

Considered: _____

WATER PERMIT NO. 5403-3

HAP No. _____

Name of Applicant Eldon Eighmy

Post Office Address P.O. Box 292 Bruce SD 57220

Amount of Water Claimed 0.2 cfs Total Acres 15.75

Source of Water Supply groundwater

Water to be used for irrigation County Brookings

About _____ miles _____ of Bruce

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received 2/12/90 Fee \$150.00 Remarks _____

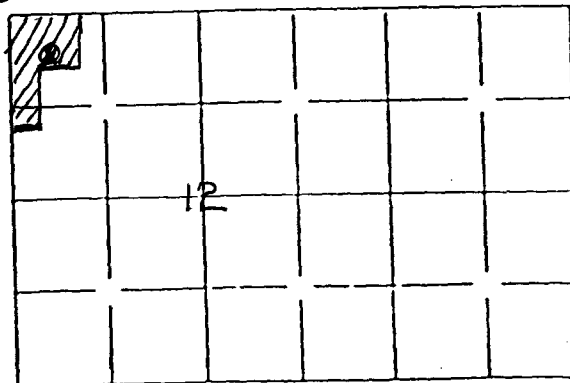
Corrected Application Received _____ Period of Annual Use _____

WATER QUALITY APPROVAL RECEIVED _____ APPROVED/CONDITIONAL (Circle one)

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

Diversion Point Outlot "P" of the city of Bruce
(W $\frac{1}{2}$ NE $\frac{1}{4}$ Sect 12-T111N R51W)

Land to be Irrigated Outlot "P" of city of Bruce
(W $\frac{1}{2}$ NE $\frac{1}{4}$ Sect 12-T111N R51W)



Well Log: Driller Lacey Licensed YES X NO _____

Depth of Well 22 REMARKS _____

Type of Map Aerial PREPARED BY Doris Schumacher Reviewed and the Number

assigned on 3/16/90 By Eric Hunsford

Location for irrigation (type or point)
South Dakota

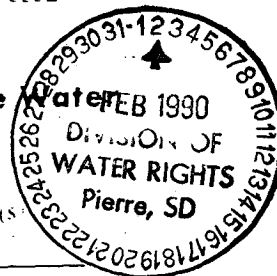
Mail to: Water Rights Div.
525 E. Capitol
Pierre, SD 57501
605/773-3332

(see instructions)

No. 5403-3 Hydrologic Unit 10170202
Basin Big Sioux River
Newspaper Brookings Daily Register Box 177
57006

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

Type of Application: ☒ New ☐ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____



- Name of Applicant Eldon V. Eighmy Phone No. 627-5604
Post Office Address P. O. Box 292 Bruce, State SD 57220
(Street, RR or Box) (City) Zip Code
- Amount of water claimed (c.f.s.) 0.2 c.f.s. Total acres irrigated 15.75
- Source of Water supply Well
- Location of point of diversion Outlot 'P' Except lot 1, road and platted area, to the
City of Bruce, Brookings Co., SD in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of 10-111N-51W, Brookings
County, South Dakota W $\frac{1}{2}$ 12 County Brookings
- Counties where water will be used Brookings
- Annual period during which water is to be used May through September 30
- 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.
OL "p" to the City of W $\frac{1}{2}$	
Bruce in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of	
10-111N-51W, Brookings Co.	15.75
12	

Land Description	No. Acres Irr.

Attach sheet if more space is needed

- Type of Irrigation: Gravity: _____ Towline: _____ Center Pivot: _____ Gun: X (Specify) _____ Other: _____
- Crops to be Irrigated: Alfalfa and Oats
- Give a description of proposed project. (Attach sheet if more space is needed)

I would like to water the 15.75 acres of hay and oats that I raise from an 8" well using a submersible pump and a small gun unit.

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.

STATE OF SOUTH DAKOTA)
County of Brookings)^{ss}

I, Eldon Eighmy, 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 Eldon V. Eighmy

Subscribed and sworn to before me this 1st day of February 19 90

Stan [Signature]
Notary Public

My Commission Expires 6-18-92

**SOUTH DAKOTA
WATER PERMIT No. 5403-3 FOR IRRIGATION**

Date of first receipt of application February 2, 1990.
Date Soil/Water Compatibility Permit received March 26, 1990.

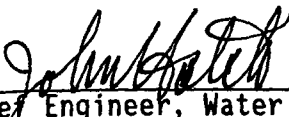
The Water Management Board approved Water Permit Application No. 5403-3 on May 24, 1990 for Eldon V. Eighmy, P.O. Box 292, Bruce, SD 57220 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5403-3 appropriates 0.2 cubic feet of water per second from one well (Big Sioux Brookings Aquifer) 22 feet deep to irrigate 15.75 acres. The point of diversion is located in the NW1/4 NE1/4 Section 12 T111N-R51W. The land to be irrigated is located in the W1/2 NE1/4 Section 12 T111N-R51W (Outlot 'P' except Lot 1, City of Bruce, SD).
2. The amount of the appropriation may not exceed 2 acre feet annually 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: May 1 - September 30.
3. The date from which applicant may claim right is February 2, 1990.
4. One-fifth of the construction is to be completed on or before November 24, 1992.
5. All construction is to be completed on or before May 24, 1995.
6. Water is to be put to beneficial use on or before May 24, 1999.
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. The well authorized pursuant to this permit shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04.
2. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. 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

SEP 12 1990
(date)

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 20 inches Depth 22 feet
- b) Casing Type Steel Diameter 8 inches Thickness $\frac{1}{2}$ inch
- c) Screen Type slotted plastic Diameter 8 inches Thickness $\frac{1}{2}$ inch +
- d) Gravel Pack Thickness 6 inches Length of Gravel Pack 10 feet
- e) Depth to Top of Water Bearing Material 8 feet
- f) Depth to Water (ground surface to water level) 8 feet
- g) Distance to nearest existing domestic well:
- On applicants property None On property owned by others 160 rods

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
If Pipe, diameter _____

f) Secondary Spillway Capacity _____
Spillway width _____

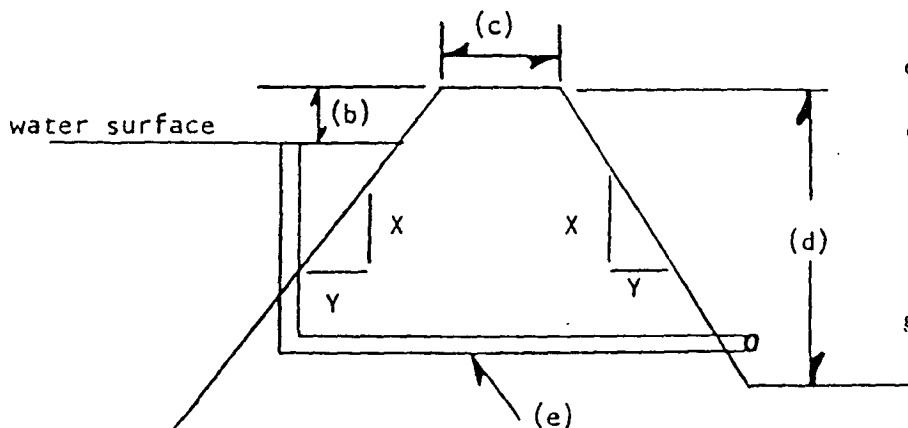
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant

Conversation or File Documentation

NAME OF PERSON OR FILE: Eldon EighthADDRESS: Box 292 Bruce COUNTY BrookingsDATE: 3/16/90 TELEPHONE _____

RE: _____

COMMENTS:

In discussions with Mr. Eighth the application and well log were in error as to the section number. The irrigation acreage & well log ~~were~~ ^{are} in the W $\frac{1}{2}$ NE $\frac{1}{4}$ Sect. 12-T11N R5W. He asked me to make the appropriate changes to his application in this regard.

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: Eric Hemmick

In Water Since 1946

LACEY WELL DRILLING

Wells
Test Drilling
Irrigation Supplies

Box 796
Trent, South Dakota 57065
Telephone 428-5686 or 428-5979

Pumps
Water Specialists
Water Source Heat Pumps

To Elder Eighmy
Bruce, S.D.

1-21-90

Test well log - NW 4 NE 4 10, 111 N,
51 W Oakwood Twp, Brookings Co.

0-1 SANDY TOP SOIL SW 1 8'
1-22 SANDY GRAVEL
PUMPED WATER SAMPLE

Jim Lacey
SD # 111



RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412072

Pierre, February 2, 1990

RECEIVED OF Eldon V. Elghmy, Box 292, Bruce, Sd 57220

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

Fee for Application for Permit No. <u>5403-3</u> to Appropriate Water, to construct works and to put water to beneficial use	150	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	150 00

By

John Hatch
Chief Engineer

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4458

WR#

OWNERS NAME: Eldon V. Highway OWNERS ADDRESS: P.O. Box 292
Bruce, SD 57220

COUNTY LAND LOCATED IN: Brookings PHONE: 605-627-5604

LEGAL DESCRIPTION:

☒ Well

☐ Surface

1. LOCATION Outlot 'P' except lot 1, road and platted area, to the City of Bruce, Brookings

Depth Co., SD in the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ of 12-T11N-R51W

Legal Description	Acres	Legal Description	Acres
<u>W$\frac{1}{2}$ NE$\frac{1}{4}$ 12-T11N-R51W</u>	<u>15.75</u>		

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

3. CROPS TO BE IRRIGATED: Alfalfa and oats

WATER QUALITY:

4. WATER SAMPLE NUMBER: <u>90-0038</u>	7. ADJUSTED (SAR): <u>0.93</u>
5. SALINITY (EC X 10 ⁶): <u>850</u>	8. PERCENT SODIUM: <u>8.60</u>
6. SODIUM (SAR): <u>0.38</u>	

Requirements:

The project be restricted to alfalfa or other permanent vegetation with a nurse crop.



Peter Quirk
Director, Division of Conservation

Date

3/23/90

☒ APPROVED

☐ DISAPPROVED

☐ WAIVER

☒ REQUIREMENTS

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

REPORT OF ANALYSIS
Water Quality Laboratory
Water Resources Research Institute
South Dakota State University
Brookings, South Dakota 57007

01-24-1990

Brookings

Name: Eighmy, Eldon
Address: PO Box 292
Bruce, SD 57220

Date Rec'd JAN 23, 1990
Sample No. 90-0038
Source WELL
Legal ID 111N51W10ba

WATER ANALYSIS

Calcium (Ca)	96	ppm*	4.79	me/l**
Magnesium (Mg)	36	ppm	2.96	me/l
Sodium (Na)	17	ppm	0.74	me/l
Potassium (K)	4	ppm	0.10	me/l
Sulfate (SO4)	80	ppm	1.67	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	13	ppm	0.37	me/l
Bicarbonate (HCO3)	390	ppm	6.40	me/l
Carbonate (CO3)	0	ppm	0.00	me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Manganese (Mn)		ppm		
Boron (B)	0.10	ppm		
Hardness (EDTA as CaCO3)		ppm		g.p.g.***
Total solids		ppm		
Total Cations			8.59	me/l
Total Anions			8.43	me/l
Alkalinity (Methyl Orange)	320	ppm(as CaCO3)		
Alkalinity (Phenolphthalein)	0	ppm(as CaCO3)		
Electrical Conductivity	850	micromhos per cm at 25 C		
Sodium Adsorption Ratio	0.38	Adjusted SAR	0.93	
Sodium	8.60	% of Cations		
Residual Sodium Carbonate	0.00	me/l		
pH	7.21			

Others:

*ppm=parts per million

***g.p.g.=grains per gallon

**me/l=millequivalents per liter

COMMENTS:

OL "P" Bruce town

Analysis By: Shirley Kitten

Service Performed:

Irrigation Analysis

Total Cost: \$ 35.00

Amount Received: 35.00

Balance Due: 0.00

Make checks payable to: SDSU Water Quality Lab

Please write lab number on your check!

Lab No. 90-0038



January 24, 1990

South Dakota State University
Brookings, South Dakota 57007

Water Resources Research Institute
Telephone 605-688-4910

Eighmy, Eldon
PO Box 292
Bruce, SD 57220

Dear Mr. Eighmy:

Enclosed is a copy of the analysis of your water sample which you submitted to us for testing. We have identified the source of your water as taken from a well located in the NW 1/4 of Section 10 T111N R51W. We have assigned it lab number 90-0038.

Your water, as represented by this sample, is classified as a "high salinity, low sodium hazard" for irrigation usage. The main ions in this water are calcium (Ca) and bicarbonate (HCO_3). I have plotted your approximate water quality in red on the outside back cover of the enclosed pamphlet (AES 13). The range in the sodium hazard from 0.38 to 0.93 is dependent upon the leaching fraction that may result if irrigation water is applied. The higher sodium hazard is associated with no leaching, and the lower sodium hazard is associated with normal leaching fractions (0.03-0.05). The leaching fraction is defined as the amount of water lost below the root zone annually divided by the total amount received into the soil profile.

This water can be used for irrigation purposes for most normal soils which have adequate internal drainage. This means that if the water table is greater than 10 feet below ground surface the majority of the year and there are no tight impermeable layers within the root zone which may create a perched water table, the salts (ions) that do exist in the water will be able to be leached downward below the root zone where they do little or no harm to growing crops. The probability for soil salinization from this water is low when used on soils with good subsurface drainage.

The boron level for this water (0.10 ppm) poses a low toxicity level for most normal crops in this area. I have enclosed a sheet that tells the boron toxicity levels for major crops.

I am forwarding a copy of this letter and water analysis to the Division of Conservation in Pierre for their information and/or action.

If you have further questions regarding this water analysis, please do not hesitate to call or write.

Sincerely,

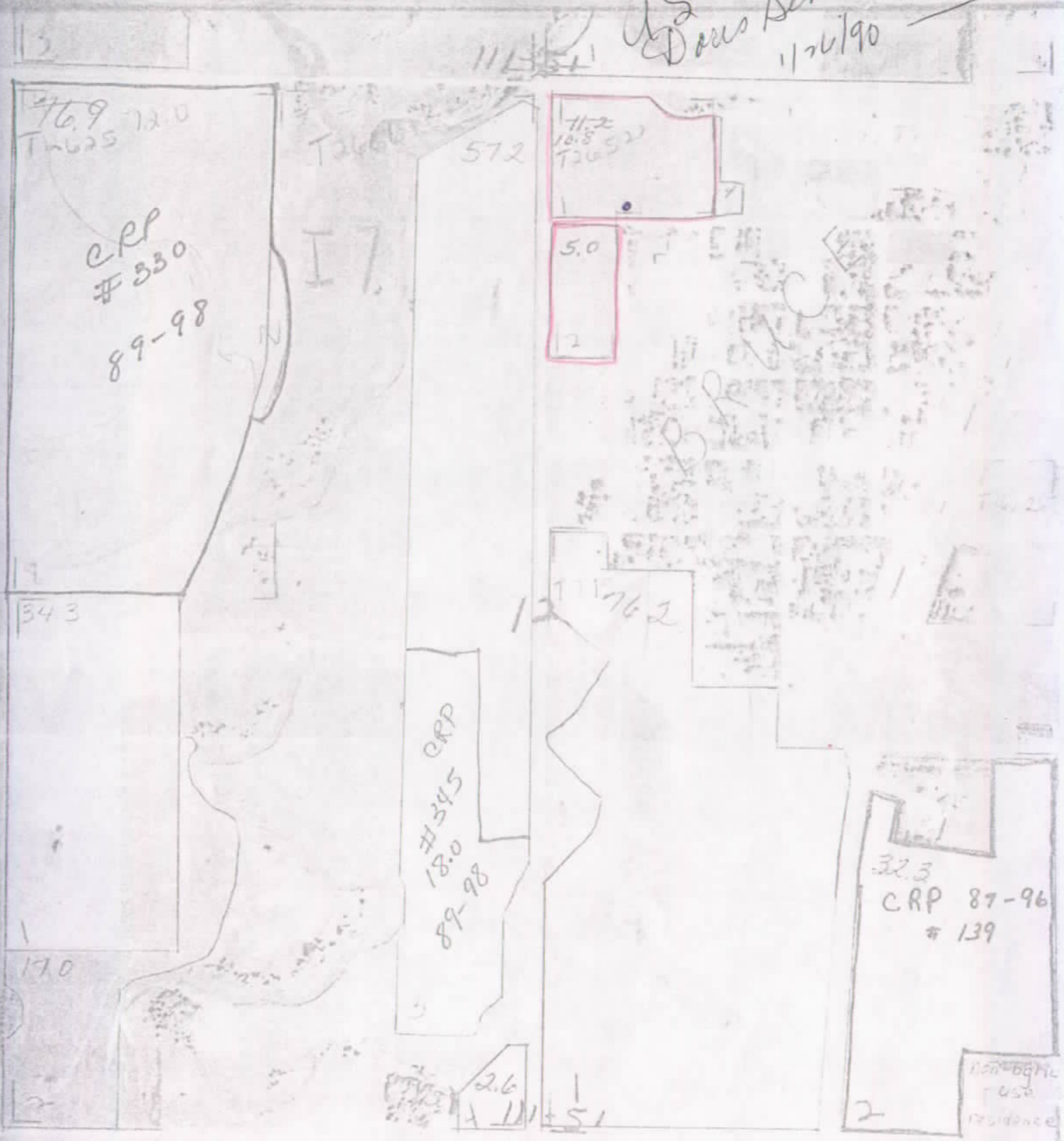
John H. Bischoff, Research Engineer
Water Resources Institute

Enclosures
cc: Division of Conservation



NOT TO SCALE

Map
Doris Schumacher
CED
11/26/90



Appl. No. 5403-3

REPORT ON APPLICATION NO. 5403-3
FOR ELDON EIGHMY
March 26, 1990

This application proposes to appropriate 0.2 cfs from one well approximately 22 feet deep to irrigate 15.75 acres. The well is to be located in the NW 1/4 NE 1/4 of section 12 and the land to be irrigated is in the W 1/2 NE 1/4 of section 12 all in T111N R51W in Brookings County.

AQUIFER - BIG SIOUX BROOKINGS (BS-B)

The Big Sioux Brookings (BS-B) is a Pliestocene outwash (sand and gravel) and alluvium under water table conditions in this area. The BS-B aquifer underlies 74,500 acres and contains an estimated 245,850 acre feet of recoverable water in Brookings County (Hedges, 1982). The BS-B aquifer is hydraulically connected to the Big Sioux River which serves as a discharge area and to other management units within Brookings County. The USGS estimated the total amount of water in storage in the Big Sioux aquifer in Brookings County to be 1.9 million acre feet (Hamilton, 1988).

The Division of Water Rights monitors 2 observation wells (BG-75E and BG-75F) which are approximately 1 mile from this application. Water levels for these wells respond to climatic conditions, that is, rising during wet periods (recharge) and declining gradually during drought. The effects of pumping in the area are not obvious from looking at the historical record (Water Rights, 1990).

The drillers log submitted with the application indicates aquifer from 1 to 22 feet below land surface with a reported static level of 8 feet below land surface. This data indicates there is a good potential for developing the amount of water requested.

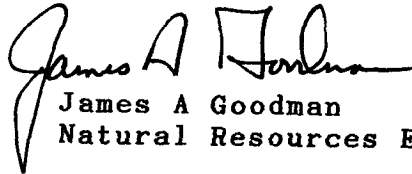
REVIEW OF EXISTING WATER PERMITS/RIGHTS

The City of Bruce has a Permit No. 4950-3 which is located about 1/4 mile from this proposed diversion point. Interference is not expected to be a problem. The diversion rates both existing and requested are relatively small and drawdowns caused by pumping should not extend very far from an individual production well. This is typical for aquifers like the BS-B.

CONCLUSIONS

1. There is water available from the BS-B aquifer.
2. Interference is not expected to be a problem. The diversion rate requested is relatively small and the distance between wells is sufficient to minimize the effects of pumping.

3. The well drilled for this application if approved must be completed in accordance with SD Well Construction Standards.
4. Land use practices over shallow water table aquifers such as the BS-B have been shown to affect the water quality of the aquifer.
5. There is no soil water compatibility approval for this application.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

Hamilton, L.J., 1988, MAJOR AQUIFERS IN BROOKINGS COUNTY, SD, SDGS Inf. Pamphlet No. 40, SD DWR, SDGS, Vermillion, SD, 57069.

Hedges, L.S., 1982, EVALUATION OF GROUND WATER RESOURCES EASTERN SD AND UPPER BIG SIOUX RIVER, SD AND IOWA, for US Army Corps of Engineers, SD DWR, SDGS, Vermillion, SD, 57069.

Water Rights, 1990, OBSERVATION WELL RECORDS FOR THE BS-B AQUIFER IN BROOKINGS COUNTY, SD DWR, Div. of Water Rights, Joe Foss Bldg., Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5403-3, Eldon Eighmy

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. 5403-3, Eldon Eighmy, PO Box 292, Bruce SD.

The Chief Engineer is recommending APPROVAL of Application No. 5403-3 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. The well authorized pursuant to this permit shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04.
2. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. 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
April 8, 1990



Department of Water & Natural Resources

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

April 10, 1990

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

Eldon V. Eighmy
Box 292
Bruce, SD 57220-0292

Dear Mr. Eighmy:

Water Permit Application No. 5403-3 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 Brookings Daily Register printed at Brookings 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,

A handwritten signature in cursive script, reading "Eric Gronlund". The signature is written in dark ink and is positioned above the typed name and title.

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

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

April 10, 1990

Brookings Daily Register
Box 177
Brookings, SD 57006-0177

ATTN: Legal Publications:

Enclosed is a Notice of Hearing on Application No. 5403-3 to be published twice. Please publish the first notice on or before April 19, 1990 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 Eldon V. Eighmy, Box 292, Bruce, SD 57220-0292.

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,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
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

Instruction to Newspaper - Publish first Notice on or before April 19, 1990 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5403-3 to Appropriate Water

Notice is given that Eldon Eighmy, Box 292, Bruce, SD 57220-0292 has filed an application for a water permit to appropriate 0.2 cubic feet of water per second from one well (Big Sioux Brookings Aquifer) 22 feet deep to irrigate 15.75 acres. The point of diversion is located in the NW1/4 NE1/4 of Section 12-T111N-R51W. The land to be irrigated is located in the W1/2 NE1/4 Section 12-T111N-R51W (Outlot "P" except Lot 1, City of Bruce, SD).

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5403-3 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 the Pelican Room, Ramkota Inn, Hwy 212, Watertown, SD on May 23, 1990 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 May 11, 1990. 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 May 11, 1990.

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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
 County Brookings)

I, Rob James
 certify that the attached printed Notice was taken
 from the Brookings Daily Register

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 Brookings

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

April 19, 1990

April 26, 1990

 (Signature)

Publisher

 (Title)

April 26, 1990

 (Date Signed)

Cost of Printing: \$38.68



Engineer from the applicant or a
 petitioner. The request for a delay
 must be received by May 11, 1990.

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; 46-6-3, 46-6-3.1,
 46-6-6.1, 46-6-10, 46-6-13, 46-6-14;
 and Board Rules ARSD 74:02:01:01
 thru 74:02:01:15.

Legal 194, 2x, April 19, 26
NOTICE OF HEARING on
Application No. 5403-3 to
Appropriate Water

Notice is given that Eldon
 Eighmy, Box 292, Bruce, SD 57220-
 0292 has filed an application for a
 water permit to appropriate 0.2
 cubic feet of water per second from
 one well (Big Sioux Brookings
 Aquifer) 22 feet deep to irrigate
 15.75 acres. The point of diversion is
 located in the NW1/4 NE1/4 of
 Section 12-T111N-R51W. The land
 to be irrigated is located in the
 W1/2 NE1/4 Section 12-T111N-
 R51W. (Outlot "P" except Lot 1,
 City of Bruce, SD).

Pursuant to SDCL 46-2A-2, the
 Chief Engineer of the Water Rights
 Division recommends APPROVAL
 of Application No. ~~5403-3~~ 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 the
 Pelican Room, Ramkota Inn, Hwy
 212, Watertown, SD on May 23,
 1990 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 May 11, 1990. 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



Department of Water & Natural Resources

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

SEP 12 1990

Eldon V. Eighmy
Box 292
Bruce, SD 57220

Dear Mr. Eighmy:

Enclosed is Water Permit No. 5403-3 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 that reads "John Hatch". The signature is written in a cursive style with a large, prominent "J" and "H".

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 USE**

Date December 1, 1990

TO: Water Rights Division, DWR
Joe Foss Building
Pierre SD 57501-3181

FROM: Eldon Eighmy, Box 292, Bruce, SD 57220
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. 5403-3.

Water Permit No. 5403-3 states that the diversion system is to be constructed by May 24, 1995, and that the water it put to beneficial use by May 24, 1999.

The diversion system was completed on Sept. 1, 1990.
Applying the water to beneficial use was completed on Sept. 1, 1990

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

signature



REPORT ON INSPECTION OF PERMIT NO. 5403-3

DATE OF INSPECTION: 1/14/98

Other permit(s) associated with the project: none

Contact Person & Address: Eldon Eighmy, PO Box 338, Bruce SD 57220

DIVERSION POINT LEGAL LOCATION: NW1/4 NE1/4 Section 12 T111N-R51W

WATER SUPPLY Source: Ground

Well Information:

- | | |
|--|-------------------------------------|
| 1) Well Drilling Firm: <u>Lacy Well Drilling</u> | 2) No. of Wells <u>1</u> |
| 3) Depth(s) <u>22</u> feet | 4) Well log is available <u>Yes</u> |

Casing:

- | | |
|-----------------------------|--------------------------|
| 1) Diameter <u>8</u> inches | 2) Length <u>22</u> feet |
| 3) Type <u>Steel</u> | |

Screen:

- | | |
|-------------------------------------|--------------------------|
| 1) Type <u>Slotted Plastic</u> | 2) Length <u>Unknown</u> |
| 3) Static water level <u>8</u> feet | |

Pump:

- | | |
|------------------------------------|---------------------------|
| 1) Make <u>Unknown Submersible</u> | 2) Model <u>Unknown</u> |
| 3) Size <u>Unknown</u> | 4) Capacity <u>75</u> GPM |

Motor:

- | | |
|--|-----------------------------|
| 1) Make <u>Unknown</u> | 2) Model No. <u>Unknown</u> |
| 3) Horsepower rating <u>Unknown</u> hp | |

DISTRIBUTION LINES OR CANALS:

- | | | |
|-------------------------|-------------------------|--------------------------|
| 1) Type <u>Aluminum</u> | 2) Size <u>4</u> inches | 3) Length <u>40</u> feet |
|-------------------------|-------------------------|--------------------------|

SYSTEM TYPE:

Solid Set Risers:

- | | |
|---|-----------------------------|
| 1) Length <u>40, 50</u> feet | 2) Diameter <u>4</u> inches |
| 3) Spacing of sprinklers <u>40</u> feet | |

PERMIT QUALIFICATIONS AND REGULATIONS:

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

Permit No. 5403-3
Big Sioux River - Water District

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

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

On, **January 14, 1998**, I made a thorough examination of the water use system constructed by **Eldon V. Eighthmy** of **PO Box 338, Bruce SD 57220-0338** holder of Permit No. **5403-3**, bearing the priority of **February 2, 1990** authorizing the diversion of **.2** cu. ft. per second of the waters of **Groundwater** for **Irrigation** purposes, in **Brookings** County.

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

- A. Works used to divert the water:
Submersible Pump, 22' well
- B. Works used to transport water to place of use:
40' aluminum pipe
- C. Works used to apply water to beneficial use:
Solid set risers 40' and 50' lengths

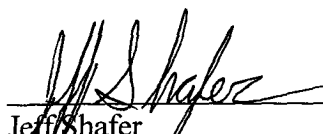
The system is in the following condition **Good**. The point of diversion is located **approximately 575' south and 2150' west of NE corner of Section 12 T111N-R51W.** The works are capable of diverting and conveying to the place of use **.17** cu. ft. per second of water which is to be used for **irrigation**. Water has been put to beneficial use to the maximum extent as follows:

Section 12 T111N-R51W NW1/4 NE1/4 16 ac.

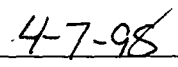
comprising a total of **16** acres of land and the license should be issued for **.17** cfs.

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

Exceptions to compliance are: **None**



Jeff Shafer
Natural Resources Engineer
DENR, Water Rights Program



Date

NOT TO SCALE



5403-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 24, 1998

5403-3

Eldon V. Eighmy
P.O. Box 338
Bruce, SD 57220-0338

Dear Mr. Eighmy:

The investigation of your water use system was conducted on January 14, 1998, by Jeff Shafer, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit No. 5403-3. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

415712

Pierre, March 27, 19 98

RECEIVED OF Eldon or Marilyn Eighmy, P.O. Box 292, Bruce, SD 57220-0292
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. 5403-3	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By _____
Chief Engineer

John Hatch

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5403-3

(1) Eldon V Eighmy, PO Box 338, Bruce SD 57220-0338 made Application No. 5403-3, February 2, 1990 for a water permit to divert 0.2 cubic feet of water per second from groundwater (one well), Brookings County, South Dakota for irrigation purposes. Permit No. 5403-3, with a priority date of February 2, 1990 was approved May 24, 1990 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 24, 1995 and for the application to beneficial use of said water on or before May 24, 1999.

The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on December 3, 1990. The *Notice* stated the diversion system was completed on September 1, 1990 and the water placed to beneficial use on September 1, 1990.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.17 cubic feet of water per second for beneficial use. The location of the diversion point is approximately 575 feet south and 2,150 feet west of the northeast corner of Section 12-T111N-R51W (NW ¼ NE ¼).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 12-T111N-R51W NW ¼ NE ¼ 16 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Eldon V Eighmy, PO Box 338, Bruce SD 57220-0338 the holder and/or owner of Water Permit No. 5403-3 is issued a license to appropriate water, the right to use 0.17 cubic feet of water per second from groundwater (one well) with a priority date of February 2, 1990 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 5403-3 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 23 1998

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 23 1998

5403-3

Eldon V. Eighmy
P.O. Box 338
Bruce, SD 57220-0338

Dear Mr. Eighmy:

Enclosed is Water License No. 5403-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 415712 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 5403-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Very truly yours,

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

ks
enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED

MAY 09 2002

WATER RIGHTS
PROGRAM

No. 5403-3

Date: 6 May 2002

I/We request that Water Right No. 5403-3

formerly owned by: Eldon V Eighmy

be transferred to: (name & address) Butterflake Aquafarms

PO Box 1283, Watertown, SD 57201

Telephone No. (605) 886-3390

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

16 acres in the NW 1/4 NE 1/4 Section 12, T111N, R51W

I/We understand that the validity of Water Right No. 5403-3 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.

STATE OF SOUTH DAKOTA)

County of Codington)

I/We Robert B. Flegger being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Robert B. Flegger

(Signed by new owner)

Subscribed and sworn to before me this 6 day of May, 2002

Raymond D. Flegger
(Notary Public)

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

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

RECEIPT
Water Rights Program
South Dakota Department of Environment and Natural Resources

417161

Pierre, May 9, 20 02

RECEIVED OF Butterflake Aquafarms Inc., PO Box 1283, Watertown, SD 57201
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 540-3 5403-3

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By

Dale D. Erbe

Chief Engineer

gm

5403-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 31, 2006

5403-3
5403A-3
6329-3

Brad Farber
Butterflake Aqua Farms
PO Box 286
Bruce SD 57220-0286

Dear Mr. Farber:

Thank you for calling concerning the need for ownership changes on Water Right No. 5403-3 and Water Permit Nos. 5403A-3 and 6329-3.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing ownership changes. Please review the forms and make any necessary corrections. The forms will need to be signed by the new owner(s) and returned to our office with a required filing fee of \$2.50 each (\$7.50 total). The check or money order for the fee can be made payable to the Water Rights Program.

• 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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 5403-3

Date:

9/4/06

I/We request that Water Right No. 5403-3

formerly owned by: Butterflake Aquafarms, PO Box 286, Bruce SD 57201

be transferred to: (name & address)

BRAD C. FARRER, PO Box 286
BRUCE, SD 57220

Telephone No. 605-627-5747

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

well and acreage located: NW1/4 NE 1/4 Section 12, T111N, R51W

I/We understand that the validity of Water Right No. 5403-3 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 Brad C. Farrer, the new owner, certify that the above information is true and correct.

Brad C. Farrer

(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 - 6 2006

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 6, 20 06

RECEIVED OF Brad Farber, PO Box 286, Bruce SD 57220

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	2	50
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>5403-3</u>		
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.

02570

By Darland Ebele
Chief Engineer *gm*



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 6, 2006

5403-3
5403A-3
6329-3

Brad G Farber
PO Box 286
Bruce SD 57220

Dear Mr. Farber:

I am writing to acknowledge receipt of the ownership changes you filed with Water Right No. 5403-3 and Water Permit Nos. 5403A-3 & 6329-3. The transfers have been completed. Nos. 5403-3, 5403A-3 and 6329-3, formerly held by Butterflake Aquafarms are now listed in your name.

Enclosed are your Receipt Nos. 02574, 02575 and 02576 in the amounts of \$2.50 each. You may keep these for your records.

If you have any questions, please contact me.

Sincerely,

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

enclosures

5403-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 15, 2008

5403-3
5403A-3
6329-3

Greg Oswald
Oswald Fisheries Inc
PO Box 306
Ellendale MN 56026

Dear Mr. Oswald:

I am writing in follow up to our phone conversation concerning the transfer of Water Right No. 5403-3 and Water Permit Nos. 5403A-3 & 6329-3. I am enclosing copies of them for your review.

Water Right No. 5403-3 is strictly for irrigation use. Water Permit No. 5403A-3 was obtained to authorize use of the existing irrigation well for fish culture. No. 5403A-3 did not authorize additional water. You indicated that you do not irrigate and that water is only used for fish ponds. At some point in time, the project will be inspected for licensing and Nos. 5403-3 and 5403A-3 will be combined and the irrigation portion can be removed. Until that time, we can not cancel No. 5403-3 because the water for the fish ponds is authorized under that water right.

For now, what needs to occur is Nos. 5403-3; 5403A-3 and 6329-3 need to be transferred to reflect current ownership. Enclosed are partially completed Notice of Transfer of Ownership forms for filing the ownership changes. Upon completion, please sign and return them to our office with a required filing fee of \$2.50 each (total of \$7.50). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions when completing the transfer forms, please contact me.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

OCT 30 2008

WATER RIGHTS
PROGRAM

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

No. 5403-3

Date: _____

I/We request that Water Right No. 5403-3

formerly owned by: Brad G Farber

be transferred to: (name & address)

Greg Oswald

PO Box 366 Ellendale, Mn. 56026

Telephone No. 507 6842606

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

NW ¼ NE ¼ Section 12, T111N, R51W

I/We understand that the validity of Water Right No. 5403-3 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 GREG OSWALD, the new owner, certify that the above information is true and correct.

Greg Oswald

(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/30, 20 08

RECEIVED OF Oswald Fisheries PO Box 306 Ellendale ND 56026

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	2	50
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>5403-3</u>		
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.

03781

By Garland Erbe
Chief Engineer

5403-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 31, 2008

5403-3
5403A-3
6329-3

Greg Oswald
PO Box 306
Ellendale MN 56026

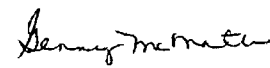
Dear Mr. Oswald:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for Water Right No. 5403-3 and Water Permit Nos. 5403A-3 & 6329-3. The ownership changes have been completed. Nos. 5403-3, 5403A-3 and 6329-3 formerly held by Brad Farber are now listed in your name.

Enclosed are your Receipt Nos. 03781, 03782 and 03783 in the amount of \$2.50 each.

If you have any questions, please contact me.

Sincerely,


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

enclosures

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Greg Oswald, PO Box 306, Ellendale MN 56026

DATE: September 4, 2014

TELEPHONE: 612 360-1596(cell #)

RE: Water Right No. 5403-3

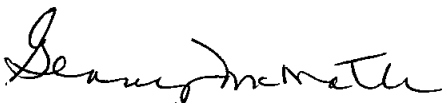
COMMENTS:

Water Right No. 5403-3 was originally licensed to divert 0.17 cfs from one well to irrigate 16 acres. No. 5403A-3 was obtained to change the use to commercial and extend the period of annual use to year around. Water Permit No. 6329-3 was obtained to add a well and increase the diversion rate.

Mike DeFea conducted an inspection of Water Right No. 5403-3 and Water Permit Nos. 5403A-3 and 6329-3 for licensing purposes. Nos. 5403-3, 5403A-3 and 6329-3 will be incorporated together into one license. Since Water Right No. 5403-3 was originally licensed for irrigation, the irrigation component needs to be scheduled for cancellation.

On today's date, I contacted Mr. Oswald to talk about the pending cancellation consideration of the irrigation component of the water right. He was very agreeable to that as long as he could keep the diversion rate once associated with it. I explained that the only thing to be considered for cancellation was the acreage.

Once the Board takes action to cancel the irrigation component, we will proceed with licensing.


Genny McMath
Water Rights Program



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



September 8, 2014

NOTICE OF CANCELLATION

TO: Greg Oswald, PO Box 306, Ellendale MN 56026

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

SUBJECT: Cancellation of portions of Water Right No. 5403-3

Water Right No. 5403-3 authorizes diversion of ground water to irrigate 16 acres. In 2002, Water Permit No. 5403A-3 was obtained to add commercial use and change the period of annual use to year around. Since that time, irrigation use has been phased out and the water is used only for commercial use for fish propagation. The Chief Engineer of the Water Rights Program is recommending cancellation of the irrigation component of Water Right No. 5403-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of the irrigation component of Water Right No. 5403-3 at 10:00 a.m., October 22, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate and the actual time of hearing may be later*).

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel portions of; 2) delay action on; or 3) take no action on Water Right No. 5403-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by October 10, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. 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 be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by October 10, 2014.

Prior to October 10, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 18, 2014.



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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 5403-3, GREG OSWALD

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 5403-3.

The Chief Engineer is recommending cancellation of the irrigation component of Water Right No. 5403-3 due to abandonment and/or forfeiture.

Water Right No. 5403-3 authorizes diversion of ground water to irrigate 16 acres. In 2002, Water Permit No. 5403A-3 was obtained to add commercial use and change the period of annual use to year around. An additional permit was obtained in 2002 to add another diversion point and increase the diversion rate under No. 5403A-3 to aid in maintaining the fish ponds. An inspection conducted for licensing purposes confirmed irrigation was no longer being done and water was used entirely for fish propagation.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
September 8, 2014

Note: Upon cancellation of the irrigation component of Water Right No. 5403-3, the remaining portions of 5403-3, Water Permit No. 5403A-3 and Water Permit No. 6329-3 will be incorporated and licensed.

5403-3

CERTIFICATION

I hereby certify that on September 8, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated September 8, 2014 regarding cancellations addressed as stated below:

Water Right No. 5403-3, Greg Oswald, PO Box 306, Ellendale MN 56026

Water Right No. 607-3, Erik Roth & Stacy Watenbach, 1001 S 3rd St., Parkston SD 57366

Vested Water Right No. 5385-3, Rodney Leyendecker, 32 45th St SE, Huron SD 57350

Water Right No. 761-3, Paul Wedel, 19132 408th Ave., Carpenter SD 57322

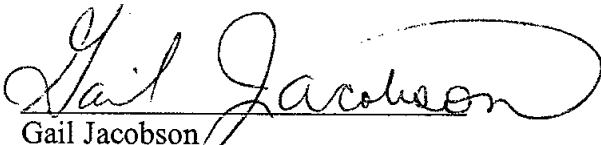
Water Right No. 4589-3, Hugh & Nelson Miner, 21626 404th Ave., Cavour SD 57324

Water Right No. 4071-3, Keith W Kettering Family Trust % Scott Kettering, 705 N 3rd St, Groton SD 57445

Water Right No. 559-3A, Ross & Mike Halter, 21130 404th Ave, Huron SD 57350

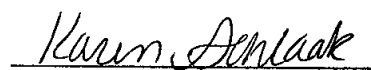
Water Right No. 4066B-3, Jon & Loren Locken, 13755 396th Ave., Bath SD 57427

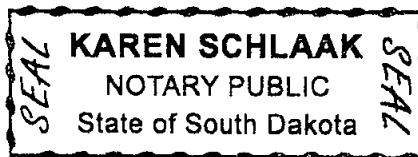
Water Right No. 5926-3, John Lavender, President, Skyline Heights Public Works Coop, 5409 N Castle Dr., Sioux Falls SD 57107


Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of September, 2014.


Karen Schlaak
Notary Public
My Commission expires April 1, 2019





**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



October 23, 2014

5403-3

NOTICE

Greg Oswald
PO Box 306
Ellendale MN 56026

Dear Mr. Oswald:

This will notify you that the Water Management Board cancelled the irrigation portion of Water Right No. 5403-3 on October 22, 2014. The water right had authorized diversion of ground water for irrigation purposes. The diversion authority once authorized under No. 5403-3 was transferred to Water Permit No. 5403A-3 for commercial use for fish propagation.

The action to cancel the irrigation component of Water Right No. 5403-3 was taken under the conditions outlined in our notice to you dated September 8, 2014. If you have any questions concerning the Board action, please contact Genny McMath, with our program, at (605) 773-3352.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program

CERTIFICATION

5403-3

I hereby certify that on October 23, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated October 23, 2014 regarding cancellations addressed as stated below:

Water Right No. 5403-3

Greg Oswald, PO Box 306, Ellendale MN 56026

Water Permit No. 6526-3

John Kapperman, 24944 457th Ave, Humboldt SD 57035

Water Permit No. 6063A-3

Ralph Marquardt, PO Box 1040, Yankton SD 57078

Water Right No. 5926-3

John Lavender, President, Skyline Heights Public Works Coop, 5409 N Castle Dr., Sioux Falls SD 57107

Vested Water Right No. 5385-3

Rodney Leyendecker, 32 45th St SE, Huron SD 57350

Water Right No. 4589-3

Hugh & Nelson Miner, 21626 404th Ave., Cavour SD 57324

Water Right No. 4071-3

Scott Kettering, Keith W Kettering Family Trust, 705 N 3rd St, Groton SD 57445

Water Right No. 4066B-3

Jon & Loren Locken, 13755 396th Ave., Bath SD 57427

Water Right No. 2425-3

Karen Chester, 5408 Grasmere Dr., Plano TX 75093

Water Right No. 761-3

Paul Wedel, 19132 408th Ave., Carpenter SD 57322

Water Right No. 608-3

Loren Roth, 740 2nd St, Alexandria SD 57311

Water Right No. 2729-3

Leroy P Gross, 975 15th St, Huron SD 57350

Harvey Wollman, 40004 184th St., Frankfort SD 57440

Water Right No. 607-3

Erik Roth & Stacy Watenbach, 1001 S 3rd St., Parkston SD 57366

Water Right No. 559-3A

Ross & Mike Halter, 21130 404th Ave., Huron SD 57350

Water Right Nos. 280-3 & 690-3

Robin & Wendie Barber, 25296 Barber Pl, Mitchell SD 57301

Gail Jacobson

Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

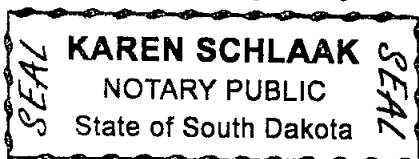
Sworn to, before me, this 23rd day of October, 2014.

Karen Schlaak

Karen Schlaak

Notary Public

My Commission expires April 1, 2019





5403-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

5403-3
5403A-3
6329-3

MAY 28 2015

Greg Oswald
PO Box 306
Ellendale MN 56026

Dear Mr. Oswald:

Enclosed is Water License No. 6329-3. This is the final water right document completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6329-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

Note: The applicable portions of No. 5403-3 and 5403A-3 are incorporated into Water License No. 6239-3.