52W)
- Schedule 5166C-3 for Codington County Properties for cancellation consideration



Genny McMath
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 12, 2007

5166-3
5166B-3

Brad Salman
Northern Con-Agg Inc
3231 Fernbrook Lane North
Plymouth MN 55447

Dear Mr. Salman:

I am writing in follow-up to our June 11th telephone conversation concerning a portion of Water Right No. 5166-3 held by CSS Company in Watertown. Based on the ownership changes, the water right will be divided as follows:

- 5166A-3: John Nordgaard (SW ¼ Section 16, T118N, R52W)
- 5166B-3: Northern Con-Agg, Inc (SW ¼ NE ¼ and W ½ SE ¼ Section 16, T118N, R52W)
- 5166C-3: Codington County Properties (S ½ NW ¼ Section 16, T118N, R52W)

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change for the portion of land owned by Northern Con-Agg, Inc. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

Once we receive the ownership change from you for 5166B-3, the original number will be divided as described above and licenses issued. The land to be listed under 5166C-3 for Codington County Properties will be scheduled for cancellation consideration. You will be sent a separate letter notifying you of the time, date and place of the hearing once it is scheduled.

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

Sincerely,

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

enclosure

RECEIVED

JUL - 2 2007

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 5166B-3

Date: 6/27/07

I/We request that portions of Water Right No. 5166-3

formerly owned by: CSS Company

be transferred to: (name & address) NORTHERN CON AGG, INC.
3231 FERNBROOK LANE N.
PLYMOUTH, MN 55447 Telephone No. 763-509-9344

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

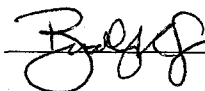
59 acres in the SW ¼ NE ¼, W ½ SE ¼ Section 16, T118N, R52W

I/We understand that the validity of Water Right No. 5166B-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We NORTHERN CON-AGG, INC., the new owner, certify that the above information is true and correct.

 FOR NORTHERN CON AGG, INC.
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 7/2, 20 07

RECEIVED OF Northern Con-Agg Inc 3231 Fernbrook In N Plymouth MN 55447

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use		
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>51668-3</u>	2	50
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)		
TOTAL	2	50

No.

03085

By

Harland Schulte

Chief Engineer

sg



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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www.state.sd.us/denr

AUG 01 2007

5166B-3

Brad Salman
Northern Con-Agg Inc
3231 Fernbrook Lane N
Plymouth MN 55447

Dear Mr. Salman:

Enclosed is your Water License No. 5166B-3 and your Receipt No. 03085 in the amount of \$2.50 which you paid for filing an ownership change with Water Right No. 5166-3.

Water Right No. 5166-3, originally held by CSS Company in Watertown, SD was divided and reissued to reflect separate ownership as follows:

- 5166A-3: John Nordgaard
- 5166B-3: Northern Con-Agg, Inc.
- 5166C-3: Codington County Properties % Northern Con-Agg, Inc.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 5166A-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA
REISSUED WATER LICENSE NO. 5166B-3
DIVISION OF NO. 5166-3 INTO NOS. 5166A-3, 5166B-3 & 5166C-3

(1) CSS Company was issued Water License No. 5166-3, September 27, 1991 for a water right to divert 3.11 cubic feet of water per second (cfs) from ground water (one well), Codington County, South Dakota for irrigation purposes. Water License No. 5166-3, with a priority date of March 2, 1988 was issued to the permit holder for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

Water Right No. 5166-3 authorizes irrigation of 220 acres in portions of Section 16, T118N, R52W. Land described under the water right has changed ownership. The water right is being divided and reissued to reflect separate ownership has follows:

- **5166A-3: John Nordgaard, 542 Terrace Dr., Grand Forks ND 58201** authorizing diversion of 1.87 cfs from one well located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16 to irrigate 131 acres in the SW $\frac{1}{4}$ Section 16, T118N, R52W;
- **5166B-3: Northern Con-Agg, Inc., 3231 Fernbrook Lane N, Plymouth, MN 55447** authorizing diversion of 0.84 cfs from one well located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16 to irrigate 59 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 16, T118N, R52W;
- **5166C-3: Codington County Properties % Northern Con-Agg, Inc., 3231 Fernbrook Lane N, Plymouth, MN 55447** authorizing diversion of 0.40 cfs from one well located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16 to irrigate 30 acres in the S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 16, T118N, R52W. Issuance of No. 5166C-3 will be withheld pending a determination by the Water Management Board on whether or not the water right has been abandoned and/or forfeited and subject to cancellation.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, Northern Con-Agg Inc., 3231 Fernbrook Lane N, Plymouth MN 55447 the holder and owner of Water Right No. 5166B-3 is issued a license, bearing a priority date of March 2, 1988 to appropriate 0.84 cubic feet of water per second from ground water (one well) to irrigate 59 acres.

The diversion point is located in 2,180 feet East and 1,780 feet North of the SW corner of Section 16, T118N, R52W (NE $\frac{1}{4}$ SW $\frac{1}{4}$).

The acres authorized for irrigation are as follows:

Section 16, T118N, R52W	
SW $\frac{1}{4}$ NE $\frac{1}{4}$	8 acres
NW $\frac{1}{4}$ SE $\frac{1}{4}$	31 acres
SW $\frac{1}{4}$ SE $\frac{1}{4}$	20 acres
Total	59 acres

continued

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 5166-3 including the following qualifications:

- If the well approved under this permit flows, the well shall be valved and the flow reduced to a minimum when not being used.
- The irrigation well approved under this permit will be located near domestic wells which may obtain water from the same aquifer. The well owner, under this permit, shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- This permit is approved subject to the irrigation water use questionnaire being submitted each year.

Garland Erbele

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

AUG 01 2007

date





5166B-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 22, 2010

NOTICE

TO: TERRY J ENDRES, OPERATOR, 17214 460TH AVE, WATERTOWN, SD 57201

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

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaires

Our records indicate that the 2009 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2120-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 4588-3A, 5174-3, 5376-3, 5379-3, 5166A-3 & 5166B-3 qualification:

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

The hearing will be held at **10:00 am, March 10, 2010** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 4588-3A, 5174-3, 5376-3, 5379-3, 5166A-3 & 5166B-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2120-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 5, 2010**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq/aspx>

cc: DON ENDRES, 919 CHRISTINE AVE, BROOKINGS SD 57006
JOHN NORDGAARD, 542 TERRACE DR, GRAND FORKS ND 58201
NORTHERN CON-AGG, 3231 FERNBROOK LN N, PLYMOUTH MN 55447

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.

5166B-3

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Track & Confirm

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3231 FERNBOOK LN N
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January 29, 2010

Terry J Endres
17214 460th Ave
Watertown SD 57201

RE: 2009 Irrigation Questionnaires for Water Right or Water Permit Nos. 2120-3, 4588-3A,
5174-3, 5376-3, 5379-3, 5166A-3 and 5166B-3

Dear Endres:

I am writing to acknowledge receipt of your 2009 irrigation questionnaires. You may disregard the January 22, 2010, "Notice" concerning reporting requirements for the above listed water permits or rights.

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

As requested by you and Greg Endres, next year's irrigation questionnaires will be sent out differently. The questionnaire for Water Right No. 4588-3A will be directed to your attention and the remaining forms will be directed to Greg.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

c: Greg Endres
Don Endres
John Nordgaard
Northern Con-Agg