

Considered: _____

WATER PERMIT NO. 5345-3 46

HAP No. same 875-3384

Name of Applicant Harold J. Downes

Post Office Address HCR 2 Box 26 Harrold, SD 57536

Amount of Water Claimed no add'l Total Acres no add'l

Source of Water Supply Missouri R.

Water to be used for irrigation County Hughes

About 26 miles S of Harrold

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F.C.C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received June 2, 1989 Fee \$50.00 Remarks Appl to

~~# 191162~~ 8-22-89 change loc. of div. pt. auth. by W.R. No. 1000-3

Corrected Application Received Sept 2, 1989 July 11, 1989 Period of Annual Use Apr 1 - Oct 31

WATER QUALITY APPROVAL RECEIVED Aug 8, 1989 APPROVED CONDITIONAL (Circle one)

WI-1 Description same as Application YES ☒ NO ☐ REMARKS _____

Diversion Point SW 1/4 SE 1/4 Section 22-T108N-R75W

Land to be Irrigated see attachment to
application

Well Log: Driller NA Licensed YES ☐ NO ☐

Depth of Well _____ REMARKS _____

Type of Map Aerial photo PREPARED BY James Meidinger Reviewed and the Number

assigned on August 11, 1989 By Susan Bowser

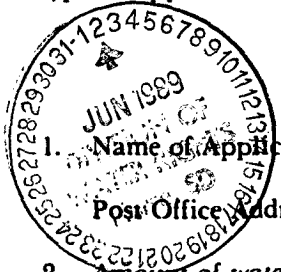
(See instructions)

No. 5345-3 Hydrologic Unit 10140101
Basin Missouri R.
Newspaper Pierre Capital Journal Box 878 57501

Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

Type of Application:

- ☐ New ☐ Vested Right ☐ Amend Permit No. 1000-3, 1032-3, 1657-3
4293-3 etc
☐ Change Acreage ☐ Change diversion point(s) ☒ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____



1. Name of Applicant HAROLD J. DOWNES Phone No. 875-3384
Post Office Address HCR-2 Box 26 HARROLD State SD Zip Code 57536
(Street, RR or Box) (City)

2. Amount of water claimed (c.f.s.) 9.53 Total acres irrigated _____ no add'l

3. Source of Water supply LAKE-SHARPE Missouri River

4. Location of point of diversion 300' E of Meridian & Sec 22 108-75 & Lake Sharpe shoreline
Mile 1027.8 - 1400 ft South & 380 ft East of middle of Sec 22-108-75
(SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22-T108N-R75W) County Hughes

5. Counties where water will be used Hughes

6. Annual period during which water is to be used June-September April 1 - October 31

7. 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.
<u>See existing permits</u>	
<u>see attachment for land</u>	
<u>covered by existing permit</u>	

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: ☒ Towline: _____ Center Pivot: _____ Gun: _____ Other: _____ (Specify) _____

9. Crops to be Irrigated: divers, including corn, beans

10. Give a description of proposed project. (Attach sheet if more space is needed)

Installation DWG & Diversion Pt. map on file with Corps of Engineers, Gen Permit # 76-10-00010 8/26/82. Original intake & pump from Permit # 1060-3 being moved about 1 1/2 miles to this location and output tied into interconnect pipeline serving to tie all fields together. This application adds a diversion point to those authorized by existing permits. There is an increase in the pumping rate but no increase in total volume pumped. Fields are flood irrigated. This application also drops
Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information. all but 25 irrigated acres. In Section 16-T108N-R75W. The remaining 25 acres are being transferred to the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23-T108N-R75W

STATE OF SOUTH DAKOTA)
County of Hughes ss

HAROLD DOWNES, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Harold Downes 6/30/89

Subscribed and sworn to before me this 30 day of June 1989

James E. Meedinger
Notary Public

SOUTH DAKOTA
WATER PERMIT No. 5345-3 FOR IRRIGATION

Date of first receipt of application June 2, 1989.

Date Soil/Water Compatibility Permit received August 22, 1989.

Date of return to applicant for corrections, amendments or changes June 7, 1989.

Date of receipt of corrected application July 11, 1989.

The Water Management Board approved Water Permit Application No. 5345-3 on December 7, 1989 for Harold J Downes, HCR 2, Box 26, Harrold SD 57536 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5345-3 adds a Missouri River diversion point, changes the location of 25 acres authorized by Permit No. 4949-3 and increase the diversion rate from the Missouri River. The additional diversion point is to be located in the SW1/4 SE1/4 section 22-T108N-R75W, the 25 acres is to be relocated from the SW1/4 section 16 to the NW1/4 SE1/4 section 23; all in T108N-R75W and the diversion rate is to be increased by 9.53 cubic feet of water per second (cfs) to 22.9 cfs from the Missouri River. The acreage in section 16-T108N-R75W other than the 25 acres to be relocated is no longer irrigated.
2. The amount of the appropriation may not exceed 2 acre feet per acre per year for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 - October 31.
3. The dates from which applicant may claim right are as follows:
 - a) August 22, 1989 for the increase in diversion rate (9.53 cfs).
 - b) March 22, 1983 for the relocated 25 acres.
 - c) No change in priority date as authorized by Permit/Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, and 4949-3 for irrigation of acreage specified on these permits/rights from the additional diversion point.
4. One-fifth of the construction is to be completed on or before June 7, 1992.
5. All construction is to be completed on or before December 7, 1994.
6. Water is to be put to beneficial use on or before December 7, 1998.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Approval of Permit No. 5345-3 limits annual volume of water to 1868 acre feet (2 feet per acre).
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: _____

Chief Engineer, Water Rights Division
Department of Water and Natural Resources

APR 6 1990

(date)

 **Department of
Water & Natural Resources**

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

June 7, 1989

Harold Downes
HCR 2, Box 26
Harrold, SD 57536

Dear Mr. Downes:

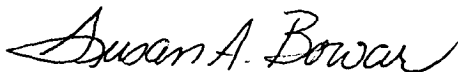
This is in response to the water permit application received from you on June 2, 1989. The application is not complete for the following reason(s):

- (1) The enclosed application form needs to be notarized.
- (2) Both the amount of water claimed and the number of acres irrigated needs to be indicated under question no. 2 on the enclosed application form. If no water or irrigated acres in addition to that authorized by your existing water permits is being requested, please indicate so.
- (3) The quarter-quarter section in which the diversion point is located needs to be listed under question no. 4 on the enclosed application form.
- (4) A map, showing both the location of the irrigated acres and the locations of the existing and proposed diversion points, needs to be submitted with the application. The map needs to be signed by a South Dakota Registered Professional Engineer, a South Dakota Licensed Land Surveyor, or by a government employee who normally prepares maps as part of their regularly assigned duties (ASCS or SCS — see enclosed instruction sheet).

The Water Management Board cannot consider a water permit application until it is complete and until an approved Soil/Water Compatibility Permit has been received from the Division of Conservation, Department of Agriculture. Please complete and notarize the enclosed application, and return it along the required map to begin to begin processing of your water permit application.

Feel free to contact me if you have any questions.

Sincerely,



Susan A. Bowar
Natural Resources Engineer
Water Rights Division
(605) 773-3352

enclosures



Conversation or File Documentation

NAME OF PERSON OR FILE: Herold DownesADDRESS: Herold COUNTY HughesDATE: June 9, 1989 TELEPHONE _____RE: letter of June 7, 1989 to Mr. Downes

COMMENTS:

Mr. Downes called today regarding the letter that was sent to him. I explained each required item to him. I sent him a copy of each of his Water Permits/Rights. He would also like to change the location of some of the irrigated acres. I told him we could more than likely do it on this same application to add a diversion point. He will be filling in both the amount of water claimed & the number of acres irrigated as "no additional".

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: Susan Bowser

Conversation or File Documentation

NAME OF PERSON OR FILE: Harold DownesADDRESS: HCR-2 Box 26 Harrold, SD COUNTY HughesDATE: August 3, 1989 TELEPHONE 875-3384

RE: _____

COMMENTS:

I called Mr. Downes today to find out which lands will be irrigated from his new diversion point location. He said the system is set up so that in emergency situations any or all of the lands covered by his 6 Water Rights / Permits could be covered. I told him I would send over a list of all his permitted acreages for S/W approval.

He also stated that the diversion point is in its new location, i.e., no time to construct is necessary.

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: Susan Bowler

Conversation or File Documentation

NAME OF PERSON OR FILE: Harold Downes

ADDRESS: _____ COUNTY _____

DATE: Sept 11, 1989 TELEPHONE _____RE: Reissuing of License No. 2105-3

COMMENTS:

Today I gave the required information to
Genny so she can re-issue Water License
No. 2105-3.

Specifically, the acreage is listed as:

Section 15, NW $\frac{1}{4}$ SW $\frac{1}{4}$ - - - - 40 acres

SW $\frac{1}{4}$ SW $\frac{1}{4}$ - - - - 38 "

Section 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$ - - - - 38 "

NE $\frac{1}{4}$ NE $\frac{1}{4}$ - - - - 40 "

Section 14, SW $\frac{1}{4}$ SW $\frac{1}{4}$ - - - - 16 "

all in T108N-R75W 172 ac total

In Section 22, the acreage should be described

as: NW $\frac{1}{4}$ NE $\frac{1}{4}$ - - - - 38 acres

NE $\frac{1}{4}$ NE $\frac{1}{4}$ - - - - 40 acres

I also sent the correction over to Jim Stukel
so he can correct the SW Permit.

Water Rights Division -DWNR
Conversation or File DocumentationNAME OF PERSON OR FILE: Harold DownesADDRESS: HCR 2, Box 26, Harrold, SD 57536COUNTY: HughesDATE: Sept. 13, 1989TELEPHONE: 875-3384RE: Amendments to Water Permit Application No. 5345-3

COMMENTS: Mr. Downes called on August 29 and 30 and spoke to Ron Duvall about his pending permit application. Mr. Downes stated that he had lost his lease for the land in Section 16-T108N-R75W and will no longer be irrigating it. He also brought to our attention an error in the legal description on Water Right No. 2105-3 (see attached file documentation regarding the re-issuance of Water License No. 2105-3). He said that he would like to transfer 25 of the acres authorized in Section 16 to the NW 1/4 SE 1/4 Section 23; all in T108N-R75W. He also stated that he is not 'moving' the pump site to a new location as indicated on his permit application, but, rather, 'adding' a new pump site. Mr. Downes informed us that his total pumping capacity is 10,300 gpm (22.9 cfs). This is approximately 9.53 cfs more than the 13.37 cfs collectively authorized by Mr. Downes' Water Permit/Rights (see letter dated August 29, 1989 from Mr. Downes). Mr. Downes flood irrigates and this increase in the diversion rate does not reflect an increase in the total volume appropriated. He will retain the same priority date. On August 29, 1989, Ron called the Pierre Capitol Journal to stop publication of the notice.

These corrections were made to his application. A copy of the revised legal description of the irrigated acreage has been forwarded to the Division of Conservation for their consideration. The Hughes County Equalization Office informed me that the land in Section 16-T108N-R75W is tribal land (i.e., no Water Permit/Right is required). Following the approval of the transfer of 25 acres from the SW 1/4 Section 16-T108N-R75W to the SE 1/4 Section 23-T108N-R75W, the remaining irrigated acreage in Section 16 is to be dropped from Water Permit No. 4949-3.

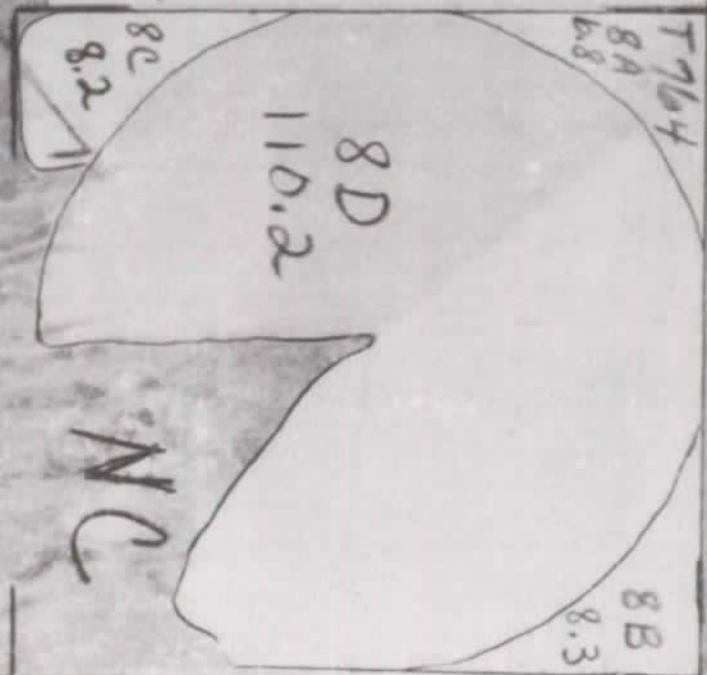
Susan A. Bowser
9/13/89

or other photo

5.13

T522

3
143.6



5
158.6

23

T521
25.0208

1400 FT
320 FT

1400 FT. SOUTH & 320 EAST FROM

Middle of SECTION 22-108-75

Appl. No. 5345-5 Donna Mulken, CED
Hughes/Smiley ASSO



NOT TO SCALE

5
158.6



NC

NC

24

108-75

23

1571
25.0



Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4396

WR#

OWNERS NAME: Harold J. Dosman

OWNERS ADDRESS: HCR 2, Box 26

Harrold, SD 57536

COUNTY LAND LOCATED IN: Hughes

PHONE: 605-875-3384

LEGAL DESCRIPTION

☐ Well

☒ Surface

1. LOCATION SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 22-T108N-R75W

Depth 925

Legal Description	Acres	Legal Description	Acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 22-T108N-R75W	36		
NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 22-T108N-R75W	40		
SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 22-T108N-R75W	30		
SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 22-T108N-R75W	40		

2. TYPE OF IRRIGATION: GRAVITY: ☒ TOWLINE: _____ CENTER PIVOT: _____ GUN: _____ OTHER: (Specify) _____

3. CROPS TO BE IRRIGATED: Diverse including corn, beans

WATER QUALITY:

4. WATER SAMPLE NUMBER: Missouri River

7. ADJUSTED (SAR): _____

5. SALINITY (EC X 10⁶): _____

8. PERCENT SODIUM: _____

6. SODIUM (SAR): _____

Requirements:



Peter D. Smith
Director, Division of Conservation

8/14/89
Date

☒ APPROVED
☐ DISAPPROVED
☐ WAIVER
☐ REQUIREMENTS

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

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4397

WR#

OWNERS NAME: Harold J. Downes OWNERS ADDRESS: HCR 2, Box 26
Harrold, SD 57536

COUNTY LAND LOCATED IN: Hughes PHONE: 605-875-3384

LEGAL DESCRIPTION:

1. LOCATION SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 21-T108N-R75W, SW $\frac{1}{4}$ SE $\frac{1}{4}$ 22-108-X ☐ Well ☒ Surface
Depth _____

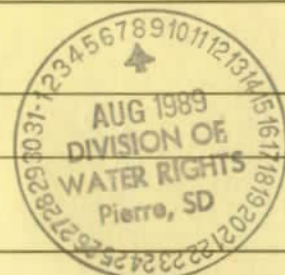
Legal Description	Acres	Legal Description	Acres
SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 16-T108N-R75W	40	NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 21-T108N-R75W	40
SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 16-T108N-R75W	35	NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 21-T108N-R75W	10
NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 16-T108N-R75W	30	SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 21-T108N-R75W	25
NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 16-T108N-R75W	40	NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 21-T108N-R75W	15

2. TYPE OF IRRIGATION: GRAVITY: ☒ TOWLINE: _____ CENTER PIVOT: _____ GUN: _____ OTHER: (Specify) _____

3. CROPS TO BE IRRIGATED: Diverse including corn, beans

WATER QUALITY:

4. WATER SAMPLE NUMBER: Missouri River 7. ADJUSTED (SAR): _____
5. SALINITY (EC X 10⁶): _____ 8. PERCENT SODIUM: _____
6. SODIUM (SAR): _____



Requirements:

The area mapped as Swanboy (SwB) shall be maintained in permanent vegetation, i.e. alfalfa and/or grass.

The maximum allowable limits of salt and sodium buildup in the profile at the root zone (upper 12 inches of the soil profile) at the beginning of the growing season apply/ They become applicable upon the issuing of a soil-water compatibility permit by the division or the commission.

Director, Division of Conservation

Date

☒ APPROVED ☒ REQUIREMENTS
☐ DISAPPROVED
☐ WAIVER

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

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4395

WR#

OWNERS NAME: Harold J. Downes OWNERS ADDRESS: HCR 2, Box 26

Harrold, SD 57536

COUNTY LAND LOCATED IN: Hughes PHONE: 605-875-3384

LEGAL DESCRIPTION:

☐ Well

☒ Surface

1. LOCATION SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 22-T108N-R75W

Depth _____

Legal Description	Acres	NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 22-T108N-R75W	Acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 23-T108N-R75W	39	SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14-T108N-R75W	14
NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 23-T108N-R75W	39	NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14-T108N-R75W	40
SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 23-T108N-R75W	12.5	SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14-T108N-R75W	39
SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 23-T108N-R75W	16.5	NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 14-T108N-R75W	40
NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24-T108N-R75W	39	SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 14-T108N-R75W	40
NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24-T108N-R75W	3.5	NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 15-T108N-R75W	40
SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24-T108N-R75W	16.5	SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 15-T108N-R75W	38
SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24-T108N-R75W	1.8	SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14-T108N-R75W	16
NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14-T108N-R75W	40	NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 22-T108N-R75W	38

2. TYPE OF IRRIGATION: GRAVITY: ☒ TOWLINE: _____ CENTER PIVOT: _____ GUN: _____ (Specify) _____

3. CROPS TO BE IRRIGATED: Diverse, including corn, beans

WATER QUALITY:

4. WATER SAMPLE NUMBER: Missouri River

7. ADJUSTED (SAR): _____

5. SALINITY (EC X 10⁶): _____

8. PERCENT SODIUM: _____

6. SODIUM (SAR): _____

Requirements:



Arthur R. Smith
Director, Division of Conservation

8/21/89
Date

☒ APPROVED
☐ DISAPPROVED
☐ WAIVER
_____ REQUIREMENTS

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

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, June 2, 19 89

RECEIVED OF Harold J. Dowaes, HCR 2 Box 26, Harrold, SD 57536

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

Fee for Application for Permit No. <u>5345-3</u> to Appropriate Water, to construct works and to put water to beneficial use	50	00
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		
Fee for Filing Extension Request		
Fee for Certified Copy of		
Fee for Print Copy of Map		
Fee for Certifying		
Fee for _____		
(Any Other Work Provided by Law)	Total	50 00

By

Chief Engineer

John Hatbb/mra

REPORT ON WATER PERMIT APPLICATION NO.5345-3

Harold Downes
August 22, 1989

Water Permit Application No. 5345-3 proposes to change the location of the diversion point on the Missouri River from NE 1/4 SE 1/4 Sec. 23 which is authorized by Water Right No. 1000-3, to the SW 1/4 SE 1/4 Sec.22; all in T108N-R75W. Water is to be used to irrigate 933.8 acres authorized by Water Permit /Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, and 4949-3. The irrigated acreage is located in the SW 1/4, W 1/2 SE 1/4 Sec. 14; W 1/2 SW 1/4 Sec. 15; SW 1/4 Sec. 16; N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4 Sec.21; NE 1/4, NW 1/4 NW 1/4 Sec. 22, NE 1/4 Sec.23, NW 1/4 Sec. 24; all in T108N-R75W. This application does not request any increase in diversion from the Missouri River or any additional acres to be irrigated.

CONCLUSIONS AND RECOMMENDATIONS:

1. The Missouri River is a viable source of water and unappropriated water is available for this appropriation.
2. Permit No. 5345-3 does not authorize any increase in the diversion from the Missouri River.
3. This appropriation will not cause adverse impacts to downstream water users.
4. Approval of Application No. 5345-3 is in the public interest and constitutes a beneficial use of the waters of the state.
5. This application should be approved with the irrigation questionnaire qualification.



KEN BUHLER
Natural Resources Engineer

Approved by:



JAMES WINTERTON, P.E.
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5345-3, Harold Downes

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 5345-3, Harold Downes, HCR 2, Box 26, Harrold SD.

The Chief Engineer is recommending APPROVAL of Application No. because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) in the public interest with the following qualification:

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

See the attached report for additional information.


JOHN HATCH, Chief Engineer
August 22, 1989



Department of Water & Natural Resources

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

August 25, 1989

Harold Downes
HCR 2, Box 26
Harrold SD 57536

Dear Mr. Downes:

Enclosed is the Report and the Recommendation of the Chief Engineer for your Water Permit Application No. 5345-3.

If you have any questions, please contact this office.

Sincerely,

KAREN SCHLAACK
Senior Secretary
605 773-3352

enclosures





Box 26
Harold, S.D. 57536
Aug 27, 1989

Mr Ron Duvall
Dept of Water & Natural Resources
523 E. Capitol Ave
Pierre S.D. 57501

Appn 5345-3

Dear Sir:

In reply to your letter of Aug 24, please correct the above application by deleting reference to Sec 16 108-75 as we have lost our lease on this land and will not be irrigating it. Also, the land description is not complete as to sec 22. Also, this application should reflect that ~~we~~ continue to use the old diversion point and several other diversion points as reflected in the various water rights we hold. Total installed pumping capacity now amounts to 10,300 gpm. Does this exceed the sum of water usage permitted under the old applications? If so, should this application be amended?

Sincerely
Harold Downes



LYNCH COMMUNICATION SYSTEMS INTERNATIONAL INC.

(Subsidiary of Lynch Communication Systems Inc. [Nev.])

204 EDISON WAY, RENO, NEVADA 89502 • TELEPHONE: (702) 786-4020 • CABLE: LYNCHCOMM RENO

PLEASE ADDRESS REPLY TO:

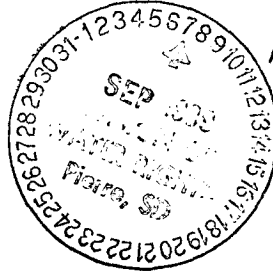
601 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE: (415) 397-1471
TELEX: 34421

SUBSIDIARIES OF LYNCH COMMUNICATION SYSTEMS INC.

Lynch Communication Systems International Inc., Reno, Nevada; Lynch Communication Systems Inc. (Nev.), Reno, Nevada; Transcom Electronics, Inc., Portsmouth, Rhode Island; Transcom Electronics Manufacturing Ltd., St. Jerome, Quebec; Telecommunication Engineering Corporation, Burlington, Mass.

Mr Ron Duwall
Dept of Water & Natural Resources
Pierre S.D. 57501
Dear Mr Duwall,



HCR 2 Box 54
Harold SD 57536
Sept 3, 1989

Further to our telephone conversation,
enclosed is an ASCS photo of the additional 25
acres of Corps of Engineers land we are migrating
in Sec 23 in lieu of the acreage we are losing
in Sec 16, as noted in my last letter.

Sincerely

Harold Daines

Revised Report on Water Permit Application No. 5345-3
Harold Downes
October 6, 1989

Application No. 5345-3 for Harold Downs as revised, proposes to add a diversion point to those authorized by existing permits. The proposed diversion point requests the appropriation of an additional 9.53 cubic feet per second (cfs) from the Missouri River. The proposed diversion would increase the amount of water being diverted from the 13.37 cfs authorized to 22.9 cfs. The water would be used to help irrigate the 933.8 acres authorized by permits 1000-3, 1032-3, 1657-3, 2105-3, 4293-3 and 4949-3. The acreage irrigated is located in the SW1/4, W1/2 SE1/4 Section 14; W1/2 SW1/4 Section 15; SW1/4 Section 16; N1/2 NE1/4, SE1/4 NE1/4, NE1/4 SE1/4 Section 21; NE1/4, N1/2 NW1/4 Section 22; NE1/4 Section 23; and NW1/4 Section 24; all in T108N, R75W.

The point of diversion is to be located in the SW1/4 SE1/4 of Section 22 in T108N, R75W. This application does not increase the amount of acreage irrigated. Flood type irrigation is being used, and if approved, this application will authorize an increase in the rate of diversion. The water right should be limited to a total volume of water of 2 acre feet per acre. The total volume of water authorized based on the acreage would be 1,868 acre feet (933.8 acres x 2 feet). The priority date for the additional diversion rate of 9.53 cfs would be the date the application was received, August 22, 1989.

The proposed rate of diversion for this application exceeds the limitation of 1 cfs per 70 acres; however General Rule 74:02:01:05 states that the board may approve additional amounts to make up for anticipated losses from evaporation, seepage and other delivery system losses. Approval of this permit with its increase in the rate of diversion will not adversely affect existing water rights on the Missouri River.

This application also proposes to transfer 25 acres authorized in Section 16 (Permit No. 4949-3) to the NW1/4 SE1/4 of Section 23; both in T108N, R75W. The remaining acreage in Section 16 would be dropped.

Conclusions and Recommendations

1. The Missouri River is known to have ample supplies of water available for irrigation. Unappropriated water is available for this application.
2. Existing rights on the Missouri River will not be adversely affected by the increase in authorized diversion rate.

3. Approval of Application No. 5345-3 is in the public interest and constitutes a beneficial use of the waters of the state.
4. The volume of water pumped must be limited by law to 2 acre feet per acre. Based on 933.8 acres, the maximum volume of water appropriated can not exceed 1,868 acre feet.
4. It is recommended that this application be approved with a priority date of August 22, 1989 for the additional 9.53 cfs, a volume limitation of 1,868 acre feet, and the irrigation questionnaire qualification.
5. The transfer of 25 acres, also being considered in this application is not a problem, and should be approved.

Jody Kazmierczak
Natural Resources Engineer I

Approved by:



James Winterton
Natural Resources Engineer IV

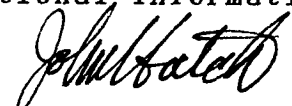
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5345-3, Harold Downes

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 5345-3, Harold Downes, HCR 2, Box 26, Harrold SD.

The Chief Engineer is recommending APPROVAL of Application No. 5345-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. Approval of Permit No. 5345-3 limits annual volume of water to 1868 acre feet (2 feet per acre).
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
October 23, 1989



Department of Water & Natural Resources

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

November 1, 1989

Daily Capitol Journal
Box 878
Pierre, SD 57501

ATTN: Legal Department

Enclosed is a Notice of Hearing on Application No. 5345-3 to be published twice. Please publish the first notice on or before November 8, 1989 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Harold J. Downes, HCR 2 Box 26, Harrold, SD 57536.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Ron Duvall
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper





Department of Water & Natural Resources

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

November 1, 1989

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

Harold J. Downes
HCR 2 Box 26
Harrold, SD 57536

Dear Mr. Downes:

Water Permit Application No. 5345-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Daily Capitol Journal printed at Pierre SD. For your information, a copy of the notice is enclosed. Copies of the report and the Chief Engineer's recommendation are also enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Intent to Appropriate Water and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures



ion to Newspaper - Publish first Notice on or before November 8, 1989 with publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5345-3 to Add a Diversion Point,
Transfer Acreage, and Increase Diversion Rate

Notice is given that Harold Downes, HCR 2 Box 26, Harrold, SD 57536 has filed an application for a water permit to add a diversion point on the Missouri River located in the SW1/4 SE1/4 Section 22-T108N-R75W, to change the location of 25 acres authorized for irrigation by Water Permit No. 4949-3 from the SW1/4 Section 16 to the NW1/4 SE1/4 Section 23; all in T108N-R75W, and to increase the rate of diversion from the Missouri River. Water Permit/Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, and 4949-3 collectively appropriate 13.37 cubic feet of water per second (cfs) from the Missouri River to irrigate 933.8 acres located in the SW1/4, W1/2 SE1/4 Section 14; W1/2 SW1/4 Section 15; SW1/4 Section 16; N1/2 NE1/4, SE1/4 NE1/4, NE1/4 SE1/4 Section 21; NE1/4, N1/2 NW1/4 Section 22; NE1/4 Section 23; NW1/4 Section 24; all in T108N-R75W. This application requests an increase (9.53 cfs) in the rate of diversion from the Missouri River to 22.9 cfs.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5345-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. This application will be considered by the Water Management Board in Room 216, Joe Foss Building, 523 E. Capitol, Pierre, SD on December 6, 1989 at 10:00 am. 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 24, 1989. 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. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

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. 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 24, 1989.

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 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Hughes) ss.

I, Peggy Warner
certify that the attached printed Notice was taken
from the Capital 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 Pierre

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

November 8, 1989
November 15, 1989

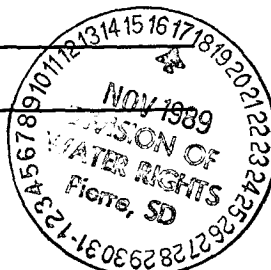
Peggy Warner
(Signature)
Legal Ad Representative
(Title)
November 16, 1989
(Date Signed)

No. 5008 2tdly 11/8, 11/15
NOTICE OF HEARING on
Application No. 5345-3 to Add
a Diversion Point,
Transfer Acreage, and
Increase Diversion Rate

Notice is given that Harold
Downes, HCR 2 Box 26, Harrold,
SD 57536 has filed an application
for a water permit to add a diver-
sion point on the Missouri River lo-
cated in the SW1/4 SE1/4 Section
22-T108N-R75W, to change the lo-
cation of 25 acres authorized for ir-
rigation by Water Permit No. 4949-
3 from the SW1/4 Section 16 to the
NW1/4 SE1/4 Section 23; all in
T108N-R75W, and to increase the
rate of diversion from the Missouri
River. Water Permit/Right Nos.
1000-3, 1032-3, 1657-3, 2105-3,
4293-3, and 4949-3 collectively ap-
propriate 13.37 cubic feet of water
per second (cfs) from the Missouri
River to irrigate 933.8 acres located
in the SW1/4, W1/2 SE1/4 Section
14; W1/2 SW1/4 Section 15; SW1/4
Section 16; N1/2 NE1/4, SE1/4 NE1/
4, NE1/4 SE1/4 Section 21; NE1/4,
N1/2 NW1/4 Section 22; NE1/4 Sec-
tion 23; NW1/4 Section 24; all in
T108N-R75W. This application re-
quests an increase (9.53 cfs) in the
rate of diversion from the Missouri
River to 22.9 cfs.

Pursuant to SDCL 46-2A-2, the
Chief Engineer of the Water Rights
Division recommends APPROVAL

Cost of Printing: _____
117 lines @ .44 =
\$ 51.48



of Application No. 5345-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. This application will be considered by the Water Management Board in Room 216, J. Foss Building, 523 E. Capitol, Pierre, SD on December 6, 1989 at 10:00 am. 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) deny 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 24, 1989. 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. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

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. 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 24, 1989.

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 Boards Rules ARSD 74:02:01:01 thru 74:02:01:15.



Department of Water & Natural Resources

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

APR 6 1990

Harold Downes
HCR 2 Box 26
Harrold SD 57536

Dear Mr. Downes:

Enclosed is Water Permit No. 5345-3 as approved by the Water Management Board authorizing you to construct your water diversion system and put the water to beneficial use, not exceeding the limits as specified in the Water Permit.

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 the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch".

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

enclosures

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.

NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 6-1-90TO: Water Rights Division, DWNR
Joe Foss Building
Pierre SD 57501-3181FROM: HAROLD J. DOWNES HCR 2 Box 26 HARROLD, S.D. 5836
name address city

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5345-3.

Water Permit No. 5345-3 states that the diversion system is to be constructed by 12-7-94, and that the water it put to beneficial use by 12-7-98.

The diversion system was completed on 8-1-89.
Applying the water to beneficial use was completed on 8-2-89.

You may schedule an inspection so that the Water License may be issued.

Harold J. Downes
signature





January 16, 2002

NOTICE

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

TO: HAROLD J DOWNES, 1301 SHOREBIRD LANE, CARLSBAD, CA 92009
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaires

Our records indicate that the 2001 Irrigation Questionnaires have not been submitted for Permit Nos. 4949-3 & 5345-3, 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3. The request for the Questionnaires was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 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) 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3 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) 4949-3 & 5345-3 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 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 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) 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3 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 questionnaires are received in this office on/or before March 8, 2002, 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 (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.

5345-3

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

HAROLD J DOWNES
1301 SHOREBIRD LANE
CARLSBAD CA 92009

COMPLETE THIS SECTION ON DELIVERYA. Received by (Please Print Clearly) HAROLD DOWNES B. Date of Delivery 1-25-02C. Signature X Harold Downes ☐ Agent ☐ AddresseeD. Is delivery address different from item 1? ☒ Yes ☐ No
If YES, enter delivery address below

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ Signature Required

4. Restricted Delivery? (Extra Fee) ☐ Yes2. Article 7001 2510 0004 4797 5774

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2002

Harold J Downes
1301 Shorebird Lane
Carlsbad, CA 92009

RE: Water Permit or Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3

Dear Mr. Downes:

I am writing to acknowledge receipt of your 2001 irrigation questionnaires. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Permit or Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3.

I completed questionnaires for you based on our January 23rd telephone conversation. The forms I completed reflect that you did not irrigate in 2001. The systems were turned on briefly at the end of the season to determine if they worked properly.

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,

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

Garland Erbele, Chief Engineer Water Rights Program
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol.
Pierre, South Dakota 57501-3182

RECEIVED

OCT 24 2003

WATER RIGHTS
PROGRAM

Dear Sir:

Since we first started irrigating on the Joe Creek Terrace nearly 50 years ago, before Lake Sharpe was formed, we have seen many changes. We have always found the personnel in your department most helpful and cooperative. Relying on the precedents thus set, we are submitting herewith our water right s reports along with notes accurately reporting the facts as we know them. This year catches us in a state of flux or change in that we have found it no longer economically desireable to pursue further the flood and gated pipe way of distributing water on our crops. While the pivot systems are somewhat more capital intensive, they offer the advantages of less water use, more efficient distribution, less labor intensive, less erosion, and less pollution. We took the first steps in switching over by replacing all the diesel operated pump stations with electric systems in 1997 admittedly with more than a little pressure from the Corps of Engineers.

Accordingly, we are progressively changing to pivot systems. We installed our first pivot this year and hope to have four more installed by the end of this year or at least in time for the 2004 crop season. By the 2005 season we hope to have completed the pivotization of all our irrigable holdings on the Joe Creek Terrace. So much for the big picture.

Several of the permits obviously will need amendment. We would like to wait until we have finished the current redevelopment before making those changes. However we need the advice of your department on this point. Would you please ask whoever is charged with the responsibility for reading these reports to cast one eye on this letter and the notes included herewith to better understand what we are trying to do?

We expect to be at Joe Creek from October 25-30. The farm phone is 875-3384 and my cellphone is 760-419-8951.

Sincerely,



Harold and Mary Ann Downes

1301 Shorebird Lane
Carlsbad, CA 92009
October 21, 2003

Note to # 5345-3: If this is the 25- acre strip adjacent Lake Sharpe, we lost the lease and don't believe we will recover it under current Corps of Engineers policies. Accordingly this permit may be a candidate for revision or cancellation. It was represented to us by the Corps at the time of non-renewal of our lease that the land was to be used as a wild life preserve. However, it has been farmed and crop has been taken from it in the form of hay in recent years in apparent contradiction of the use used as a basis for non-renewal of our long standing lease arrangement. If the Corps were to change its policies we would want to lease it again and make use of this permit.

If, on the other hand, this pertains to land on Joe Creek Terrace itself, we are currently irrigating it by gravity and gated pipe and are currently in the planning stages of installing additional center pivots on Secs 23 and 24 to replace the gated pipe system which has been employed since the date of permit #1000-3. We hope to have the new systems operational for the 2004 season.

Note to 4949-3: We are currently lessees of the land in Sec 21 but do not currently hold the lease in Sec 16. Accordingly, this permit should be amended to eliminate reference to the land in Sec 16. Also, we are in planning stages of installing a center pivot to replace the gated pipe system which we have always used in Sec 21. When this comes to pass, we would want to change the diversion point shown in this permit to that employed in #2105 for the land in the NW quarter of 22 and the NW quarter of 15 108-75 since the use of center pivots requires less water more efficiently distributed with less erosion than the flood systems. This change is tentatively foreseen for crop year 2005. We would like to withhold amending this permit until some of the things we are planning become fait accompli so as to incorporate all the changes with a single amendment or updating.



5345-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 20, 2005

NOTICE

TO: HAROLD J DOWNES, 1301 SHOREBIRD LANE, CARLSBAD, CA 92009

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

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaires

Our records indicate that the 2004 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 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) 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3 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) 4949-3 & 5345-3 qualification:

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

The hearing will be held at 8:30 am, March 2, 2005 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3 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 questionnaires are received in this office on/or before February 25, 2005, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (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.



5345-3

Track & Confirm

Current Status

You entered 2301 0370 0000 7541 4814

Your item was delivered at 1:29 pm on January 26, 2005 in CARLSBAD, CA 92013. The item was signed for by H DOWNES.

[Shipment Details >](#)

Track & Confirm

Enter label number:

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Notification Options

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HAROLD J DOWNES
1301 SHOREBIRD LANE
CARLSBAD CA 92009

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5345-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 22, 2005

Harold J Downes
1301 Shorebird Lane
Carlsbad CA 92009

RE: Water Permit/Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, 4949-3 and 5345-3

Dear Mr. Downes:

I am writing to acknowledge receipt of your 2004 irrigation questionnaires. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Permit/Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, 4949-3 and 5345-3.

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

If you have any questions, please contact me.

Sincerely,

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

1000-3

1032-3

1657-3

2105-3

4293-3

4949-3

5345-3

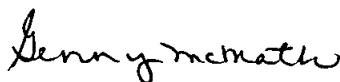
WATER RIGHTS PROGRAM -- FILE DOCUMENTATION**NAME:** Albert Hattum, 21862 West Bend Rd, Harrold SD**DATE:** September 25, 2006**TELEPHONE:** 605 875-3248**RE:** irrigation questionnaires for former Harold Downes land**COMMENTS:**

Mr. Hattum stopped by the office to complete the 2005 irrigation questionnaires for Water Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3 and Water Permit Nos. 4949-3 and 5345-3. He farmed the land for the "Downes". Harold Downes had originally submitted the forms in November, 2005. The information contained on the forms did not appear to be correct and Mr. Hattum was contacted to review the data and make any necessary changes.

Since the updated irrigation questionnaire information for 2005 was received so late, the information did not become part of the permanent record for 2005. The completed questionnaires will still be scanned however the information will not be contained in the yearly report.

September 26, 2006: John Downes (son) and Michele Downes (daughter) to Mary Ann Downes stopped by the office to submit the "Notice of Transfer of Ownership" changes needed to transfer all Harold Downes' water rights to Mary Ann (Harold's wife). Michele Downes requested that the annual irrigation questionnaires be sent directly to her and she would work with Mr. Hattum to get them completed and submitted back to the office. Send the forms to her at:

Michele Downes 1682 NW Hopper St Roseburg OR 97470	phone: 541 464-8902 cell: 760 417-5711 work: 541 440-1000
--	---



Genny McMath
Environmental Scientist

John C. Downes
Senior Claims Counsel
Surety & Financial Claims



Zurich North America
P.O. Box 17097
Baltimore, MD 21297-1097
Toll Free (800) 670-7077 Ext. 1
Toll Free Fax (800) 329-6112
john.downes@zurichna.com

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 26, 20 06

RECEIVED OF John Downes, 723 Bay Front Ln, Oak Harbor WA 98277

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>5345-3</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.

82598

By

Darland Ebele

Chief Engineer

gm

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 5345-3

Date: 9/12/06

I/We request that Water Permit No. 5345-3

formerly owned by: Harold J Downes

be transferred to: (name & address) MARY ANN DOWNES
1301 Shorebird LN
CARLSBAD, CA 92011 Telephone No. (760) 602-8437

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

25.00 acres in the NW ¼ SE ¼ Section 23, T108N, R75W

I/We understand that the validity of Water Permit No. 5345-3 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 MARY ANN DOWNES, the new owner, certify that the above information is true and correct.

Mary Ann Downes
(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.

RECEIVED
SEP 26 2006
WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 27, 2006

Mary Ann Downes
1301 Shorebird Ln
Carlsbad CA 92011

RE: Water Right or Permit Nos. 1000-3, 1032-3, 1647-3, 2105-3, 4293-3, 4949-3, 5345-3

Dear Mrs. Downes:

On September 26th, John and Michele Downes stopped by the office with the transfer forms you signed for changing ownership on Water Right Nos. 1000-3, 1032-3, 1647-3, 2105-3, 4293-3 and Water Permit Nos. 4949-3 and 5345-3. The transfers have been completed. The water rights and permits formerly listed in the name of Harold Downes are now listed in your name.

The receipts for the filing fees are being forwarded to John Downes by copy of this letter.

During a review of the water rights, we found the original water license for No. 2105-3 contained an error in the legal description. The error is being corrected and a new copy of the water license will be forwarded to you as soon as it is issued and signed. Also, it came to our attention that the irrigation systems described under Water Right Nos. 1000-3, 1032-3 and 1647-3 were operated interchangeably from the same diversion points. For ease of reporting information on the annual irrigation questionnaires, the water licenses are being combined into one. Nothing is lost during this process and you will retain the original priority dates. A copy of the final license will also be sent to you under separate cover once it is issued and signed by the Chief Engineer.

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

c: John Downes



5345-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 23, 2009

NOTICE

TO: JOHN DOWNES, MGR, 723 DAY FRONT, OAK HARBOR, WA 98277
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaires

Our records indicate that the 2008 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 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) 1657-3, 2105-3 & 4293-3 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) 4949-3 & 5345-3 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 11, 2009** 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) 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1657-3, 2105-3 & 4293-3 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 6, 2009**, 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. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V7-IQ.pdf>

c: MARY ANN DOWNES, 1301 SHOREBIRD LN, CARLSBAD CA 92011

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.

5345-3

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Your item was delivered at 2:29 PM on January 26, 2009 in OAK HARBOR, WA 98277. The item was signed for by L DOWNES.

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SIGNATURE CONFIRMATION NUMBER:
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JOHN DOWNES, MGR
723 DAY FRONT
OAK HARBOR WA 98277

Waiver of Signature ☐ YES ☐ NO

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PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 12, 2009

John Downes, Mgr
723 Day Front
Oak Harbor WA 98277

RE: Water Right or Permit Nos. 1657-3, 2105-3, 4293-3 4949-3 and 5345-3

Dear Mr. Downes:

On March 11th, the Water Management Board ordered Water Permit Nos. 4949-3 and 5345-3 be suspended if the 2008 irrigation questionnaires were not received prior to April 11, 2009.

The questionnaire information for your water permits and rights was received on March 11th. Since the irrigation questionnaires are on file, no violations have occurred and no suspensions will take place. You are hereby authorized to irrigate during the 2009 irrigation season.

The Board also moved to amend Water Right Nos. 1657-3, 2105-3 and 4293-3 to include the following qualification:

- **Water Right Nos. 1657-3, 2105-3 and 4293-3 are approved subject to the Irrigation Water Use Questionnaire being submitted each year.**

The action to amend Water Right Nos. 1657-3, 2105-3 and 4293-3 became effective immediately. The amendment means that future violations for failure to return the annual irrigation questionnaire may result in the Water Management Board suspending the water rights.

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

c: Albert Hattum, 21862 W Bend Rd, Harrold SD 57536



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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January 22, 2010

NOTICE

TO: JOHN DOWNES, MGR, 723 DAY FRONT, OAK HARBOR, WA 98277

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

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaire(s)

Our records indicate that the 2009 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3. The request for the Questionnaire was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

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

c: MARY ANN DOWNES, 1301 SHOREBIRD LN, CARLSBAD CA 92011

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.



**DEPARTMENT of ENVIRONMENT
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PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 3, 2010

John Downes, Mgr
723 Day Front
Oak Harbor WA 98277

RE: Water Right Nos. 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3

Dear Mr. Downes:

I am writing to acknowledge receipt of your 2009 irrigation questionnaires. You may disregard the January 22, 2010, "Notice" concerning reporting requirements for Water Right Nos. 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3. Mr. Hattum delivered the information to our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

As we discussed through email communication, future irrigation questionnaires will be directed to Mr. Hattum for completion. By copy of this letter, I am sending him a map showing the areas covered for irrigation. This should make completion of the forms easier.

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: Albert Hattum
Mary Ann Downes



5345-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 15, 2016

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaires

Our records indicate your 2015 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 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) 1994-3 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 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 before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed 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: <http://denr.sd.gov/iq.aspx>

c: JOHN C DOWNES, PO BOX 968037, SCHAUMBURG IL 60196

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.



5345-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

January 22, 2016

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

Dear Mr. Hattum:

I am writing to acknowledge receipt of your 2015 irrigation questionnaires for Water Permit or Right Nos. 1657-3, 1994-3, 2105-3, 4293-3, 4949-3 & 5345-3.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for the above listed water permits and water rights. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

c: John C Downes, PO Box 968037, Schaumburg IL 60196



5345-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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January 20, 2017

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program
SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaires

Our records indicate your 2016 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 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) 1994-3 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 am (Central Time)** 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 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 questionnaires are received in this office before the **March 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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: <http://denr.sd.gov/iq.aspx>

c: JOHN C DOWNES, PO BOX 968037, SCHAUMBURG IL 60196

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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 1, 2017

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

RE: Water Permit/Right Nos. 1657-3, 1994-3, 2105-3, 4293-3, 4949-3 and 5345-3

Dear Mr. Hattum:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Permit/Right Nos. 1657-3, 1994-3, 2105-3, 4293-3, 4949-3 and 5345-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Please keep in mind, these forms are due annually on December 1st, not the end of January.
If you have any questions, please contact me.

Sincerely,

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

c: John C Downes



5345-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2018

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaires

Our records indicate your 2017 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 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) 1994-3 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) 1657-3, 2105-3, 4293-3 & 5345-3 qualification:

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

The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** 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) 1657-3, 2105-3, 4293-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

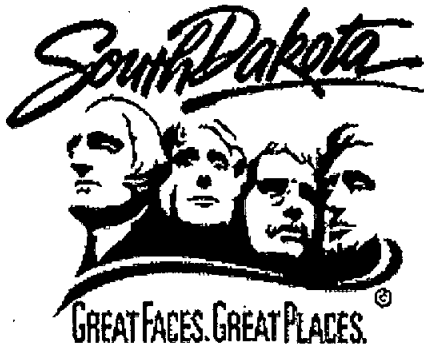
The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by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

If the questionnaires are received in this office before the **March 7, 2018** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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: <http://denr.sd.gov/iq.aspx>

c: JOHN C DOWNES, 723 BAY FRONT LN, OAK HARBOR WA 98277

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.

5345-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

February 5, 2018

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

RE: Water Permit/Right Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3

Dear Mr. Hattum:

I am writing to acknowledge receipt of your 2017 irrigation questionnaires.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water or Permit Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

c: John C Downes



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 25, 2019

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaires

Our records indicate your 2018 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 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) 1994-3 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) 1657-3, 2105-3, 4293-3 & 5345-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2019 at 10:30 am (Central Time)** 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:

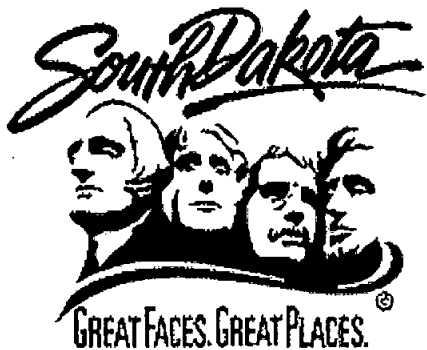
1. Suspend or cancel Permit No(s) 1657-3, 2105-3, 4293-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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 questionnaires are received in this office before the **March 6, 2019** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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: <http://denr.sd.gov/iq.aspx>

c: JOHN C DOWNES, 723 BAY FRONT LN, OAK HARBOR WA 98277

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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

February 19, 2019

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

RE: Water Permit/Right Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3

Dear Mr. Hattum:

I am writing to acknowledge receipt of your 2018 irrigation questionnaires.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Permit or Right Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

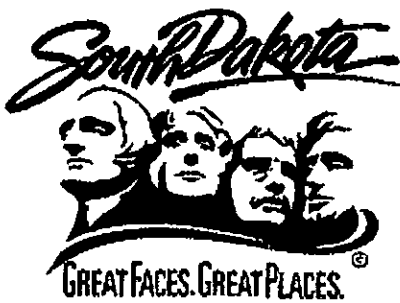
If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Genny McMath".

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

c: John Downes, 1301 Shorebird Ln., Carlsbad, CA 92011



5345-3
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 23, 2020

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaires

Our records indicate your 2019 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 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) 1994-3 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) 1657-3, 2105-3, 4293-3 & 5345-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** 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) 1657-3, 2105-3, 4293-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 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 questionnaires are received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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> using this password: IPRIJR**

c: JOHN C DOWNES, 723 BAY FRONT LN, OAK HARBOR WA 98277

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.

5345-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

February 11, 2020

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

RE: Irrigation questionnaires for Water Right/Permit Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3

Dear Mr. Hattum:

I am writing regarding the 2019 irrigation questionnaires. I obtained the necessary information from Mr. Downes and completed forms for our files.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Right or Permit Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3.

With receipt of the information, everything for 2019 is up to date. If you have any questions, please contact me.

Sincerely,

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

c: John Downes

5345-3

RECEIVED

JUN 23 2020

WATER RIGHTS
PROGRAM

MAY ADAM

— Since 1881 —

WWW.MAYADAM.NET

June 22, 202

ROBERT B. ANDERSON
TIMOTHY M. ENGEL
MICHAEL F. SHAW
BRETT KOENECKE
JUSTIN L. BELL
DOUGLAS A. ABRAHAM
TERRA M. FISHER
LAURA C. ROWE

WARREN W. MAY 1920-2018
THOMAS C. ADAM 1935-2019
BRENT A. WILBUR 1949-2006

TELEPHONE
605 224-8803
FAX
605 224-6289

E-MAIL
daa@mavadam.net

PMB 2020
DENR – Water Rights Program
523 E. Capitol Avenue
Pierre, South Dakota 57501

RE: JOHN DALY FILE
Our File: 0016/14152

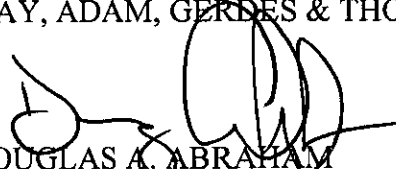
Dear Sir or Madam:

Please find enclosed with this correspondence seven Notices of Transfer of Ownership concerning a number of parcels. If you have questions or concerns regarding the enclosed information, please let me know. I have included a corresponding check in the amount of \$350 for the \$50 fee per transfer as required by SDCL 46-2-13. If you need anything further in relation to this matter, please let me know.

Best regards.

Very truly yours,

MAY, ADAM, GERDES & THOMPSON LLP



DOUGLAS A. ABRAHAM

DAA:mw
Enclosures
cc: John Daly

MAY, ADAM, GERDES & THOMPSON LLP
503 SOUTH PIERRE STREET • P.O. BOX 160
PIERRE, SOUTH DAKOTA 57501-0160

RECEIVED

JUN 23 2020

WATER RIGHTS
PROGRAM

PAID

JUN 23 2020

Ck# 38060

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 5345-3

Date: _____

I/We request that Water Permit No. 5345-3

formerly owned by: Mary Ann Downes

be transferred to: (name & address) JOHN H DALY, 34662 236TH ST, PUKWANA SD 57370

Telephone No. 605 680-1354

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

No. 5345-3 added a diversion point located in the SW ¼ SE ¼ Section 22, T108N, R75W; relocation
of 25 acres - NW ¼ SE ¼ Section 23, T108N, R75W

I/We understand that the validity of Water Permit No. 5345-3 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 Fifty Dollars (\$50.00) 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 John Daly, the new owner, certify that the above information is true and correct.


(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.

5345-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Environment and Natural Resources

Date June 23, 2020RECEIVED OF May Adam Gerdes & Thompson LLP PO Box 160 Pierre SD 57201-0160

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>5345-3</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$50.00

By Eric Gronlund
Chief Engineer

vm



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

July 1, 2020

Douglas A Abraham
MAY, ADAM, GERDES & THOMPSON LLP
PO Box 160
Pierre SD 57501 0160

RE: John Daly transfers

Dear Mr. Abraham:

The seven transfer forms and filing fees you submitted on behalf of John Daly were received and four were processed. Water Right Nos. 4293-3, 2105-3, 1657-3 and Permit No. 5345-3, formerly held by Harold and/or Mary Ann Downes are now listed under John H Daly.

As we discussed on the phone, the transfers filed for Nos. 1000-3, 4949-3 and 4393-3 are not needed for the following reasons:

- **1000-3** Those acres were incorporated into Water License No. 1657-3 upon licensing, so everything irrigated is within 1657-3 (filing an ownership change for 1657-3 caught all of the acreage under both #'s)
- **4949-3**: SW ¼ Section 16 and E ½ Section 21, T108N, R75W (this one according to the 2017 inspection looks like it can be cancelled) We did not receive word back from the Tribe on any new lease.
- **4393-3** (held by Lyle Wagner) is for land in Union County (SE ¼ Sec 9, T92N, R50W).

The receipts amounting to \$200 for the transfers that were processed are enclosed. The remaining \$150 submitted for Nos. 1000-3, 4949-3 and 4393-3 will be refunded to you. The refund will be processed and sent to you within the next two weeks.

If you have any questions, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
genny.mcmath@state.sd.us

c: John Daly, 34662 236th St, Pukwana SD 57370