

Considered: _____

WATER PERMIT NO. 5577-3

Phone: 448-2502

Name of Applicant: Isabel Fryer

Post Office Address: Box 539, Britton SD 57430

Amount of Water Claimed: 2.87 Total Acres: 240

Source of Water Supply: dam

Water to be used for: irrigation County: Marshall

About 8 miles SE of Britton

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 6-24-91 Fee: \$275.00 Remarks _____

Corrected Application Received 8-5-91 Period of Annual Use May 1 - October 31

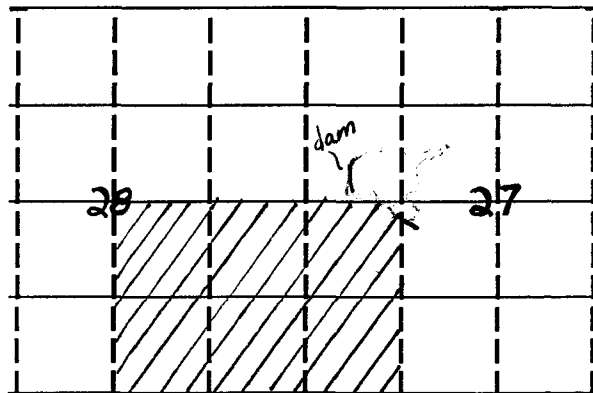
WATER QUALITY APPROVAL RECEIVED 9-9-91 APPROVED/CONDITIONAL (Circle one)

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

Diversion Point: SW 1/4 NW 1/4 Sec 27-T126N-R57W

Land to be Irrigated: W 1/2 SW 1/4 Sec 27;

SE 1/4 Sec 28; all in T126N-R57W



Well Log: Driller: _____ Licensed YES _____ NO _____

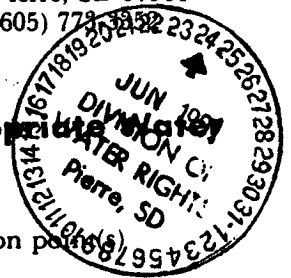
Depth of Well: _____ REMARKS _____

Type of Map: aerial PREPARED BY: Larry D Mette Reviewed and the Number

Assigned on 9-10-91 By Karen Schlaak

(See instructions)

No. 5577-3 Hydrologic Unit 10160003
Basin James River
Newspaper Britton Journal, Box 69 (Wed)



Application For Soil/Water Compatibility Permit and Permit To Appropriation

- 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 _____
1. Name of Applicant Isabel Fryer Phone No. 448-2502
- Post Office Address Box 539 Britton State S.D. 57430
(Street/RR or Box) (City) Zip Code
2. Amount of water claimed (c.f.s.) 2.87 Total acres irrigated 320240
3. Source of Water supply Dam
4. Location of point of diversion 30 rods east and 120 rods south of NW 1/4 Section 27, T126N R57W (SW 1/4 NW 1/4)
County Marshall
5. Counties where water will be used Marshall
6. Annual period during which water is to be used May 1 thru October 31
7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
NW 1/4 SW 1/4 27 126N-57W	40
SW 1/4 SW 1/4 27 126N 57W	40
SE 1/4 SE 1/4 28 126N 57W	40
NE 1/4 SE 1/4 28 126N 57W	40

Land Description	No. Acres Irr.
SW 1/4 SE 1/4 28 126N 57W	40
NW 1/4 SE 1/4 28 126N 57W	40

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: _____ Towline: _____ Center Pivot: ☒ Gun: ☒ Other: _____ (Specify) _____
9. Crops to be Irrigated: Wheat Corn Alfalfa
10. Give a description of proposed project. (Attach sheet if more space is needed)

The water for irrigation will be stored in a dam and piped to Center pivot(s) by electric pumps.

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 Marshall)^{ss}

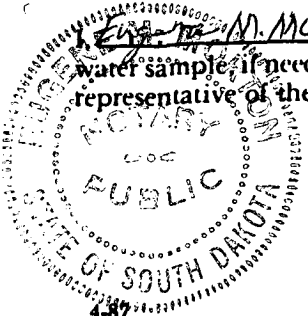
Eugene M. Morton, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters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

Signed Isabel Fryer

Subscribed and sworn to before me this 21st day of June 1991

Eugene M. Morton - Notary Public - S. Dak.
My Commission Expires June 18, 1994

Notary Public



Drainage Area Map

Application No. 5577-3

Person Dam #2

Person Dam #1

Fryer Dam

Prepared by:

Ron Dorell Natural Resources Eng

42°30'

(BRITTON 4 SW)

40'

INTERIOR-GEOLOGICAL SURVEY, WASHINGTON, D. C. 20508-88

070

SOUTH DAKOTA
WATER PERMIT No. 5577-3 FOR IRRIGATION

Date of first receipt of application June 24, 1991.

Date Soil/Water Compatibility Permit received September 9, 1991.

Date of return to applicant for corrections, amendments or changes July 1, 1991.

Date of receipt of corrected application August 5, 1991.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5577-3 to Isabel Fryer, Box 539, Britton SD 57430 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. 5577-3 appropriates 2.87 cubic feet of water per second to irrigate 240 acres located in the W 1/2 SW 1/4 Section 27; SE 1/4 Section 28; all in T126N-R57W from an existing dam with a storage capacity of 260 acre-feet of water. The dam embankment is located in the SW 1/4 NW 1/4 Section 27 and water is impounded primarily in the S 1/2 NW 1/4, NE 1/4 SW 1/4 of Section 27; all in T126N-R57W.
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 - October 31.
3. The date from which applicant may claim right is June 24, 1991.
4. The date of approval of Permit No. 5577-3 is October 22, 1991.
5. One-fifth of the construction is to be completed on or before April 22, 1994.
6. All construction is to be completed on or before October 22, 1996.
7. Water is to be put to beneficial use on or before October 22, 2000.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

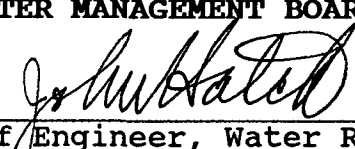
1. Approval of this Permit authorizes storage of 260 acre-feet annually.
2. The downstream 200 acre-feet storage dam authorized by Permit No. 4984-3 must have filled each year before the water is pumped to irrigate the 240 acres authorized by Permit No. 5577-3. Subject to terms agreed to by the holder of this permit and Permit No. 4948-3, water may be diverted from the dam prior to the filling of the downstream 200 acre-feet storage dam. Any such agreement shall be in writing, signed by both parties, and a copy filed with the Chief Engineer.

(continued)

Water Permit No. 5577-3
Page 2

3. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
4. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 

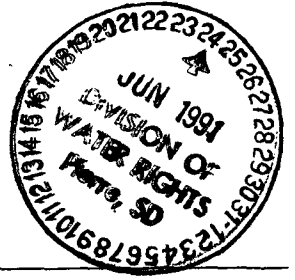
Chief Engineer, Water Rights Division
Department of Environment and Natural Resources

FEB 21 1992

date

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

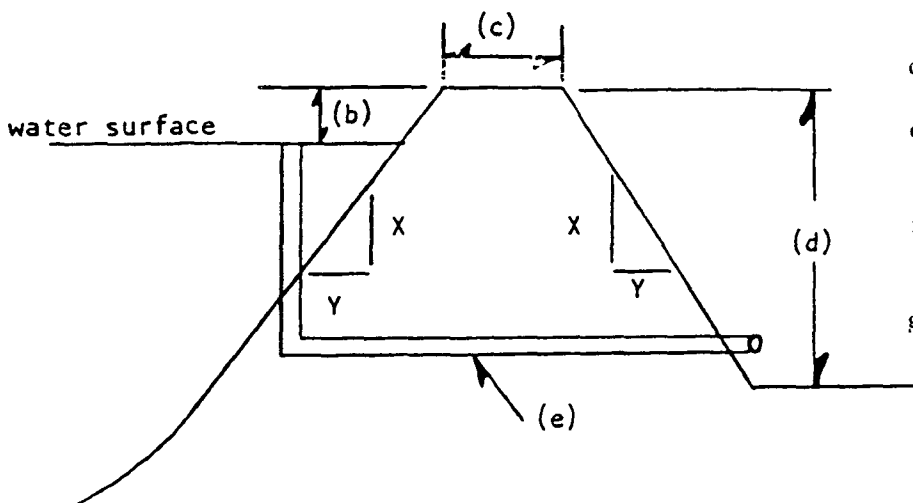
2. Dugout Information Estimates

- 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
- _____
- _____



- Est.*
- b) Freeboard 5'
- c) Crest Width 20'
Crest Length 700'
- d) Height 27'
- e) Primary Outlet Capacity _____
If Pipe, diameter 18"
- f) Secondary Spillway Capacity _____
Spillway width 50'
- g) X & Y Slope
Upstream 2:1 / 3:1
Downstream _____

Surface Area of Impoundment 30 Ac.

Storage _____ acre feet

Drainage area above dam 4020 Ac.

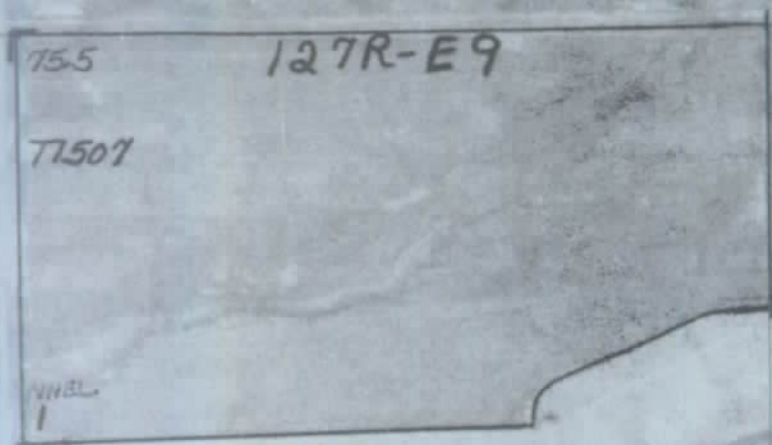
Isabel Fryer
Signature of Applicant

Isabelle Fryer

Op. Mirl + Curtis Foster

App. No. 5577-3

NOT TO SCALE



T1507

T1508

T1511



27
Larry D. Mette
Soil Cons Service
Britton, S.D.
57430



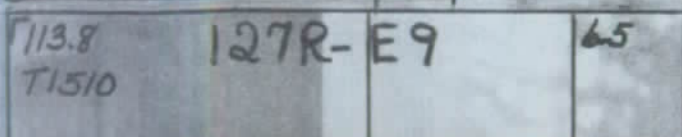
T1507

T1508

126-57

T1507
1061
Isabel Fryer
(Curtis Richard
Foster op)

T1508
1061
Isabel Fryer
(Curtis Richard
Foster op)



T1511

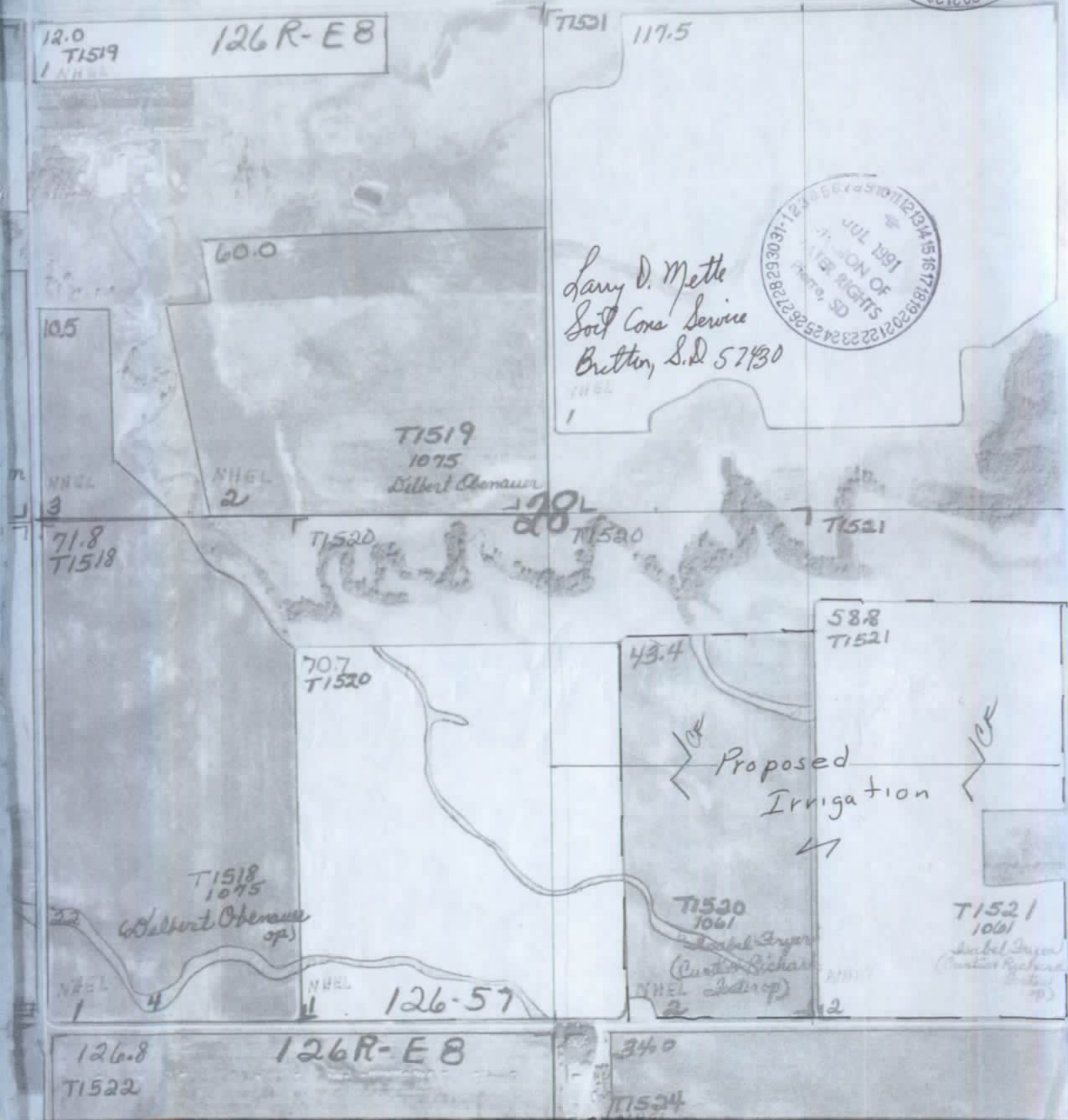
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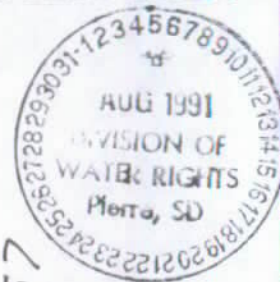
Appl. No. 5577-3

NOT TO SCALE



Larry D. Mett
Soil Cons Service
Britton, S.D 57430





Sec 27+28-126-57

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412724

Pierre, June 28, 19 91

RECEIVED OF Isabel Fryer, Box 539, Britton SD 57430

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

Fee for Application for Permit No. <u>5577-3</u> to Appropriate Water, to construct works and to put water to beneficial use	270	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	270 00

By John Hatch
Chief Engineer

JOHN HATCH (ks)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412728

Pierre, July 3, 1991

RECEIVED OF Curtis or Janice Foster, RR 2, Box 126, Britton, SD 57430

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

Fee for Application for Permit No. <u>5577-3</u> to Appropriate Water, to construct works and to put water to beneficial use	5	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	5 00

By John Hatch (F)
Chief Engineer

SOIL/WATER COMPATIBILITY PERMIT

Division of Conservation

Office Use Only

4641

WR#

OWNERS NAME: FRYER, ISABEL

OWNERS ADDRESS: BOX 539

BRITTON, SD 57430

COUNTY LAND LOCATED IN: MARSHALL PHONE: 448-2502

LEGAL DESCRIPTION:

☐ Well

☒ Surface

1. LOCATION SW $\frac{1}{4}$ NW $\frac{1}{4}$ 27-T126N-R57W (30 rods East & 120 rods South of NW $\frac{1}{4}$)

Depth _____

Legal Description	Acres	Legal Description	Acres
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 27-T126N-R57W	40	NE $\frac{1}{4}$ SE $\frac{1}{4}$ 28-T126N-R57W	40
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 27-T126N-R57W	40	SW $\frac{1}{4}$ SE $\frac{1}{4}$ 28-T126N-R57W	40
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 28-T126N-R57W	40	NW $\frac{1}{4}$ SE $\frac{1}{4}$ 28-T126N-R57W	40

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

3. CROPS TO BE IRRIGATED: WHEAT, CORN, ALFALFA

WATER QUALITY:

4. WATER SAMPLE NUMBER: 90-0099

7. ADJUSTED (SAR): 0.39

5. SALINITY (EC X 10⁶): 320

8. PERCENT SODIUM: 9.88

6. SODIUM (SAR): 0.28

Requirements:

The areas mapped as Forman-Aastad loams, 9-15% slope (FrD) are excessively steep and subject to a severe erosional hazard. These areas shall remain in permanent vegetation and shall be restricted from irrigation.

The area mapped as loamy Alluvial land (Lo), found just north of the areas of FrD and FsE shall also be restricted from irrigation and be maintained in permanent vegetation.

XXX APPROVED

 DISAPPROVED

 WAIVER

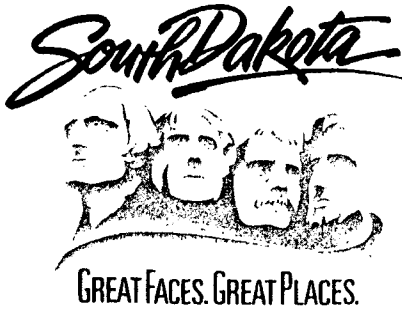
XXX REQUIREMENTS

Director, Division of Conservation

AUGUST 21, 1991

Date

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 1, 1991

Curtis Foster
RR 2, Box 126
Britton SD 57430

Dear Ms. Fryer:

In regard to your water permit application received on June 24, 1991, the following information needs to be submitted and/or clarified in order to process your application.

1. A map outlining the lands to be irrigated and showing the location of the diversion point in relation to a government section corner or quarter corner by direction and distance. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local SCS or ASCS office).
2. A soils map is required of the land to be irrigated in order to proceed with the Soil/Water Compatibility permit.
3. On Item No. 2 of the application, you indicate the total acres irrigated as 320. On Item No. 7, the total of the acreage listed is 240. Based on your June 28, 1991 phone conversation with Ron Duvall, Staff Engineer, the total acreage will be reduced to 240 acres.
4. The correct application fee for irrigating 240 acres will be \$275.00. The check for \$270.00 has been receipted. Please submit a check for the additional \$5.00.

The water permit application can not be considered until the application is complete and a soil/water permit is obtained from the Department of Agriculture. Upon receipt of the above, further processing of your application will continue.

If you have any questions, please contact this office.

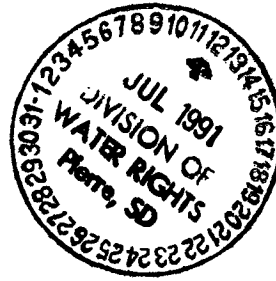
Sincerely,

Karen Schlaak
Natural Resources Analyst
605 773-3352
enclosure



United States
Department of
Agriculture

Soil
Conservation
Service



July 11, 1991

Isabelle Fryer
Route 2 Box 72
Britton, SD 57430

Dear Mrs. Fryer:

This letter is in response to your renter's, Mr. Mirl Foster's, request for assistance on an updated written preliminary risk assessment of the downstream hazards, if the dam failed.

The dam located in SW1/4 - NW 1/4 - 27 - 126N - 57W is 28 feet high, with an effective height of 23 feet. It has approximately 230 acre feet of storage capacity. The emergency spillway is 100' wide and has a drawdown pipe. Failure of this dam would cause damage to a county gravel road below it, and may also cause some damage to outbuildings a mile and one-fourth downstream. The channel here loses its capacity and water would spread over a considerable area. This would probably reduce the damage in this area. A township road also would receive some damage here. The failure of this dam could possibly cause the failure of the Gerald Person Dam which is two and one-half miles downstream.

Because the county gravel road below it may be considered a highway and the possible damage to outbuildings approximately one and one-fourth miles downstream, this dam probably would fall into a Category 2 Dam.

I hope this information will be of some assistance to you. It is a judgement factor on my part.

Sincerely,

Larry D. Mette
Conservation Technician

Enclosure

cc: Mirl Foster
Myles J. DeVine, Attorney





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 19, 1991

Curtis Foster
RR 2, Box 126
Britton SD 57430

Dear Mr. Foster:

This letter is in response to the aerial photos received on July 12, 1991, of the dam site and property to be irrigated. After review of the photos the following information is needed:

- 1) The acreage outlined on the map does not correspond with the acreage listed on the permit application. Enclosed are the maps and a copy of the application. The areas outlined on the map are as follows:

NE1/4 SW1/4	section 27	7 acres
NW1/4 SW1/4		40
SW1/4 SW1/4		40
SE1/4 SW1/4		9
NE1/4 SE1/4	section 28	27
NW1/4 SE1/4		16
SW1/4 SE1/4		30
SE1/4 SE1/4		40

	Total	209 acres

The outlined area and number of acres outlined on the map must match the legal descriptions on the permit application. For example, part of the E1/2 SW1/4 section 27 is outlined on the map but is not included on the permit application and the acreages listed on the permit application are all 40 acre areas and some of the mapped areas are less than 40 acres. Please indicate whether the mapped area should be used or the area on the permit application. The proposed method for irrigation is by center pivot according to the application. You may also want to consider whether or not the coverage area of the pivot will remain within the areas outlined on the map.

- 2) The enclosed maps need to be signed by either a SD registered professional engineer, a SD licensed land surveyor, or a government employee (ASCS or SCS) who prepares maps as part of his or her duties.

(continued)

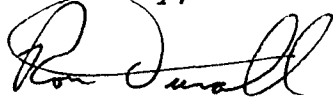
July 19, 1991
Curtis Foster
Page 2 of 2

- 3) A soils map is also needed for the Soil/Water Compatibility Permit processed by the Department of Agriculture.

Please return the enclosed maps with the proper signature and make any revisions to the irrigated area that may be needed based on either the proposed pivot coverage or the acreage described on the permit application.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Duvall".

Ron Duvall
Natural Resources Engineer
605 733-3352

enc.

Water Rights Division - WNR
Conversation or File Documentation

NAME OF PERSON OR FILE: Curt Foster

ADDRESS: RR 2, Box 126 COUNTY

DATE: Week of Aug 5-9 TELEPHONE

RE: Permit application for 240 acres

COMMENTS:

Curtis Foster called regarding my letter dated July 19, 1991. Mr Foster returned the letter with the acreage corrections, the aerial photos, and the soils map.

Mr Foster indicated during the phone conversation that he wants Full 40 acre areas listed on the application to ensure the approved application will cover all developed acres. The acreage in the E $\frac{1}{2}$ SW $\frac{1}{4}$ section 27 will not be irrigated. A center pivot is to be placed in the center of the SW $\frac{1}{4}$ to irrigate only the W $\frac{1}{2}$ SW $\frac{1}{4}$ according to Mr. Foster. The acreage revisions made by Mr. Foster are written on the July 19, 1991, letter returned to the Water Rights Division by Mr. Foster.

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: Ken Carroll

REPORT ON APPLICATION NO. 5577-3
ISABEL FRYER

September 11, 1991

Application No. 5577-3 is to appropriate 2.87 cubic feet of water per second (cfs) to irrigate 240 acres from an existing dam with a storage capacity of 260 acre-feet of water. The dam embankment is located in the SW1/4 NW1/4 section 27 and the acreage to be irrigated is located in the W1/2 SW1/4 section 27; SE1/4 section 28; all in T126N-R57W.

BACKGROUND

Water Permit No. 4780-3 was approved on July 29, 1981, to appropriate 2.87 cfs to irrigate 201 acres from a dry draw dam. Construction of the storage dam was completed in the spring of 1982, but the irrigation system was not completed within the authorized construction period. The time limit to complete construction of all works ended on July 29, 1986.

Application No. 5189-3 to reinstate Permit No. 4780-3 was submitted on March 29, 1988. This application was later revised from an application to reinstate No. 4780-3 to an application to extend the construction period authorized by Permit No. 4780-3. The purpose for revising the application was to retain the priority date assigned to Permit No. 4780-3 rather than be assigned a new priority date.

On March 1, 1989, the Water Management Board adopted findings of fact, conclusions of law, and a final decision to approve Application No. 5189-3 to extend the time period to construct works. Approval of the application was based on exigent circumstances which prevented completion of the irrigation project within the original construction period. Approval of Application No. 5189-3 was appealed to and upheld by the Circuit Court and was then appealed to the State Supreme Court. The Supreme Court affirmed the Board's definition of exigent circumstances, but also found that the circumstances preventing completion of the irrigation project did not constitute exigent circumstances. This decision effectively reversed approval of Application No. 5189-3. Based on the failure to construct all works within the permitted construction period and the subsequent Supreme Court decision, Water Permit No. 4780-3 has been cancelled.

SAFETY OF DAMS COMPLIANCE

A preliminary risk assessment was received on May 9, 1988, in response to a request for a risk assessment for Application No. 5189-3. The risk assessment is used for classifying dams based on downstream hazard potential in event of a dam breach. According to the risk assessment completed by Larry D Mette, Conservation Technician, a dam breach would cause damage to a county road, a township road, and may damage outbuildings about one and one quarter miles downstream. Mr. Mette indicated no dwellings located downstream would be affected, but failure of the dam may cause failure of the Gerald Person dam. According to Mr. Mette, the dam should be classified as a Category 2 dam due to potential property damages.

Tim Schaal, Water Rights Division Engineer, completed an inspection of the dam on June 14, 1988, to confirm the hazard classification recommended by Mr.

Mette. According to Mr. Schaal, the home located approximately one and one quarter miles downstream from the dam is located about 12 feet above the channel bottom and should not be affected. The channel widens and the area is very flat causing the water to spread out before reaching the home. Mr. Schaal concurred with the Category 2 recommendation made by Mr. Mette. On July 11, 1991, an updated risk assessment for this application was received from Mr. Mette. The updated risk assessment indicates the hazard classification should remain as a Category 2.

The dam is exempt from the spillway flow bypass requirements since the dam was constructed in the spring of 1982; however, Mr. Schaal did note that the 100 feet wide spillway is capable of bypassing about 1900 cfs. The safety of dams rules require a spillway capacity capable of bypassing a 100 year flood which is approximately 1500 cfs. Therefore, the dam meets the spillway capacity provisions for small size, category 2 dams even though the dam was constructed prior to the adoption of safety of dams rules.

WATER RIGHTS REVIEW

Water Permit No. 5386-3 held by Isabel Fryer appropriates 1.14 cfs from the existing dam located in the SW1/4 NW1/4 section 27 to irrigate 80 acres in the E1/2 SW1/4 section 28; all in T126N-R57W. This 80 acres is in addition to the 240 acres specified on this application. Permit No. 5386-3 has a priority date of April 30, 1990.

Water Permit Nos. 4948-3 and 5034-3 held by Gerald Person appropriate 2.85 cfs from 2 storage dams (200 and 320 acre-feet capacity) to irrigate 210 acres. Permit No. 4848-3 has a priority date of February 23, 1983 and Permit No. 5034-3 has a priority date of October 22, 1984. The Fryer dam is located approximately 3 miles upstream in the drainage area above the Person dams.

No other water permits/rights are located immediately downstream of this application.

WATER AVAILABILITY

The drainage areas above the Fryer and Person dams are outlined on the drainage area map attached to this report. The area above the Fryer dam is outlined in red and the areas above the Person dams are outlined in blue and green.

According to the Soil Conservation Service Field Manual, the estimated annual surface water runoff for the drainage areas above the Fryer and Person dams are listed in the following table:

		Runoff Yield (acre-feet)	Drainage Area 4,020 acres
Fryer Dam	80 percent chance every year	67	
	50	174	
	20	476	
	10	787	Dam Capacity 260 acre-feet
Person Dam #1	80 percent chance every year	92	Drainage Area 5,500 acres
		*(25)	
	50	238	** (1,480) acres
		(64)	

	20	650 (175)	
	10	1,076 (289)	Dam Capacity 200 acre-feet
Person Dam #2	80 percent chance every year	150 *(83)	Drainage Area 9,000 acres
	50	390 (216)	** (4,980) acres
	20	1,065 (589)	
	10	1,763 (975)	Dam Capacity 320 acre-feet

* Estimated runoff values to Person dams excluding runoff from the drainage area above the Fryer dam.

** Drainage area above Person dams excluding drainage area above the Fryer dam.

The Fryer dam does impact the amount of runoff available to the Person dams. Approximately 73% of the drainage area contributing to Person dam #1 and 45% of the drainage area contributing to Person dam #2 is located above the Fryer dam. Therefore, the impact to Person dam #1 is greater than the impact to Person dam #2.

CONCLUSIONS

- 1) Water is available for appropriation.
- 2) The Fryer dam does affect the amount of runoff water available to Person dam #1 and #2. Dam #2 is impacted less due to the larger drainage area available to dam #2 that is not affected by the Fryer dam. Assuming Dam #2 is not fully depleted each year, the dam should fill approximately 50% of the time regardless of the amount of runoff impounded in the Fryer dam.
- 3) Water Permit Nos. 4948-3 and 5034-3 held by Gerald Person have senior priority over Permit No. 5386-3 held by Isabel Fryer and this application, if approved.
- 4) Water Permit Application No. 5577-3 should be approved with the following qualifications:
 - a. Approval of this permit authorizes storage of 260 acre-feet annually.
 - b. The downstream 200 acre-feet storage dam authorized by Permit No. 4948-3 must have filled each year before water is pumped to irrigate the 240 acres authorized by Permit No. 5577-3. Subject to terms agreed to by the holder of this permit and Permit No. 4948-3, water may be diverted from the dam prior to the filling of the downstream 200 acre-feet storage dam. Any such agreement shall be in writing, signed by both parties, and a copy filed with the Chief Engineer.
 - c. Low flows as needed for downstream domestic use, including livestock water and other prior water rights must be by-passed.

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



 For Ron Duvall
Natural Resources Engineer IV
Water Rights Division

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5577-3, Isabel Fryer

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 5577-3, Isabel Fryer, Box 539, Britton, SD 57430.

The Chief Engineer is recommending APPROVAL of Application No. 5577-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. Approval of this permit authorizes storage of 260 acre-feet annually.
2. The downstream 200 acre-feet storage dam authorized by Permit No. 4948-3 must have filled each year before water is pumped to irrigate the 240 acres authorized by Permit No. 5577-3. Subject to terms agreed to by the holder of this permit and Permit No. 4948-3, water may be diverted from the dam prior to the filling of the downstream 200 acre-feet storage dam. Any such agreement shall be in writing, signed by both parties, and a copy filed with the Chief Engineer.
3. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
4. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.



JOHN HATCH, Chief Engineer
September 13, 1991



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

September 17, 1991

Isabel Fryer
Box 539
Britton, SD 57430

Dear Ms. Fryer:

Water Permit Application No. 5577-3 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 Britton Journal printed at Britton, SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are 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 Hearing 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. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

cc: Curt Foster, RR 2 Box 126, Britton, SD 57430
Gerald Persons, RR 2 Box 123, Britton, SD 57430

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 17, 1991

Britton Journal
Box 69
Britton, SD 57430-0069

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5577-3 to be published twice. Please publish the first notice on September 25, 1991, 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 Isabel Fryer, Box 539, Britton, SD 57430.

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. No action may be taken on the permit application 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 September 25, 1991, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5577-3 to Appropriate Water

Notice is given that Isabel Fryer, Box 539, Britton, SD 57430 has filed an application for a water permit to appropriate 2.87 cubic feet of water per second to irrigate 240 acres located in the W 1/2 SW 1/4 Section 27; SE 1/4 Section 28; all in T126N-R57W from an existing dam with a storage capacity of 260 acre-feet. The dam embankment is located in the SW 1/4 NW 1/4 Section 27 and water is impounded primarily in the S 1/2 NW 1/4, NE 1/4 SW 1/4 of Section 27; T126N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5577-3 with qualifications 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. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 15, 1991. 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 the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 5577-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for October 22, 1991, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the October 22, 1991, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The October 22, 1991, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by October 15, 1991.

If a hearing is held, 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 hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County Marshall) ss.

I, G.L. Card

certify that the attached printed Notice was taken
 from the Britton Journal

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

City _____ of Britton

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

Sept. 25, 1991

Oct. 2, 1991

C. L. Card
 (Signature)

publisher

(Title)

Oct. 2, 1991

(Date Signed)

Cost of Printing: \$51.22

2T(Sept. 25-Oct. 2)

NOTICE OF HEARING
 on Application No. **5577-3**
 to Appropriate Water

Notice is given that Isabel Fryer, Box 539, Britton, SD 57430 has filed an application for a water permit to appropriate 2.87 cubic feet of water per second to irrigate 240 acres located in the W1/2SW1/4 Section 27; SE1/4 Section 28; all in T126N-R57W from an existing dam with a storage capacity of 260 acre-feet. The dam embankment is located in the SW1/4NW1/4 Section 27 and water is impounded primarily in the S1/2NW1/4, NE1/4SW1/4 of Section 27; T126N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5577-3 with qualifications 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. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 15, 1991. 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 the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 5577-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for October 22, 1991, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E. Capitol, Pierre, SD. If this application is opposed or the recommendation is contested, the October 22, 1991, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing

petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The October 22, 1991, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by October 15, 1991.

If a hearing is held, 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 hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A10, 46-2A-12, 46-2A-14, 46-2A-15, 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

February 21, 1992

Curt Foster
RR 2 Box 126
Britton, SD 57430

Dear Mr. Foster:

For your information, enclosed please find a copy of Water Permit No. 5577-3.

Sincerely,

Jaci R Konop
Senior Secretary

Enclosure



FEB 21 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Isabel Fryer
Box 539
Britton, SD 57430

Dear Ms. Fryer:

Enclosed is Water Permit No. 5577-3 authorizing construction of your water diversion system and beneficial use of the water, 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,

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.

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Isabel Fryer (Curt Foster)

ADDRESS: _____ COUNTY: Marshall

DATE: July 27, 1993 TELEPHONE: 448-5325

RE: Dam Inspection

COMMENTS:

On July 20, 1993, I inspected the Fryer Dam to check out the damage from the 6 to 7 inch rainfall they had on the 17th. The earthcut spillway experienced some backcutting and eroded back approximately 100 feet with another 200 feet remaining before the reservoir. Some of this erosion may have occurred from a rainfall on July 4th.

The County road located 1/4 mile below the dam was washed out along the culvert. Some of this may have occurred on the 4th also.

A contractor was working on the spillway. They planned on diverting the flow so they could repair the erosion. They also planned on widening the spillway exit, spreading out the flow over the dropoff into the channel.

I talked to Curt Foster about this. We also talked about Gerald Person's dam and maybe having him lower the reservoir. I told him Mr. Person needs to repair his spillway and could maybe install a culvert to lower the reservoir some.

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

NAME: Timothy G. Schaal



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 25, 1994

5386-3
5577-3

Curtis Foster
RR #2 Box 126
Britton, SD 57430

Dear Mr. Foster:

Recently you contacted our office regarding the addition of soybeans to the list of crops to be irrigated under Water Permit Nos. 5386-3 and 5577-3.

The type of crops was relevant for the "soil-water compatibility" portion of the permit; however the 1994 Legislature repealed the "soil-water" statutes. Irrigators can plant any crop they choose as long as the acres being irrigated are the same as described in the permit.

Thank you for contacting us concerning this matter. This letter will serve as file documentation that you intend to add soybeans to the list of crops to be irrigated. If you have any questions, please contact us.

Sincerely,

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

1996 WATER MANAGEMENT BOARD IRRIGATION QUESTIONNAIRE
PLEASE FILL OUT AND RETURN BEFORE DECEMBER 20, 1996

35773
ISABEL FRYER
BOX 539
BRITTON SD 57130

CHANGES TO ADDRESS LABEL, IF ANY:
Telephone No. _____

COMPLETE AND RETURN THIS FORM TO THE WATER RIGHTS PROGRAM AT 623 E CAPITOL, PIERRE, SD 57501-3181 (800) 773-5182

HAS SYSTEM BEEN CONSTRUCTED? YES ☒ NO ☐
DID YOU IRRIGATE IN 1996? YES ☒ NO ☐ IF YES, NUMBER OF ACRES IRRIGATED _____

SOURCE OF WATER dam
DID YOU CHEMIGATE IN 1996? YES ☐ NO ☒

TYPE OF SYSTEM (CHECK ALL THAT APPLY):
CENTER PIVOTS ☒ TOMLINES ☐ BIG GUN _____

FLOOD ☐ SPRINKLERS ☐ OTHER ☐

COMMENT SECTION:



THE PORTION OF THE FORM FOR REPORTING ACRES IRRIGATED IS ON THE BACK OF THIS PAGE. LISTED BELOW ARE TWO EXAMPLES OF HOW TO COMPLETE THE FORM:

EXAMPLE 1: IN JUNE & JULY, 130 ACRES WERE IRRIGATED USING A CENTER PIVOT SYSTEM (70 ACRES OF CORN & 60 ACRES OF BEANS). THE PUMP RATE OF THE PIVOT IS 800 GALLONS PER MINUTE AND YOU PUMPED 10 DAYS (@ 24 HOURS PER DAY) ON THE CORN AND 20 DAYS ON THE BEANS.

MONTH	CROP	ACRES	PUMP RATE	# DAYS	AVERAGES DAY
JUNE	CORN	70	800 GPM	10	24
	BEANS	60	800 GPM	10	24
JULY	BEANS	60	800 GPM	10	24
	BEANS	60	800 GPM	10	24

EXAMPLE 2: IN JUNE, 40 ACRES OF ALFALFA WERE IRRIGATED (USING GATED PIPE @ 3000 GPM) FOR 5 DAYS - 24 HOURS PER DAY; 60 ACRES OF BEANS WERE IRRIGATED (USING BIG GUN @ 380 GPM) FOR 10 DAYS AT 24 HOURS PER DAY.

JUNE	ALFALFA	40	3000 GPM	5	24
	BEANS	60	380 GPM	10	24

PLEASE SPECIFY IF ACTUAL IRRIGATION HOURS OR KILOWATT HOURS ARE BEING REPORTED. FOR KILOWATT HOURS, INCLUDE DEPTH TO WATER & SYSTEM PRESSURE IN COMMENT SECTION.

MONTH IRRIGATED	CROP TYPE	ACRES IRRIGATED	PUMP RATE/GPM	DAYS PER MONTH	AVERAGES PER DAY
-----------------	-----------	-----------------	---------------	----------------	------------------

MARCH					
APRIL					
MAY					
JUNE					
JULY					
AUGUST	Soybeans	75	540 GPM	9	24
SEPTEMBER					
OCTOBER					

IF MORE ROOM IS NEEDED, PLEASE INCLUDE THE INFORMATION ON A BLANK SHEET OF PAPER

1997 WATER MANAGEMENT BOARD IRRIGATION QUESTIONNAIRE
PLEASE FILL OUT AND RETURN BEFORE DECEMBER 1, 1997

gm

5577-3
 ISABEL FRYER
 BOX 539
 BRITTON SD 57430

5386-3

CHANGES TO ADDRESS LABEL, IF ANY:

Telephone No. 448-2502

COMPLETE AND RETURN THIS FORM TO THE WATER RIGHTS PROGRAM AT 523 E CAPITOL, PIERRE, SD 57501-3181 (605) 773-3352

HAS SYSTEM BEEN CONSTRUCTED? YES ☒ NO ☐

DID YOU IRRIGATE IN 1997? YES ☒ NO ☐ IF YES, NUMBER OF ACRES IRRIGATED 75

SOURCE OF WATER Dam

DID YOU CHEMIGATE IN 1997? YES ☐ NO ☒

TYPE OF SYSTEM (CHECK ALL THAT APPLY):

CENTER PIVOTS ☒ TOWNLINES ☐ BIG GUN ☐

FLOOD ☐ SPRINKLERS ☐ OTHER ☐

COMMENT SECTION:



THE PORTION OF THE FORM FOR REPORTING ACRES IRRIGATED IS ON THE BACK OF THIS PAGE. LISTED BELOW ARE TWO EXAMPLES OF HOW TO COMPLETE THE FORM:

EXAMPLE 1: IN JUNE & JULY, 130 ACRES WERE IRRIGATED USING A PIVOT SYSTEM (70 ACRES OF CORN & 60 ACRES OF ALFALFA). THE PUMP RATE OF THE PIVOT IS 800 GALLONS PER MINUTE AND YOU PUMPED 8 DAYS (@ 24 HOURS PER DAY) ON THE CORN AND 22 DAYS ON THE ALFALFA:

MONTH	CROP	ACRES	PUMP RATE	# DAYS	AVE/HRS DAY
JUNE	CORN	70	800 GPM	8	24
	ALFALFA	60	800 GPM	10	24
JULY					
	ALFALFA	60	800 GPM	12	24

EXAMPLE 2: IN JUNE, 40 ACRES OF ALFALFA WERE IRRIGATED (USING GATED PIPE @ 3000 GPM) FOR 5 DAYS - 24 HOURS PER DAY; 60 ACRES OF BEANS WERE IRRIGATED (USING BIG GUN @ 380 GPM) FOR 10 DAYS AT 24 HOURS PER DAY:

JUNE	ALFALFA	40	3000 GPM	5	24
	BEANS	60	380 GPM	10	24

PLEASE SPECIFY IF ACTUAL IRRIGATION HOURS OR KILOWATT HOURS ARE BEING REPORTED. FOR KILOWATT HOURS, INCLUDE DEPTH TO WATER & SYSTEM PRESSURE IN COMMENT SECTION.

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

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

DATE: March 11, 1998

TELEPHONE: 448-2381 (work)

RE: Call from Curt Foster

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



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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 3, 1998

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

Dear Mr. Foster:

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

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

Sincerely,

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

enclosure

Permit No. 5577-3
James 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

I have this day, August 13, 1998, made a thorough examination of the water use system constructed by Isabel Fryer of Box 539, Britton SD 57430 holder of Permit No. 5577-3, bearing the priority of June 24, 1991 authorizing the diversion of 2.87 cu. ft. per second and/or the storage of 260 acre-feet of the waters of runoff for irrigation purposes, in Marshall County.

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

A. Works used to divert the water:

Baldnor electric 30 Hp motor, Model No. JPM2535T with a 13 inch Cornell centrifugal pump, Model No. 3RB30-4, Capacity 600 gpm

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

Approximately 2000 feet of 6 inch aluminum pipe and 2000 feet of 10 inch aluminum pipe

C. Works used to apply water to beneficial use:

Valley 6000, 7 tower Center Pivot

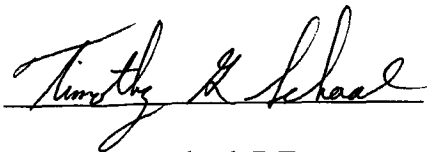
The system is in the following condition good. The point of diversion is located 2350 feet south & 700 feet east of the NW corner of Section 27-T126N-R57W (SW ¼ NW ¼). The works are capable of diverting and conveying to the place of use 1.33 (600 gpm) cu. ft. per second of water and/or storing 260 acre-feet of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

NW ¼ SW ¼ Sec. 27-T126N-R57W—35 acres
SW ¼ SW ¼ “ “ ---35 acres

comprising a total of 70 acres of land and the license should be issued for 1.0 cfs and/or 260 acre-feet of storage.

Applicable permit qualifications have been complied with: Yes X

Exceptions to compliance are: none Date Report Completed: August 21, 1998



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

REPORT ON INSPECTION OF PERMIT NO. 5577-3

Other permit(s) associated with the project: 5386-3

DATE OF INSPECTION: August 13, 1998

NAME & ADDRESS OF INSPECTION CONTACT/ Curt Foster, RR #2, Box 126, Britton, SD 57430

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: manager

NAME & ADDRESS OF PERMIT HOLDER: Isabel Fryer, Box 539 Britton, SD 57430

DIVERSION POINT LEGAL LOCATION: 2350 feet south & 700 feet east of the NW corner of
Section 27-T126N-R57W (SW ¼ NW ¼)

Pump:

- 1) Make Cornell Centrifugal
- 2) Model 3RB30-4
- 3) Size 13
- 4) Capacity 600 GPM

Motor:

- 1) Make Baldnor Electric
- 2) Model No. JPM2535T
- 3) Horsepower rating 30 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type Aluminum 2) Size 2000 feet 6 inch & 2000 feet 10 inch

SYSTEM TYPE:

Center pivot:

- 1) Make Valley 6000
- 2) Overall length 1320 feet
- 3) Number of towers 7
- 4) Distance between towers 185 feet
- 5) End gun yes
- 6) High or low pressure high
- 7) Capacity 600 GPM

DAM INFORMATION:

- 1) Height to crest 27 feet
- 2) Height to primary spillway 21 feet
- 3) Height to secondary spillway N/A feet
- 4) Crest width 14 feet
- 5) Crest length 700 feet
- 6) Spillway length XXX feet
- 7) Spillway width 100 feet
- 8) Approx. storage (Normal) 260 acre-feet
- 9) Approx. storage (Maximum) 520 acre-feet
- 10) Date constructed: 1982

CHEMIGATION EQUIPMENT:

- 1) Does chemigate NO

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes

NOT TO SCALE

ELEVATION

1061
T1507

118L-F9

T 1061
T1508

75.5

Irrigation
Dam
260 Ac. $\rightarrow$

2350'

700

27

NW 1/4 SW 1/4
35 Ac.

SW 1/4 SW 1/4
35 Ac.

NHE
2 86.5

120-57

118L-F9

Timothy A. Schaal

August 21, 1998 5577-3

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5577-3

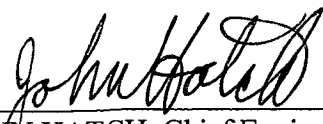
(1) Isabel Fryer, Box 539, Britton SD 57430 made Application No. 5577-3, June 24, 1991 for a water permit to divert 2.87 cubic feet of water per second from runoff stored in a dam (260 acre-feet storage capacity), Marshall County, South Dakota for irrigation purposes. Permit No. 5577-3, with a priority date of June 24, 1991 was approved October 22, 1991 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before October 22, 1996 and for the application to beneficial use of said water on or before October 22, 2000.

(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 1.0 cubic feet of water per second for beneficial use. The location of the diversion point (spillway) is 2,350 feet south and 700 feet east of the northwest corner of Section 27-T126N-R57W (SW ¼ NW ¼).

(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 the following land:

Section 27-T126N-R57W	NW ¼ SW ¼	35 acres
	SW ¼ SW ¼	35 acres
	Total	70 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Isabel Fryer, Box 539, Britton SD 57430 the holder and/or owner of Water Permit No. 5577-3 is issued a license to appropriate water, the right to use 1.0 cubic feet of water per second from runoff stored in a dam (260 acre-feet storage capacity) with a priority date of June 24, 1991 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. 5577-3 and subject to South Dakota State Law.


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

SEP 10 1998

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 26, 1998

5577-3

Curt Foster
RR 2, Box 126
Britton, SD 57430

Dear Mr. Foster:

The investigation of your water use system was conducted on August 13, 1998, by Timothy G. Schaal, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit No. 5577-3. 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

NO 415849

Pierre, September 1, 19 98

RECEIVED OF Curtis or Janice Foster, 42430 - 116th St., Britton, SD 57430-5630
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. 5577-3

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 10 1998

5577-3

Isabel Fryer
%Curt Foster
42430 116th St.
Britton, SD 57430-5630

Dear Ms. Fryer:

Enclosed is Water License No. 5577-3 and Receipt No. 415849 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 5577-3 is the final document which completes the process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

ks
enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 2, 1998

5577-3

Isabel Fryer
% Curt Foster
42430 116th St.
Britton, SD 57430-5630

Dear Mr. Foster:

I am writing in reference to Mrs. Fryer's Water Right No. 5577-3. Our September 10, 1998, letter forwarding the water license to you, should have addressed the tree growth on the dam embankment.

We recommend that all trees growing on the embankment be removed. The root systems of the larger trees, those more than four inches in diameter, should also be removed and the resulting holes backfilled with impervious material. Tree growth on dam embankments is discouraged for several reasons. One is that toppled trees, especially those on the upstream slope, can create a large hole susceptible for erosion which could lead to failure. Another reason is the possibility of seepage and/or piping of fill material along root systems, and a third reason would be that trees and brush provide shelter and homes for burrowing animals.

If you have any questions regarding this matter, please feel free to contact Tim Schaal, with our program at (605) 773-3352.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program



5577-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 1999

NOTICE

TO: ISABEL FRYER, % CURT FOSTER, MGR, 42430 116TH ST, BRITTON, SD 57430 5630
FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1998 Irrigation Questionnaire(s)

Our records indicate that the 1998 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5577-3. The request for the Questionnaire was dated October 16, 1998. The Water Management Board has directed that owners of water permits who have not submitted the 1998 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) 5577-3 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 3, 1999 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) 5577-3 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, 1999, 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:

ISABEL FRYER
CURT FOSTER, MGR
42430 116TH ST
BRITTON SD 57430 5630

4a. Article Number

2119141558

4b. Service Type

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

7. Date of Delivery

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X *Curt Foster*

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
www.state.sd.us/denr

January 27, 1999

5577-3

Curt Foster
42430 116th St
Britton, SD 57430-5630

Dear Mr. Foster:

I am writing to acknowledge receipt of the 1998 irrigation questionnaire for Isabel Fryer. You may disregard the January 22, 1999, "Notice" concerning reporting requirements for Water Right No. 5577-3.

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



5577-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 14, 2004

NOTICE

TO: ISABEL FRYER, CURT FOSTER, MGR, 42430 116TH ST, BRITTON, SD 57430 5630
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2003 Irrigation Questionnaire(s)

Our records indicate that the 2003 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5577-3. The request for the Questionnaire was dated October 17, 2003. The Water Management Board has directed that owners of water permits who have not submitted the 2003 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) 5577-3 qualification:

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

The hearing will be held at 8:30 am, March 3, 2004 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) 5577-3 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 27, 2004**, 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.



5577-3

Track & Confirm

Current Status

You entered 2301 3460 0000 8515 9074

Your item was delivered at 11:19 am on January 15, 2004 in BRITTON, SD 57430. The item was signed for by C FOSTER.

[Shipment Details >](#)

Notification Options

▶ Track & Confirm by email

[What is this?](#)

[Go >](#)

▶ Request Proof of Delivery

[What is this?](#)

[Go >](#)



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Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

SIGNATURE CONFIRMATION NUMBER:
2301 3460 0000 8515 9074

ISABEL FRYER
CURT FOSTER, MGR
42430 116TH ST
BRITTON SD 57430 5630

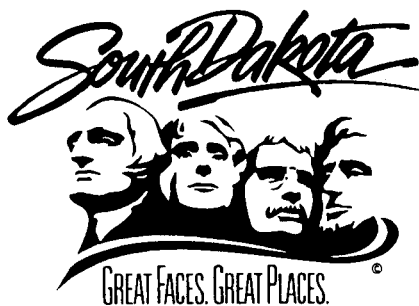
Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

☐ Priority Mail®
☐ Package Services



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 15, 2004

5577-3

Curt Foster, Mgr
42430 116th St
Britton SD 57430-5630

Dear Mr. Foster:

I am writing to acknowledge receipt of your 2003 irrigation questionnaire. You may disregard the January 14, 2004, "Notice" concerning reporting requirements for Water Right No. 5577-3.

I completed a questionnaire for you based on our January 15th telephone conversation. Enclosed is a copy of the form I filled out for you. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

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

Sincerely,

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



5577-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 13, 2005

Curt Foster
42430 116th St.
Britton, SD 57430-5630

Dear Mr. Foster:

Enclosed are two copies of the Notice of Transfer of Ownership form we discussed the other day to transfer Water Right No. 5577-3 from Mrs. Fryer's name to yours. The form needs to be completed, signed and returned to us along with the filling fee of \$2.50.

Please let me know if you have any questions about the form or the repair of your dam.

Sincerely,

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

5577-3

NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED
JUL 19 2005
WATER RIGHTS
PROGRAM

No. _____
Date: 7/17/05

I/We request that Water Right/Permit No. 5577-3

formerly owned by: Isabel Fryer

be transferred to: (name & address) Curtis Foster 42430 116 St.
Britton S.D. 57430

Telephone No. 448-5325

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

W 1/2 of 126-57-27, E 1/2 of SE 1/4-126-57-28, W 1/2 of
SE 1/4-126-57-28, E 1/2 of SW 1/4-126-57-28

I/We understand that the validity of Water Right/Permit No. 5577-3 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 Curtis Foster, the new owner, certify that the above information is true and correct.

Curtis Foster

(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 July 19, 2005

RECEIVED OF Curtis Foster, 42430 116th St., Britton SD 57430

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>5577-3</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.

001904

By

Darland Albe
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

July 19, 2005

5577-3

Curtis Foster
42430 116th St
Britton SD 57430

Dear Mr. Foster:

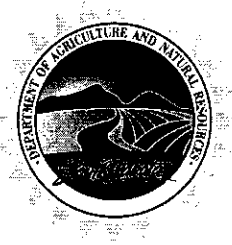
I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for changing ownership on Water Right No. 5577-3. The transfer has been completed. The water right formerly listed in the name of Isabel Fryer is now listed in your name.

Enclosed is your Receipt No. 001904 in the amount of \$2.50. I also included a copy of the water right in the event you do not have one. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 7, 2026

5577-2

Curtis Foster
42430 116th St
Britton SD 57430

Dear Mr. Foster:

The Water Rights Program is in receipt of the 2025 Irrigation Questionnaire you submitted online for Water Right No. 5577-3, which authorizes the irrigation of 70 acres located within the W ½ SW ¼ Section 27-T126N-R57W, Marshall County, South Dakota.

On this year's questionnaires you reported that use of the irrigation system had been abandoned, with irrigation last reported in 2017.

Please contact me via email or by calling my direct line (605) 910-5187 to discuss cancellation of Water Right No. 5577-2.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

From: +1 605-448-8452 (Unverified) <noreply@skype.voicemail.microsoft.com>
Sent: Monday, March 16, 2026 12:34 PM
To: Dewell, Amanda
Subject: Voice Mail (33 seconds)
Attachments: audio.mp3

this is curtis foster returning your call regarding the cancellation of a water rights that i talked to you about earlier this year we had been out of the area and are just catching up with some phone messages and i'm sorry for the delay 605-448-8452 is my cell number so please call me at your earliest convenience thank you

You received a voice mail from [+1 605-448-8452](#).

Thank you for using Transcription! If you don't see a transcript above, it's because the audio quality was not clear enough to transcribe.

[Set Up Voice Mail](#)

I returned Curtis' VM on 3/17/2026. He confirmed that the system authorized by WR No. 5577-3 had been abandoned, and all the irrigation system equipment has been removed from the property and sold. The dam has been breached for a number of years and rendered un-usable. Curtis fully agreed to cancellation due to abandonment/forfeiture.

Amanda Dewell



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

September 4, 2026

NOTICE OF CANCELLATION

TO: Curtis Foster, 42430 116th St, Britton SD 57430

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right No. 5577-3

Water Right No. 5577-3 authorizes the impoundment of runoff in a dam (260 ac-ft storage capacity) to be diverted at a rate of 1.0 cubic feet of water per second for the irrigation of 70 acres located in the W ½ SW ¼ Section 27-T126N-R57W, Marshall County, South Dakota. When contacted by Water Rights Program staff you reported that the dam has been breached for several years and rendered unusable, and that all the irrigation equipment had been removed from the property. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 5577-3 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 5577-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** 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 acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 5577-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. 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 acting Chief Engineer by September 14, 2026. 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-8; 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 acting 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 acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, 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 acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 5577-3, CURTIS FOSTER**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 5577-3.

When Water Rights Program staff spoke with Curtis Foster, he stated that the system had been removed from the property and that the dam had been breached for several years and rendered unusable.

The acting Chief Engineer is recommending cancellation of the above water permit due abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right No. 5577-3 does not prohibit a new application for this project in the future.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE OF CANCELLATION & RECOMMENDATION dated September 4, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following Water Permit and Right holders on September 4, 2026.

WP No. 8165-3

Silver Lake Hutterian Brethren
c/o John Grosz
17354 430th Ave
Clark SD 57225

WP No. 6468-3

Town of Alpena
c/o Finance Officer
PO Box 75
Alpena SD 57312

WR Nos. 293-2 & 294-2

GCC Dacotah Inc
c/o Steve Zellmer
PO Box 360
Rapid City SD 57709

WR No. 5577-3

Curtis Foster
42430 116th St
Britton SD 57430

WR No. 881-2

Ryan Edwards
749 W 5th St
Winner SD 57580

WP No. 2800-2

Janice Tetherow
105 W 2nd St
Valentine NE 69201

WR No. 2482-3 & WP No. 6789-3

Allen & Becky Walth
13640 Walth Bay Rd
Glenham SD 57631

WP No. 7846A-3

Marvin Czech
45848 176th St
Watertown SD 57201

WR No. 950-2

Malon Burtz
30310 Pahapesto Buttes Rd
Winner SD 57580

WR No. 2370-2

KW Holding LLC
c/o Kory Weisbeck
2453 S Plaza Dr
Rapid City SD 57702

WR No. 5579-3

Nels J Sorensen
c/o Grant Sorensen
200 Mickelson Ave
Vermillion SD 57069

WP No. 7429-3

Sorensen Family Farm LLC
c/o Grant Sorensen
2903 Sorensen Ave
Vermillion SD 57069

WP Nos. 6363-3 & 6692-3

Hillside Colony
c/o Timothy Glanzer
18248 Hillside Ln
Doland SD 57436

WP No. 8886-3

Pronghorn Land LLC
c/o Brian Top
2132 32nd Ave
Brookings SD 57706

WR No. 2130-2

Sandee & Tom Yordy
21436 297th St
Martin SD 57551

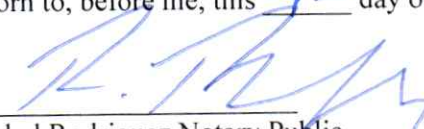

Laura Laufenberg
Senior Secretary

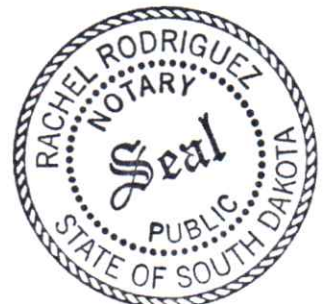
STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

Sworn to, before me, this 4th day of September, 2026.


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

October 8, 2026

5577-3

NOTICE OF ENTRY OF ORDER

Curtis Foster
42430 116th St
Britton, SD 57430

Dear Mr. Foster:

This will notify you that on October 7, 2026, the Water Management Board cancelled your Water Right No. 5577-3. This action was taken under the conditions outlined in our notice to you dated September 4, 2026.

If you have any questions concerning the Board action, please contact Amanda Dewell, with our program, at (605) 773-3352.

Sincerely,

Adam Mathiowetz, PE, Chief Engineer
SD DANR – Water Rights

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE OF ENTRY OF ORDER dated October 8, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following Water Permit and Right holders on October 8, 2026.

WP No. 8165-3

Silver Lake Hutterian Brethren
c/o John Grosz
17354 430th Ave
Clark SD 57225

WP No. 6468-3

Town of Alpena
c/o Finance Officer
PO Box 75
Alpena SD 57312

WR Nos. 293-2 & 294-2

GCC Dacotah Inc
c/o Steve Zellmer
PO Box 360
Rapid City SD 57709

WR No. 5577-3

Curtis Foster
42430 116th St
Britton SD 57430

WR No. 881-2

Ryan Edwards
749 W 5th St
Winner SD 57580

WP No. 2800-2

Janice Tetherow
105 W 2nd St
Valentine NE 69201

WR No. 2482-3 & WP No. 6789-3

Allen & Becky Walth
13640 Walth Bay Rd
Glenham SD 57631

WP No. 7846A-3

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45848 176th St
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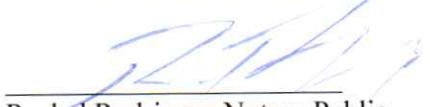
WR No. 2130-2

Sandee & Tom Yordy
21436 297th St
Martin SD 57551


Alyce McGhee
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of Oct, 2026


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029

