

WATER PERMIT NO. 5836-3

Phone: 605 333-9902

Name of Applicant: Jack D. Otta

Post Office Address: 1004 N Breckenridge Circle, Sioux Falls SD 57103

Amount of Water Claimed: 0.14 (65 gpm) Total Acres: 10

Source of Water Supply: Lake Sinai

Water to be used for: irrigation County: Brookings

Location: 13 miles southwest of Brookings

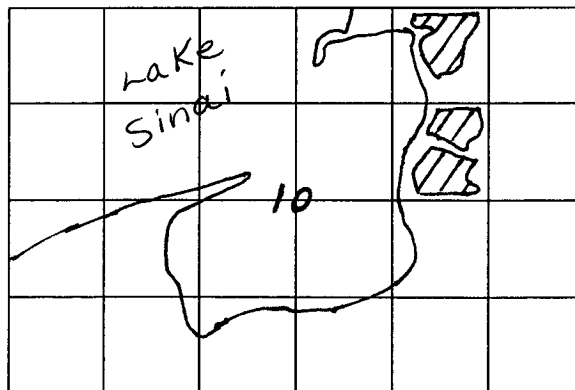
PRIORITY Date Received: 9-14-1994 Fee: \$150.00

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

Remarks: three 10 acre plots will be used on a yearly rotation basis to be utilized for
small research plots for ag chemicals

Diversion Point: E 1/2 NE 1/4 Sec 10-T109N-R52W

Land to be Irrigated: E 1/2 NE 1/4 Sec 10-T109N-
R52W



Well Log: Driller: _____ Licensed: YES _____ NO _____

Depth of Well: _____ REMARKS: _____

Type of Map: aerial Prepared By: Doris Schumacher, ASCS Reviewed and the Number

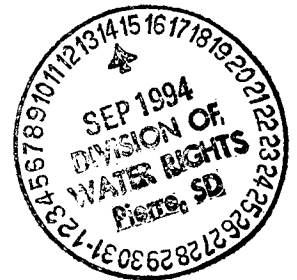
Assigned on: 9-19-94 By: Karen Schlaak

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. 5836-3 Hydrologic Unit 10170202
Basin Big Sioux River
Newspaper Brookings Register, Brookings
(office use only)



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

Type of Application: ☒ **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 JACK D. OTTA Phone 605-333-9902
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 1004 N. Breckenridge Circle, Sioux Falls State SD 57103
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed 0.14 *CFS or 65 **GPM 20 ***AF Total Acreage 10/year
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet -- storage capacity of dam/dugout if applicable)
- Source of water supply LAKE SINAI
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) PTO driven pump that would be moved to various locations along the lakeshore in the E 1/2 NE 1/4 section 10-T109N-R52W County Brookings County
- County or counties where water will be used Brookings
- Annual period during which water is to be used April through August 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	Acres	Land Description	Acres
E 1/2 NE 1/4 SECTION 10-T109N-R52W	10		
10 ACRES will move in			
a 3 year rotation			

- Type of Irrigation: Gravity: ☐ Towline: ☒ Center Pivot: ☐ Gun: ☐ Other (Specify): _____
- Crops to be irrigated: Research plots w/ corn, wheat, soybeans, etc. and weeds.
- Give a description of the project. (Attach sheet if more space is needed) plant pathogens and/or insects.

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 Brookings ^{SS}

I, JACK OTTA, 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

Jack D. Otta

Subscribed and sworn to before me this 15th day of Sept, 19 94

[Signature]
Notary Public

11-10-96

10. A maximum of 10 acres in the NE 1/4 of Sec. 10 - T109 N - R 52W would be planted with various crops and/or weeds to be utilized for small research plots with ag. chemicals. The area would be located in the east central part of the quarter in 1995, on the north end of the quarter in 1996 and in the south end of the quarter in 1997.

A PTO driven pump would be placed along the lakeshore at the nearest desirable point to the plots needing irrigation each year. Water would then be pumped to a tow line to irrigate the plots when required. The most urgent need is to irrigate shortly after planting to ensure timely and uniform emergence of some crop and weed seeds that must be planted very shallow. In periods of extreme dry weather further irrigation may be applied to permit proper analysis of the performance of compounds being tested.



**SOUTH DAKOTA
WATER PERMIT NO. 5836-3 FOR IRRIGATION**

Date of first receipt of application September 14, 1994.

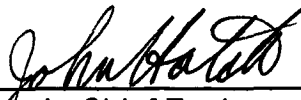
The Water Management Board approved Water Permit Application No. 5836-3 on March 8, 1995 for Jack Otta, 1004 Breckenridge Circle, Sioux Falls SD 57103 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5836-3 appropriates 65 gallons per minute (0.14 cubic feet of water per second) from Lake Sinai located in the E 1/2 NE 1/4 Section 10 to irrigate 10 acres located in the E 1/2 NE 1/4 Section 10; all in T109N-R52W. The irrigation is for agricultural chemical research plots.
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 - August 31.
3. The date from which applicant may claim right is September 14, 1994.
4. One-fifth of the construction is to be completed on or before September 8, 1997.
5. All construction is to be completed on or before March 8, 2000.
6. Water is to be put to beneficial use on or before March 8, 2004.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The South Dakota Department of Game, Fish and Parks holds Vested Water Right Claim No. 897-3 for storage of 18,000 acre-feet of water from Lake Sinai. Permit No. 5836-3 does not authorize diversion of water from Lake Sinai when the lake is at an elevation of 1733.0 feet msl or less.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The Lake Sinai intake shall be constructed so that intake velocities at the intake point do not exceed 0.25 feet per second and that the intake is screened with openings no larger than 0.25 inches.

WATER MANAGEMENT BOARD

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

MAR 29 1995

date

RECEIPT

414272

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, September 14, 19 94

RECEIVED OF Jack Otta, 1004 Breckenridge Circle N, Sioux Falls, SD 57103

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

Fee for Application for Permit No. 5836-3 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

Chief Engineer

John Hatch

LAKE Sinai Township, Northeast corner of
Brookings County

Section 10, Tier 109N, Range 52W

707

NOT TO SCALE

1994

109-52

LAKE
Sinai

Red line 
is current
LAKE shore

Diversion
Points would
move between
points A and B.

46 to 99
feet

CRP
#347

89-98 55.6

8.5

7 NHCL

72.2

T244

1 NHCL

1.9
NHCL

109-52

49.8

6 NHCL

33.1

1995-
Portion of
area to be
irrigated

1997-
portion of
area to be
irrigated

6 NHCL irrigated

12.5

5 NHCL

34.4

1996 Portion
of area to
be
irrigated

2.3

2.2

3

4 NHCL

10 NHCL

10 NHCL

2.8

2 NHCL

1 NHCL

2.43

5836-3

certify ASCS map
-Doris Behrmann
9-13-94



landscape of the Poinsett soils distinguish them from Kranzburg soils. Kranzburg soils developed from uniform mantle of loess that overlies glacial till; they occur on a smooth landscape having a well-developed pattern of surface drainage.

The Poinsett soils are primarily used for corn, small grains, and alfalfa. Some of the more strongly undulating areas are used for pasture or hay.

The following is a profile of Poinsett silt loam (33):

- A₁ 0 to 6 inches, very dark grayish-brown to dark grayish-brown (10YR 3.5/2, dry) and black (10YR 2/1, moist), very friable, noncalcareous silt loam; weak fine granular structure; lower boundary clear and smooth.
- B₁ 6 to 9 inches, dark grayish-brown (10YR 4/2, dry) to very dark grayish-brown (10YR 3/2, moist), friable, noncalcareous loam, on the silt loam boundary; moderate medium blocky structure; thin, very patchy clay skins on faces of peds; lower boundary clear and smooth.
- B₂ 9 to 26 inches, grayish-brown to brown (1Y 5/2.5, dry) and dark-brown (1Y 4/2.5, moist), friable, noncalcareous loam; moderate medium and coarse prismatic structure that breaks to moderate medium blocky; thin, patchy clay skins on faces of peds; lower boundary clear and smooth.
- C₁ 26 to 42 inches, loam, on the clay loam boundary; light brownish gray mottled with light olive brown and white (2.5Y 6/2, 5/4, and 8/0, dry) or grayish brown, olive brown, and white (2.5Y 5/2, 4/4, and 8/0, moist); segregated lime is common; firm; strongly calcareous; massive structure; textural stratification occurs in this horizon as thin layers of silt, fine sand, and clay; rather strong color stratification occurs as somewhat darker bands that are high in iron.
- C₂ 42 to 48 inches, light brownish-gray to light-gray and white (2.5Y 6.5/2 and 8/0, dry) and grayish-brown to light olive-brown and white (2.5Y 5/2.5 and 8/0, moist) loam; firm; moderately calcareous; massive structure; textural stratification is less than in layer above, and layers of silt, fine sand, and clay are slightly thicker.
- C₃ 48 to 52 inches, light-gray and yellowish-brown (2.5Y 7/1.5 and 10YR 5/8, dry) to grayish-brown and

very pale brown (2.5Y 5/2 and 10YR 8/4, moist) sandy loam; friable; moderately calcareous; massive structure.

- C₃ 52 to 60 inches, light brownish-gray, light yellowish-brown to olive-yellow, and yellowish-brown (2.5Y 6/2, 6/5 and 10YR 5/8, dry) to grayish-brown, light olive-brown, and dark yellowish-brown (2.5Y 5/2, 5/6 and 10YR 4/4, moist) loam; firm; weakly calcareous; massive structure.

Location of profile: Sec. 31, T. 112 N., R. 52 W.; 0.2 mile N. of E. $\frac{1}{4}$ corner.

Poinsett silt loam, nearly level (0 to 2 percent slopes) (Pc; subgroup 2A).—This soil occurs on nearly level areas in an undulating or gently undulating landscape. It is broadly associated with Poinsett silt loam, gently undulating; Poinsett silt loam, undulating; the colluvial-alluvial Waubay soils; and the more poorly drained Oldham and Parnell soils. In this association, Poinsett silt loam, nearly level, occurs on the fairly broad, nearly level tops of the undulations and gentle undulations, and the other two Poinsett soils occur on the side slopes. Below these slopes the Waubay soils occur in the interwoven pattern of colluvial-alluvial drains and swales, and the Oldham and Parnell soils occur in the depressions. This soil unit occurs in soil area 40.

Poinsett silt loam, gently undulating (3 to 4 percent slopes) (Pd; subgroup 2C).—This well-drained soil has developed in stratified silty glacial drift. Its profile is similar to that of Poinsett silt loam, nearly level, and this soil extends down the gentle slopes from that nearly level soil. It has the same association with the Waubay, Oldham, and Parnell soils as Poinsett silt loam, nearly level. This unit occurs in soil area 40.

Poinsett silt loam, undulating (5 to 8 percent slopes) (Pe; subgroup 3B).—This soil has a slightly thinner A₁ horizon than Poinsett silt loam, nearly level, and Poinsett silt loam, gently undulating. It generally occurs on stronger slopes than Poinsett silt loam, gently undulating. In some places it occurs as isolated stronger slopes in areas of the gently undulating soil. Poinsett silt loam, undulating, has the same association with the Waubay, Oldham, and Parnell soils as Poinsett silt loam, nearly level. It occurs in soil area 40.

Poinsett-Buse-Pierce soils, gently undulating (3 to 4 percent slopes) (Pg; subgroup 5A).—This unit is a complex of Poinsett silt loam, Buse loam, and Pierce loam. The complex occurs on a gently undulating landscape that is interlaced with the young colluvial-alluvial drains and swales of Waubay silty clay loam, drainageways. The Poinsett loam is well drained and has developed in stratified, silty glacial drift. It is the predominant soil in this complex and occurs in the gently undulating positions.

The Buse loam is thin and somewhat excessively drained and has developed in stratified silty glacial drift. It is a minor member of the complex and occurs on the small knobs and short eroded slopes that are sparsely scattered throughout the gently undulating landscape.

The Pierce loam is very shallow and excessively drained and has developed in pockets of mixed sandy

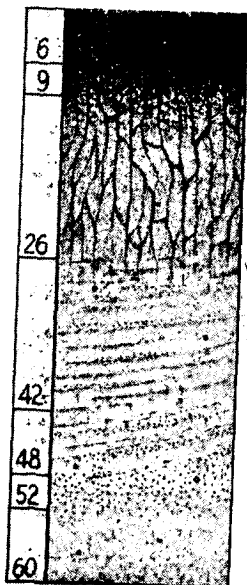


Figure 33.—Poinsett silt loam.

PARTIES OF RECORD LIST
WATER PERMIT APPLICATION NO. 5836-3
JACK D. OTTA

APPLICANT

Jack D. Otta
1004 N. Breckenridge circle
Sioux Falls, SD 57103

INTERVENOR

Douglas R. Hansen
Director, Division of Wildlife
Department of Game, Fish & Parks
Foss Building
523 East Capitol
Pierre, SD 57501-3182

Report on Water Permit Application No. 5836-3
Jack D. Otta
September 27, 1994

Background

Water Permit Application No. 5836-3 requests appropriation of 0.14 cubic feet of water per second (cfs) from Lake Sinai located in the E1/2 NE1/4 Section 10, T109N-R52W, in Brookings County. Water will be used to irrigate 10 acres located in the E1/2 NE1/4 Section 10, T109N-R52W. The proposed project is for agricultural chemical research.

Discussion

The project consists of irrigation of 10.0 acres, which would be planted with various crops and/or weeds. The crops will be used in research plots using agricultural chemicals. According to the applicant, the plots will be located in the east central part of the NE1/4 in 1995, on the north end of the NE1/4 in 1996, and in the south end of the NE1/4 in 1997.

The applicant proposes to use chemicals in the project. Every effort must be made to prevent pollution of the lake in accordance with Administrative Rules of South Dakota (ARSD) Chapter 74:02:09.

Vested Water Right Claim No. 897-3, for the Department of Game, Fish, and Parks, is for storage of 18,000 acre feet of water annually in Lake Sinai for public recreation, with a priority date of 1889.

The storage-stage curve for Lake Sinai indicates that when the lake elevation is at 1733.0 feet above mean sea level (msl), the lake has a volume of 18,000 acre feet. The lake level elevation measured on September 13, 1994, shows that the volume of the water in the lake is about 24,000 acre feet.

In the past, the water Management Board has approved water uses from natural lakes for irrigation purposes with certain qualifications. Vested Water Right Claim No. 543-3, for Brookings Country Club, was for a diversion rate of 0.33 cfs and irrigation of 57.01 acres of a golf course. This vested water right claim has been incorporated into Water Right No. 4454-3, which authorizes diversion of 1.18 cfs from two shallow wells (41 and 71.5 feet deep), located adjacent to the lake, for irrigation of the acreage authorized by Vested Water Right Claim No. 543-3. In the Findings of Fact, the Water Management Board concluded that the source of water for Water Right No. 4454-3 is the same as for Vested Water Right Claim No. 543-3 (Lake Campbell).

Water Right No. 2118-3, for Fish Lake Country Club, Inc, is authorized to divert 0.69 cfs from Fish Lake in Aurora County

for irrigation of 48.25 acres of a golf course. One of the qualifications on this permit is that diversions must be suspended if the lake level is at a "critical level". This qualification is to protect Game, Fish, and Park's Vested Water Right Claim No. 800-3, which claims 1800 acre feet of water in Fish Lake.

To protect the Department of Game, Fish, and Parks' vested water right claim on Lake Sinai, the applicant should not divert water when the lake is at elevation 1733.0 feet msl or lower.

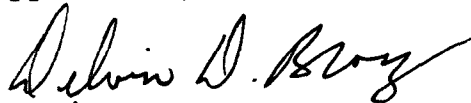
Conclusions and Recommendation

1. The Department of Game, Fish and Parks has a vested water right claim on Lake Sinai for 18,000 acre feet with a 1889 priority date.
2. The Water Management Board has approved use of water for irrigation from natural lakes.
3. Every effort must be made to prevent pollution of Lake Sinai in accordance with ARSD Chapter 74:02:09.
4. It is recommended that Water Permit Application No. 5836-3 be approved with the following qualifications:
 - A) The applicant must not divert water from the lake when the lake is at an elevation of 1733.0 feet msl or lower.
 - B) An irrigation questionnaire must be submitted annually.



M. Rassool Ahadi
Natural Resources Engineer III

Approved By:



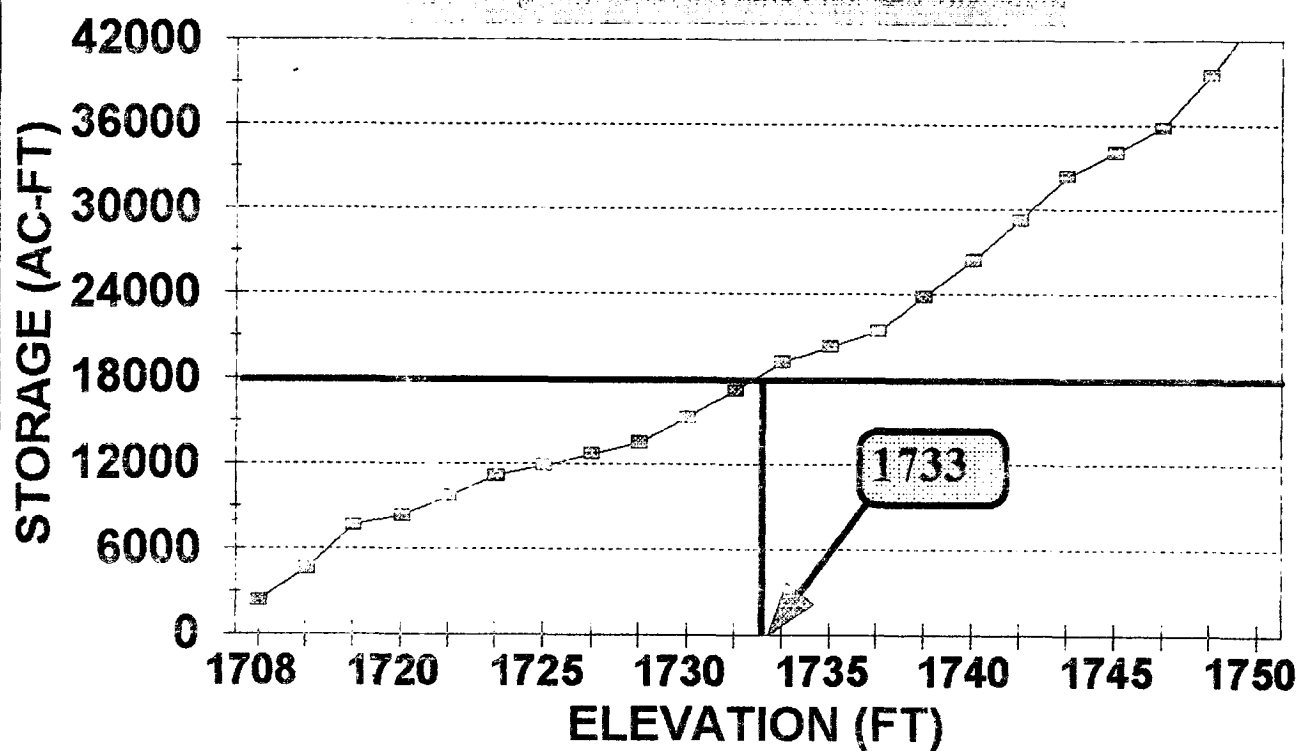
Delvin D. Brosz, P.E.
Natural Resources Engineer IV

References:

1. Division of Water Rights files, September 1994, Division of Water Rights, Dept. of Environment and Natural Resources, Pierre, South Dakota.
2. Hydrologic Analysis, Lake Sinai-Brookings County, September 1985, Division of Water Rights, Dept. of Environment and Natural Resources, Pierre, South Dakota.

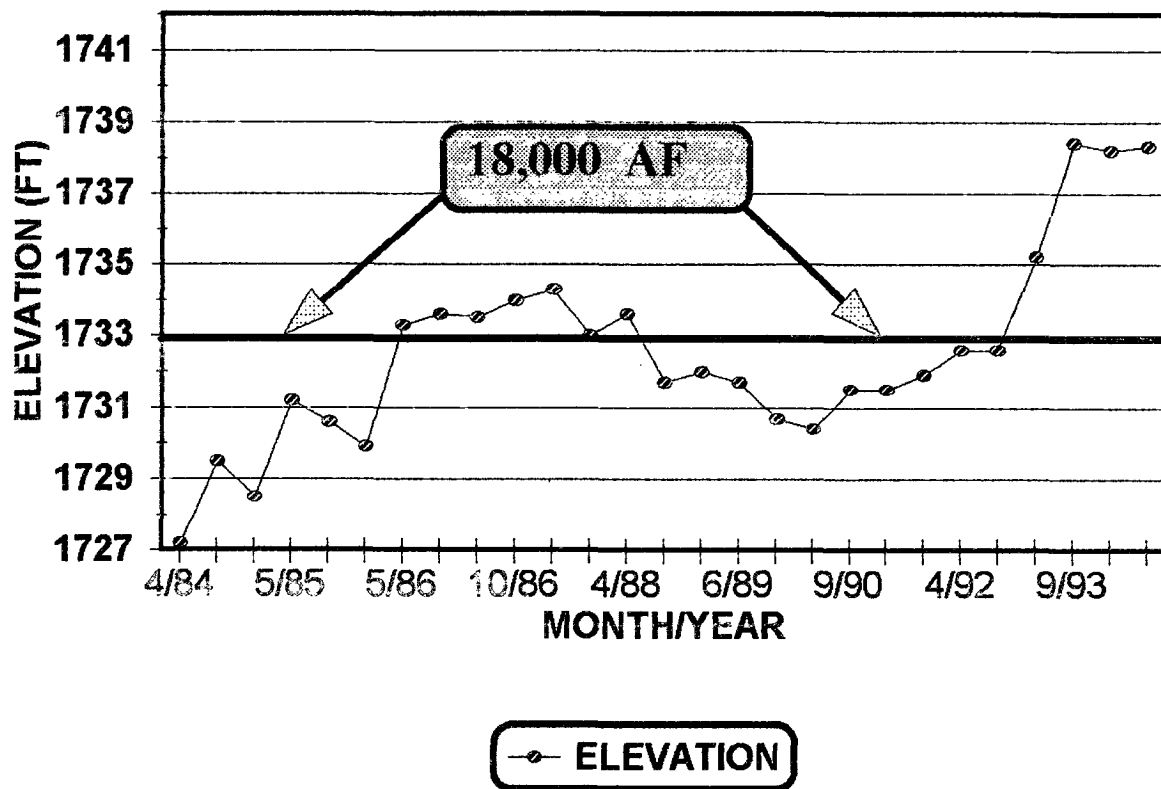
LAKE SINAI

STAGE VS STORAGE



LAKE SINAI

LAKE LEVEL ELEVATION

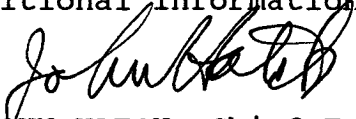


RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5836-3, Jack D. Otta

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. 5836-3, Jack D. Otta, 1004 North Breckenridge Circle, Sioux Falls, SD 57103.

The Chief Engineer is recommending DEFERRAL of Application No. 5836-3 to allow for further staff investigation and to allow the Chief Engineer time to discuss the application with the South Dakota Department of Game, Fish and Parks

See report on application for additional information.


JOHN HATCH, Chief Engineer
November 11, 1995

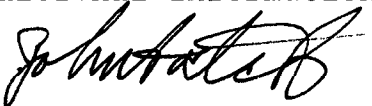
REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5836-3, Jack D. Otta

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. 5836-3, Jack D. Otta, 1004 North Breckenridge Circle, Sioux Falls, SD 57103..

The Chief Engineer is recommending APPROVAL of Application No. 5836-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. The South Dakota Department of Game, Fish & Parks holds Vested Water Right Claim No. 897-3 for storage of 18,000 acre-feet of water from Lake Sinai. Permit No. 5836-3 does not authorize diversion of water from Lake Sinai when the lake is at an elevation of 1733.0 feet msl or less.
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
January 25, 1995



**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.

January 26, 1995

Jack D. Otta
1004 N. Breckenridge Circle
Sioux Falls, SD 57103

Dear Mr. Otta:

Water Permit Application No. 5836-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Brookings Register printed at Brookings, SD (Ph # 605-692-6271). 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.

c: Tim Olson, SD Department of Game, Fish and Parks



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 26, 1995

Brookings Register
Box 177
Brookings, SD 57006-0177

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5836-3 to be published twice. Please publish the first notice on February 3, 1995, 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 Jack D. Otta, 1004 N. Breckenridge Circle, Sioux Falls, SD 57103 (Ph # 605-333-9902).

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
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 February 3, 1995, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5836-3 to Appropriate Water

Notice is given that Jack D. Otta, 1004 North Breckenridge Circle, Sioux Falls, SD 57103 has filed an application for a water permit to appropriate 65 gallons per minute (0.14 cubic feet of water per second) from Lake Sinai located in the E 1/2 NE 1/4 Section 10 to irrigate 10 acres located in the E 1/2 NE 1/4 Section 10: all in T109N-R52W. The irrigation proposed is for agricultural chemical research plots.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5836-3 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.

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 February 24, 1995. 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.

The Water Management Board will consider this application at 10:00 a.m., March 8, 1995, Crown Room, Kings Inn Best Western, 220 South Pierre, Pierre, SD. 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. The March 8, 1995, 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 February 24, 1995.

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 Eric Gronlund by February 24, 1995, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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, 46-2A-20, 46-2A-21; 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. Steven M. Pirner, Acting Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Brookings) ss

I, Nancy Skyberg

certify that the attached printed Notice was

taken from the Brookings
Register

printed and published in Brookings

County of Brookings and State of

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

February 3, 1995
February 10, 1995

Cost of Printing: Fifty-three dollars
and Fifty-eight cents \$53.58

Nancy Skyberg
(Signature)

Legal Ad Coordinator
(Title)

March 3, 1995
(Date Signed)

Legal 49, 2x, Feb. 3, 10

NOTICE OF HEARING on Application No. 5836-3 to Appropriate Water

Notice is given that Jack D. Otta, 1004 North Breckenridge Circle, Sioux Falls, SD 57103 has filed an application for a water permit to appropriate 65 gallons per minute (0.14 cubic feet of water per second) from Lake Sinai located in the E 1/2 NE 1/4 Section 10 to irrigate 10 acres located in the E 1/2 NE 1/4 Section 10: all in T109N-R52W. The irrigation proposed is for agricultural chemical research plots.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5836-3 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. 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 February 24, 1995. 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.

The Water Management Board will consider this application at 10:00 a.m., March 8, 1995, Crown Room, Kings Inn Best Western, 220 South Pierre, Pierre, SD. 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. The March 8, 1995, 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 February 24, 1995.

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 Eric Gronlund by February 24, 1995, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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, 46-2A-20, 46-2A-21; 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. Steven M. Pirner, Acting Secretary, Department of Environment and Natural Resources.



Page 2

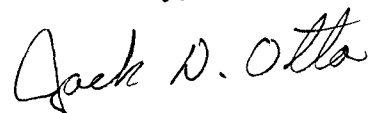
I understand that the Division of Fish, Game and Parks has Vested Water Right No. 897-3 on Lake Sinai. This vesting authorizes impoundment of 1800 acre-feet annually. In addition there is a statement about vested rights until there is sufficient water to fill the lake to outlet level.

In 1971 when I purchased land adjacent to Lake Sinai, the lake was about 11 feet deep at its deepest point. Currently the deepest point of Lake Sinai is 30 - 32 feet. There is still no functioning outlet. I have been told that the lake geologically appears to be the result of an ice block left by glaciation, which melted leaving a large depression. The lake may never have had a functioning outlet; it has not had one during modern history.

The current lake level has also resulted in the flooding of my building site on the east side of the lake. All that remains is the farm home which is about 1 foot above the present water elevation.

Although the water I am requesting will have little total impact on the lake I realize there is an impact. I would certainly understand a limitation on the permit that would stop irrigation when and/if the lake dropped to a lower elevation. With the current lake elevation causing extensive damage to both public roads around Lake Sinai and to private property, I hope that the small amount of water that I am requesting to remove from the lake will be approved.

Sincerely,



Jack D. Otta, Ph.D.
Sr. Research Scientist
Rhone Poulenc Ag Co.

cc: Doug Hanson
Wildlife Division Director
Department of Game, Fish and Parks
523 E. Capitol Avenue
Pierre, SD 57501

Spencer Vaa
Department of Wildlife and Fisheries
SDSU
Brookings, SD 57007

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Jack Otta -- water permit application

ADDRESS: COUNTY:

DATE: 9/15/94 TELEPHONE: 605 333-9902

RE: Call regarding diversion rate (returned his call @ 826-4141)

COMMENTS:

I informed Mr. Otta that his application must include a diversion rate. I informed him that the statutory diversion rate for irrigation of 10 acres would be .14 cfs (65 gpm). He agreed that the diversion rate should be 65 gpm.

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

NAME: Eric Hunsch

DATE: October 31, 1994

MEMO TO: File

FROM: M. Rassool Ahadi *MRA*

SUBJECT: Water Permit Application No. 5836-3, Jack Otta

Today, I contacted Mr. Otta to discuss his application. I asked Mr. Otta how long he was planning on diverting water from Lake Sinai for the permit? He said he believed next 10-15 years. I express GFP's concern about the precedence of diverting water from a natural lake for irrigation purposes. He said he had already talked to GFP. I asked him if he knew the size of his motor and pump. He said he had talked to somebody in Brookings who deals with irrigation systems, but he had not got any answer back yet. He stated though that he will be using a tractor. I told him that the maximum diversion rate he can pump is 63 gallons per minute, he said he was aware of that. I also mentioned the visibility of the diversion point. He said the diversion points will be between two points and he has to move the pump and the motor for better access to the site. I told him that if the application is approved he would be allowed to pump whenever water in the lake is more than 18,000 acre feet, which is GFP's claim on the lake which would be an elevation of 1733 feet above mean sea level. He said he did not have any problem with that and he would be more than happy if water drops to that point so that his house is out of water.



DEPARTMENT OF GAME, FISH AND PARKS

Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182



February 24, 1995

Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Environment and Natural Resources
Foss Building, 523 East Capitol Ave.
Pierre, SD 57501

RE: Water Permit Application No. 5836-3, Jack D. Otta

Dear Mr. Hatch:

The South Dakota Department of Game, Fish and Parks (GF&P) has reviewed the notice of hearing, report and Chief Engineer's recommendation for the above referenced water right application. The application is a request to use water from Lake Sinai for irrigation of crop and weed test plots.

Pursuant to SDCL 1-26 we request that GF&P be made a party of record in the proceedings for this matter. GF&P is an interested and potentially affected party by virtue of statutory authority to manage fish and wildlife resources of the state (SDCL Chapter 41). The Department of Game, Fish and Parks holds a vested water right for Lake Sinai for recreational and fish and wildlife propagation purposes.

As we have discussed previously, GF&P believes that the use of water from public lakes for irrigation purposes is a departure from normal uses of South Dakota's public lakes. We recognize that the amount of water requested for irrigation use is quite small and that the intent of the currently recommended permit qualification allowing pumping only when water elevations are above 1733 feet msl is to prevent adverse affects to this public water body.

We do not oppose the issuance of this permit, but request that the following criteria be incorporated into the current qualifications: 1) intake velocities should be kept at or below 0.25 feet per second; and 2) intake screening with openings no larger than 0.25 inches should be installed on the intake. These criteria are consistent with those required by the US Army Corps of Engineers on Missouri River intake structures and should aid in minimizing adverse effects the intake may have on fish eggs and fry in shallow water nursery habitat.

Thank you for the opportunity to comment.

Sincerely,

Douglas R. Hansen
Director, Division of Wildlife

cc: Jack Otta

Proposed Qualification to Water Permit Application No. 5836-3 in response to intake criteria specified by Game, Fish and Park

- 3. The Lake Sinai intake shall be constructed so that intake velocities at the intake point do not exceed 0.25 feet per second and that the intake is screened with openings no larger than 0.25 inches.**



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 29 1995

Jack Otta
1004 Breckenridge Circle
Sioux Falls, SD 57103

Dear Mr. Otta:

Enclosed is Water Permit No. 5836-3 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: Jay Reinart File No.
Address: RR 2 Box 107, Arlington, SD 57212 County: Brookings
Date: 5-23-96 Telephone: (605) 826-4133
RE: Flooding at Lake Sinai.

Comments:

Mr. Reinart called to find out where and elevation of 1733 fmsl related to Lake Sinai came from. I told him that I was not familiar with that elevation and that it was not an OHWM or outlet elevation. Mr. Reinart said that it had something to do with Jack Otta's water right. I told Mr. Reinart I would look into the matter and find out what the elevation stands for.

Mr. Reinart was also upset about a letter stating that the Water Rights Program will not let the Sinai people do anything about their flooding problem. After talking to him further I found out that the letter was with the people from Pierre that came out to Sinai on Monday of this week. He did not know who these people were. I told him that a flood control permit is necessary before draining water from Lake Sinai. Mr. Reinart felt they were also being stopped from doing anything by the 1733 fmsl elevation.

After looking into the matter I called Mr. Reinart back. Mr. Otta's permit (5836-3) qualification states that he can not pump from Lake Sinai if the water level in the lake is below 1733 fmsl. This elevation is to protect GFP's Vested Water Right 897-3. Mr. Reinart still felt this elevation was hindering them and that it was wrong. I told Mr. Reinart that I would review the permit application report.

I told Mr. Reinart that the two people from Pierre that visited Lake Sinai were Nettie Myers, DENR Secretary and John Cooper, GFP Secretary. Mr. Reinart said they toured his place and that he was at the meeting. He also said they had the letter stating that we (Water Rights) were not going to let them (Sinai people) do anything.

Mr. Reinart requested a flood control application, instruction sheet, and an explanation of the 1733 fmsl elevation.

Mr. Reinart called back later the same day and said that he contacted GFP and felt he got the run-around. He said GFP told him that they do not set elevations. I told Mr. Reinart that is correct. The 1733 fmsl elevation is connected to Mr. Otta's water right and the GFP did not set that elevation. Mr. Reinart still seemed confused, assuming that the elevation is a HWM or outlet elevation. I told him I am still looking into the matter and would get back to him ASAP.

Lynn Beck
Natural Resources Engineer

Water Rights Program -- File Documentation

NAME: Jack Otta

ADDRESS: 1004 Breckenridge Circle, Sioux Falls, SD 57103

DATE: August 23, 1996 **COUNTY:** Brookings **TELEPHONE:**

RE: Qualification error for Water Permit No. 5836-3

COMMENTS:

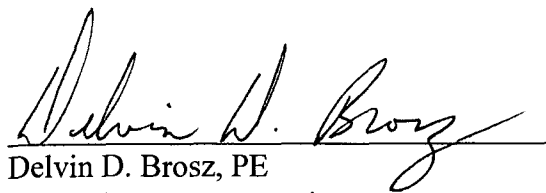
Water Permit Application No. 5836-3 was approved by the Water Management Board on March 8, 1995. The application was approved with the following qualification - **The South Dakota Department of Game, Fish and Parks holds Vested Water Right Claim No. 897-3 for storage of 18,000 acre-feet of water from Lake Sinai. Permit No. 5836-3 does not authorize diversion of water from Lake Sinai when the lake is at an elevation of 1733.0 feet msl or less.**

INVESTIGATION RESULTS:

A review of Vested Water Right Claim No. 897-3 found that the claim was recognized for 1800 acre-feet of water annually for a lake surface area of 600 acres. It is believed that the 1800 acre-feet was for 3 feet of annual evaporation from the lake surface. The elevation of the water surface would be at approximately 1716.5 feet msl when the lake surface area is at 600 acres.

RECOMMENDED ACTION:

The qualification for Water Permit No. 5836-3 should be changed to reflect that the South Dakota Department of Game, Fish and Parks holds Vested Water Right Claim No. 897-3 for Lake Sinai. To protect Vested Water Right Claim No. 897-3, Permit No. 5836-3 should not divert water from Lake Sinai when the lake is at an elevation of 1716.5 feet msl or less.



Delvin D. Brosz, PE
Natural Resources Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 4, 1996

NOTICE

TO: Jack Otta
1004 Breckenridge Circle
Sioux Falls, SD 57103

FROM: John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

SUBJECT: Schedule Hearing on Amendment to Qualification on Water Permit No. 5836-3, Jack Otta

Jack Otta holds Water Permit No. 5836-3 which appropriates water from Lake Sinai to irrigate 10 acres of agriculture research plots. The Permit contains a qualification that prohibits diversion of water from Lake Sinai when the lake is at an elevation of 1733.0 feet mean sea level (fmsl) or less. The intent of the qualification was to protect Game, Fish and Parks' Vested Water Right Claim No. 897-3 for Lake Sinai. However, the elevation of 1733.0 fmsl is in error. The enclosed documentation prepared by Del Brosz explains the error.

The Water Management Board will consider amending Qualification No. 1 of Water Permit No. 5836-3 on October 2, 1996, at 11:30 am, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501. The agenda time is an estimate. This hearing will be considered pursuant to SDCL 46-1-14, 46-2-9, 46-2-11 and 46-2-17.

The Chief Engineer's revised recommendation is for the Board to amend Qualification No. 1 to state, "Permit No. 5836-3 does not authorize diversion of water from Lake Sinai when the lake is at an elevation of 1716.5 feet msl or less. The Water Management Board retains jurisdiction of Permit No. 5836-3 in the event that additional information shows that a change is necessary to protect Department of Game, Fish and Parks' Vested Water Right Claim No. 897-3 for Lake Sinai."

If you have any questions regarding the proposed amendment, please contact Eric Gronlund at (605) 773-3352.

c: Diane Best, Assistant Attorney General
Tim Olson, G,F&P Water Permit Coordinator

CERTIFICATION

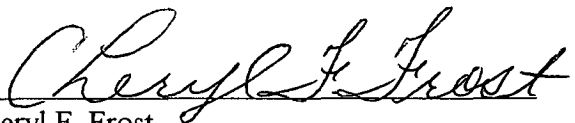
I hereby certify that on September 4, 1996, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 4, 1996, along with a copy of the Water Rights Program -- File Documentation signed by Delvin D. Brosz, regarding Schedule Hearing on Amendment to Qualification on Water Permit No. 5836-3, Jack Otta, addressed as stated below:

Jack Otta, 1004 Breckenridge Circle, Sioux Falls, SD 57103.

A copy of the above described Notice & enclosure was sent Inter-office to:

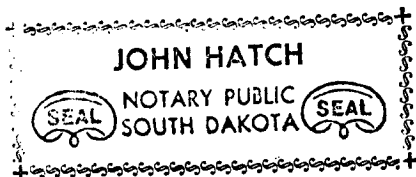
Diane Best, Assistant Attorney General, Capitol Building.

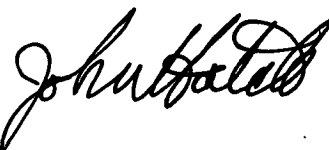
Tim Olson, Water Permits Coordinator, Department of Game, Fish & Parks, Joe Foss Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of September, 1996




Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

**AMENDMENT TO QUALIFICATION
WATER PERMIT NO. 5836-3, JACK OTTA
September 24, 1996**

HISTORY

The Water Management Board approved Water Permit Application No. 5836-3 on March 8, 1995. Water Permit No. 5836-3 appropriates 65 gallons per minute (0.14 cubic feet of water per second) from Lake Sinai to irrigate 10 acres. The irrigation is for agricultural chemical research plots.

QUALIFICATION CURRENTLY ON PERMIT

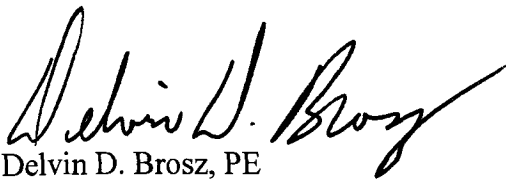
The South Dakota Department of Game, Fish and Parks holds Vested Water Right Claim No. 897-3 for storage of 18,000 acre-feet of water from Lake Sinai. Permit No. 5836-3 does not authorize diversion of water from Lake Sinai when the lake is at an elevation of 1733.0 feet msl or less.

PROPOSED QUALIFICATION - AMENDMENT

Permit No. 5836-3 does not authorize diversion of water from Lake Sinai when the lake is at an elevation of 1716.5 feet msl or less. The Water Management Board retains jurisdiction of Permit No. 5836-3 in the event that additional information shows that a change is necessary to protect Department of Game, Fish and Parks' Vested Water Right Claim No. 897-3 for Lake Sinai.

REASON FOR RECOMMENDATION

A review of Vested Water Right Claim No. 897-3 found that the claim was recognized for 1800 acre-feet of water annually and not for 18,000 acre-feet of storage. It is believed that the 1800 acre-feet was for 3 feet of annual evaporation from the lake with a lake surface area of 600 acres. The elevation of the water surface would be at approximately 1716.5 feet msl when the lake surface area is at 600 acres.



Delvin D. Brosz, PE
Natural Resources Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 4, 1996

Jack Otta
1004 Breckenridge Circle
Sioux Falls, SD 57103

Dear Mr Otta:

I am writing in response to action taken by the Water Management Board at the hearing on October 2, 1996, to amend qualification No. 1 on Water Permit No. 5836-3. The Board's amendment corrects the elevation of Lake Sinai when diversion of water may occur. The enclosed "Amendment" should be placed with the permit in your files.

Please contact Eric Gronlund if you have any questions.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

enclosure

AMENDMENT TO WATER PERMIT NO. 5836-3

JACK OTTA

Pursuant to the October 2, 1996, Water Management Board hearing, Water Permit No. 5836-3 is amend by changing Qualification No. 1 to read as follows:

1. Permit No. 5836-3 does not authorize diversion of water from Lake Sinai when the lake is at an elevation of 1716.5 feet msl or less. The Water Management Board retains jurisdiction of Permit No. 5836-3 in the event that additional information shows that a change is necessary to protect Department of Game, Fish and Parks' Vested Water Right Claim No. 897-3 for Lake Sinai.

**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**Date 8/12/97

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

FROM: JACK OTTA 1004 N. Breckenridge Circle
(name) (address)
Sioux Falls, SD 57110 (605) 333-9902
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5836-3

Water Permit No. 5836-3 states that the diversion system is to be constructed by March 8, 2000, and that the water is put to beneficial use by March 8, 2004.
(date) (date)

The diversion system was completed on May 1, 1996.
(date)

Applying the water to beneficial use was completed on MAY 2, 1996.
(date)

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

Jack Otta
(signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 15, 2001

5836-3

Jack D Otta
21539 458th Ave
Volga SD 57071

Dear Mr. Otta:

On June 26, 2001 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 5836-3, was completed by Ron Duvall, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires 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 complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak
Karen Schlaak
Environmental Scientist
Water Rights Program
(605) 773-3352

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

416911

Pierre, September 4, 20 01

RECEIVED OF Jack Otta, 21539 458th Ave, Volga, SD 57071
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. 5836-3 _____	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By Darland Erbele
Chief Engineer *gm*

Permit No. 5836-3
Big Sioux River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

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

I have this day, **June 26, 2001**, made a thorough examination of the water use system constructed by **Jack D Otta** of **21539 458th Avenue, Volga SD 57071** holder of Permit No. **5836-3**, bearing the priority of **September 14, 1994** authorizing the diversion of **0.14** cu. ft. per second of the waters of **Lake Sinai** for **irrigation** purposes, in **Brookings** County.

Inspection contact & relationship to permit holder, if applicable: **Jack Otta**

A. Works used to divert the water:

Pump:

- 1) Make **Gorman Rupp**
- 2) Model **8750-B**
- 3) Size **self-priming centrifugal**
- 4) Capacity **65** GPM

Motor:

- 1) Make **John Deere 950**

Pump intake is screened with window-type screen to prevent pulling in fish.

B. Works used to transport\apply water to beneficial use:

Approximately fifty-eight 30 feet long, 4 inch aluminum pipes equipped with rainbird sprinklers are used to irrigate up to 10 acres each year within a 38 acre area in the E $\frac{1}{2}$ NE $\frac{1}{4}$ section 10-T109N-R52W.

Chemigation Equipment: none

C. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y
- 3) Exceptions to compliance are: none

The system is in good condition with the point(s) of diversion located as follows: **Any point along the lake shoreline in the E $\frac{1}{2}$ NE $\frac{1}{4}$ section 10-T109N-R52W.** The works are capable of diverting and conveying to the place of use **0.14** cu. ft. per second of water which is to be used for **irrigation or research plots.** Water has been put to beneficial use to the maximum extent as follows:

Up to 10 acres annually within a 38 acre area located in the E $\frac{1}{2}$ NE $\frac{1}{4}$ section 10-109N-52W and the license should be issued for 0.14 cfs.

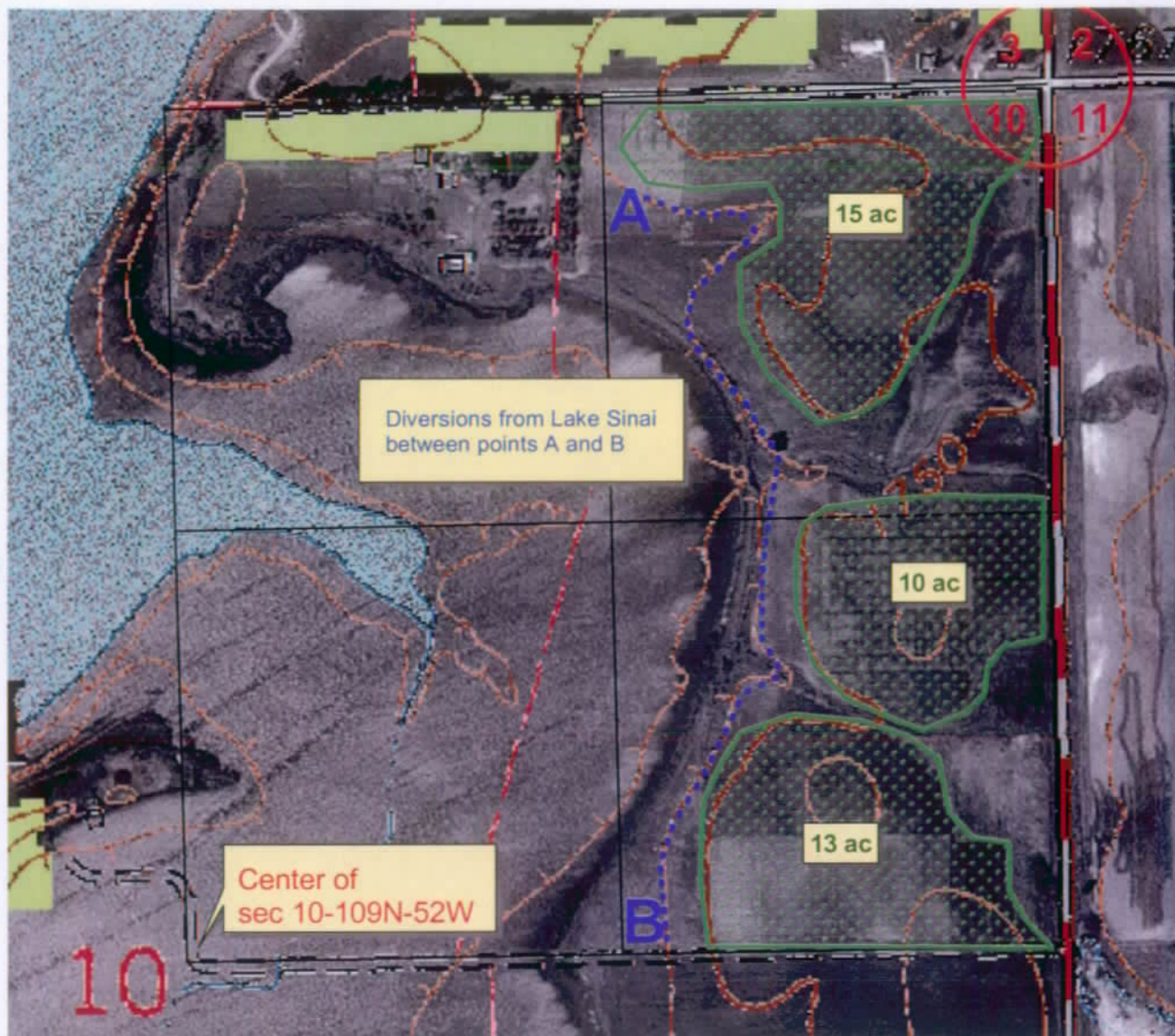
Comments or other permit(s) associated with the project: **none** | All structures, wells and lands on map Y



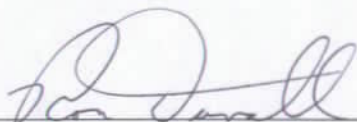
Ron Duvall
Natural Resources Engineer
DENR, Water Rights Program

Date report completed: **August 13, 2001**

500 0 500 Feet



South Dakota
Department of Environment
& Natural Resources
Water Rights


Ron Duvall, Nat. Res. Engineer
August 13, 2001

No. 5836-3

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5836-3

(1) Jack D Otta, 21539 458th Ave, Volga SD 57071 made Application No. 5836-3, September 14, 1994 for a water permit to divert 0.14 cubic feet of water per second from Lake Sinai, Brookings County, South Dakota for irrigation on research plots. Permit No. 5836-3, with a priority date of September 14, 1994 was approved March 8, 1995 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 8, 2000 and for the application to beneficial use of said water on or before March 8, 2004.

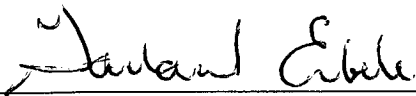
The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on August 15, 1997. The *Notice* stated the diversion system was completed on May 1, 1996 and the water placed to beneficial use on May 2, 1996.

(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 0.14 cubic feet of water per second for beneficial use. The location of the diversion point is any point along the lake shoreline located in the E ½ NE ¼ Section 10-T109N-R52W.

(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:

Up to **10 acres** annually within a 38 acre area located in the **E ½ NE ¼ Section 10-T109N-R52W**.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Jack D Otta, 21539 458th Ave, Volga SD 57071 the holder and/or owner of Water Right No. 5836-3 is issued a license to appropriate water, the right to use 0.14 cubic feet of water per second from Lake Sinai with a priority date of September 14, 1994 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 on research plots. This license is subject to any limitations or qualifications listed in Water Right No. 5836-3 and subject to South Dakota State Law.



GARLAND ERBELE, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

NOV 07 2001

date





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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

5836-3

Jack D. Otta
21539 458th Ave.
Volga, SD 57071

Dear Mr. Otta:

Enclosed is Water License No. 5836-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416911 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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.

Sincerely,

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

August 1, 2017

5836-3

Jack D Otta
21539 458th Ave
Volga ASD 57071

Dear Mr. Otta:

I am contacting you in regard to your Water Right No. 5836-3 (copy enclosed).

Irrigators in South Dakota are required to submit an annual irrigation questionnaire reporting how much water was pumped during the irrigation season. Our records show the land authorized for irrigation under Water Right No. 5836-3 has been in the Conservation Reserve Program through 2016.

The purpose of my letter is to find out the status of irrigation on your property. Please take a few minutes and answer the questions on the attached sheet and return it in the envelope provided. **If you have made a decision not to maintain the water right, let me know that as well.**

Thank you in advance for your help in updating the water right.

Sincerely,

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

enclosures

RECEIVED

AUG 11 2017

WATER RIGHTS
PROGRAM

Water Right No. 5836-3
Jack D Otta

Water Right No. 5836-3 authorizes diversion of water from Lake Sinai for irrigation of 10 acres in the E ½ NE ¼ Section 10, T109N, R52W.

Do you still own the land described above?

Yes X

No ____ (If no, please list the name and mailing address of the new owner)

Has the land been re-enrolled in CRP:

Yes X through calendar year 2031

No ____

If the land has not been re-enrolled in CRP, we will begin mailing irrigation questionnaires to you for annual reporting. Questionnaires are mailed to irrigators in October each year and are due back in December.

For informational purposes:

46-5-37.2. Exceptions to forfeiture for nonuse. The provisions of § 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:

- the water source is not fully appropriated
- if the withdrawal from use does not prevent approval of new permits from the same source, and
- if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.