

Considered: _____

WATER PERMIT NO. 5448-3

Phone: 238-5263

Name of Applicant: Merle Flyger

Post Office Address: Rte. 1 Box 45B, Hurley, SD 57021

Amount of Water Claimed: 2.23 Total Acres: 133.7

Source of Water Supply: groundwater

Water to be used for: irrigation County: Turner

About 3.5 miles NE of Hurley

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 4/18/90 Fee: \$250.00 Remarks applying

for a different water source

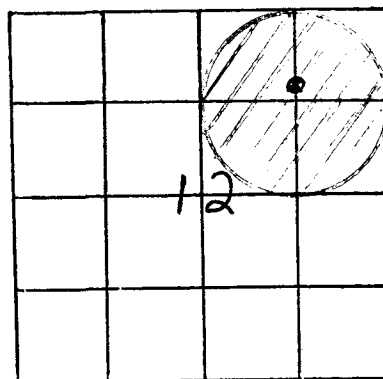
Corrected Application Received _____ Period of Annual Use May 1 - Nov. 30

WATER QUALITY APPROVAL RECEIVED 5/14/90 APPROVED/CONDITIONAL (Circle one)

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

Diversion Point: 70 feet north of center of NE1/4
of Section 12-T98N-R53W

Land to be Irrigated: NE1/4 Section 12-T98N-R53W



Well Log: Driller: Grosch Irrigation Co. Licensed YES X NO _____

Depth of Well: 170' REMARKS _____

Type of Map: ASCS Aerial PREPARED BY: Ny Herbener Reviewed and the Number

Assigned on 5/15/90 By Eric Gronlund

(See instructions)

No. 5448-3 Hydrologic Unit 10170102
Basin Vermillion River
Newspaper Harley Leader Box 218 57036

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 New well
1. Name of Applicant Merle E. Flyger Phone No. 605-238-5263
- Post Office Address P.O. Box 45 B. Hurley State SD Zip Code 57036
(Street, RR or Box) (City)
2. Amount of water claimed (c.f.s.) 2.93 Total acres irrigated 12.93
3. Source of Water supply well
4. Location of point of diversion 70 ft. north of center of NE 1/4, 12-98-53 W
Section _____ County Turner
5. Counties where water will be used Turner
6. Annual period during which water is to be used from 1 November 30
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.
NE 1/4	NE 1/4 SE 12-98-53	33.43
NW 1/4	NE 1/4 SE 12-98-53	33.43
SE 1/4	NE 1/4 SE 12-98-53	33.43
SW 1/4	NE 1/4 SE 12-98-53	33.43

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

Replacement of well



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 Turner) ss

I, Merle E. Flyger, 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 Merle E. Flyger

Subscribed and sworn to before me this 17th day of April 19 90

Sharon A. Christensen
Notary Public

SOUTH DAKOTA
WATER PERMIT No. 5448-3 FOR IRRIGATION

Date of first receipt of application April 18, 1990.

Date Soil/Water Compatibility Permit received May 14, 1990.

The Water Management Board approved Water Permit Application No. 5448-3 on July 25, 1990 for Merle Flyger, Rt. 1, Box 45B, Hurley, SD 57036 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. 5448-3 appropriates 1.91 cubic feet of water per second (cfs) from one well (Upper Vermillion Missouri Aquifer) 168 feet deep to irrigate 133.7 acres. The well is to be located 70 feet north of the center of the NE1/4 of Section 12 T98N-R53W. The land to be irrigated is located in the NE1/4 of Section 12 T98N-R53W. This Permit changes the groundwater source authorized under Water Right Nos. 165-3 and 1584-3. Water Right Nos. 165-3 and 1584-3 combined appropriate 1.9 cfs from one well 65 feet deep located 600 feet south of the center of the NE1/4 Section 12 T98N-R53W to irrigate the same acreage covered by this Permit.
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 - November 30.
3. The date from which applicant may claim right is April 18, 1990.
4. One-fifth of the construction is to be completed on or before January 25, 1993.
5. All construction is to be completed on or before July 25, 1995.
6. Water is to be put to beneficial use on or before July 25, 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 by Permit No. 5448-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted with cement (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:29.
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.

(continued)

3. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
4. If the wells authorized by Water Right Nos. 165-3 and 1584-3 are abandoned, the wells shall be plugged pursuant to Water Management Board Well Construction Standards, Chapter 74:02:04.
5. If the wells authorized by Nos. 165-3 and 1584-3 continue to be used, the combination of diversions under Nos. 165-3, 1584-3 and 5448-3 may not exceed 1.0 cubic foot per second per 70 acres of land (1.91 cfs).

WATER MANAGEMENT BOARD

By: _____


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

SEP 17 1990

(date)



NOT TO SCALE

98-53

153.8

T-1146

6.3

1

5

3.9

1350'

5.6

133.7

13R 5.9

T-1142

1200'

*Handwritten signature: M. J. Harkner
D. C. Parker*

6.7

6.6

18.5

3.4

1.6

133.0

T-1437

T-1112

6.2

5.1

16.1

1.6

6.3

98-53

Appl. No. 5448-3

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4494

WR#

OWNERS NAME: FLYGER, MERLE E.

OWNERS ADDRESS: Route 1, Box 458

Hurley, SD 57036

COUNTY LAND LOCATED IN: Turner PHONE: 238-5263

LEGAL DESCRIPTION:

1. LOCATION 70 ft. North of Center of NE 1/4 12-T98N-R53W

☐ Well

☐ Surface

Depth _____

Legal Description	Acres	Legal Description	Acres
NE 1/4 SE 1/4 12-T98N-R53W	33.43		
NW 1/4 SE 1/4 12-T98N-R53W	33.43		
SE 1/4 SE 1/4 12-T98N-R53W	33.43		
SW 1/4 SE 1/4 12-T98N-R53W	33.43		

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

3. CROPS TO BE IRRIGATED: Corn-Beans-Alfalfa

WATER QUALITY:

4. WATER SAMPLE NUMBER: 90-0362

7. ADJUSTED (SAR): 1.00

5. SALINITY (EC X 10⁶): 1300

8. PERCENT SODIUM: 6.52

6. SODIUM (SAR): 0.38

Requirements:



Director, Division of Conservation

May 8, 1990

Date

XXX APPROVED _____ REQUIREMENTS
____ DISAPPROVED
____ WAIVER

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

P.O. Box 218

DATE July 5, 90

TO:

Merle Flyger

Hurley

S.D. 57036

[illegible]

Please pay by the 10th of the Month—TOTAL

Conversation or File Documentation

NAME OF PERSON OR FILE: Merle Flyger

ADDRESS: _____ COUNTY _____

DATE: 7/12/90 TELEPHONE _____

RE: _____

COMMENTS:

In reviewing the proof of publication for this application I found two errors which were not found on the first transmittal. However, I do not feel that they affect notice of hearing process or noticing the public to the water permit application. The errors are:

- 1) The application No. was published as 54448-3 instead of 5448-3
- 2) When discussing Water Right Nos. 165-3 & 1584-3, the No. 165-3 was inadvertently called 163-3.

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 Honlund

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412207

Pierre, April 18, 1990

RECEIVED OF Merle Flyger, RR #1 Box 45B, Hurley, SD 57036

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

Fee for Application for Permit No. <u>5448-3</u> to Appropriate Water, to construct works and to put water to beneficial use	250	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	250 00

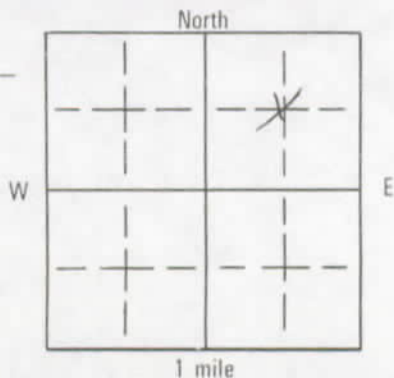
By

John Hatch
Chief Engineer

5449

SOUTH DAKOTA WATER WELL COMPLETION REPORT

10-85

Location $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 12 Twp 98N Rg 53WCounty
JurrierPlease mark well
location with
an "X"Well Completion Date July 27, 1989

PROPOSED USE:

☐ Domestic ☐ Municipal ☐ Test Holes
☒ Irrigation ☐ Industrial ☐ Stock

Method of Drilling:

Reverse Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>16.4</u> LB/FT	<u>16</u> IN	<u>1</u> FT	<u>68</u> FT	<u>32</u> IN
<u>16.4</u> LB/FT	<u>16</u> IN	<u>108</u> FT	<u>148</u> FT	<u>32</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUT:

Was the well grouted? ☒ YES ☐ NOTo what depth? 20 FEETWhat is grouting material? Hole Plug + CementIf cement, number of sacks? 60Describe grouting procedure Hole Plug on top of gravel pack from 20'-17'. Pump rest with neat cement groutWhat was grout weight? 15 LB/GALSCREEN: ☒ Perforated pipe ☐ ManufacturedDiameter 16 IN Length 60 FEETMaterial PRCSlot Size .085 Set From 68 Feet To 108 FeetSlot Size .085 Set From 148 Feet To 168 Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Other information _____

Was a packer or seal used? ☒ YES ☐ NOIf so, what material? Best to use Hole PlugDescribe packer(s) and location? 45' - 57'Was well disinfected upon completion? ☐ YES ☒ NO

Explain _____

Bacteriological analysis ☐ YES ☒ NO

Laboratory sent to _____

Well Owner:

Name Merle FlygerAddress Rt. 1, Box 45B, Hurley SD

Well Log:

Depth

Formation	From	To
<u>Topsoil</u>	<u>0</u>	<u>2</u>
<u>Sand + Gravel</u>	<u>2</u>	<u>15</u>
<u>Sand, Gravel + Rocks</u>	<u>15</u>	<u>25</u>
<u>Sand, Gravel + Rocks</u>	<u>25</u>	<u>38</u>
<u>Blue clay, embedded gravel</u>	<u>38</u>	<u>65</u>
<u>Sand, Gravel + Rocks</u>	<u>65</u>	<u>70</u>
<u>Blue clay, embedded gravel</u>	<u>70</u>	<u>80</u>
<u>Sand, Gravel + Rocks</u>	<u>80</u>	<u>118</u>
<u>Blue Clay + Rocks</u>	<u>118</u>	<u>140</u>
<u>Fine Sand to Med. gravel</u>	<u>140</u>	<u>145</u>
<u>Fine Sand</u>	<u>145</u>	<u>150</u>
<u>Sand, Med-Coarse Gravel</u>	<u>150</u>	<u>170</u>

STATIC WATER LEVEL 20 FeetIf flowing: closed in pressure N/A PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other; specify _____

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped☐ Bailed

Describe: _____

☐ Other

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

REMARKS:

This well was drilled under license # 189

And this report is true and accurate.

Drilling firm Hirsch & Irrigation Co. Inc.

Signature of License Representative:

Kevin Spike

Signature of Well Owner:

Merle E. FlygerDate Nov. 9, '89

SOUTH DAKOTA WATER WELL COMPLETION REPORT

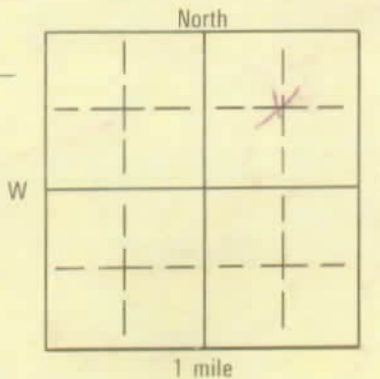
10-85

Location $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 12 Twp 98N Rg 53W

County

Turner

Please mark well location with an "X"



Well Completion Date July 27, 1989

PROPOSED USE:

- ☐ Domestic ☐ Municipal ☐ Test Holes
☒ Irrigation ☐ Industrial ☐ Stock

Method of Drilling:

Reverse Rotary

CASING DATA:

- ☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
116.4 LB/FT	16 IN	+1 FT	108 FT	32 IN
116.4 LB/FT	16 IN	108 FT	148 FT	32 IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUT:

Was the well grouted? ☒ YES ☐ NO

To what depth? 20 FEET

What is grouting material? Hole Plug + Cement

If cement, number of sacks? 60

Describe grouting procedure Hole Plug on top of gravel pack from 20'-17'. Pump rest with neat cement grout

What was grout weight? 15 LB/GAL

SCREEN: ☒ Perforated pipe ☐ Manufactured

Diameter 16 IN Length 60 FEET

Material PVC

Slot Size .085 Set From 68 Feet To 108 Feet

Slot Size .085 Set From 148 Feet To 168 Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Other information

Was a packer or seal used? ☒ YES ☐ NO

If so, what material? Best to use Hole Plug

Describe packer(s) and location? 45'-57'

Was well disinfected upon completion? ☐ YES ☒ NO

Explain

Bacteriological analysis ☐ YES ☒ NO

Laboratory sent to

Well Owner:

Name Merle Flyger

Address Rt. 1, Box 45B, Hurley SD

Well Log:

Depth

Formation	From	To
Topsoil	0	2
Sand Gravel	2	15
Sand Gravel + Rocks	15	25
Sand Gravel + Rocks	25	38
Blue clay embedded gravel	38	65
Sand Gravel + Rocks	65	70
Blue clay embedded gravel	70	80
Sand Gravel + Rocks	80	118
Blue Clay + Rocks	118	140
Fine Sand to Med gravel	140	145
Fine Sand	145	150
Sand, Med-Coarse Gravel	150	170

STATIC WATER LEVEL 20 Feet

If flowing: closed in pressure N/A PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other; specify

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped☐ Bailed

Describe:

☐ Other

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

REMARKS:

This well was drilled under license # 187

And this report is true and accurate.

Drilling firm Hirsch & Hirsch Co. Inc

Signature of License Representative:

Kevin Drake

Signature of Well Owner:

Merle E. Flyger

Date Nov. 9, '89



REPORT ON APPLICATION NO. 5448-3
MERLE FLYGER
JUNE 13, 1990

Water Permit Application No. 5448-3 proposes to appropriate 2.23 cubic feet of water per second from one well 168 feet deep completed into the Upper Vermillion Missouri aquifer (UVM). The well will be located 70 feet north of the center of the NE 1/4 section 12 T98N R53W. The water will be used to irrigate 133.7 acres of land in the NE 1/4 section 12 T98N R53W. The lands have previously been irrigated from two wells withdrawing water from the Parker Centerville aquifer under Permit Nos. 165-3 and 1584-3.

AQUIFER Upper Vermillion Missouri (UVM)

AQUIFER INFORMATION AND CHARACTERISTICS

The applicant will be using water from the Upper Vermillion Missouri aquifer. This aquifer is a sand and gravel outwash formation overlain by glacial till. The sand and gravel at the proposed well site starts at 140 feet below ground surface. The static water level in the well is 20 feet from ground surface. The Parker Centerville aquifer which the applicant has been pumping from is above the UVM. The UVM is under artesian conditions at the well site while the PAC is under water table conditions.

The UVM management unit underlies 132,900 acres in portions of Turner, Clay and Lincoln counties and contains an estimated 1,354,580 acre-feet of recoverable water. In 1989 there were 54 permits issued from the UVM in Turner and Clay counties. These permits pumped a reported 5,852 acre-feet of water while there were 25,857 acre-feet appropriated. The amount appropriated is 2% of the amount available while the amount reported pumped is less than 0.5% of the amount available.

The Division of Water Rights monitors 21 observation wells in the UVM management unit. These wells fluctuate from 15 to 30 feet in response to irrigation pumping. However, the aquifer recovers during the non-irrigation seasons and long term trends due to pumping are not indicated.

If the applicant proposes to abandon the wells producing water from the Parker Centerville Aquifer they must be properly plugged. If the wells are to be used in conjunction with the well from the UVM then the amount of water applied from both sources cannot exceed two acre feet of water per acre of land.

CONCLUSIONS

1. Water Permit Application No. 5448-3 will change the source of water from the Parker Centerville aquifer to the Upper Vermillion Missouri aquifer. The lands will remain the same as stated on Permit Nos. 165-3 and 1584-3.

2. Unappropriated water is available from the Upper Vermillion Missouri aquifer.
3. Observation wells exist and are monitored in the Upper Vermillion Missouri aquifer.
4. This application must be limited to 1 cubic foot per second of water per 70 acres of land (1.91 cfs).



Gale N. Selken P.E.
Natural Resources Engineer IV

REFERENCES

- Division of Water Rights, 1990, Observation Well Files, DWNR,
Division of Water Rights, Joe Foss Building, Pierre, SD
- Division of Water Rights, 1989, Irrigation Report by Aquifer,
DWNR, Division of Water Rights, Joe Foss Building, Pierre,
SD
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., 1982
Evaluation of Groundwater Resources in Eastern South Dakota
and Upper Big Sioux River, South Dakota and Iowa, U. S. Army
Corps of Engineers contract No. DACW 45-80-C0185, DWNR,
Office of Geological Survey, Vermillion, SD.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5448-3, Merle Flyger

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. 5448-3, Merle Flyger, RR 1, Box 45B, Hurley SD.

The Chief Engineer is recommending APPROVAL of Application No. 5448-3 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 by Permit No. 5448-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted with cement (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:29.
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.
4. If the wells authorized by Water Right Nos. 165-3 and 1584-3 are abandoned, the wells shall be plugged pursuant to Water Management Board Well Construction Standards, Chapter 74:02:04.
5. If the wells authorized by Nos. 165-3 and 1584-3 continue to be used, the combination of diversions under Nos. 165-3, 1584-3 and 5448-3 may not exceed 1.0 cubic foot per second per 70 acres of land (1.91 cfs).

See the attached report for additional information.



JOHN HATCH, Chief Engineer
June 15, 1990



Department of Water & Natural Resources

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

June 18, 1990

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

Merle Flyger
RR #1 Box 45B
Hurley, SD 57036-9731

Dear Mr. Flyger:

Water Permit Application No. 5448-3 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 Hurley Leader printed at Hurley 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,

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

June 18, 1990

Hurley Leader
Box 218
Hurley, SD 57036-0218

ATTN: Legal Publications:

Enclosed is a Notice of Hearing on Application No. 5448-3 to be published twice. Please publish the first notice on or before June 27, 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 Merle Flyger, RR #1 Box 45B, Hurley, SD 57036-9731.

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 June 27, 1990 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5448-3 to Appropriate Water

Notice is given that Merle Flyger, RR #1 Box 45B, Hurley, SD 57036-9731 has filed an application for a water permit to appropriate 2.23 cubic feet of water per second (cfs) from one well (Upper Vermillion Missouri Aquifer) 168 feet deep to irrigate 133.7 acres. The well is to be located 70 feet north of the center of the NE1/4 Section 12-T98N-R53W. The land to be irrigated is located in the NE1/4 of Section 12-T98N-R53W. This application proposes to change the groundwater source authorized under Water Right Nos. 165-3 and 1584-3. Nos. 165-3 and 1584-3 appropriated 1.9 cfs from one well 65 feet deep located 600 feet south of the center of the NE1/4 of Section 12-T98N-R53W to irrigate 132 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5448-3 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 Bldg., 523 E Capitol, Pierre SD on July 25, 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 July 13, 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 July 13, 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.

PUBLIC NOTICES

THE HURLEY LEADER

NOTICE OF HEARING

On Application
No. 54448-3

To Appropriate Water

Notice is given that Merle Flyger, RR#1, Box 45-B, Hurley, South Dakota 57036-9731 has filed an application for a water permit to appropriate 2.23 cubic feet of water per second (cfs) from one well (Upper Vermillion Missouri Aquifer) 168 feet deep to irrigate 133.7 acres.

The well is to be located 70 feet north of the center of the NE1/4 Section 12, T98N, R53W. The land to be irrigated is located in the NE1/4 of Section 12, T98N, R53W. This application proposes to change the groundwater source authorized from under Water Right Nos. 165-3 and 1584-3.

STATE OF SOUTH DAKOTA
County Turner

I, James E. Hurley
certify that the attached is a true and correct copy of the application from the Hurley

A newspaper which during said notice herein after published in the CL

County of Turner
that the said notice was published following two dates:

Thursday,
Thursday,

[Signature]
Public
7/5

Cost of Printing: \$1.00



Nos. 163-3 and 1584-3 appropriated 1.9 cfs from one well 65 feet deep located 600 feet south of the center of the NE1/4 of Section 12, T98N, R53W to irrigate 132 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends Approval of Application No. 5448-3 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 Bldg, 523 E. Capitol, Pierre, S. D. on July 25, 1990 at 10:00 A. M. 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 July 13, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, S. D. 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 repealed 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 July 13, 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.

Publish in the Hurley Leader, June 28, July 5, 1990.



Department of Water & Natural Resources

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

SEP 17 1990

Merle Flyger
RR #1 Box 45B
Hurley SD 57036

Dear Mr. Flyger:

Enclosed is Water Permit No. 5448-3 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 cursive script, 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 USE

Date 9-20-90

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

FROM: Merle E. Flyger R. 1 Box 45 B Thurley SD 57036
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. 5448-2.

Water Permit No. 5448-2 states that the diversion system is to be constructed by 5-1-90, and that the water it put to beneficial use by 6-1-90.

The diversion system was completed on 6-1-90 or before
Applying the water to beneficial use was completed on 6-1-90.

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

Merle E. Flyger
signature



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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



August 30, 1991

Merle Flyger
Rt. 1, Box 45B
Hurley, SD 57021

Dear Mr. Flyger:

This letter is in response to your request and comments regarding the use of chemicals in an irrigation system. You mentioned that you had used, or intended to use fertilizer/pesticides in your irrigation system(s). Enclosed is a copy of the Chemigation rules that apply to irrigation systems.

These rules must be complied with before you can place any chemicals in your system. Upon completion of the installation of the necessary equipment, please contact me so I can visually inspect what you have done.

Thank you for your time, and if you have any questions or comments, please feel free to contact me.

Sincerely,

Gregory C. Johnston
Natural Resources Engineer
Water Rights Division
(605) 773-3352

encl

Dear Sir:

I thought I put a check valve on for that purpose when I made the installation and it was put ~~in~~ in and is on the well.

Sincerely
Merle C. Flyger

Permit No. 5448-3

Vermillion River Water District

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

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

I have this day made a thorough examination of the water use system constructed by Merle Flyger of Rt. 1, Box 45B, Hurley, SD 57036 holder of Permit No. 5448-3, bearing the priority of April 18, 1990 authorizing the diversion of 1.91 cu. ft. per second and/or the storage of acre-feet of the waters of Upper Vermillion-Missouri Aquifer for irrigation purposes, in Turner County.

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

A. Works used to divert the water:

One well - 168' deep, 168' of 16" PVC casing 60' of slotted PVC screen (0.085" slot size), 3 Stage Western Land Roller Pump Model No. 900143, 8" 900 GPM @32 PSI; AO Smith Motor Model No. 2529A 60 HP

B. Works used to transport water to place of use:

65' of 10" Aluminum pipe

C. Works used to apply water to beneficial use:

Valley Center Pivot - 7 towers, 1300' long with End Gun, Rain Bird Sprinklers, 850 GPM

The system is in the following condition Excellent. The point of diversion is located 1350' West and 1200' South of the NE corner Section 12-T98N-R53W, Turner County, SD. The works are capable of diverting and conveying to the place of use 1.89 cu. ft. per second of water and/or storing acre-feet of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

All in NE1/4 Section 12-T98N-R53W:

NW1/4 = 33 acres

NE1/4 = 33 acres

SW1/4 = 33 acres

SE1/4 = 33 acres

comprising a total of 132 acres of land and the license should be issued for 1.89 cfs and/or acre-feet of storage.

Applicable permit qualifications have been complied with ☒ Yes ☐ No

Exceptions to compliance are: None Date 7/29/91



Gregory C. Johnston
Natural Resources Engineer
DENR, Water Rights Division

LICENSE FOR PERMIT NUMBER 5448-3

1. Legal location of wells: 1350' west and 1200' south of the NE corner of Section 12-T98N-R53W, Turner County, SD

Dams and Structures None

2. Well Information: Well Drilling Firm Grosch Irrigation Co., Inc.

Completion Report? Yes x No No. of Wells 1 Depth(s) 168 feet

Casing a) diameter 16 inches Screen a) type 0.085" slotted PVC

b) length 168 feet b) length 60 feet

c) type PVC Static Water Level 20 feet

Pump a) make Western Land Roller Motor a) make A0 Smith

b) model 900143 b) model 2529A

c) size 8" c) horsepower rating 60

d) capacity 900 GPM d) serial no. Unknown

e) turbine pump - no. of stages 3

f) operating PSI 32

3. Distribution lines or canals

a) size 10 inches

b) type Aluminum

c) length 65 feet

5. System Type a) sideroll:

b) towline:

c)gun:

d) center pivot:

1) make

1) make Valley

2) nozzle size

2) number of towers 7

3) capacity (GPM)

3) distance between towers

4) hose size	inches	4) overall length	<u>1300</u>	feet
5) hose length	feet	5) end gun (Y/N)	<u>Y</u>	
e) gated pipe:		6) high or low pressure	<u>Low</u>	
1) length	feet	7) make and size of nozzles:		
2) diameter	inches	<u>Rain Birds</u>		
		8) capacity (GPM)	<u>850</u>	

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

Indicate any other permit(s) which are associated with project 165-3 and 1584-3

Yes	No	Check Items
<u>x</u>		1. Soil and water permit lands agree with lands being irrigated and lands listed on permit?
<u>x</u>		2. Special qualifications to permit being abided by?
<u>x</u>		3. All structures, wells and lands on map?
<u>x</u>		4. Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period?
<u>x</u>		5. Is chemigation used?
<u>x</u>		6. If yes, does equipment comply with chemigation rules?

REMARKS: There are two wells authorized under Nos. 165-3 and 1584-3 for the NE1/4 of Section 12-T98N-R53W, and if they are continued to be used to irrigate these lands, the combinations of diversions under 165-3, 1584-3 and 5448-3 can not exceed 1.0 cubic foot per second per 70 acres of land (1.89 cfs).



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 19, 1991

5448-3

Merle Flyger
Rt 1, Box 45B
Hurley SD 57021

Dear Mr. Flyger:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 5448-3, has been completed. Your final water right document, the Water License, can now be issued.

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

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

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

Genny McMath
Natural Resources Analyst
(605) 773-3352

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 15, 1992

SECOND NOTICE

Permit No. 5448-3

NOTICE OF WATER LICENSE INSPECTION FEE REQUIREMENT

Merle Flyger
Rt 1, Box 45B
Hurley, SD 57021

Dear Mr. Flyger:

On December 19, 1991, you were notified the final inspection fee of \$50.00 is due before Water License No. 5448-3 can be issued. As of this date, the fee has not been received.

The fee is a final step in the legal process of obtaining and perfecting a water right and is required by SDCL 46-2-13(3). Upon receipt of the \$50.00 fee, your Water License will be sent to you. This is the final document for the perfection of your Water Right. A perfected water right is similar to a property right and once a water right is perfected, it cannot be lost as long as the water is used.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the License fee has been paid. Please submit the required fee immediately to avoid jeopardizing your water permit.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division
Phone: (605) 773-3352

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

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

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

3. Article Addressed to:	4. Article Number
Merle Flyger Rt 1, Box 45B Hurley, SD 57021	P 757 566 258
	Type of Service:
	☐ Registered ☐ Insured
	☒ Certified ☐ COD
	☐ Express Mail ☐ Return Receipt for Merchandise
	Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature — Addressee	8. Addressee's Address (ONLY if requested and fee paid)
X <i>Merle E. Flyger</i>	
6. Signature — Agent	
X	
7. Date of Delivery	

PS Form 3811, Apr. 1989

DOMESTIC RETURN RECEIPT

TURNER COUNTY PRINTING

(605) 297-3885 Box 604 238 North Main
Parker, South Dakota 57053

Dear Sirs .

I would like to have
this permit turned over to

Senda Graber.

R. R. 1 Box 342

Hurley & Dak.

57036
Phone 605-238-5782

Sincerely

Merle E. Flyger
Rt 1 Box 45B
Hurley & Dak
57021



Call (605) 297-3885
For All Your Printing Needs!!

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

413255

Pierre, June 22, 19 92

RECEIVED OF Merle/Laverna Flyger, RR #1 Box 45B, Hurley, SD 57036

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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. 5448-3

5000

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 HATCH



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 23, 1992

5448-3

Linda Graber
RR #1 Box 42
Hurley, SD 57036

Dear Ms. Graber:

I am contacting you in regard to ownership of Water Permit No. 5448-3. Merle Flyger has contacted our office and indicated the permit should be transferred to your name.

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Permit No. 5448-3. The transfer form should be checked over for accuracy and signed in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst
(605) 773-3352

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 5448-3

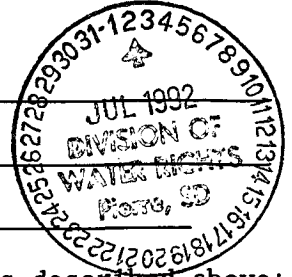
Date: June 30, 1992

I request that Water Permit No. 5448-3

formerly owned by: Merle Flyger

be transferred to: (name & address) Linda Graber

RR #1 Box 42, Hurley, SD 57036 (Telephone No.) 238-5782



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

NE 1/4 Section 12, T98N, R53W

I understand that the validity of Water Permit No. 5448-3 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 at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Turner)

I/We Linda Graber 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.

Linda Graber
(Signed)

Subscribed and sworn to before me this 30th day of June, 1992.

John L. Overby
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. 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

Division of Water Rights

South Dakota Department of Water and Natural Resources

413282

Pierre, July 2, 19 92

RECEIVED OF Calvin Graber, RR 1 Box 42, Hurley, SD 57036

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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>Water Permit No. 5448-3</u>	2	50
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	2 50

By John Hatch
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 9, 1992

No. 5448-3

Calvin Graber
RR 1, Box 42
Hurley, SD 57036

Dear Mr. Graber:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Permit No. 5448-3.

Our records now show Linda Graber, RR 1, Box 42, Hurley, SD 57036 as the owner of Water Permit No. 5448-3.

Sincerely,

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

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 19, 1993

5448-3
1584-3
165-3

Linda Graber
RR #1 Box 42
Hurley, SD 57036

Dear Ms. Graber:

Enclosed, as we discussed, are the 1992 irrigation questionnaires for Water Permit 5448-3 and Water Right Nos. 165-3 and 1584-3. The forms were originally mailed to Curt Adrian, Parker, SD. Please complete the forms and return them to our office as soon as possible (no later than January 29th).

Also enclosed is a copy of Water Permit No. 5448-3. In Number 1 of the permit, it describes the relationship between Water Permit No. 5448-3 and Water Right Nos. 1584-3 and 165-3. All are for irrigation of the NE 1/4 Section 12, T98N, R53W, however, they are from different diversion points.

When returning the irrigation questionnaires, please make a notation as to whether or not the two wells authorized under Water Right Nos. 165-3 and 1584-3 are still being used to irrigate the NE 1/4 Section 12. If the wells are abandoned, they should be plugged pursuant to Water Management Board Well Construction Standards, Chapter 74:02:04. If the wells are being used, Water Right Nos. 165-3 and 1584-3 should be transferred to your name and then incorporated into Water License No. 5448-3.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst
(605) 773-3352

enclosures



January 30, 1996

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: LINDA GRABER, RR 1 BOX 42, HURLEY, SD 57036

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

SUBJECT: Violation of Water Permit No(s) 5448-3

Our records indicate that the 1995 Irrigation Questionnaire has not been submitted for Permit No(s) 5448-3. The request for the Questionnaire was dated October 20, 1995. The Water Management Board has directed that owners of water permits who have not submitted the 1995 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will determine the action to be taken for violation of Water Permit No(s) 5448-3 qualification:

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

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

1. Suspend or cancel Permit No(s) 5448-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before March 1, 1996, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

LINDA GRABER
RR 1 BOX 42
HURLEY SD 57036

4a. Article Number

2161 984 038

4b. Service Type

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

7. Date of Delivery

2-6-96

5. Received By (Print Name)

6. Signature: (Addressee or Agent)

X

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

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 14, 1996

176-3

1967-3

5448-3

Calvin & Linda Graber
44797 281st St
Parker, SD 57053

Dear Mr. & Mrs. Graber:

I am writing to acknowledge receipt of your 1995 irrigation questionnaires. You may disregard the January 30, 1996, **Notice of Violation of Water Permit No. 5448-3 and Violation of the Requirement to Submit the 1995 irrigation questionnaires for Nos. 176-3 and 1967-3.**

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

5448-3

WATER RIGHTS PROGRAM FILE DOCUMENTATION

NAME OF PERSON OR FILE: Calvin Graber , 44797 281st St., Parker, SD 57053

COUNTY: Turner

DATE: April 17, 1996

TELEPHONE: (605) 925-4688

RE: Water Right Nos. 165-3 and 1584-3 (listed in the name of Merle Flyger) and No. 5448-3, Linda Graber

COMMENTS:

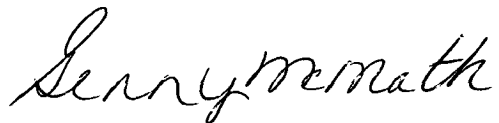
I contacted Mr. Graber concerning the status of the well described under Nos. 165-3 and 1584-3. The land described in these water rights is owned by Linda Graber (Calvin's wife). Nos. 165-3 & 1584-3 authorized use of a 65 feet deep well to irrigate the NE $\frac{1}{4}$ Section 12, T98N, R53W.

Water Permit No. 5448-3 covers irrigation of the same land, but with a 168 feet deep well. The license for No. 5448-3 was held up due to lack of information on how many wells were used to irrigate the quarter.

Mr. Graber said the 65' deep well is no longer used. They use the 168' feet deep well (No. 5448-3) to irrigate the land. I told Mr. Graber that based on this information, we could process the water license for No. 5448-3. Nos. 165-3 and 1584-3 will be scheduled for cancellation consideration since the old well is no longer used.

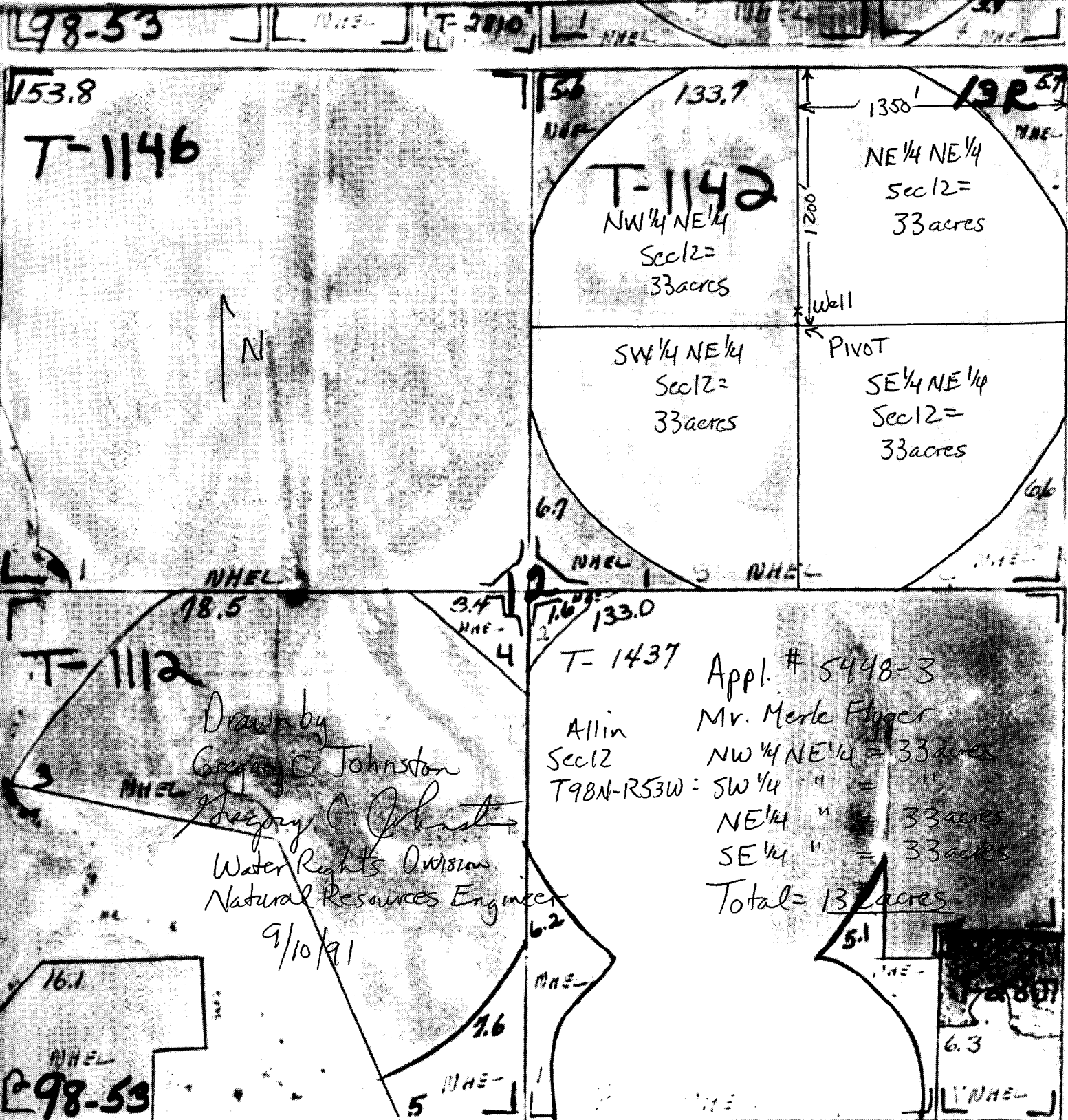
He stated this was fine and wondered if he had to attend the cancellation hearing. I told him he did not need to attend if he agreed with the cancellation recommendation, but if he disagreed, he should come to the hearing and visit with the Board. He said he agreed with cancellation of the old water rights and was pleased License No. 5448-3 would be processed.

I asked him the status of the old well, he said they had a concrete cover over the well. I explained to him that, depending on his intent for use of the well, it needed to remained capped or should be plugged. He understood.



Genny McMath
Environmental Scientist

NOT TO SCALE



5448-3

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 5448-3

(1) Merle Flyger of Hurley, SD made Application No. 5448-3, April 18, 1990 for a water permit to appropriate 1.91 cubic feet of water per second from ground water (one well), Turner County, South Dakota for irrigation purposes. Permit No. 5448-3, with a priority date of April 18, 1990 was approved July 25, 1990 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 25, 1995 and for the application to beneficial use of said water on or before July 25, 1999.

The permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on September 24, 1990. The "*Notice*" indicated the system was completed and water placed to beneficial use in June, 1990.

On July 2, 1992, Water Permit No. 5448-3 was transferred from Merle Flyger to Linda Graber.

(2) It is certified that the permit holder 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 1.89 cubic feet of water per second for beneficial use. The location of the diversion point is 1,350 feet W and 1,200 feet S of the NE corner of Section 12, T98N, R53W (approximate center of NE $\frac{1}{4}$).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate 132 acres - all in Section 12, T98N, R53W (described below):

NW $\frac{1}{4}$ NE $\frac{1}{4}$	33 acres	NE $\frac{1}{4}$ NE $\frac{1}{4}$	33 acres
SW $\frac{1}{4}$ NE $\frac{1}{4}$	33 acres	SE $\frac{1}{4}$ NE $\frac{1}{4}$	33 acres

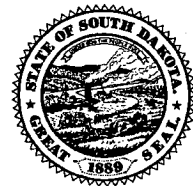
(4) Pursuant to South Dakota Water Law 46-5-30.1 Linda Graber of 44797 281 St, Parker, SD 57053 the holder and/or owner of Water Permit No. 5448-3 is issued a license to appropriate water, the right to use 1.89 cubic feet of water per second from ground water (one well) with a priority date of April 18, 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. 5448-3 and subject to South Dakota State Law.



John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 2 1996

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 15, 1996

5448-3

Linda Graber
44797 281 St
Parker, SD 57053

Dear Ms. Graber:

Enclosed is your Water License No. 5448-3. The license was issued on July 2, 1996, however due to an error in the address, the post office returned the correspondence to our office. Also enclosed, is receipt No. 413255 in the amount of \$50.00 which was paid for the investigation and issuance of the 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. 5448-3 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 the use of the water. If you have any questions, please contact our office.

Very truly yours,

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

gm
enclosures



5448-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 9, 1998

NOTICE

TO: LINDA GRABER, 44797 281ST ST, PARKER, SD 57053

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

SUBJECT: Reporting Requirement for 1997 Irrigation Questionnaire(s)

Our records indicate that the 1997 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5448-3. The request for the Questionnaire was dated October 17, 1997. The Water Management Board has directed that owners of water permits who have not submitted the 1997 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) 5448-3 qualification:

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

The hearing will be held at 9:45 am, February 25, 1998 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5448-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before February 20, 1998, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

1. ☐ Addressee's Address
 2. ☐ Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

LINDA GRABER
44797 281ST ST
PARKER SD 57053

4a. Article Number

2119 141 225

4b. Service Type

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

7. Date of Delivery

1-10-98

5. Received By: (Print Name)

8. Addressee's Address (Only if requested)

Thank you for using Return Receipt Service.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 26, 1998

176-3
1967-3
5448-3

Jerry, Jay, Calvin & Linda Graber
44797 281st St
Parker, SD 57053

Dear Sirs:

I am writing to acknowledge receipt of your 1997 irrigation questionnaires. You may disregard the January 9, 1998, "Notices" concerning reporting requirements for Water Permit Nos. 176-3, 1967-3 (Jerry, Jay & Calvin Graber) and 5448-3 (Linda Graber).

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

If you have any questions, please contact me.

Sincerely,

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



5448-3
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 24, 2012

NOTICE

TO: JAY & CALVIN GRABER, 44797 281ST ST, PARKER, SD 57053
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program
SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaires

Our records indicate that the 2011 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 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) 176-3, 1967-3 & 4152-3 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) 5448-3 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 7, 2012** 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) 5448-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 176-3, 1967-3 & 4152-3 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 2, 2012**, 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>

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
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

February 1, 2012

Jay & Calvin Graber
44797 281st St
Parker SD 57053

RE: Water Right Nos. 176-3, 1967-3, 4152-3 and 5448-3

Dear Sirs:

I am writing to acknowledge receipt of your 2011 irrigation questionnaires.

You may disregard the January 24, 2012, "Notice" concerning reporting requirements for Water Right Nos. 176-3, 1967-3, 4152-3 and 5448-3. 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
email: genny.mcmath@state.sd.us



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



No. 5448-3

August 1, 2014

Linda Graber
44797 281st Street
Parker SD 57053

Dear Ms. Graber:

The irrigation season is in full swing. This has led to the Department of Environment and Natural Resources (DENR) fielding inquiries regarding end gun overspray on to roads. DENR recently distributed the attached press release to the media.

DENR received an inquiry alleging the irrigation system located in the NE ¼ Section 12, T98N, R53W having irrigation water from the end gun hitting 280th Street. The water right for this system is held in your name under Water Right No. 5448-3.

It is common for center pivots to have stops which can be engaged to shut off the operation of the end gun when the pivot nears a road. Please take steps to insure end gun stops are functioning properly so there is not direct overspray on to the road.

A water right holder is not allowed to operate an irrigation system in violation of state water law, which includes unauthorized end gun overspray upon land not authorized by the water right. Continued overspray can result in DENR taking enforcement action.

If you don't believe your irrigation system is causing the overspray, or if you have any questions, please contact me at (605) 773-3352 or by email at eric.gronlund@state.sd.us.

Thank you for your cooperation,

Eric Gronlund
Water Rights Program, DENR
605 773-3352

enclosure

DENR Reminds Irrigators to Avoid Overspray
FOR IMMEDIATE RELEASE: Thursday, July 24, 2014

PIERRE, S.D. – The Department of Environment and Natural Resources (DENR) reminds irrigators to check their center pivots to ensure they are operating properly and are adjusted to spray only upon land authorized for irrigation by their water permit.

“It is important that irrigators do everything they can to avoid overspraying onto nearby roads or neighboring properties,” said DENR Secretary Steve Pirner. “Irrigation overspray can damage roadways, lead to unsafe driving conditions and impact neighbors.”

A water right holder is not allowed to waste water or operate an irrigation system in violation of state water law, which includes spraying water on land not covered by the water permit. Irrigation systems and especially end guns must be constantly monitored to make sure they are not applying water where it is not allowed. Irrigators who fail to prevent overspray can be subject to fines or required to appear before the Water Management Board for possible suspension of their right to irrigate.

South Dakota has nearly 5,300 active irrigation permits authorizing irrigation of up to 879,000 acres.

Gronlund, Eric

From: kknittel@gwtc.net
Sent: Friday, August 01, 2014 7:45 AM
To: Gronlund, Eric
Subject: water sprayed on road

This last week these were spraying water on the roads. They are all in the same township. Hurley Town ship Turner county

T98N R53W

sec 11 nw1/4 of sw 1/4
on hwy 19

sec 10 ne 1/4
on 280th st

sec 11ne 1/4
on 280th st

sec 12ne 1/4
on 280th st

sec 1 se 1/4
on 280th st

sec 35 se 1/4
on hwy 18

sec 3 sw 1/4 of se 1/4

this happen all time during the day and night. you don't see this at night until you hit it and then you can't see the road.

Also this morning I was driving and the same pivot that was over spraying the road that caused my accident was spraying water on the road again. this is the 2nd time that I have had to file a complaint about its in the nw 1/4 of sec 12 T98N R53W. I was told that they wont be doing that anymore and they still are.

If you have any questions just email me or call me at 605 929 6340

thanks

Kelly Knittel