

WATER PERMIT NO. 5779-3

Phone: _____

Name of Applicant: Vene Eitemiller

Post Office Address: RR 1, Box 150, Armour SD 57313

Amount of Water Claimed: no add'l Total Acres: 16 add'l

Source of Water Supply: groundwater

Water to be used for: irrigation County: Charles Mix

About 5W,2S miles _____ of Delmont

PRIORITY Date Received: 7-8-93 Fee: \$150 Remarks: 16 add'l acres
to Water Permit No. 5779-3

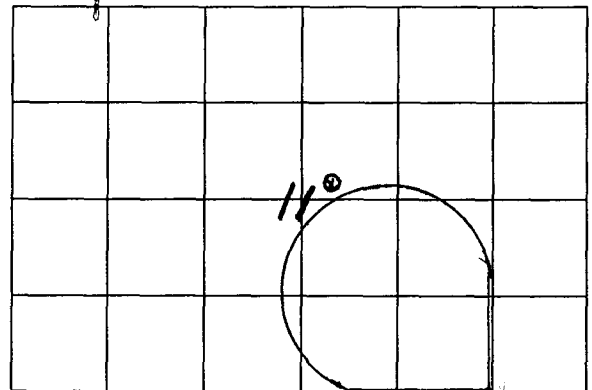
Corrected Application Received: _____ Period of Annual Use: April 1 - Oct 31

WATER QUALITY APPROVAL RECEIVED: 7-30-93 APPROVED/CONDITIONAL (Circle one)

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

Diversion Point: SW 1/4 NE 1/4 Sec 11-T97N-R63W

Land to be Irrigated: S 1/2 NE 1/4, E 1/2 SW 1/4,
W 1/2 SE 1/4, NE 1/4 SE 1/4 Section 11-T97N-R63W



Well Log: Driller: Lacey Well Drilling Licensed YES X NO _____

Depth of Well: 49 feet REMARKS: _____

Type of Map: aerial PREPARED BY: Barry McLaury Reviewed and the Number

Assigned on: 8-3-93 By: Karen Schlaak

FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181
605 773-3352

No. 5779-3 Hydrologic Unit 10170101
Basin Vermillion River
Newspaper Wagner Post, Box 187, Wagner
(office use only)



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

Type of Application: X New Vested Right Amendment/Correction to Permit No.
(check one) (Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. acreage change, change diversion point(s), add diversion point(s), etc.)

- Name of Applicant Vene Eitemiller Phone
(check one) Owner Tenant/lessee
- Mailing Address RR1 Box 150 Armour State SD 57313
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed NO Add'l *CFS or **GPM ***AF Total Acreage 16 Add'l
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet -- storage capacity of dam/dugout if applicable)
- Source of water supply Groundwater (1 existing well)
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 400 feet E and 200 feet N from the center of Section 11 T97N-R63W (SW4 NE4).
County Charles Mix
- County or counties where water will be used Charles Mix
- Annual period during which water is to be used April 1 through October 31
- List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	
SW ⁴ NE ⁴	T97N-R63W
SE ⁴ NE ⁴	" "
NE ⁴ SW ⁴	" "
SE ⁴ SW ⁴	" "

Acres
5
5
20
29

Land Description	
NW ⁴ SE ⁴	T97N-R63W
NE ⁴ SE ⁴	" "
SW ⁴ SE ⁴	" "
TOTAL	

Acres
39
33
39
170

- Type of Irrigation: Gravity: Towline: Center Pivot: X Gun: X Other (Specify):
- Crops to be irrigated:
- Give a description of the project. (Attach sheet if more space is needed)

This application adds 16 additional acres to water permit NO. 2163-3 with no increase in the diversion rate. The location of the additional 16 acres is within the area described above.

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach maps, soils information and any other technical information. (see instructions)

STATE OF SOUTH DAKOTA)

County of CHARLES MIX ^{SS}

I, VEENE EITEMILLER, 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 representative of the water to be used, and that the matters stated in this application are true and correct.

Signed

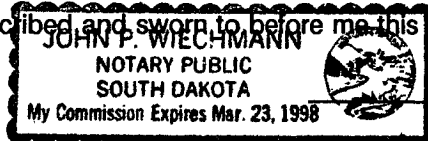
Vene Eitemiller Pres.

Subscribed and sworn to before me this

16 day of

July

1993



John P. Wiechmann
Notary Public

**SOUTH DAKOTA
WATER PERMIT NO. 5779-3**

Date of first receipt of application July 8, 1993.

Date Soil/Water Compatibility Permit received July 30, 1993.

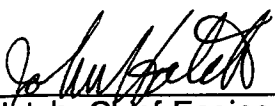
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5779-3 to Vene Eitemiller, RR 1, Box 150, Armour SD 57313 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5779-3 irrigates 16 additional acres and specifies the location of acres irrigated by Water Permit No. 2163-3. Water Permit No. 2163-3 appropriates 2.2 cubic feet of water per second (cfs) from one well 49 feet deep (Delmont Aquifer) located in the SW 1/4 NE 1/4 Section 11 to irrigate 154 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 SW 1/4, NE 1/4 SW 1/4 Section 11, all in T97N-R63W. An inspection found 1.33 cfs being diverted for irrigation of 170 acres located in the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, Section 11-T97N-R63W. This permit irrigates 16 additional acres located in the areas as found during the inspection. This permit does not authorize any increase in the developed diversion rate.
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: April 1 - October 31.
3. The date from which applicant may claim right is July 8, 1993.
4. The date of approval of Permit No. 5779-3 is April 1, 1994 (permit originally approved October 22, 1993 has been readvertised).
5. 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 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.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

OCT 4 1994
date

RECEIPT

413823

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, July 8, 1993

RECEIVED OF Vene Eitemiller, RR 1, Box 150, Armour SD 57313

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

Fee for Application for Permit No. <u>5779-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	150 00

By John Hatch
Chief Engineer

JOHN HATCH

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4782

WR#

OWNERS NAME: BITEMILLER, VENE

OWNERS ADDRESS: RR 1 BOX 150

ARMOUR SD 57313-9645

COUNTY LAND LOCATED IN: CHARLES MIX PHONE: _____

LEGAL DESCRIPTION:

☒ Well

☐ Surface

1. LOCATION 400'E & 200'N FROM THE CENTER OF 11-T97N-R63W (SW $\frac{1}{4}$ NE $\frac{1}{4}$)

Depth _____

Legal Description	Acres	Legal Description	Acres
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 11-T97N-R63W	5	NW $\frac{1}{4}$ SE $\frac{1}{4}$ 11-T97N-R63W	39
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 11-T97N-R63W	5	NE $\frac{1}{4}$ SE $\frac{1}{4}$ 11-T97N-R63W	33
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 11-T97N-R63W	20	SW $\frac{1}{4}$ SE $\frac{1}{4}$ 11-T97N-R63W	39
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 11-T97N-R63W	29		

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

3. CROPS TO BE IRRIGATED: _____

WATER QUALITY:

4. WATER SAMPLE NUMBER: 82-1317

7. ADJUSTED (SAR): 6.17

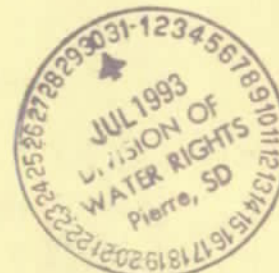
5. SALINITY (EC X 10⁶): 1650

8. PERCENT SODIUM: 32.82

6. SODIUM (SAR): 2.48

Requirements:

That a buffer strip of permanent vegetation be maintained along the drainages found in the northern part of the project and that this area not be irrigated.



Russell J. Stone

Director, Division of Conservation

JULY 16, 1993

Date

XXX APPROVED

DISAPPROVED

WAIVER

XXX REQUIREMENTS

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

REPORT ON APPLICATION NO. 5779-3
for Vene Eitemiller
September 22, 1993

Application No. 5779-3 proposes to irrigate 16 additional acres and to specify the location of acres irrigated by Water Permit No. 2163-3. Water Permit No. 2163-3 appropriates 2.2 cfs from one well approximately 49 feet deep located in the SW 1/4 NE 1/4 of section 11 to irrigate 154 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 SW 1/4, NE 1/4 SW 1/4 of section 11; all in T97N R63W. An inspection of Permit No. 2163-3 found 1.33 cfs was being diverted from a well irrigating 170 acres located in the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, NE 1/4 SE 1/4 of section 11, T97N R63W. This application does not authorize any increase in the developed diversion rate.

AQUIFER - DELMONT (D)

The Delmont is a Pleistocene outwash (sand and gravel) under unconfined (water table) conditions. The aquifer is hydraulically connected to Choteau Creek and extends into Douglas County to the north. The aquifer underlies 12,200 acres and contains an estimated 36,610 acre feet of recoverable water in storage Charles Mix County and underlies 15,700 acres and contains an estimated 35,200 acre feet of recoverable water in storage in Douglas County (Hedges, 1982). These estimates are very conservative. Recharge to the Delmont has been estimated to be 5.6 inches per year (5700 acre feet per year in Charles Mix County and 7300 acre feet in Douglas County) (Hedges, 1983). The reported water use for the Delmont aquifer in 1992 was 626.5 acre feet, in 1991 was 1885.4 acre feet, in 1990 was 1832 acre feet, in 1989 was 1863.6 acre feet, in 1988 was 2016.9 acre feet and in 1987 was 1747 acre feet (Irrigation Reports, 1993). The water balance for the aquifer indicates that water is available from the Delmont.

The Division of Water Rights monitors two observation wells completed into the Delmont aquifer located within 1 mile of this application. These are observation wells CM-72A and CM-69B. Water level records for these wells show good correlation between climatic conditions and ground water levels. During years of high rainfall the water levels rise and during dry years water levels gradually decline. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1993).

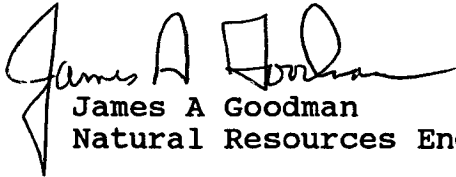
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There is an existing water permit no. 2232-3 (also 2232-3A) which is located immediately south of this application (within 1/2 mile). The location of the diversion point for this application is slightly more than 1/2 mile from the nearest permitted diversion point. Interference is not expected to be a concern. Drawdown caused by pumping in aquifers like the Delmont do not

very far from the production well. The observation well hydrographs also indicate that significant drawdown does not occur. The dominant factor effecting water levels is the climatic conditions.

CONCLUSIONS

1. Water is available from the Delmont aquifer.
2. Interference is not expected to be a problem. This is an existing well and has been in use for many years with no apparent problems.
3. This well has been constructed in accordance with SD Well Construction Standards. The original well was replaced in April of 1992.
4. Approval of this application will allow the licensing of this system for 170 acres of irrigation and a diversion rate of 1.33 cfs.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hedges, L.S., etal., 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Hedges, L.S., J. Allen, D.E. Holly, 1983, Task 7: Ground Water Recharge, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Water Rights, 1993, Unpublished Observation Well Records for Delmont Aquifer in Douglas and Charles Mix Counties, SD DENR, Division of Water Rights, Pierre, SD, 57501.

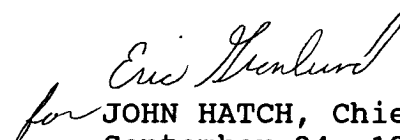
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5779-3, Vene Eitemiller

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. 5779-3, Vene Eitemiller, RR 1 Box 150, Armour, SD 57313.

The Chief Engineer is recommending APPROVAL of Application No. 5779-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been 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 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.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


for JOHN HATCH, Chief Engineer
September 24, 1993



**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 29, 1993

Vene Eitemiller
RR 1 Box 150
Armour, SD 57313

Dear Mr. Eitemiller:

Water Permit Application No. 5779-3 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 Wagner Post printed at Wagner, SD (Ph # 384-5616). 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

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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 29, 1993

Wagner Post
Box 187
Wagner, SD 57380

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5779-3 to be published twice. Please publish the first notice on October 5, 1993, 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 Vene Eitemiller, RR 1 Box 150, Armour, SD 57313.

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 October 5, 1993, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 5779-3 to Appropriate Water
and to Amend Water Permit No. 2163-3

Notice is given that Vene Eitemiller, RR 1 Box 150, Armour, SD 57313 has filed an application for a water permit to irrigate 16 additional acres and to specify the location of acres irrigated by Water Permit No. 2163-3. Water Permit No. 2163-3 appropriates 2.2 cubic feet of water per second (cfs) from one well 49 feet deep (Delmont Aquifer) located in the SW 1/4 NE 1/4 Section 11 to irrigate 154 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 SW 1/4, NE 1/4 SW 1/4 Section 11, all in T97N-R63W. An inspection found 1.33 cfs being diverted from the well for irrigation of 170 acres located in the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, NE 1/4 SE 1/4, Section 11-T97N-R63W. This application is to irrigate 16 additional acres located in the areas as found during the inspection. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5779-3 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting 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 22, 1993.

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. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

JK

I, Donald Harrell

printed and published in Wagner

South Dakota. The notice was published in the newspaper on the following two dates:

October 6, 1993

October 13, 1993

Cost of Printing: \$40.64

Donald Hassell
(Signature)

Bus. Mgr.
(Title)

October 18, 1993
(Date Signed)

**NOTICE OF APPLICATION
NO. 5779-3 to Appropriate
Water and to Amend Water
Permit No. 2163-3**

Notice is given that Vene Eitemiller, RR 1 Box 150, Armour, SD 57313 has filed an application for a water permit to irrigate 16 additional acres and to specify the location of acres irrigated by Water Permit No. 2163-3. Water Permit No. 2163-3 appropriates 2.2 cubic feet of water per second (cfs) from one well 49 feet deep (Delmont Aquifer) located in the SW 1/4 NE 1/4 Section 11 to irrigate 154 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 SW 1/4, NE 1/4 SW 1/4 Section 11, all in T97N-R63W. An inspection found 1.33 cfs being diverted from the well for irrigation of 170 acres located in the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, NE 1/4 SE 1/4, Section 11-T97N-R63W. This application is to irrigate 16 additional acres located in the areas as found during the inspection. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5779-3 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting 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 22, 1993.

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 le-

continued

continued.....

gal counsel is obtained. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application.

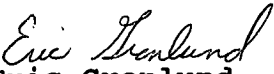
Robert E. Roberts
Secretary
Department of Environment
and Natural Resources.
Pub: Oct. 6, 13, 1993

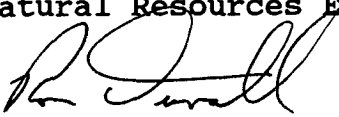
REPORT ON WATER PERMIT NO. 5779-3
VENE EITEMILLER
November 24, 1993

Water Permit No. 5779-3 irrigates 16 additional acres and specifies the location of acres irrigated by Water Permit No. 2163-3. Water Permit No. 2163-3 appropriates 2.2 cubic feet of water per second (cfs) from one well 49 feet deep (Delmont Aquifer) located in the SW 1/4 NE 1/4 Section 11 to irrigate 154 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 SW 1/4, NE 1/4 SW 1/4 Section 11, all in T97N-R63W. An inspection found 1.33 cfs being diverted for irrigation of 170 acres. Readvertisement of the notice of hearing published on October 6 and 13, 1993 is needed to correct the legal description of the irrigated acres. The correct location of the acreage developed for irrigation is the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, Section 11-T97N-R63W. The permit irrigates 16 additional acres located in the areas as found during the inspection. This readvertisement does not authorize any increase in the acreage irrigated or increase in the developed diversion rate.

Conclusions

1. This is a readvertisement of the Notice of Hearing for Water Permit No. 5779-3.
2. This readvertisement is necessary to correct the legal description of the lands being irrigated prior to issuance of a water license. The correct location of the irrigated acreage was identified on the map and permit application.
3. The correct legal description of the acreage developed for irrigation is the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, Section 11-T97N-R63W.


Eric Gronlund
Natural Resources Engineer


Ron Duvall
Natural Resources Engineer IV

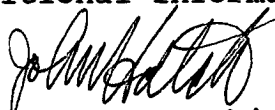
RECOMMENDATION OF CHIEF ENGINEER FOR READVERTISED WATER PERMIT
APPLICATION NO. 5779-3, Vene Eitemiller

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 readvertised Water Permit Application No. 5779-3, Vene Eitemiller, RR 1 Box 150, Armour, SD 57313.

The Chief Engineer is recommending APPROVAL of readvertised Application No. 5779-3 because 1) the proposed diversion has been developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) in the public interest with the following qualifications:

1. 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.
2. 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
February 24, 1994



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 7, 1994

Vene Eitemiller
RR 1 Box 150
Armour, SD 57313

Dear Mr. Eitemiller:

The original notice of hearing for Water Permit No. 5779-3 was published with an error. Therefore, the notice of hearing needs to be readvertised to correct the error. A notice of hearing has been sent to the Publisher of the Wagner Post printed at Wagner, SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the readvertisement are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Division of Water Rights. Please contact us if you have any questions.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

PAYMENT REQUEST FORM

PAYEE: The Wagner Post
P.O. Box 187
Wagner, SD 57380-0187

FROM: DENR
Water Rights Division
523 E. Capitol
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCT OR TRANSFER

Readvertisements of Notice of Applications to Appropriate Water:

Application No. 3004-3:	\$ 40.70
Application Nos. 1632-3 & 1632-3A:	\$ 45.90
Application No. 5779-3:	\$ 43.06
Application No. 1368-3:	<u>\$ 40.70</u>
Total:	\$170.36

AMOUNT: \$170.36

FUNDING SOURCE:

GENERAL:

FEDERAL:

COMMENTS:

AUTHORIZATION: _____

John H. Hest

3-28-94

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 7, 1994

Wagner Post
Box 187
Wagner, SD 57380

Attn: Legal Department

Enclosed is a Readvertisement of Notice of Hearing on Permit No. 5779-3 to be published twice. Please publish the first notice on March 15, 1994, with the second publication 7 days later.

Please bill the Water Rights Division for the cost of the advertisement.

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
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 Readvertisement of Notice of Hearing to Appropriate Water by Permit 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 March 15, 1994, with the second publication 7 days later.

Readvertisement of NOTICE OF APPLICATION NO. 5779-3 to Appropriate Water

Notice is given of readvertisement of Water Permit No. 5779-3 held by Vene Eitemiller, RR 1 Box 150, Armour, SD 57313. The permit was originally applied for on July 8, 1993. Water Permit No. 5779-3 irrigates 16 additional acres and specifies the location of acres irrigated by Water Permit No. 2163-3. Water Permit No. 2163-3 appropriates 2.2 cubic feet of water per second (cfs) from one well 49 feet deep (Delmont Aquifer) located in the SW 1/4 NE 1/4 Section 11 to irrigate 154 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 SW 1/4, NE 1/4 SW 1/4 Section 11; all in T97N-R63W. An inspection found 1.33 cfs being diverted for irrigation of 170 acres. Readvertisement of the notice of hearing published on October 6 and 13, 1993, is needed to correct the legal description of the irrigated acres. The correct location of the acreage developed for irrigation is the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, Section 11-T97N-R63W. The permit irrigates 16 additional acres located in the areas found during the inspection. This readvertisement does not authorize any increase in the acreage irrigated or increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of readvertised Application No. 5779-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting 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 April 1, 1994.

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. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application. Russell L. Stone, Acting Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Charles Mix) ss

I, Donald Harrell

certify that the attached printed Notice was

taken from the _____

The Wagner Post

printed and published in Wagner

County of Charles Mix and State of

South Dakota. The notice was published in the newspaper on the following two dates:

March 16, 1994

March 23, 1994

Cost of Printing: \$43.06

Donald Harrell
 (Signature)

Publisher
 (Title)

March 23, 1994
 (Date Signed)

Public Notice**Readvertisement of NOTICE OF APPLICATION NO. 5779-3 to Appropriate Water**

Notice is given of readvertisement of Water Permit No. 5779-3 held by Vene Eitemiller, RR 1 Box 150, Armour, SD 57313. The permit was originally applied for on July 8, 1993. Water Permit No. 5779-3 irrigates 16 additional acres and specifies the location of acres irrigated by Water Permit No. 2163-3. Water Permit No. 2163-3 appropriates 2.2 cubic feet of water per second (cfs) from one well 49 feet deep (Delmont Aquifer) located in the SW 1/4 NE 1/4 Section 11 to irrigate 154 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 SW 1/4, NE 1/4 SW 1/4 Section 11; all in T97NR63W. An inspection found 1.33 cfs being diverted for irrigation of 170 acres. Readvertisement of the notice of hearing published on October 6 and 13, 1993, is needed to correct the legal description of the irrigated acres. The correct location of the acreage developed for irrigation is the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, Section 11-T97NR63W. The permit irrigates 16 additional acres located in the areas found during the inspection. This readvertisement does not authorize any increase in the acreage irrigated or increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of readvertised Application No. 5779-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

application. Russell L. Stone, Acting Secretary, Department of Environment and Natural Resources.
 Pub: March 16, 23, 1994



Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting 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 April 1, 1994.

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. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 4 1994

Vene Eitemiller
RR 1 Box 150
Armour, SD 57313

Dear Ms. Eitemiller:

Enclosed is Water Permit No. 5779-3 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

The final inspection has been completed on this Permit, and we are ready to issue the Water License. Statutes require we charge \$50 for the inspection and issuance of the final papers. Upon receipt of this amount the Water License will be sent to you.

Very truly yours,

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

enclosures

RECEIPT

414292

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____, October 11, 19 94

RECEIVED OF Vene Litemiller, RR 1 Box 150, Armour, SD 57313

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. <u>5779-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch
Chief Engineer

Permit No. 2163-3 & 5779-3Missouri 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 Vene Eitemiller of RR 1 Box 150, Armour, SD 57313 holder of Permit No. 2163-3, bearing the priority of December 10, 1974 authorizing the diversion of 2.20 cu. ft. of water per second from groundwater for irrigation purposes, in Charles Mix County.

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

A. Works used to divert the water:

US Electrical
SN 1049951
60 HP

Western Land Roller Pump
(No ID plate)

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

DISTRIBUTION LINES OR CANALS:

1) Type <u>PVC</u>	2) Size <u>8</u> inches	3) Length <u>2300</u> feet
1) Type <u>PVC</u>	2) Size <u>6</u> inches	3) Length <u>2500</u> feet
1) Type <u>Rubber</u>	2) Size <u>4</u> inches	3) Length <u>660</u> feet

C. Works used to apply water to beneficial use:

Center Pivot:

Zimmatic
8 Towers
High pressure with end gun
600 GPM

Gun:

EZ-Rain
1.5" Nozzle
600 GPM

The system is in the following condition Good. The point of diversion is located 400 feet E and 200 feet N from the center of Section 11 T97N-R63W (SW1/4 NE1/4). The works are capable of diverting and conveying to the place of use 1.33 cu. ft. of water per second which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

T97N-R63WSection 11

<u>SW1/4 NE1/4</u>	<u>5 acres</u>
<u>SE1/4 NE1/4</u>	<u>5 acres</u>
<u>NE1/4 SW1/4</u>	<u>20 acres</u>
<u>SE1/4 SW1/4</u>	<u>29 acres</u>
<u>NW1/4 SE1/4</u>	<u>39 acres</u>
<u>NE1/4 SE1/4</u>	<u>33 acres</u>
<u>SW1/4 SE1/4</u>	<u>39 acres</u>

<u>Total</u>	<u>170 Acres</u>
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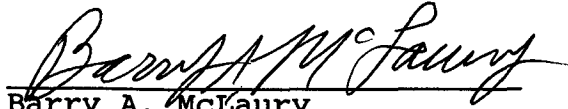
comprising a total of 170 acres of land and the license should be issued for 1.33 cfs.

****NOTE:** The inspection found 16 additional acres being irrigated that were not originally permitted. Water Permit No. 5779-3 was obtained to cover 16 additional acres and specify the correct location of existing acres irrigated under No. 2163-3. Upon licensing, the applicable portions of No. 2163-3 will be incorporated into No. 5779-3. The entire system, including the additional acres, are described in the above inspection report.

Applicable permit qualifications have been complied with: Yes ☒ No

Exceptions to compliance are: None

Date: 6-22-93



Barry A. McLaury
Natural Resources Analyst
DENR, Water Rights Division

REPORT ON INSPECTION OF PERMIT NO. 2163-3

DATE: April 27, 1993

Other permit(s) associated with the project: None

DIVERSION POINT LEGAL LOCATION: 400 feet E and 200 feet N from the center of Section 11 T97N-R63W (SW1/4 NE1/4).

WELL INFORMATION:

- 1) Well Drilling Firm: Lacey Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 49 feet
- 4) Well log is available Y
- 5) Comment: Well was replaced 4-20-92.

Casing:

- 1) Diameter 14 inches
- 2) Length 37 feet
- 3) Type steel

Screen:

- 1) Type stainless steel
- 2) Length 12 feet
- 3) Static water level 8 feet

SYSTEM TYPE:

Center pivot:

- 1) Make Zimmatic
- 2) Overall length feet
- 3) Number of towers 8
- 4) Distance between towers feet
- 5) End gun Y
- 6) High or low pressure High (80 PSI)
- 7) Capacity 600 GPM

Pump:

- 1) Make Western Land Roller
- 2) Model (No plate)
- 3) Size
- 4) Capacity GPM

Motor:

- 1) Make US Electrical
- 2) Serial No. 1049951
- 3) Horsepower rating 60 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type PVC 2) Size 8 inches
- 3) Length 2300 feet
- 1) Type PVC 2) Size 6 inches
- 3) Length 2500 feet
- 1) Type Rubbber 2) Size 4 inches
- 3) Length 660 feet

Gun:

- 1) Make EZ-Rain
- 2) Nozzle size 1.5 inches
- 3) Capacity 600 GPM
- 4) Hose size 4 inches

CHEMIGATION EQUIPMENT:

- 1) Does chemigate N

**PERMIT QUALIFICATIONS AND
REGULATIONS:**

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 23, 1993

Vene Eitemiller
RR 1, Box 150
Armour, SD 57313

Dear Mr. Eitemiller:

After an inspection of your Water Permit No. 2163-3 on April 27, 1993, I found that you are irrigating more acreage than you are permitted for.

The enclosed application is to add 16 additional acres developed inside of the area described on Permit No. 2163-3. Total area being irrigated is 170 acres.

Enclosed is an application for additional acreage and a map of the total irrigated area. Please review the map to see if you agree with the total irrigated acreage.

Please fill out question No. 1, 9, and the bottom of the enclosed application. Note that the application must be signed in the presence of a Notary Public. Please return the application with an application fee of \$150.00 in the postage free envelope provided.

If you have any questions, feel free to contact me at 605-773-3352.

Sincerely,

Barry A. McLaury
Natural Resources Analyst
Water Rights Division
605-773-3352

enclosure



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5779-3

(1) Vene Eitemiller of RR 1, Box 150, Armour SD 57313 made Application No. 5779-3, for a water permit to irrigate and additional 16 acres from groundwater (one well), Charles Mix County, South Dakota for irrigation purposes. Permit No. 5779-3, with a priority date of July 8, 1993 was approved April 1, 1994 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use completed.

Water Permit No. 5779-3 authorizes irrigation of additional acreage and specifies the location of acreage that was developed but not permitted under Water Permit No. 2163-3. No. 5779-3 did not allow for an increase in the developed diversion rate.

The applicable portions of Water Permit No. 2163-3 have been incorporated into this Water License No. 5779-3. A priority date of July 8, 1993 (established under No. 5779-3) is retained for irrigation of 16 of the 170 acres being irrigated. A priority date of December 10, 1974 (established under No. 2163-3) is retained for the remaining 154 acres.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.33 cubic feet of water per second for beneficial use. The location of the diversion point is 400 feet east and 200 feet north from the center of Section 11-T97N-R63W (SW 1/4 NE 1/4).

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

Section 11-T97N-R63W	SW 1/4 NE 1/4	5 acres
	SE 1/4 NE 1/4	5 acres
	NE 1/4 SW 1/4	20 acres
	SE 1/4 SW 1/4	29 acres
	NW 1/4 SE 1/4	39 acres
	NE 1/4 SE 1/4	33 acres
	SW 1/4 SE 1/4	39 acres
	Total	170 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Vene Eitemiller of RR 1, Box 150, Armour SD 57313 the holder and/or owner of Incorporated Water Permit No. 5779-3 is issued a license to appropriate water, the right to use 1.33 cubic feet of water per second from groundwater (one well) with priority dates of December 10, 1974 and July 8, 1993 from the location specified in (2) of this license. The water is 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 Incorporated Water Permit No. 5779-3 and subject to South Dakota State Law.

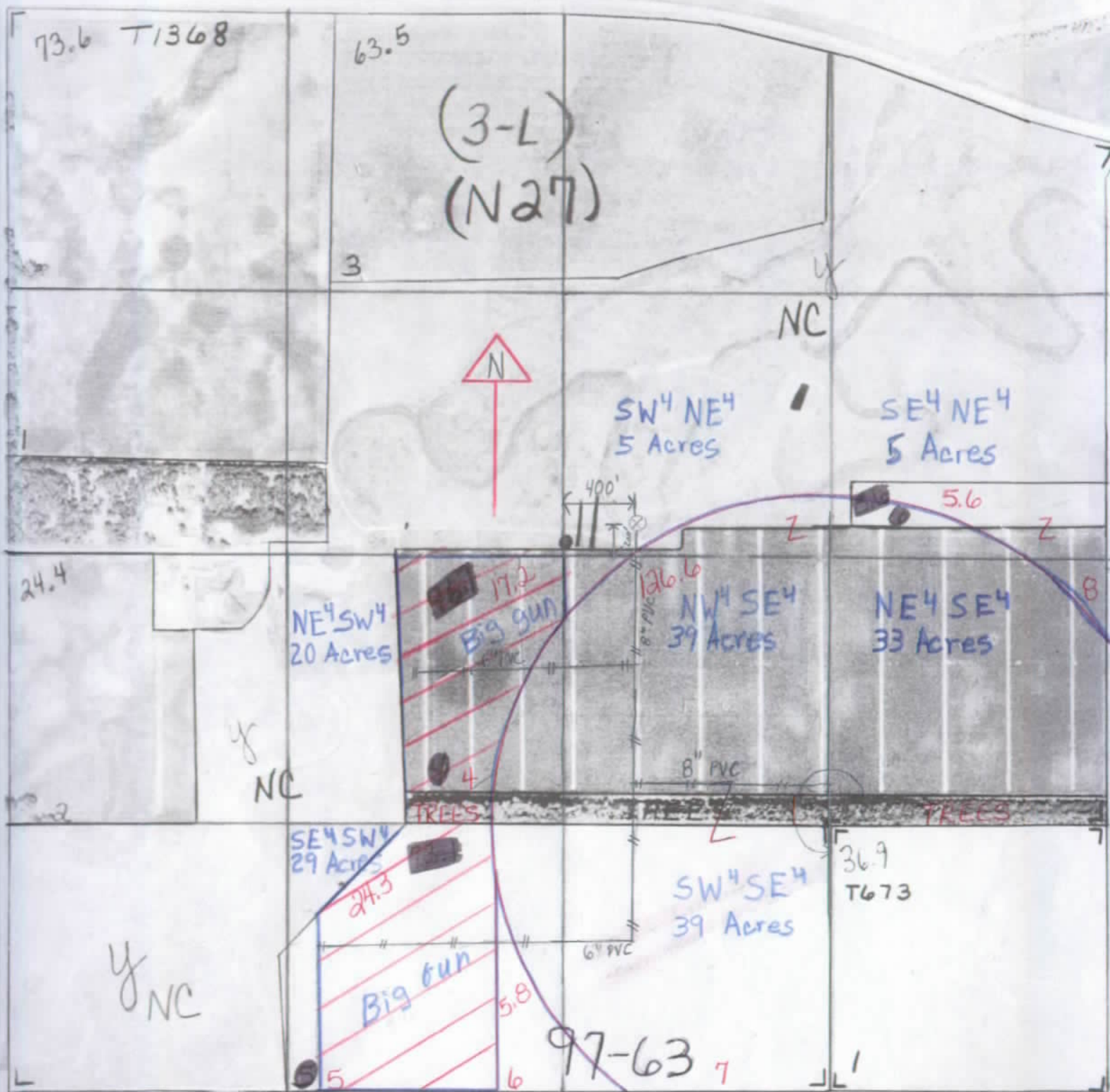


JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

NOV 14 1994

date

NOT TO SCALE



Barry McLaury *Barry McLaury*
Natural Resources Analyst
Division of Water Rights
Date 6-15-93



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 14 1994

5779-3

Vene Eitemiller
RR 1, Box 150
Armour, SD 57313

Dear Mr. Eitemiller:

Enclosed is Water License No. 5779-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 414292 in the amount of \$50.00 which you paid for the inspection and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 5779-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Very truly yours,


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

gm
enclosures

NOTE: The applicable portions of Water Permit No. 2163-3 have been incorporated into this Water License No. 5779-3.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 27, 1997

5779-3

Arnold Eitemiller
28544 396th Ave
Armour, SD 57313-5909

Dear Mr. Eitemiller:

Thank you for the prompt return of the 1997 irrigation questionnaire for Water Right No. 5779-3. It is my understanding from the notation made on the questionnaire, that the water right should be transferred from Vene Eitemiller to your name.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change with Water Right No. 5779-3. Please review the form for accuracy, make any necessary corrections and complete the portion titled "*to be transferred to (name and address)....*" Upon completion, please sign the form in the presence of a notary and then return it to our office with a required filing fee of \$2.50.

If I have misunderstood and you only wanted correspondence directed to your attention with ownership of the water right remaining under Vene's name, please get in touch with me. Thank you in advance for your assistance.

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

Sincerely,

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

enclosure

5779-3

**WATER RIGHTS PROGRAM
FILE DOCUMENTATION**

NAME OF PERSON OR FILE: Arnold Eitemiller

ADDRESS: 28544 396th Ave., Armour, SD 57313-5909

COUNTY: Charles Mix

DATE: November 5, 1997

TELEPHONE:

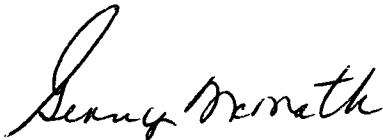
RE: ownership of No. 5779-3

COMMENTS:

Based on the irrigation questionnaire returned for No. 5779-3, I sent a transfer form to Arnold Eitemiller for changing ownership of the water right to his name.

Arnold Eitemiller called and indicated the land had not changed ownership. His parents still owned the land, however they were now in a nursing home and could not take care of the farm. He said he had been helping run things for a number of years.

He indicated he would prefer not changing ownership at this time, but would like the correspondence sent to his address. I told him this would be fine. He requested things be mailed to Arnold and Shirley Eitemiller.



Genny McMath
Environmental Scientist

5779-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 16, 2002

NOTICE

TO: ARNOLD & SHIRLEY EITEMILLER, MGR, 28544 396TH AVE, ARMOUR, SD 57313 5909
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)

Our records indicate that the 2001 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5779-3. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 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) 5779-3 qualification:

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

The hearing will be held at 10:00 am, March 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 E Capitol, 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) 5779-3 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 8, 2002, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath 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.

5779-3

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

ARNOLD & SHIRLEY EITEMILLER
28544 396TH AVE
ARMOUR SD 57313 5909

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

1-17-02

C. Signature

Shirley Eitemiller Agent
Addressee

D. Is delivery address different from item 1? ☒ YesIf YES, enter delivery address below ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. 7001 2510 0004 4797 4401

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 17, 2002

5779-3

Arnold & Shirley Eitemiller
28544 396th Ave
Armour, SD 57313 5909

Dear Mr. & Mrs. Eitemiller:

I am writing to acknowledge receipt of your 2001 irrigation questionnaire. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Right No. 5779-3.

I completed a questionnaire for you based on our January 17th telephone conversation. 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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 6, 2003

No. 5779-3

Helen A Biever
344 Maple Ave W
#226
Vienna VA 22180

Dear Mrs. Biever:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right No. 5779-3. The water right is currently listed in the name of Vene Eitemiller. The transfer form should be checked over for accuracy and signed by the new owner. 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.

During our phone conversation, Mr. Biever requested the following:

- Water License No. 5779-3 and aerial photo map. Note that the applicable portions of No. 2163-3 have been incorporated into No. 5779-3.
- Well completion report.
- Report on No. 5779-3 which gives information regarding the Delmont Aquifer in this area. This report was prepared 10 years ago. Please contact Jim Goodman, with this office, for additional information.
- A copy of Permit No. 1665-3 which was cancelled for non-construction in April, 1974. It appears that after Permit No. 1665-3 was cancelled, Mr. Eitemiller subsequently filed Permit No. 2163-3 in December, 1974.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED
APR 21 2003
WATER RIGHTS
PROGRAM

No. 5779-3

Date: 4-14-2003

I/We request that Water Right/Permit No. 5779-3

formerly owned by: Vene Eitemiller

be transferred to: (name & address) EITEMILLER FARMS INC.

C/O HELEN BIEVER, PRESIDENT

344 Maple Ave. W. #226, Vienna VA 22180

Telephone No. 703-801-4017 Cell

OR David Eitemiller

Title to the following described land(s)/property has been transferred as described above: 605-995-1901

170 acres located portions of the S 1/2 NE 1/4, E 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4 Section 11-T97N-
R63W

I/We understand that the validity of Water Right/Permit No. 5779-3 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 EITEMILLER FARMS INC, the new owner, certify that the above information is true and correct.

HELEN BIEVER, PRESIDENT, EITEMILLER
Helen Biever, FARMS, INC.
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 21, 20 03

RECEIVED OF Bitenmiller Farms Inc., 26544 396th Ave., Armour SD 57315-5909

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>5779-3</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.

000267

By

Darland Eiche
Chief Engineer *gm*

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: David Eitemiller, 1121 S Main, Mitchell SD 57301

DATE: April 21, 2003

TELEPHONE: 605 995-1901

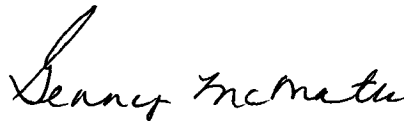
RE: address for mailing correspondence

COMMENTS:

I called the SD phone number on the "Notice of Transfer of Ownership" form to find out which address we should use for sending correspondence. David Eitemiller said he was the secretary of Eitemiller Farms Inc and everything could be mailed to him and he would in turn get it to who ever it belonged to.

RECOMMENDED ACTION:

All correspondence should be directed to the address listed above.



Genny McMath
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 22, 2003

5779-3

David Eitemiller
Eitemiller Farms Inc
1121 S Main
Mitchell SD 57301

Dear Mr. Eitemiller:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee submitted for Water Right No. 5779-3. The transfer has been completed. The water right formerly listed in the name of Vene Eitemiller is now listed in the name of Eitemiller Farms Inc.

Each year in October, we mail out the annual irrigation questionnaire. Enclosed is a sample copy for your review. This will give you an idea of what type of information you will need to keep track of during the irrigation season.

Also enclosed is your Receipt No. 000767 in the amount of \$2.50. 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

Wipf & Cotton, L.L.C.

A Professional Limited Liability Company
Attorneys at Law

107 South Main Street
Wagner, South Dakota 57380-0370

May 19, 2004

Kenneth W. Cotton

ASSOCIATES:

Scott J. Podhradsky
David W. Kotab

Telephone (605) 384-5471

Fax (605) 384-5472

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

Re: Transfer of Ownership—Eitemiller Farms, Inc.

Ladies and Gentlemen:

Please find enclosed a Notice of Transfer of Ownership duly executed by Mr. and Mrs. Spark, along with a \$2.50 check from Spark Farms to cover the filing fee. Thank you.

Sincerely yours,



Kenneth W. Cotton

KWC:jp
Enclosures

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 20, 20 04

RECEIVED OF David Spark, 1307 W 11th St., Sheldon IA 51201

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>5779-3</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. _____	2.50	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No. 1003775

By Darland E. White

Chief Engineer gm

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

MAY 20 2004

WATER RIGHTS
PROGRAM

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

No. 5779-3Date: 5-14-04I/We request that Water Right/Permit No. 5779-3formerly owned by: Eitemiller Farms, Inc.be transferred to: (name & address) David C. Spark and Gay Lynn Spark1307 W 11th St., Sheldon, IA 51201Telephone No. 712-260-3678

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

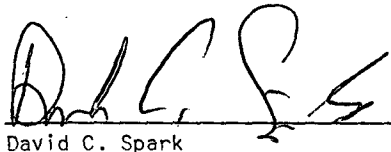
North Half of the Southeast Quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$), Section Eleven (11); Southwest Quarter
of the Southeast Quarter (SW $\frac{1}{4}$ of SE $\frac{1}{4}$), of Section Eleven (11); and the East Half of the
Southwest Quarter (E $\frac{1}{2}$ of SW $\frac{1}{4}$), of Section Eleven (11); all in Township Ninety-seven (97)
North, Range Sixty-three (63) West of the 5th P.M., Charles Mix County, South Dakota

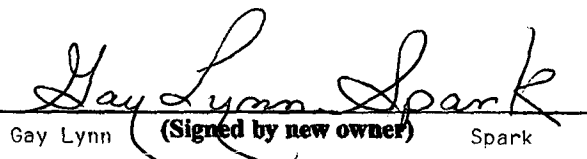
I/We understand that the validity of Water Right/Permit No. _____ has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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 Spark
David C. Spark & Gay Lynn, the new owner, certify that the above information is true and correct.


David C. Spark


Gay Lynn (Signed by new owner) Spark

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.

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Ken Cotton, Attorney, Wipf & Cotton LLC, 107 S Main, Wagner SD

DATE: May 24, 2004

TELEPHONE: 605 384-5471

RE: legal descriptions for transfer of ownership

COMMENTS:

Mr. Cotton sent in a "Notice of Transfer of Ownership" form and filing fee for David & Gay Lynn Spark for Water Right No. 5779-3. When reviewing the form I noticed that the legal descriptions of the land now owned by the Sparks did not match the water right. The part omitted was the 10 acres located in the S ½ NE ¼ Section 11, T97N, R63W.

I called Mr. Cotton to find out if part of the water right is still held by Eitemillers or if it was sold to another party. He said the entire acreage was purchased by the Sparks, however when he filled out the transfer form, he only put down the part that was irrigated.

RECOMMENDED ACTION:

Transfer the entire water right to David C & Gay Lynn Spark. The cover letter to them should discuss abandonment/forfeiture rules.



Genny McMath
Environmental Scientist



May 24, 2004

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

5779-3

David C & Gay Lynn Spark
1307 W 11th St
Sheldon IA 51021

Kenneth W Cotton, Attorney at Law
Wipf & Cotton, LLC
107 S Main St
Wagner SD 57380-0370

Dear Mr. & Mrs. Spark and Mr. Cotton:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee for filing an ownership change with Water Right No. 5779-3. The transfer has been completed. The water right formerly listed in the name of Eitemiller Farms Inc is now listed in the names of David C and Gay Lynn Spark.

Each year in October, we mail out the annual irrigation questionnaire. Enclosed is a copy of a past irrigation questionnaire for this property. This will give you an idea of what type of information you will need to keep track of during the irrigation season.

As new owners of the land, I wanted to take this opportunity to send you some information on maintaining a water right. In South Dakota, water must be placed to beneficial use for the purpose it was appropriated at least once every three years. I have included excerpts of the statutes and Water Management Board rules dealing with this issue.

Also enclosed is your Receipt No. 001325 in the amount of \$2.50. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosures

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Ken Cotton, Attorney, Wipf & Cotton LLC, 107 S Main, Wagner SD

DATE: June 14, 2004

TELEPHONE: 605 384-5471

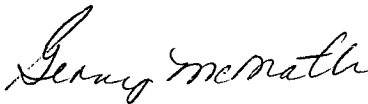
RE: Address for David Spark

COMMENTS:

All correspondence to the new owners for No. 5779-3 (David and Gay Lynn Spark) has been returned to us by the post office. I called Mr. Cotton to find out if he had an address for them. The correct address for them is:

David C & Gay Lynn Spark
1307 W 11th St
Spencer IA 51301

The transfer form and receipt had specified Sheldon IA. Mr. Cotton said the Spark's banker was from Sheldon and that's probably where the address came from.



Genny McMath
Environmental Scientist

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 5779-3

Date: 1/11/2006

I/We request that Water Right No. 5779-3

formerly owned by: David C Spark and Gay Lynn Spark

be transferred to: (name & address) Spark Ranch LLC, c/o Jeffrey Spark, 28648 396th Ave,
Armour SD 57313

Telephone No. 605 491-2606

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

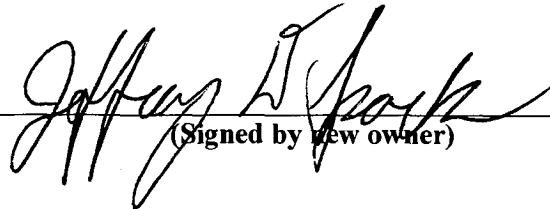
170 acres – S ½ NE ¼, E ½ SW ¼, N ½ SE ¼, SW ¼ SE ¼ Section 11-T97N-R63W

I/We understand that the validity of Water Right No. 5779-3 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 Jeffrey Spark of Spark Ranch LLC, the new owner, certify that the above information is true and correct.


(Signed by new owner)

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

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

RECEIVED
JAN 17 2006
WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 10, 20 06

RECEIVED OF Davis Spark, 1307 W 11th St, Spencer IA 51301

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>5779-3</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. **002168**

By *Darlene S. Ebel*
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

January 17, 2006

5779-3

Jeffrey Spark
Spark Ranch LLC
28648 396th Ave
Armour SD 57313

Dear Mr. Spark: .

Thank you for following up on the ownership change for Water Right No. 5779-3. The transfer has been completed. The water right formerly listed in the name of David C and Gay Lynn Spark is now listed in the name of Spark Ranch LLC.

Enclosed is your Receipt No. 002168 in the amount of \$2.50. 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 ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 03 2008

6683-3
5779-3

Jeff Spark
Spark Ranch LLC
28648 396th Ave
Armour SD 57313

Dear Mr. Spark:

Enclosed is your Water License No. 6683-3. This is the final water right document completing your process of obtaining a Water Right. Also enclosed is a copy of the map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6683-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

Note: The applicable portions of Water Right No. 5779-3 were incorporated into Water License No. 6683-3.

enclosures