

WATER PERMIT NO. 5871-3

Phone: 701-538-4962

Name of Applicant: Kennthe Lyons

Post Office Address: RR 1, Box 3, Lidgerwood ND 58053

Amount of Water Claimed: 3.28-1.64 Total Acres: 230

Source of Water Supply: dugout

Water to be used for: irrigation & Domestic use County: Roberts

Location: 15 miles northwest of Sisseton

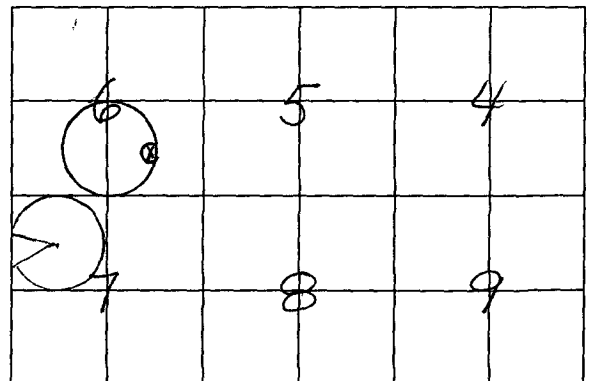
PRIORITY Date Received: 7-14-95 Fee: \$175.00

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

Remarks: _____

Diversion Point: W 1/2 SE 1/4 Sec 6-T128N-R52W

Land to be Irrigated: E 1/2 SW 1/4, W 1/2 SE 1/4
Sec 6 and the NW 1/4 Sec 7; all in T128N-R52W



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

Depth of Well: _____ REMARKS: _____

Type of Map: aerial Prepared By: Sharon Rolstad, ASCS Reviewed and the Number

Assigned on: 7-14-95 By: Karen Schlaak

129N
128N
53W 52W

FORM 2: Application for irrigation in South Dakota
(type or print)

4275-00

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

No. 5871-3 Hydrologic Unit 09020101
Basin Red Rainy
Newspaper Sisseton Courier, Box 169, Sisseton
(office use only)



Application For Permit To Appropriate Water For Irrigation

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 Kenneth Lyons Phone 701-538-4964
(check one) ☐ Owner ☐ Tenant/lessee 4962 Dey S
Mailing Address RR1 Box 3 Lidyewood 58053 State North Dakota
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed 1.64 *CFS or 740 **GPM ***AF Total Acreage 230
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout if applicable)
- Source of water supply Surface - dugout
- Location of point of diversion (example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W) West 1/2 of the
South East 1/4 of Section 6 128-52
County Roberts
- County or counties where water will be used Roberts
- Annual period during which water is to be used March 1 to 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	Acres	Land Description	Acres
NE 40 of SW 1/4 Sec 6 128-52	28.75	NE 40 of NW 1/4 Sec 7 128-52	30.5
SE 40 of SW 1/4 Sec 6 128-52	28.75	SE 40 of NW 1/4 Sec 7 128-52	30.5
SW 40 of SE 1/4 Sec 6 128-52	28.75	SW 40 of NW 1/4 Sec 7 128-52	27.05
NW 40 of SE 1/4 Sec 6 128-52	28.75	NW 40 of NW 1/4 Sec 7 128-52	27.05

Section 7 ?

8. Give a description of the project. (Attach sheet if more space is needed)
Surface water will be pumped from a dug out located in 1/2 of the SE 1/4 of Sec 6 128-52
only 1 pivot will be operating, this will likely be usable to be used
on Section 6 or 7 as needed. Town the NW 1/4 of Section 7 128-52 and
lessee the SW 1/4 of Section 6 and the West 1/2 of the SE 1/4 of Section 6 128-52
which is owned by Lester Lyons.

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

STATE OF SOUTH DAKOTA)

County of Roberts ss

I, Kenneth Lyons, the applicant, have read this application, examined the attached map, and certify that the matters stated are true. I intend and am able to complete the necessary construction.

Signed Kenneth Lyons

Subscribed and sworn to before me this 23rd day of February 19 95

[Signature]
Notary Public

SOUTH DAKOTA
WATER PERMIT NO. 5871-3

Date of first receipt of application July 14, 1995.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5871-3 to Kenneth Lyons, RR 1, Box 3, Lidgerwood SD 58053 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. 5871-3 appropriates 1.64 cubic feet of water per second from a dugout located in the W 1/2 SE 1/4 Section 6 to irrigate 230 acres located in the E 1/2 SW 1/4, W 1/2 SE 1/4 Section 6 and the NW 1/4 Section 7; all in T128N-R52W. Water from the dugout may also be used for domestic purposes.
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: March 1 - October 31.
3. The date from which applicant may claim right is July 14, 1995.
4. The date of approval of Permit No. 5871-3 is September 5, 1995.
5. One-fifth of the construction is to be completed on or before March 5, 1998.
6. All construction is to be completed on or before September 5, 2000.
7. Water is to be put to beneficial use on or before September 5, 2004.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

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 Program
Department of Environment and Natural Resources

DEC 18 1995

date



NOT TO SCALE



155.3
①

147.2
①

U-1

Ellie E.
F. L. E. Nelson

Jane L. Hammer

T-4586

6

T-4577

174.2
①

114.1
Acres

Lester J. Lyons
(Carried in Richland A)

56.3
①

Roberts Co. CRSA
Sharon Bolstad
2-2-95

15.7
③

Dugout
diversion
Pond

Peter J. Olson

128.52

T-4513

151.4
①

251.5
①

24.0
②

U-1

5871-3



NOT TO SCALE

128-52 T-4513

151.4

①
8.0

115.1

19.0

251.5

24.0
(2)

U-1

Ken Lyons

9.3

T-10079

Roberts Co. FSES

Sisseton SD

Sharon Rolstad

6-22-94

2-2-95

Highway 1

County of Marshall Co.

Ronald Nieland

128-52

T-4501

5871-3

RECEIPT

414551

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ July 14, 19 95

RECEIVED OF Ken Lyons, RR 1 Box 3, Lidgerwood, ND 58053

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

Fee for Application for Permit No. <u>5871-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	275	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	275 00

By

Chief Engineer

John Hatch



South Dakota State University
Brookings, South Dakota 57007



Water Resources Research Institute
Telephone 605-688-4910

June 23, 1994

Ken Lyons
11 1st St. NE
Lidgerwood, ND 58053

Dear Mr. Lyons:

Enclosed are copies of the analyses of your water samples which you submitted to us for testing. We have identified the source of your waters as taken from an unknown surface source in the NW 1/4 of Section 7, Township 128N, Range 52W, sample #1. We have assigned sample #1 lab number 94-0207 and sample #2 as lab number 94-0208.

Your water, as represented by these samples, is classified as a medium salinity, low sodium hazard for irrigation usage. The electrical conductivity (EC) of your water is 447 and 540 micromhos/cm, for samples 1 and 2 respectively. The main ions in this water are: calcium (Ca) and bicarbonate (HCO_3). I have plotted your approximate water quality in red on the outside back cover of the enclosed pamphlet (AES 13). The sodium hazard, SAR 0.11 and 0.41 is very low and will not cause any soil dispersion problems or decreased soil infiltration. The sodium hazard is in the low category.

This water can be used for irrigation purposes for most normal soils which have adequate internal drainage. This means that if the water table is greater than 10 feet below ground surface the majority of the year and there are no tight impermeable layers within the root zone which may create a perched water table, the salts (ions) that do exist in the water will be able to be leached downward below the root zone where they do little or no harm to growing crops. The probability for soil salinization from this water is low when used on soils with good subsurface drainage. The majority of the soils in the NW 1/4 of S7, T128N, R52W are Peever Clay Loam (PeB), Peever-Tonka Complex (PK), Forman-Aastad loams (FOB), and Tonka Silt Loam (TK). Most of these soils have very tight subsoils which restrict downward water movement and tend to prevent internal soil drainage. Subsequently, any added salts in irrigation water tend to stay there. This water is extremely good quality for irrigation, however, and I would recommend use on these soils with less than 8-10" per year. The boron levels of 0.11 and 0.13 ppm for these waters poses a low toxicity level for most normal crops in this area. I have enclosed a sheet that tells the boron toxicity levels for major crops.

I am forwarding a copy of this letter and water analysis to the Department of Environment and Natural Resources in Pierre for their information. If you have further questions regarding this water analysis, please do not hesitate to call or write.

Sincerely,

John H. Bischoff, Assistant Professor
Water Resources Institute

Enclosures
cc: DENR

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

06/23/1994

Bill To: Lyons, Ken
11 1st St. NE
Lidgerwood, ND 58053

Date Rec'd 06/15/1994
Lab Sample No. 94-0207
Source #1
Depth
Legal ID: T 128N R 52W S 7b

Roberts

cc:

Calcium (Ca)	54	ppm	2.70	me/l
Magnesium (Mg)	19	ppm	1.56	me/l
Sodium (Na)	4	ppm	0.16	me/l
Potassium (K)	14	ppm	0.37	me/l
Sulfate (SO4)	45	ppm	0.94	me/l
Nitrate as N (NO3)		ppm		me/l
Organic Nitrogen as N		ppm		
Ammonia Nitrogen as N		ppm		
Nitrite as N (NO2)		ppm		
Ortho Phosphorus		ppm		
Total Phosphorus		ppm		
Chloride (Cl)	3	ppm	0.08	me/l
Bicarbonate (HCO3)	205	ppm	3.36	me/l
Carbonate (CO3)	0	ppm		me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Manganese (Mn)		ppm		
Boron (B)	0.11	ppm		
Hardness (EDTA as CaCO3)	213	ppm	12.46	gpg
Total Solids		ppm		
Total Cations			4.79	me/l
Total Anions			4.38	me/l
Alkalinity (Methyl Orange)	168	ppm(as CaCO3)		
Alkalinity (Phenolphthalein)	0	ppm(as CaCO3)		
Electrical Conductivity	447	micromhos per cm at 25°C		
Sodium Adsorption Ratio (SAR)	0.11	Adjusted SAR	0.22	
Sodium	3.34	% of Cations		
Residual Sodium Carbonate	0.00	me/l		
pH	8.34			

gpg = grains per gallon
me/l = milliequivalents per liter

ppm = parts per million

COMMENTS:

Analysis By: Shirley Mittan

Service Performed:	Analysis Cost:	50.00	Amount Received:	0.00
	Sales Tax:	0.00	AMOUNT DUE:	50.00
Irrigation Analysis	Total Cost:	50.00		

Make checks payable to: SDSU Water Quality Lab
Please write lab number on your check!
Lab Sample No. 94-0207

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

06/23/1994

Bill To: Lyons, Ken
11 1st St. NE
Lidgerwood, ND 58053

Date Rec'd
Lab Sample No.
Source
Depth

Roberts
06/15/1994
94-0208
#2

Legal ID: T 128N R 52W S 7b

Calcium (Ca)	39	ppm	1.95	me/l
Magnesium (Mg)	36	ppm	2.96	me/l
Sodium (Na)	15	ppm	0.65	me/l
Potassium (K)	18	ppm	0.46	me/l
Sulfate (SO4)	95	ppm	1.98	me/l
Nitrate as N (NO3)		ppm		me/l
Organic Nitrogen as N		ppm		
Ammonia Nitrogen as N		ppm		
Nitrite as N (NO2)		ppm		
Ortho Phosphorus		ppm		
Total Phosphorus		ppm		
Chloride (Cl)	4	ppm	0.11	me/l
Bicarbonate (HCO3)	188	ppm	3.08	me/l
Carbonate (CO3)	24	ppm	1.33	me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Manganese (Mn)		ppm		
Boron (B)	0.13	ppm		
Hardness (EDTA as CaCO3)	246	ppm	14.36	gpg
Total Solids		ppm		
Total Cations			6.02	me/l
Total Anions			6.50	me/l
Alkalinity (Methyl Orange)	154	ppm(as CaCO3)		
Alkalinity (Phenolphthalein)	40	ppm(as CaCO3)		
Electrical Conductivity	540	micromhos per cm at 25°C		
Sodium Adsorption Ratio (SAR)	0.41	Adjusted SAR	0.88	
Sodium	10.80	% of Cations		
Residual Sodium Carbonate	0.00	me/l		
pH	8.72			

gpg = grains per gallon
me/l = milliequivalents per liter

ppm = parts per million

COMMENTS:

Analysis By: Shirley Mittan

Service Performed:	Analysis Cost:	50.00	Amount Received:	0.00
	Sales Tax:	0.00	AMOUNT DUE:	50.00
Irrigation Analysis	Total Cost:	50.00		

Make checks payable to: SDSU Water Quality Lab
Please write lab number on your check!
Lab Sample No. 94-0208

Please check galloway I want
to apply for the maximum for
acres listed. Am not sure if I
have it correct?

South Delta State University Breathing
June 23, 1994 Has forwarded water analysis to you.

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Kenneth Lyons, Water Permit Appl. No.5871-3

ADDRESS: COUNTY: Roberts

DATE: 7/21/95

TELEPHONE: 701 538-4962

RE: Clarification of Mr. Lyon's water permit application

COMMENTS:

Mr. Lyons returned my call regarding Water Permit Application No. 5871-3. I asked him on the specifics on the dugout which is to act as the water source. He stated that there is an area that was excavated years ago that is in an overall low area. The excavated area at the point on the submitted map marked "dugout" is approximately 12 feet wide and 10 feet deep. The width of the excavation diminishes towards the south where it ends approximately 900 feet south where the depth is 1 foot. The overall size of the low area is about 8 acres. From my discussion with Mr. Lyons, I got the impression that this area was excavated in this already low area to drain the area to the west many years ago.

I also discussed the diversion rate. Mr. Lyons indicated that he would never operate more than one pivot at a time. We agreed on the diversion rate of 1.64 cfs (735 gpm), which is the appropriate application rate for 115 acres.

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 Lund

REPORT ON WATER PERMIT APPLICATION NO. 5871-3
KENNETH LYONS
AUGUST 7, 1995

Application 5871-3, Kenneth Lyons, proposes to appropriate for domestic and irrigation use 1.64 cubic feet of water per second (cfs) from a dugout located in the W1/2 SE1/4 of Section 6 to irrigate 230 acres located in the E1/2 SW1/4, W1/2 SE1/4 of Section 6 and the NW1/4 of Section 7; all in T128N-R52W. The proposed project is to be located in northwestern Roberts County approximately 4 miles northeast of the town of Veblen.

Review of the Proposed Project and Existing Water Rights

The applicant proposes to divert the water from a dugout that had been excavated several years ago to drain the surrounding land. The proposed diversion rate for this project is 1.64 cfs which is the allowed diversion rate for 115 acres. The applicant has indicated he will likely irrigate only one of the two parcels at a time. There is a possibility the applicant will develop irrigation on only one of the parcels, which he has yet to determine.

A review of Water Rights Program records found that there were no existing water rights/permits for surface water diversions in the immediate area. A review was also made of dry draw location notices in the immediate area. There were five location notices on file that were located within two miles of the proposed diversion point. Using United States Geological Survey (USGS) topographic maps for the area, it was determined based upon topography that these location notices should not be adversely impacted by this proposed project.

Conclusions

1. Application 5871-3 proposes to appropriate 1.64 cubic feet of water per second (cfs) of water from a dugout.
2. The water is to be used to irrigate 230 acres of land.
3. A review of the Water Rights Program files has determined that existing water rights/permits and dry draw location notices are not expected to be adversely affected by this proposed project.

Mark D. Rath 

Mark D. Rath
Natural Resources Engineer III

Approved by:

Delvin D. Brosz
Delvin D. Brosz, P.E.

Natural Resources Engineer IV

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5871-3, Kenneth Lyons**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 5871-3, Kenneth Lyons, RR 1 Box 3, Lidgerwood, ND 58053.

The Chief Engineer is recommending APPROVAL of Application No. 5871-3 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:

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

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", with a stylized flourish at the end.

JOHN HATCH, Chief Engineer
August 8, 195



**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.**

August 9, 1995

Kenneth Lyons
RR 1 Box 5
Lidgerwood, ND 58053

Dear Mr. Lyons:

Water Permit Application No. 5871-3 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 Sisseton Courier printed at Sisseton, SD (Ph # 605-698-0169). 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
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

August 9, 1995

Sisseton Courier
Box 169
Sisseton, SD 57262-0169

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5871-3 to be published twice. Please publish the first notice on August 16, 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 Kenneth Lyons, RR 1 Box 5, Lidgerwood, ND 58053 (Ph # 701-538-4962).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. 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 Program
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 August 16, 1995, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 5871-3 to Appropriate Water

Notice is given that Kenneth Lyons, RR 1 Box 5, Lidgerwood, ND 58053 has filed an application for a water permit for domestic use and to appropriate 1.64 cubic feet of water per second from a dugout located in the W 1/2 SE 1/4 Section 6 to irrigate 230 acres located in the E 1/2 SW 1/4, W 1/2 SE 1/4 Section 6 and the NW 1/4 Section 7; all in T128N-R52W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5871-3 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 Program, 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 September 5, 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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Roberts) SS

I, Harley E. Deutsch

certify that the attached printed Notice was

taken from the _____

The Sisseton Courier

printed and published in Sisseton

County of Roberts and State of

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

08-16-95

08-23-95

Cost of Printing: \$36.47

Harley E. Deutsch
 (Signature)

Publisher & President
 (Title)

08-23-95

(Date Signed)

**NOTICE OF APPLICATION
 NO. 5871-3 to
 Appropriate Water**

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5871-3 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 Program, 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 Sept. 5, 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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

(Aug. 16-23--2wks)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 18 1995

Kenneth Lyons
RR 1 Box 3
Lidgerwood, ND 58053

Dear Mr. Lyons:

Enclosed is Water Permit No. 5871-3 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 Program
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 Program - File Documentation

NAME: Ken Lyons

DATE: 11-04-1997 **COUNTY:** Roberts

RE: Change diversion point

COMMENTS:

Ken Lyons called stating he would like to change the location of his diversion point from the north side of the dugout to the south side which would be approximately 300 feet to the south. I told Mr. Lyons the diversion point was advertised as being located in the W 1/2 SE 1/4 Sec 6-T128N-R52W. Moving the diversion point 300 feet to the south would not effect his permit because it would still be within the area advertised.



Karen Schlaak
Environmental Scientist



Attention: Eric Gronland,

1-2-98

I would like to request a change to the original permit number 5871-3. Due to high water on the east edge of the west $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of section 6 128-52, it is now impossible to run a pivot through the yellow highlighted area as seen on attached map. Therefore I would like to move the pivot approximately 350 feet west. Doing so will cause the pivot to run onto the west $\frac{1}{2}$ of the South west $\frac{1}{4}$ of section 6 128-52 as highlighted in orange on attached map.

If you have any questions, please
call Ken Lyons at (701) 538-4962.

Ken Lyons
11 1st St NE
Lidgerwood ND 58053

Approval of Location Change for Irrigated Acres

NAME: Ken Lyons

ADDRESS: 11 1st St NE, Lidgerwood, ND 58053

DATE: January 6, 1998

COUNTY: Roberts

TELEPHONE: (701) 538-4962

AUTHORITY:

Pursuant to SDCL 46-5-30.5, the location of acreage developed for irrigation outside of the acreage described on the permit may be licensed if no increase occurs in either permitted acreage or water appropriated. The unpermitted acreage shall be contiguous to the permitted acreage, owned by the same property owner, and developed as part of the original irrigation project. Licensing of the unpermitted acreage may occur without application or publication, if the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project is consistent with the original application.

BACKGROUND

Water Permit No. 5871-3 appropriates 1.64 cfs from a dugout located in the W1/2 SE1/4 Section 6 to irrigate 230 acres located in the E1/2 SW1/4, W1/2 SE1/4 Section 6 and the NW1/4 Section 7; all in T128N, R52W.

Mr. Lyons has made a request to be able to shift the center pivot to be located in the S1/2 Section 6 approximately 350 feet west of its originally intended location. This request is made due to high water on the east edge of the W1/2 SE1/4 Section 6. This high water makes it impossible to run the pivot full circle in its intended location. Moving the pivot to the west will cause acreage in the W1/2 SW1/4 of Section 6 (see map) to be irrigated. This area was not included on the notice published for this application.

This system has not been developed and has until September 25, 2000, to complete construction.

- **Developed water source same as permitted source and no additional water appropriated**

The source of water remains the dugout.

- **No increase in acres irrigated**

There will not be an increase in the number of acres irrigated. This request involves simply being able to shift the center pivot approximately 350 feet to the west of its originally intended location. This reason for the shift of the pivot is high water conditions.

- **Developed as part of the original irrigation project**

The acreage is contiguous to the permitted acreage, owned by the same property owner, and will be developed as part of the original irrigation project.

- **Review of Existing Diversions**

There are no known other diversions in the immediate vicinity.

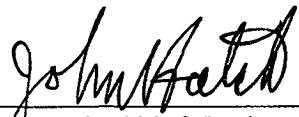
RECOMMENDED ACTION

Based on the above criteria, it is recommended that the change of acres be authorized and once the system is developed and a licensing investigation conducted the project may be licensed allowing this specific change of acres.


Eric Gronlund, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-30.5 that:

Existing water rights will not be impaired and the overall project is consistent with the original application.

 1-8-98
John Hatch, Chief Engineer
Water Rights Program

NOT TO SCALE

155.3
(1)

147.2
(1)

u-1

Ellie E.
F. H. E. Miller

Jane L. Hammer

T-4586

6

T-4577

174.2
(1)

Lester J. Lyons
(Carried in Richland Co)

28.7

56.3
(1)

wheat
40.1

4.6

22.8 wheat

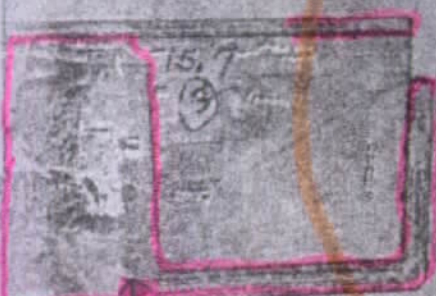
18.2

16.2 AGR

Peter J. Olson

128.52

T-4583



Trees are taken out
and has been broke up.

151.4
(1)

251.5
(1)

24.0
(2)

u-1



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 9, 1998

Ken Lyons
11 1st Street NE
Lidgerwood, ND 58053

Dear Mr. Lyons:

I am writing in regard to your request to allow a change of acreage to Water Permit No. 5871-3. Water Permit No. 5871-3 appropriates 1.64 cubic feet of water per second from a dugout to irrigate 230 acres located in the E1/2 SW1/4, W1/2 SE1/4 Sections 6 and the NW1/4 Section 7; all in T128N, R52W.

You have made a request to shift the center pivot to be located in the S1/2 of Section 6 approximately 350 feet west of its originally intended location. Moving the pivot to the west will cause acreage in the W1/2 SW1/4 of Section to be irrigated. This area was not included on the original application. This request is due to high water conditions.

Pursuant to SDCL 46-5-30.5, I find that this request for a change of acres is consistent with the original application and that existing water rights will not be impaired. Authorization is granted to develop the pivot as requested. No increase in the amount of water appropriated or number of acres irrigated is authorized.

The date to complete construction of the irrigation system remains September 5, 2000, as set forth by Water Permit No. 5871-3. Once the system is developed, a licensing investigation will be conducted by a Water Rights staff person.

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

Very truly yours,

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

Fwkenlyo.txt

From: Selken, Gale
To: Stoneback, Susan
Subject: FW: Ken Lyons call (701-538-4964 or 701-538-4962 (his dad's farm))
Date: Tuesday, July 14, 1998 4:39PM

From: Selken, Gale
To: Stoneback, Susan
Cc: Brosz, Del; Gronlund, Eric; Selken, Gale
Subject: RE: Ken Lyons call (701-538-4964 or 701-538-4962 (his dad's farm))
Date: Tuesday, July 14, 1998 4:23PM

The issue with Mr. Lyons is a little more complicated than he indicated during the telephone conversation.

Mr. Lyons has water right permit number 5871-3 to irrigate lands in section 6 and 7 T128N R52W. Mr. Lyons has telephoned DENR-water rights numerous times in the last six months (usually talking to Eric Gronlund). Most of these conversations had Mr. Lyons asking if he could pump water from areas of section 6 to the dugout that he pumps irrigation water from. Eric in all cases told him that the water right is not to drain water and that he could not pump water unto other peoples land. File documentation indicates the NRCS personnel have stated that Mr. Lyons is draining his property under the guise of irrigation and affecting other peoples lands.

I told Mr. Lyons that his problem with Roberts County is a local issue (he did not get permit to cross road) and that it would be advisable to hire an attorney. I also point blank asked Mr. Lyons if he was using the system to drain onto other peoples land, he state that during the "vandalism" he had. He would not answer when asked if there were other times this had happened.

General feeling of Mr. Gronlund and myself is that Mr. Lyons is utilizing his irrigation system to illegally drain his land, he got caught, now wants the state to straighten it out.

>From: Stoneback, Susan
>To: 'Selken, Gale'
>Subject: Ken Lyons call (701-538-4964 or 701-538-4962 (his dad's farm))
>
>Date: Tuesday, July 14, 1998 3:10PM
>
>Date: 7/14/98 Time: 2:50 pm User: SUSANS
>

>Ken Lyons
>11 First St. N.E.
>Lidgerwood, ND 58053
>701-538-4962
>Log number: 40273
>Return to:
>Action: none assigned. You may be asked to draft a letter on
>this issue. I'll let you know when I get the notes back on it.
> Thanks, Gale.
>
>DENR and County issue // Caller to the state for a permit to
>put in an irrigation system in Roberts Co, Norway Township
>Sect. 6 and 7 about 5 years ago. He said he didn't know he
>needed a county permit, and that the county told him all he
>needed to do was to put the road back the way it was prior to
>his laying the pipe. General Irrigation out of Oaks, ND put in
>the pipeline and were to check for underground cables and such.
> The pipeline went in the past year.
>
>This spring, vandals damaged tractors and among other things
>turned on the irrigation system. It moved water from one
>section to another and it eventually ran through a natural
>drainage ditch and over other people's land. He said he knew
>nothing of it until the Roberts County Commission called him
>and told him.
>
>When he appeared before the Commission they told him he was in
>violation because he didn't have a permit and that he had to
>remove the pipeline by July 21 or face a per day fine,
>according to a letter from the Roberts Co. State's Attorney.
>The pipeline cost \$50,000 to install and the caller is sick
>about the demands the county is making.
>
>However, he notes that he can't talk to them and all they will
>tell him is that they have had a number of complaints. The
>commission refuses to tell him what the complaints are about or
>who made them. "Now the county is against me, and I won't be
>able to get a permit," he said. He noted that he may not even
>be able to get the pipe out by July 21st , although he doesn't
>want to do it to begin with because now is when he needs the
>irrigation. He said "it will put me out of business."
>
>Caller said, "The county commission and the state's attorney
>have had their minds made up against me. I'm like a piece of
>raw meat to a pack of wolves."
>
>Caller has contacted DENR and was told that the State won't
>jerk the permit and that he has drainage rights. However, the

Fwkenlyo.txt

>1991 County Ordinance said if you change and existing system
>you need to apply for a permit. He said that the county
>commission is now calling his irrigation pipeline a drainage
>system and that that is not what it is.
>
>Caller is very frustrated and seeks help and information about
>how he can handle this situation.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 9, 1998

5871-3

Kenneth Lyons
RR 1 Box 3
Lidgerwood, ND 58053

Dear Mr. Lyons:

Thank you for returning your 1998 irrigation questionnaire. The questionnaire was complete and no further information will be needed for this year.

You inquired whether or not you needed to send in a completion report if your system was only partially constructed. The answer would be no. The form should be sent into us when you are finished with the entire system. The purpose for these forms is to notify us that you are ready for an investigation of your water use system. Once an investigation is conducted, a water license is issued for what was actually developed.

According to you permit, you have until September 5, 2000 to complete the project and until September 5, 2004 to put the water to beneficial use. If you finish with the project prior to that time, you may go ahead and mail in the "Form 10 - Completion of Works".

I hope I have answered your questions, if not please give me a call.

Sincerely,

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

encl

1998 WATER MANAGEMENT BOARD IRRIGATION QUESTIONNAIRE
PLEASE FILL OUT AND RETURN BEFORE DECEMBER 1, 1998

5871-3
 KENNETH LYONS
 RR 1 BOX 3
 LIDGERWOOD, ND 58053

CHANGES TO ADDRESS LABEL, IF ANY:

Telephone No. None During Day

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

IS SYSTEM CONSTRUCTED? YES ☒ NO ☐ DID YOU IRRIGATE IN 1998? *YES ☒ *NO ☐

* IF YES, NUMBER OF ACRES IRRIGATED 230 *IF NO, LIST REASON(S) IN COMMENT SECTION

IS LAND ENROLLED IN CRP? YES ☐ NO ☒ IF YES, THROUGH WHAT YEAR?

DID YOU CHEMIGATE IN 1998? YES ☐ NO ☒

SOURCE OF WATER Surface

TYPE OF SYSTEM (CHECK ALL THAT APPLY):

CENTER PIVOTS ☒ TOWNLINES ☐ BIG GUN ☐

FLOOD ☒ SPRINKLERS ☐ OTHER ☐



COMMENT SECTION: water was put to beneficial use but system is

not complete yet as of this report, water was put to use in July 1998 in
regards to this project. I am wondering if I need to mail the form to completion
and Application of water to beneficial use if water has been put to use but entire project not complete
yet?

THE PORTION OF THE FORM FOR REPORTING ACRES IRRIGATED IS ON THE BACK OF THIS PAGE.

LISTED BELOW ARE TWO EXAMPLES OF HOW TO COMPLETE THE FORM:

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

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

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

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

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

Gronlund, Eric

To: Brosz, Del; Rath, Mark
Subject: Ken Lyons water permit

Got a call this morning from Kent ?Drue? with the NRCS in Roberts County regarding Ken Lyons water permit. Mr. Lyons obtained Water Permit No. 5871-3 in 1995 to irrigate acres from a dugout. The dugout is a excavation in an already low area so surface water drains toward the dugout. The NRCS agent characterized it as a slough. The county has had numerous complaints that Mr. Lyons is not irrigating but draining water onto his neighbors.

It also alleged that Mr. Lyon's is pumping from a low area withing the pivot area (this area is clearly visible on the ASCS aerial). In fact, I think Mark may have questioned this when drafting the report back in 1995.

I had a number of conversation with Mr. Lyon's this spring on constructing his system. I think he was expecting opposition once he started pumping. I explained that he had a water permit to pump from the dugout to irrigate the lands. When we discussed the wet area within the pivot area he explained that this naturally drains to the dugout but because of the extremely high water conditions this year he may pump to the dugout area (like everyone else was doing). I told him if he did that to make sure he did not drain water or impound water on others property. He assured me that the water would stay on his property where he wanted it because he ultimately wanted to use the water for irrigation. I did not say he couldn't do this.

The NRCS agent told me that yes he is draining onto other's property and besides that there is a USFWS wetland easement on the property in question and Mr. Lyons appears to also be in violation of Swampbuster. The county commission is meeting this afternoon to hear complaints on Mr. Lyon's actions. I faxed a copy of the permit to the NRCS agent. I also told him that the permit allows for irrigation and not draining especially onto other property. I told him our permit does not address the wetland easement or Swampbuster issues and he understood.

NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Date 11-29-99

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



FROM: Henrietta Lyons
(name)

RR 1 Box 3
(address)

Lidgerwood ND 58053
(city, state, zip)

none
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 5871-3 states that the water use system is to be constructed by

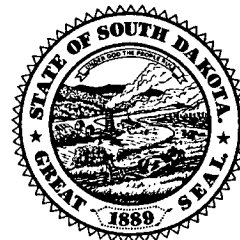
Sept 5 - 2000 (date), and water is to be put to beneficial use by Sept 5 - 2004 (date).

The water use system was completed on 10-29-99 (date).

Applying the water to beneficial use was completed on Summer 1998 (date).

You may schedule an investigation so that the water license may be issued.

Henrietta Lyons
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 19, 2001

Kenneth Lyons
11 1st Street NE
Lidgerwood, ND 58053

Dear Mr. Lyons :

I am writing this letter in response to the water permit inspection I made of your permit No. 5871-3 on August 15, 2001. At the time of the inspection I found more acres being irrigated than is authorized by the permit. We discussed the need to file an application for the additional acres. We also discussed the possibility of your developing more irrigation.

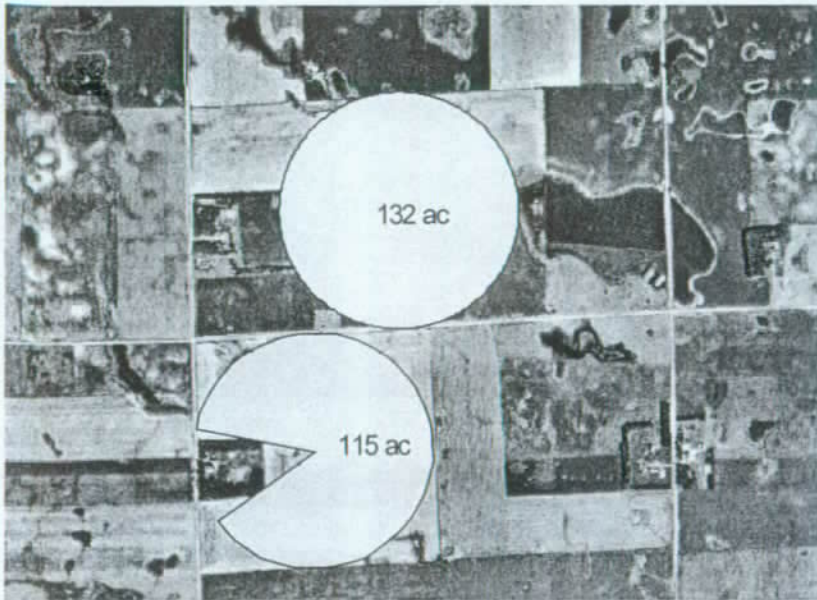
I have attached two maps showing the different scenarios and the number of acres that would be irrigated. I am also enclosing application forms and instructions for you to complete and submit to this office when you decide which option you will be pursuing.

If you have any questions, please contact me at phone (605) 773-3352.

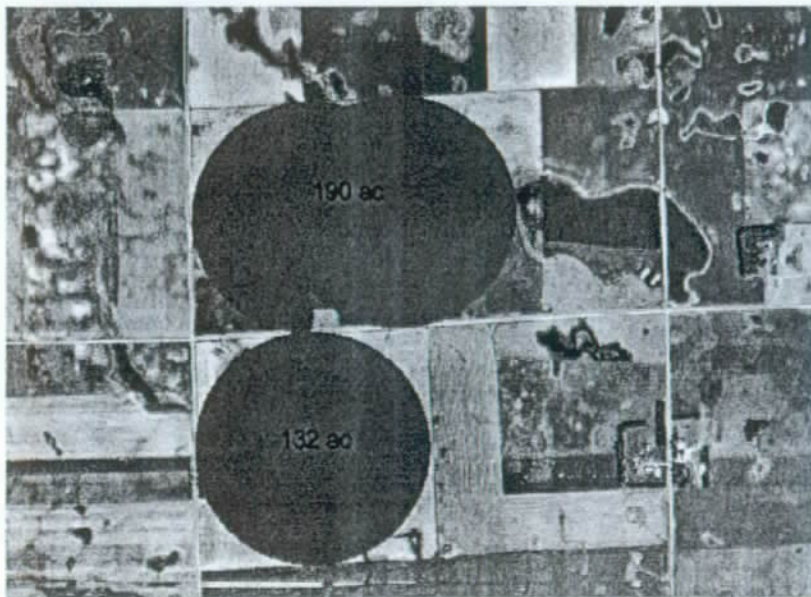
Sincerely,

Mark D. Rath
Natural Resources Engineering Specialist
Water Rights Program

enclosures



You are currently authorized for 230 acres total, 115 acres in Section 6 and 115 in Section 7. At the minimum, you will need to file an application for the 17 additional acres you developed irrigation on.



You also indicated the possibility of developing more acres. The figure above shows the acres that would be covered if you developed additional irrigation in either Sections 6 or 7.

May 16, 2002

Ken Lyons
11 1st Street NE
Lidgerwood ND 58053

Dear Mr. Lyons:

As we discussed on the phone, I am enclosing a map showing the current acres in Section 6 authorized by Water Permit No. 5871-3. I have also included a sheet explaining the map and asking some questions. This only deals with the irrigation in Section 6 and not the irrigation in Section 7.

Mark Rath conducted a licensing investigation last year which found 132 acres being irrigated. This is an additional 17 acres in Section 6 more than is authorized by the water permit. You indicated that you may want to move the pivot further to the west and in doing so the pivot may not irrigate as many acres because the pivot would not make a full rotation because of the cemetery. This map is intended for you to show me the planned configuration of the irrigation system. We can talk about it over the phone or after drawing the intended irrigation on the map you can mail it back to me in the enclosed self addressed stamped envelope.

I have also enclosed a copy of your original water right permit and a map that Mr. Rath put together after his investigation discussion your options. At that time, you were considering irrigating even more acres to include the W ½ SE ¼ and the entire SW ¼ of Section 6.

Once you've had a chance to review this material give me a call so we can discuss your options.

Sincerely,

Eric Gronlund
Water Rights Program
605 773-3352

enclosures

- Water Permit No. 5871-3 was issued in 1995. The portion of Section 6 authorized by this original permit is designated by the green cross hatching.



- In 1998 you made a request that was approved to change the irrigated acres in Section 6 by shifting the center pivot approximately 350 feet west. This is shown on the map at the red cross hatched area.



- If I understood you correctly, you are considering shifting the pivot even further to the west. By doing this, the pivot would no longer make a full rotation so that you would avoid a cemetery. If this is the case you thought the total irrigation would not exceed the 115 acres that is authorized for Section 6. If this is your intention, please outline the area on the map that would be irrigated and return to me.
- You still can come in and apply for the additional acres above the 230 acres authorized by WP No. 5871-3. This would require filing an application and publication of a notice in the local newspaper. I can help you complete the application if this is the avenue you choose.

NOT TO SCALE

155.3
①

Ellie E.
F. H. C. Melton

T-4586

147.2
①

U-1

Jane L. Hammer

T-4577

174.2
①

Lester J. Lyons
(Carried in Richland Co)

114.1
Acres

56.3
①

Roberts Co. CFS
Sharon Polstad
2-2-95

15.7
①

Disput

Peter J. Olson

128.52

T-4543

151.4
①

251.5
①

24.0
②

U-1

5871-3

Ken - Here is the
packet I sent to
you previously

RECEIVED

JUN 24 2002

WATER RIGHTS
PROGRAM

The yellow is approximately
the area I would like to
move the pivot to. I'll call
next week Eric to discuss
this.

Eric

CALE

U-1



Jane L. Hammer

T-4580

6

T-4577

174.2

①

114.1
Acres

Lester J. Lyons
(Carried in Richland Co)



15.7

③



Dugout

56.3

①

Roberts Co. CFS
Sharon Bolstad
2-2-95

Peter J. Olson

128.52

T-4513

151.4

①

251.5

①

24.0

②

U-1

5871-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 5871-3, Kenneth Lyons

ADDRESS: COUNTY:

DATE: July 12, 2002 TELEPHONE:

RE: Phone call from Mr. Lyons

COMMENTS:

Mr. Lyons called regarding my May 16th letter and his submittal of the map dated June 24, 2002.

I indicated that based on the map he submitted, he'd still be irrigating more than that 115 acres in Section 6 authorized by Permit No. 5871-3. His map showed his intent to move the pivot to the west. The pivot would stop so that it does not irrigate the cemetery on the southern edge of the section. In digitizing the pivot (with the portion not irrigated because of the cemetery) the number of acres irrigated is still greater than 115 acres. Mr. Lyons said he would either shutdown the end gun or cause the pivot to stop earlier in order to limit his irrigated acres to 115.

He said in the future that he may come in to irrigate additional acres at that time it would be his intent to increase the number of acres irrigated in both the SW $\frac{1}{4}$ of Section 6 and the NW $\frac{1}{4}$ of Section 7. He realized that he currently is only authorized for 230 acres of irrigation.

I told him we would hold up on licensing until we verified that he was only irrigating the permitted amount.

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 Hunsberr

Permit No. 5871-3
Red Rainy River - Water District

DRAFT

Contact Person & Address: **Kenneth Lyons, Lidgerwood ND**

Related Permits: #

Report Of Examination Of Works

On, **August 15, 2001**, I made a thorough examination of the water use system constructed by **Kenneth Lyons** of **11 First St. Lidgerwood, ND 58053** holder of Permit No. **5871-3**, bearing the priority of **July 14, 1995** authorizing the diversion of **1.64** cu. ft. per second of the waters of **surface water (slough)** for **irrigation** purposes, in **Roberts** County.

The system is in the following condition **good**. The point of diversion is located # with a longitude of **-#** and a latitude of **#**. The works are capable of diverting and conveying to the place of use # cu. ft. per second of water which is to be used for **#**. Water has been put to beneficial use to the maximum extent as follows:

All land is located in **Sec #**

#

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

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by **#**
- 2) All structures, wells and lands on map **#**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period **#**.
- 4) Exceptions to compliance are: **#**

Report On the Specifics of the System

Diversion Point Information:

Pump:

- | | |
|-------------------------------|-----------------------------------|
| 1) Make <u>Berkley</u> | 2) Model <u>B46RM8HCW</u> |
| 3) Size <u>4</u> | 4) Capacity <u>700</u> GPM |

Motor:

- | | |
|--|--|
| 1) Make <u>John Deere</u> | 2) Model No. <u>TO4039D#D6924</u> |
| 3) Horsepower rating <u>70</u> hp | |

DISTRIBUTION LINES OR CANALS:

- 1) Type **PVC** 2) Size **8** inches 3) Length **4000** feet

SYSTEM TYPE:

Center pivot:

- | | |
|------------------------------------|------------------------------------|
| 1) Make <u>Zimmatic, towable</u> | 2) Overall length <u>1280</u> feet |
| 3) Number of towers <u>8</u> | 4) End gun <u>yes</u> |
| 5) High or low pressure <u>low</u> | 6) Capacity <u>700</u> GPM |

CHEMIGATION EQUIPMENT:

- 1) Does chemigate no

Mark D. Rath
Natural Resources Engineering Specialist
DENR, Water Rights Program

Date



5871-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 23, 2004

Mr. Murdean Olson
13 Holly Lane
Sisseton, SD 57262

Dear Mr. Olson:

This letter is a follow-up to our telephone conversation concerning land you own in the E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 6 in T128N-R52W and Water Right No. 5871-3 held by a Mr. Kenneth Lyons, RR1 Box 3, Lidgerwood, ND 58053.

Water Right No. 5871-3 appropriates 1.64 cubic feet per second (735 gallons per minute) from a wetland, specifically identified in the permit application as a dugout, located in the W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 6 T128N-R52W for irrigation. This diversion point is immediately adjacent to your land and the wetland extends onto your land and is a shared wetland.

The permit grants Mr. Lyons only the right to divert water for irrigation. It does not grant any right to transfer water from one wetland to another or to cause any additional water to be placed on your land.

You asked who has authority to regulate the draining of wetlands in South Dakota. On a state level, the authority to regulate drainage was expressly given to counties in 1985 by the state legislature. On the federal level, the Natural Resources Conservation Service regulates the drainage of wetlands through their swampbuster authority. Questions about drainage should be addressed to one of these two agencies. The state issued water right held by Mr. Lyons does not grant any authority to drain a wetland.

Hopefully this answers your questions. If I can be of any further assistance please don't hesitate to contact me.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

c: Ken Lyons, 11 1st Street, Lidgerwood ND 58053



5871-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2005

NOTICE

TO: KENNETH LYONS, 11 1st STREET NE, LIDGERWOOD, ND 58053
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire(s)

Our records indicate that the 2004 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5871-3. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 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) 5871-3 qualification:

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

The hearing will be held at 8:30 am, March 2, 2005 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5871-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before February 25, 2005, 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.



5871-3

Track & Confirm

Current Status

You entered 2301 3460 0000 8516 0605

Your item was delivered at 12:49 pm on February 07, 2005 in LIDGERWOOD, ND 58053. The item was signed for by K LYONS.

[Shipment Details >](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

Notification Options

► Track & Confirm by email

[What is this?](#)

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U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2301 3460 0000 8516 0605

KENNETH LYONS
11 1st STREET NE
LIDGERWOOD ND 58053

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
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(See Reverse)

PS Form 153, July 2001



**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

January 25, 2005

5871-3

Kenneth Lyons
11 1st Street NE
Lidgerwood ND 58053

Dear Mr. Lyons:

I am writing to acknowledge receipt of your 2004 irrigation questionnaire. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Permit No. 5871-3.

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

In response to your statement on receiving an irrigation questionnaire, my log shows that I mailed you another questionnaire on January 10th. The form included the website that you used to electronically submit the questionnaire.

If you have any questions, please contact me.

Sincerely,

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

Permit No. 5871-3
Red Rainy 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 19, 2006, made a thorough examination of the water use system constructed by Kenneth Lyons of 11 1st St. NE, Lidgerwood, ND 58053 holder of Permit No. 5871-3, bearing the priority of July 14, 1995 authorizing the diversion of 1.64 cu. ft. per second of the waters of Surface water (dugout) for Irrigation purposes, in Roberts County.

Inspection contact & relationship to permit holder, if applicable: **Ken Lyons (701-538-4964)**

A. Works used to divert the water:

Pump:

- 1) Make Berkley
- 2) Model B4JRMBH
- 3) Capacity 700 GPM

Motor:

- 1) Make John Deere
- 2) Model No. 4039DF001
- 3) Horsepower rating 70 hp

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

- 1) Type PVC
- 2) Size 8 inches
- 3) Length 4000 feet

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Zimmatic, towable
- 2) Overall length 1280 feet
- 3) Number of towers 8
- 4) End gun Y
- 5) High or low pressure Low
- 6) Capacity 700 GPM

Chemigation Equipment:

- 1) Does chemigate N

D. 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: Approximately 690 feet north and 1475 feet west of the SE corner of Section 6-T128N-R52W (N 45.89042, W -97.21303). The works are capable of diverting and conveying to the place of use 1.56 cu. ft. per second of water which is to be used for Irrigation. Water has been put to beneficial use to the maximum extent as follows:

Section 7-T128N-R52W

NW ¼ NW ¼ - 27 acres

NE ¼ NW ¼ - 32 acres

SW ¼ NW ¼ - 24 acres

SE ¼ NW ¼ - 32 acres

Section 6-T128N-R52W

NW ¼ SW ¼ - 32 acres

NE ¼ SW ¼ - 32 acres

SW ¼ SW ¼ - 28 acres

SE ¼ SW ¼ - 23 acres

comprising a total of 230 acres of land and the license should be issued for 1.56 cfs.

All structures, wells and lands on map Y

Comments or other permit(s) associated with the project:

In 1998, Mr. Lyons requested a location change for acreage covered under this permit because of high water on the W ½ SE ¼ Section 6. He planned on moving the pivot to the west which caused acreage in the W ½ SW ¼ of Section 6 to be irrigated which was not included on the notice published for the application. It was recommended that the change of acreage be authorized once the system was developed and a licensing investigation was conducted before allowing this specific change of acres. Currently Mr. Lyons tows the pivot between the two fields in Sections 6 and 7 depending on the crops planted.



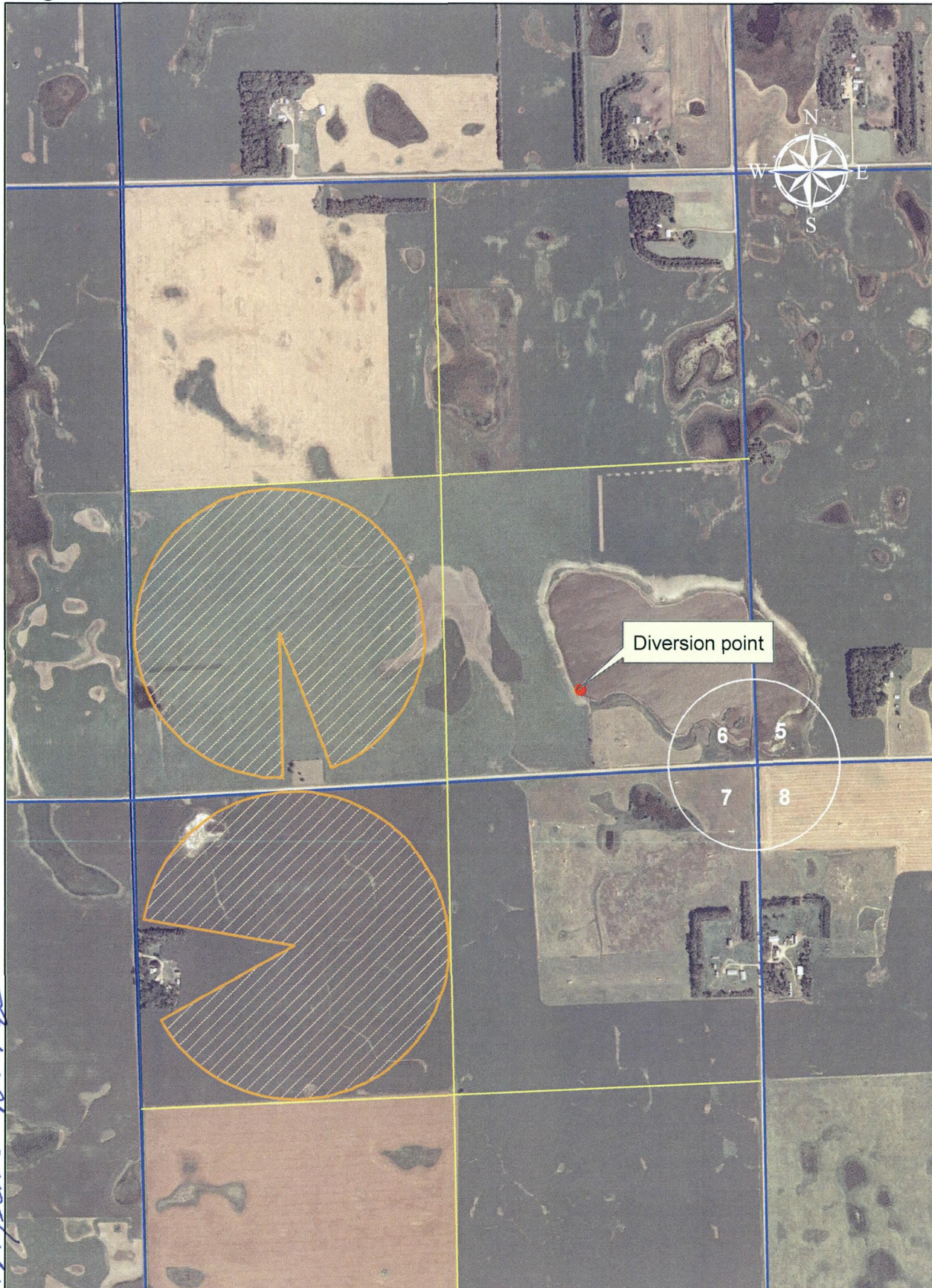
Mike DeFea

Natural Resources Project Engineer
DENR, Water Rights Program

Date report completed: June 15, 2007

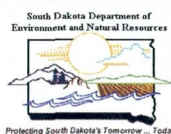
Kenneth Lyons
11 1st Street
Lidgerwood, ND 58053

Water Permit No. 5871-3



Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
June 15, 2007



0 500 1,000 2,000 3,000 Feet



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

5871-3

Kenneth Lyons
11 1st NE
Lidgerwood ND 58053

Dear Mr. Lyons:

On June 19, 2009 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 5871-3, was completed by Mike DeFea, 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
Water Rights Program
(605) 773-3352

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/25, 20 07

RECEIVED OF KEN LYONS 11 1ST NE LIDGERWOOD ND 58053

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>5871-3</u>	50	00
Fee for Filing Transfer Form _____		
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	50 00

No.

03077

By

[Signature]

Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 03 2007

5871-3

Kenneth Lyons
11 1st St NE
Lidgerwood ND 58053

Dear Mr. Lyons:

Enclosed is Water License No. 5871-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 03077 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5871-3

(1) Kenneth Lyons, 11 1st St NE, Lidgerwood ND 58053 made Application No. 5871-3, July 14, 1995 for a water permit to divert 1.64 cubic feet of water per second from a dugout, Roberts County, South Dakota for irrigation and domestic purposes. Permit No. 5871-3, with a priority date of July 14, 1995 was approved September 5, 1995 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 5, 2000 and for the application to beneficial use of water on or before September 5, 2004.

On January 8, 1998, a change in location was approved for the land in Section 6-T128N-R52W. Pursuant to SDCL 46-5-30.5, the Chief Engineer made a finding that existing water rights would not be impaired and the overall project, as developed, was consistent with the original application.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 5871-3 is issued a license, bearing a priority date of July 14, 1995 to appropriate 1.56 cubic feet of water per second from a dugout for domestic use and irrigation of 230 acres.

The diversion point is located: approximately 690 feet north and 1,475 feet west of the southeast corner of Section 6-T128N-R52W (SW ¼ SE ¼). The acres authorized for irrigation are as follows:

Section 7-T128N-R52W		Section 6-T128N-R52W	
NW ¼ NW ¼	27 acres	NW ¼ SW ¼	32 acres
NE ¼ NW ¼	32 acres	NE ¼ SW ¼	32 acres
SW ¼ NW ¼	24 acres	SW ¼ SW ¼	28 acres
SE ¼ NW ¼	32 acres	SE ¼ SW ¼	23 acres
Total 230 acres			

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 5871-3 including the following now applicable qualification:

- This permit is approved subject to the irrigation questionnaire being submitted each year.

Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 03 2007

date



5871-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

July 9, 2012

Kenneth Lyons
11 1st St NE
Lidgerwood ND 58053

Dear Mr. Lyons:

I am writing in follow-up to our phone conversation regarding Water Right No. 5871-3. You indicated that due to past years wet conditions that the slough designated by Water Right No. 5871-3 and smaller slough to the west have become one. Prior to that, there has been drain tile connecting them. The water conditions have resulted in damage to the original diversion point. You requested to use an alternate diversion point location to the west for the purpose of irrigating and drawing down the water level so repairs can be made to the pump site. Since it is my understanding that this is the same water source, you may temporarily move the pump site to the west location.

You also indicated that the irrigation system also uses a small dugout/slough in the NW ¼ NW ¼ Section 7, T128N, R52W and that the building site has been removed allowing the center pivot in the NW ¼ Section 7 to make full rotation. This will require a permit for the additional acres to bring the authorized acres in the NW ¼ of Section 7 up to 132 acres and for the additional diversion point location. I have enclosed application forms. I have also provided an example of what I believe the application should look like. You will need to include the intended pump rate in Item No. 2 and dimensions of the dugout/slough on Form 2A as well as meet the map requirement set forth on the instruction sheet.

Finally, if you desire the west diversion location discussed in the first paragraph to be permanently authorized for irrigation as well, this application is an opportunity to add it as well.

Please contact me if you have any questions.

Sincerely,

COPY *Eric Gronlund*

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us

enclosures

Example

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only) No. _____ Hydrologic Unit _____
	Basin _____
	Newspaper _____

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
additional acres and additional diversion point to Water Right No. 5871-3

1. Name of Applicant Kenneth Lyons Phone _____
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 11 1st NE Lidgerwood ND 58053
(Address) (City) (State) (Zip Code)

2. Amount of water claimed _____ *CFS or _____ **GPM _____ ***AF Total Acreage 17
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply dugout / slough area

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Roberts
NW 1/4 NW 1/4 Section 7, T128N, R52W

5. County or counties where water will be used Roberts

6. Annual period during which water is to be used March 1 - October 31

7. List below each forty acre division, 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
NW 1/4 NW 1/4 Section 7, T128N, R52W	8.5		
SW 1/4 NW 1/4 Section 7, T128N, R52W	8.5		

8. Give a description of the project. (Attach sheet if more space is needed)

Farmstead has been removed, applying for additional acres to allow for full rotation of pivot. Also applying for an additional diversion point to Water Right No. 5871-3. Dugout / slough in the NW 1/4 NW 1/4 Section 7 is also used to irrigation until drawn down.

STATE OF SOUTH DAKOTA)
County of _____) SS

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

I, _____, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature _____

Subscribed and sworn to before me this _____ day of _____ 20 _____

Notary Public signature _____

5871-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

October 23, 2013

5871-3

Kenneth Lyons
211 3rd St SW
Lidgerwood ND 58053 4033

Dear Mr. Lyons:

Enclosed is a "Notice" dated October 18, 2013 concerning the 2013 irrigation questionnaire.

The notice was originally mailed to 11 1st Street NE, Lidgerwood ND. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



October 28, 2014

5871-3

Kenneth Lyons
9194 155 1/2 Ave SE
Lidgerwood ND 58053 8500

Dear Mr. Lyons:

Enclosed is a "Notice" dated October 17, 2014 concerning the 2014 irrigation questionnaire.

The notice was originally mailed to 211 3rd St SW, Lidgerwood ND. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures

No. 5871-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Right No. 5871-3, Kenneth Lyons

ADDRESS: 9194 155 ½ Ave S, Lidgerwood ND 58053 COUNTY Roberts County

DATE: October 19, 2016 TELEPHONE:

RE: change of diversion point

I became aware that with receding water level that the pump site for Water Permit No. 5871-3 may become inoperable if conditions continue to be dry. If a change of diversion point is requested, the review should insure that the pump site remains on Mr. Lyons' property or that he has receive the necessary consent from the landowner where that pump site will be. Also that there will not be physical alteration to the land such as ditches constructed without proper authorization.

NAME: _____

Eve Hunkley



5871-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 27, 2022

5871-3

Kenneth Lyons
9190 155 ½ Ave SE
Lidgerwood ND 58053-8500

Dear Mr. Lyons:

Enclosed is a "Notice" dated October 21, 2022 concerning the 2022 irrigation questionnaire.

The notice was originally mailed to 9194 155 ½ Ave SE. The post office notified us that your address was incorrect, and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures