

No. 49-3

Office of State Engineer  
DOCUMENT FILE

Emmet Tracy  
Jefferson

Well

Map. No. 32-3

Duplication made on original  
No. 49-3, hence this is changed  
to present No. of 5-3.

—Original—

H. P. Co.—7180

CO. 49-3

Sioux River

as Filled by the State Engineer.)

District

JUN 22 1947

APPLICATION FOR PERMIT  
To Appropriate Water within the State of South Dakota, S. DAK.

(NOTE—Draw a line through items not applicable.)

1. Name of applicant Emery Tracy RR #2 - Box 191  
Postoffice address Jefferson County Union State S. Dak.

1. If a corporation
- (a) Name of same
  - (b) Date and place of incorporation
  - (c) Amount of capital stock
  - (d) Amount paid in
  - (e) Names and address of directors:

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor) Contract
- (b) Cash on hand, \$ (c) Treasury stock, \$
- (d) Bonds to be issued, \$ (e) Other resources, \$

2. Name of diversion work

3. Quantity of water claimed 1000 gal. per min.  
~~cubic feet per second~~

4. Source of water supply Well, 117 ft. Formation enclosed on separate sheet.

5. Location of ~~point of diversion~~ Well, N. E. 1/4, Sec. 31, Twp 91N, Rge 46W.

Estimated annual amount of water to be used 40 Acre feet bank.  
ON (Right or left bank looking down stream)

6. Annual periods during which water is to be used

7. To be used for: Irrigation. To be drilled with Hydraulic drilling machine,  
36 in hole, 18" CMP 14 gauge, sand packed well.

I. Irrigation or domestic use:

(a) Number of acres to be irrigated acres.

(b) Legal subdivisions to be irrigated

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

(c) Statement as to domestic use (giving location, etc.)

II. Mining, power, manufacturing, transportation, or other purposes:

(a) Nature of use

(b) Amount of power to be generated horse power.

(c) Location of plant

(d) Method of developing power

(e) Point where water will be returned to stream

8. Estimated cost of works:

(a) Head gates, \$..... (b) Pumping plant, \$.....  
 (c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....  
 (e) Other structures ..... \$..... Total, \$.....

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)  
 .....

II. Dimensions of works:

(a) Dam: Height ..... feet; length at bottom ..... feet; length at top ..... feet; thickness at bottom ..... feet; thickness at top ..... feet; slope of front (water) face .....; slope of back face .....; material used in construction .....

(b) Reservoir: Capacity when filled ..... feet. Surface area at highwater mark ..... acres.

| DEPTH AT<br>DISTANCE FEET | SURFACE AREA AT EACH<br>DEPTH-AT DISTANCE-ACRES                   | SECTIONAL<br>CAPACITY<br>ADJUSTED |
|---------------------------|-------------------------------------------------------------------|-----------------------------------|
| Feet                      | log of Soil                                                       |                                   |
| 0-8                       | Black Gumbo                                                       |                                   |
| 8-26                      | Gray Gumbo or sticky gray clay black<br>crumbly dirt, used water. |                                   |
| 26-32                     | light blue clay                                                   |                                   |
| 32-54                     | sand and clay                                                     |                                   |
| 54-66                     | sand and small gravel, trace of blue clay                         |                                   |
| 66-74                     | sand and gravel, trace of blue clay                               |                                   |
| 74-83                     | boulders                                                          |                                   |
| 83-85                     | sand and gravel                                                   |                                   |
| 85-98                     | boulders                                                          |                                   |
| 98-106                    | sand and gravel, still in it                                      |                                   |
| 106-117                   |                                                                   |                                   |

(c) Head gate: Width ..... feet; height ..... feet;  
 Material ..... using parshall flume for measurement.....  
 (d) Canal: Total length ..... miles.

| LOCATION BELOW<br>HEADGATE | DEPTH      | BOTTOM<br>WIDTH | WIDTH AT<br>WATER LINE | GRADE<br>PER MILE |
|----------------------------|------------|-----------------|------------------------|-------------------|
| At ..... Mile              | ..... feet | ..... feet      | ..... feet             | ..... feet        |
| At ..... Mile              | ..... feet | ..... feet      | ..... feet             | ..... feet        |
| At ..... Mile              | ..... feet | ..... feet      | ..... feet             | ..... feet        |
| At ..... Mile              | ..... feet | ..... feet      | ..... feet             | ..... feet        |
| At ..... Mile              | ..... feet | ..... feet      | ..... feet             | ..... feet        |
| At ..... Mile              | ..... feet | ..... feet      | ..... feet             | ..... feet        |

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 1 day ..... years  
 11. Time required for complete application of water to the proposed beneficial use ..... years.  
 12. Choice of newspaper for publication of notice of intention to appropriate .....

STATE OF SOUTH DAKOTA.

County of ..... } ss.

I, ..... being first duly sworn  
 on my oath depose and say: That my relation to the above described, undertaking is that of .....  
 ....., that I have read the above and  
 (Owner) .....  
 foregoing statement, and examined the map accompanying the same, and that I know of my own  
 personal knowledge that the matters herein stated and shown are true.

( Signed ) ..... Emmet Tracy

Subscribed and sworn to before me this 20th day of July, 1919

(Signed) Louis H. Laudean  
 Notary Public (or other qualified officer.)

Remarks by State Engineer:

Lot of Test Well

Date of test, 11-12-47

Test Well Driller: Morris Werryman

Customer: Ernest Tracy, Jefferson, S. Dak.

Location of Farm: 301 of NE, 17 of NE, NE of SW, SE of SW, SW of SE, Sec. 31,

Twp. 91 Range 14 N

(Log of well on opposite page)

STATE OF SOUTH DAKOTA,

County of Hughes

ss.

Pierre, South Dakota, October 6, 1949

This is to certify that the foregoing application was received at this office at 2:00 o'clock  
P. M. upon the 22nd day of July, 1949 and that after examination it  
was found to conform to the South Dakota Water laws, was advertised as required by the  
State Code and no objections or protests were received.

DEAN W. LOUCKS

State Engineer.

Number of permit 49-3

Date of first receipt of application July 22, 1949

Date of return to applicant for correction -----, 19-----

Date of receipt of corrected application -----, 19-----

Date from which applicant may claim right July 22, 1949

Approved October 6, 1949 Recorded in Book 7 Page 616-617

This is to certify that I have examined the foregoing application for a permit to appropriate water  
of the state of South Dakota, and I hereby grant the same as stated herein, subject, however, to the  
following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or  
before January 1, 1950

2nd. The whole of said work is to be completed on or before -----, 19-----

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith  
is January 1, 1950

4th. The water appropriated shall be used for the purpose of irrigation

5th. The prior right of all persons who, by compliance with the laws of the State of South Da-  
kota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 1000 gal./min. cubic  
feet of water per second of time; neither shall it exceed the capacity of the above described system  
of diversion works, nor the least amount of water that experience may hereafter indicate as neces-  
sary for the production of crops in the exercise of the best husbandry; and further, said appropri-  
ation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of  
time for each acre of land to which water is actually and beneficially applied for irrigation on or  
before January 1, 1950; said water to be used during the following described an-  
nual period:

April to November Inc). as required for irrigation.

Witness my hand this 6th day of October, 1949.

DEPT OF CONST. ISSUED JAN 26, 1951  
WATER LICENSE ISSUED JAN 26, 1951

State Engineer.

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE  
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2) Emmet Tracy  
 Post Office Address Jefferson, State South Dakota  
 If a Corporation show date and place of incorporation \_\_\_\_\_

13. Notice of Appropriation (If available)  
 Date of Posting July 22, 1949 Date of Recording October 6, 1949  
 Recording Data Water Permit No. 59-3
14. Date of start of construction of water supply system 1949
15. Date that water was first applied to beneficial use 1949
16. Name of owner of original water supply system Emmet Tracy
17. Amount of water originally applied to beneficial use 2.24 c. f. s.
18. Present Use of Water  
 Amount of water now being used 2.22 c. f. s.  
 Date that this amount of water was first used 1949
19. Chronological History of Water Use

The well is 100 feet deep, cased with concrete casing. The static water level is about 15 feet. The bowl setting is about 60 feet.

The pump is a western Land Roller pump, 8 inch, Mod. 8B030.

The Motor is a U.S. Electric Motor, 20 HP

The well was completed in 1949 and has been used to irrigate the land as needed since that date with the water being applied by open ditches and siphons.

The land irrigated the  $\frac{1}{2}$  SE $\frac{1}{4}$  and the  $\frac{1}{2}$  SW $\frac{1}{4}$  of Section 31, T91N, R48W (160 acres). The location of the well is approximately 1320 feet north and 60 feet west of the S $\frac{1}{2}$  Corner of Section 31, T91N, R48W.

Attach to this Form 2B, any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

STATE OF SOUTH DAKOTA )  
 ) ss.  
 County of Union )

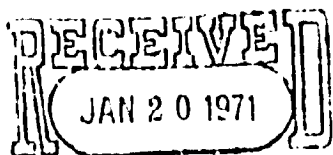
I, Emmet Tracy, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed Emmet Tracy

Subscribed and sworn to before me this 15th day of January, 1971

Harriet P. Williams  
 (Notary Public - or other qualified Officer)

I, the undersigned, do hereby certify that I know about the water use system described above that I have read the foregoing and that the matters therein stated are true.



STATE WATER RESOURCES COM.  
 PIERRE, SOUTH DAKOTA

## STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 59-3

(1) WHEREAS, On the 22nd day of July A. D. 1949  
Emmet Tracy

made Water Right Application No. 59-3 for a permit to use 2.22 cubic feet per second of the waters of ground water

County of Union, State of South Dakota, for irrigation

purposes; and

(2) WHEREAS, On the 6th day of October A. D. 1949

Permit No. 59-3, with a date of priority of July 22, 1949

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 1st day of January A. D. 1950 and for the application to beneficial use of said water on or before the 1st day of January A. D. 1950

and Whereas on the 20th day of January, 1971, an Affidavit of Construction of Water Use System and Application of Water to Beneficial Use was filed with the Water Resources Commission, and the Commission recognized the same under the "Vested Right" portion of the South Dakota Water Laws,

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 2.22 cubic feet per second of water for beneficial use and.

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent.

for irrigating the following land in Section 31, T91N, R46W

N 1/2 SE 1/4 80 acres

S 1/2 SW 1/4 80 Acres

Total 160 Acres

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to, Emmet Tracy

\_\_\_\_\_ of Jefferson, S.D.  
the holder \_\_\_\_\_ and owner \_\_\_\_\_ of said permit No. 59-3 a water right, dating from 1949  
\_\_\_\_\_ to use of 2.22 cubic feet per second of the waters  
of ground water

in the County of Union and State of South Dakota, or so much thereof as may be necessary for the  
purposes hereinbelow mentioned, to be diverted at a point 1320 feet North and 60 feet west of the  
S $\frac{1}{2}$  Corner, Section 31, T91N, R48W

and conduct to and upon the E $\frac{1}{2}$  SW $\frac{1}{4}$  and W $\frac{1}{2}$  SE $\frac{1}{4}$ , Section 31, T91N, R48W

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 59-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota  
this 26th day of January A. D.  
Nineteen Hundred and Seventy-one

WATER RESOURCES COMMISSION

By:

\_\_\_\_\_  
Chief Engineer, Executive Officer, J.W. GAINES

Form 15.

Permit No. 59-3

Water Diversion No. 3 BIG SIOUX RIVER Water District

### CERTIFICATE OF CONSTRUCTION

This is to Certify, That Emmet Tracy

\_\_\_\_\_ the holder \_\_\_\_\_ of  
Permit No. 59-3, issued upon Application No. 59-3, bearing date of priority of July 22,  
1949 authorizing the diversion of 2.22 cu. ft. per second of the waters of \_\_\_\_\_  
ground water County of Union, State of South Dakota at \_\_\_\_\_  
a point 1320 feet North and 60 feet West of the S $\frac{1}{4}$  Corner, Section 31,  
T91N, R48W  
\_\_\_\_\_, for irrigation

\_\_\_\_\_ purposes, has B complied with the provisions of the laws of the State of South Dakota relating to proof of  
completion of the works of diversion set out and described in said Permit; that said works are ~~found~~ **recognized as** satisfactory  
~~condition~~ for diverting and conveying to the place of intended use 2.22 cu. ft. per second of water.

Date January 26, 1971

WATER RESOURCES COMMISSION

By:

J.W. GRINES, Executive Officer

## PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }  
 County of Union } ss.

Wm. J. Ryan being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the

The Leader-Courier a newspaper which during the whole time of publication of said notice hereinafter stated, has been and is printed and published in the City of Elk Point County of Union and State of South Dakota;

that the said notice was published in said newspaper on the following dates:

August 11, 1949

August 18, 1949

September 1, 1949

August 25, 1949

in each and every issue of the full number thereof, the first publication being made on the 11th day of August 1949 and the last publication on the 1st day of September 1949, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was Manager the printer and publisher of the said newspaper.

Subscribed and sworn to before me this 3th day of September A. D. 1949

Notary Public Union County, S. D.

(First Publication August 8, 1949).  
 APPROPRIATION OF WATER  
 Office of State Engineer, Pierre,  
 So. Dak., July 26, 1949.

Notice is hereby given that Emmet Tracy, whose postoffice address is Jefferson, So. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.22 cubic feet of water per second of time from the ground water supply through the Tracy Well, the point of diversion of which is to be located in the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 21, Twp. 91 N, Range 48 W. Said water to be used for the purpose of providing irrigation on lands in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and NW $\frac{1}{4}$  of the SE $\frac{1}{4}$ , and the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  and the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  on Sec. 31, Twp. 91 N, and Range 48 W.

This application will be taken up by the State Engineer at his office at Pierre for consideration upon the 6th day of September, 1949, at 10:00 A. M. All persons who believe that their prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further, the information presented.

Appropriate action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.

DEAN W. LOU'KS, State Engineer  
 (Aug. 11-18-25, Sept. 1-49-52)

(First Publication-----, 19--)

## APPROPRIATION OF WATER

Office of State Engineer,

Pierre, So. Dak., July 25, 1949

Notice is hereby given that Ernest Tracy whose postoffice address is Jefferson, So. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 4.22 cubic ft. of water per second of time from the ground water supply through the Tracy Well, the point of diversion of which is to be located across X X X X X X X X bank of said stream in the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 31 Twp. 91 N. Range 18 W. Said water to be used for the purpose of providing irrigation on lands in the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  and NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ , and the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  and the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  on Sec. 31, T. 91 N. and R. 18 W.

This application will be taken up by the State Engineer at his office at Pierre for consideration upon the 6th day of Sept., 19 49, at 10:00 A.M. All persons who believe that their prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further, the information presented.

Appropriate action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.

DAL:EW  
cc: Carl C. Velaz

DEAN W. LOUCKS  
State Engineer

## STATEMENT OF THE WATER RIGHT SITUATION PERTAINING TO PIONEER IRRIGATION WELLS IN UNION COUNTY

In 1948 and 1949 a small number of water right applications proposing to irrigate from irrigation wells in Union County were received and accepted by the State Engineer. The apparent required fees were also accepted by the State Engineer and the intent of the applicants to irrigate was advertised in local papers. After public hearings the State Engineer then issued water right permits to the applicants authorizing them to construct their irrigation wells and commence irrigation.

The issuing of the water right permit was not the final step in acquiring a water right. South Dakota water laws, then, and now, specified that after the irrigation system had been completed and the land had been irrigated, an inspection was to be made and a water license was to be issued authorizing the diversion rate and irrigation acreage to the extent actually accomplished not exceeding the amount authorized in the water permit. By 1953 none of the required inspections or water licenses had been completed for these pioneer irrigation wells in Union County.

On July 23rd, 1953 the Ninth Judicial Circuit Court in the case of FRANK T. DVORAK VS. STATE OF SOUTH DAKOTA AND DEAN W. LOUCKS, in a Memorandum Decision stated that the State Engineer was without authority to issue water permits authorizing irrigation from ground water and that such authority must come by legislative enactment.

The 1955 Legislature did pass such legislative enactment. SDCL 1967, Section 46-6-1 passed in 1955 states, "The term "vested rights" used in this chapter, unless the context otherwise plainly requires, shall mean:

- (1) Beneficial uses of ground water under diversions and applications of water prior to February 28, 1955;
- (2) The right to take and use ground water for beneficial purposes where an owner or lawful agent was engaged in the construction of works for the actual application of water to a beneficial use on February 28, 1955, provided such works shall be completed and water is actually applied for such use within a reasonable time thereafter."

SDCL 1967, Section 46-6-2 passed in 1955 states:

"Any person claiming to be owner of a vested right to water from any of the underground sources in this chapter described, by application of waters therefrom to beneficial use other than for domestic use, shall make and file with the commission a declaration in a form and manner prescribed by the commission. This should set forth the beneficial use to which said water has been applied, the date of

first application to beneficial use and the continuity thereof, the location of the well, and if such water has been used for irrigation purposes the legal description of the land upon which such water has been so used and the name of the owner of the land or his lawful agent. Such declaration shall be verified, but if the declarant cannot verify the same of his own personal knowledge, he may do so on information and belief. The commission shall also be authorized to require the filing of information setting forth the water level in the wells used for purposes other than domestic at such times and in such manner and form as it may require."

The result of this 1955 legislation as it applies to the pioneer ground water irrigation in Union County is that the owners of these pioneer irrigation wells do have vested rights, but these vested rights are not valid until the well owner files a declaration of his vested right with the Water Resources Commission.

This same situation, of course, applies statewide and the Water Resources Commission has received many such vested right declarations and has issued water licenses based on these vested right declarations.

REPORT OF INVESTIGATION

Unlicensed Water Permits Authorized before January 1, 1964

Water Permit No. 59-3 Approval Date Oct 6, 1949.

This Permit authorized the diversion of 1000 <sup>9.P.M.</sup> cubic feet  
per second of water from well. to irrigate

                     acres in Section 31, Township 91,  
Range 48, County Union.

Name and Address shown on Permit Emmet Tracy  
Telferson, S.D.K.

Name and Address of present owner of land Same.

WATER PERMITS NOT CONSTRUCTED WITHIN THE FIVE YEAR PERIOD ARE  
SUBJECT TO CANCELLATION BY ACTION OF THE WATER RESOURCES COMMISSION

Indicate the following:

1. The irrigation system was never started nor was not completed.  
The present landowner has been informed that cancellation of  
Water Permit No.              will be considered by the Water  
Resources Commission and he will be notified of the date, time  
and place of such consideration.
2. Some questions exists and further consideration is advisable.
3. ☒ The irrigation system was completed within the five year period  
and is being used. A final inspection should be scheduled.

REMARKS: Used each year except this year. Ready  
for inspection

Contact Date 7-31-69

Signature W<sup>m</sup> H. Bennett

October 12, 1970

Mr. Emmet Tracy  
Jefferson  
South Dakota 57038

Dear Mr. Tracy:

On September 30, 1970, Mr. Donald Driscoll of this office made a final inspection of your irrigation system with the intention of writing an inspection report so that your Water License No. 59-3 could be issued after your payment of the \$10.00 inspection fee and \$2.00 issuing fee.

You informed Mr. Driscoll that you knew that the Water Laws had been changed and had consulted Attorney Axel Beck as to how such change would affect your Water Permit No. 59-3. Attorney Beck in effect advised you that the State of South Dakota had issued you a Water Permit and by change of laws could not take this Permit away from you. You were informed that your water right situation would be reviewed. This has been done. ( See the attached statement).

In order to validate your vested right you should submit an affidavit to supplement Water Permit No. 59-3. The Water Resources Commission can then file the affidavit and issue your Water License No. 59-3.

From the information collected we have filled out the affidavit required. If you will sign this affidavit before a Notary Public and return it to this office together with the required issuing fee of \$2.00 your vested right will be recorded and Water License No. 59-3 will be sent to you.

If you have any questions about this procedure, please let me know.

Sincerely,

J.G. GRIMES

JEG/DD/bw  
Encl: As stated

 **Department of  
Water & Natural Resources**

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

September 21, 1988

NOTICE

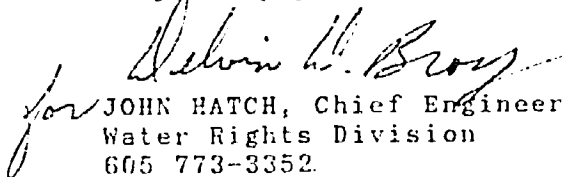
Emmet Tracy  
RR 2, Box 191  
Jefferson SD 57038

Dear Mr. Tracy:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 59-3 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,

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



*South Dakota*

GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 1, 1991

EMMET R TRACY  
RR #2 BOX 191  
JEFFERSON SD 57038

NOTICE

RE: Violation of Requirement to Submit 1990 Irrigation Questionnaire

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 59-3. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 Irrigation Questionnaire be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:15 am, February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s) 59-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) 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 received in this office before the February 27th hearing date, your name will be deleted from the agenda for the hearing.

Very truly yours,



Ron Duvall, Natural Resources Engineer IV  
Water Rights Division  
605 773-3352

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

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

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

|                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>3. Article Addressed to:</p> <p>EMMET R TRACY<br/>RR #2 BOX 191<br/>JEFFERSON SD 57038</p> | <p>4. Article Number<br/>P 694 057 314</p> <p>Type of Service:</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Insured<br/> <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD<br/> <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise</p> <p>Always obtain signature of addressee or agent and <u>DATE DELIVERED</u>.</p> |
| <p>5. Signature — Addressee<br/>X</p>                                                         | <p>8. Addressee's Address (ONLY if requested and fee paid)</p>                                                                                                                                                                                                                                                                                                                                                    |
| <p>6. Signature — Agent<br/>X <i>James Mahoney</i></p>                                        | <p><i>RR #2 Box 191<br/>Jefferson, SD 57038</i></p>                                                                                                                                                                                                                                                                                                                                                               |
| <p>7. Date of Delivery<br/><i>2-5-91</i></p>                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                   |

PS Form 3811, Apr. 1989

★ U.S.G.P.O. 1989-238-815

DOMESTIC RETURN RECEIPT

*South Dakota*

GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 15, 1991

59-3

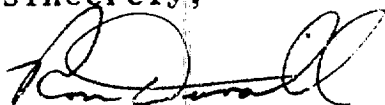
Emmet R Tracy  
RR 2 Box 191  
Jefferson, SD 57038

Dear Mr. Tracy:

I am writing to acknowledge receipt of your 1990 irrigation questionnaire for Vested Water Right Claim No. 59-3. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaire. With receipt of the questionnaire, your name has been deleted from the February Water Management Board meeting agenda.

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

Sincerely,



Ron Duvall, Natural Resources Engineer IV  
Water Rights Division



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 8, 1992

59-3

Dennis & Michelle Chicoine  
RR #1 Box 1230  
Jefferson, SD 57038

Dear Mr & Mrs Chicoine:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Vested Water Right Claim No. 59-3. The claim is currently listed in the name of Emmet Tracy.

The transfer form should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

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

If you have any questions, please contact me.

Sincerely,

Genny McMath  
Natural Resources Analyst  
(605) 773-3352

enclosure

# NOTICE OF TRANSFER OF OWNERSHIP

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

No. 59-3

Date: 1-24-92



We request that Vested Water Right Claim No. 59-3

formerly owned by: Emmet Tracy

be transferred to: (name & address) Dennis & Michelle Chicoine, RR #1 Box 1230,

Jefferson, SD 57038

(Telephone No.) 605-966-5595

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

W 1/2 SE 1/4 and E 1/2 SW 1/4 Section 31, T91N, R48W

We understand that the validity of Vested Water Right Claim No. 59-3 has not been determined by this transfer action. If we have any questions on validity, We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file at the Division of Water Rights, as evidence of the change of ownership.

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

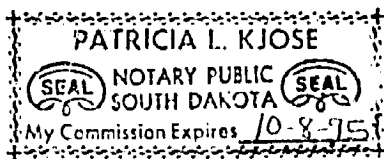
STATE OF SOUTH DAKOTA )

County of Union )

We Dennis & Michelle Chicoine being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Dennis & Michelle L. Chicoine  
(Signed)

Subscribed and sworn to before me this 24<sup>th</sup> day of January, 19 92.



Patricia L. KJOSE  
(Notary Public)

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

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

**Division of Water Rights**  
**South Dakota Department of Water and Natural Resources**

RECEIVED OF Dennis or Michelle, Chicoine, Rt 1, Box 1230, Jefferson, SD 57036

By                       
Chief Engineer



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 29, 1992

No. 59-3

Dennis and Michelle Chicoine  
RR 1, Box 1230  
Jefferson, SD 57038

Dear Mr. and Ms. Chicoine:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Vested Water Right Claim No. 59-3.

Our records now show you as the owner of Vested Water Right Claim No. 59-3.

Sincerely,

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

enclosure

59-3

VESTED RIGHT No. 59-3Missouri River Water District**Report Of Examination Of Works And/Or Application of Water To Beneficial Use**

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

I have this day made a thorough examination of the water use system constructed by Dennis and Michelle Chicoine of RR 1 Box 1230 Jefferson, SD 57038 holder of Permit No. 59-3, bearing the priority of July 22, 1949 authorizing the diversion of 2.22 cu. ft. per second of the waters of Missouri Aquifer for irrigation purposes, in Union County.

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

## A. Works used to divert the water:

One well, 100' deep (No well completion report available), Western Land Roller pump, Model No. 8B 030, 3 stages, 100 GPM @ 30 PSI, US Electric Motor, Model No. 50B003, 25 HP

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

1320' of 10" PVC

## C. Works used to apply water to beneficial use:

2 miles of 8" gated pipe with 30" and 40" spacings

The system is in the following condition good. The point of diversion is located 1320'N and 2580'E of the SW corner of Section 31-T91N-R48W. The works are capable of diverting and conveying to the place of use 2.22 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:

All in Section 31-T91N-R48W:

NE1/4 SW1/4 = 40 acres      SW1/4 NE1/4 = 13 acres

SE1/4 SW1/4 = 40 acres

NW1/4 SE1/4 = 39 acres

SW1/4 SE1/4 = 40 acres

comprising a total of 172 acres of land and the license should be issued for 2.22 cfs. Applicable permit qualifications have been complied with X Yes      No  
Exceptions to compliance are: None      Date 9/9/92

*Gregory C. Johnston*

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

File No. 59-3/5283-3

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Dennis Chicoine

ADDRESS: RR1 Box 1230 Jefferson, SD COUNTY: Union

DATE: 1/29/93 TELEPHONE: 966-5595

RE: Vested Right No. 59-3 and Water Permit No. 5282-3

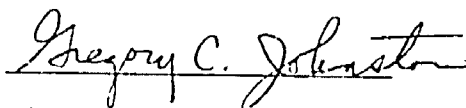
COMMENTS:

Called Dennis Chicoine in regards to Vested Right No. 59-3. Vested Right No. 59-3 appropriates 2.22 cfs for 160 acres in the W1/2 SE1/4 and the E1/2 SW1/4 in Section 31-T91N-R48W in Union County. I inspected the Vested Right on 9/9/92 and discovered that 13 additional acres located in the SW1/4 NE1/4 of Section 31-T91N-R48W were being irrigated under the system used by No. 59-3. Mr. Chicoine stated that the 13 acres were irrigated under the permit for several years and he believed that these acres were once included as a part of the original permit application. When checking the original permit application for No. 59-3, I found that the farmland irrigated by the system included land in the SW1/4 NE1/4 Section 31-T91N-R48W. When looking on the original application map, I found that 13 acres in the SW1/4 NE1/4 of Section 31 were to be irrigated by the system under Vested Right No. 59-3. Water License No. 59-3 includes only the 160 acres located in the E1/2 SW 1/4 and the W1/2 SE1/4 of Section 31-T91N-R48W. Apparently, at the time of Licensing the Permit, those 13 acres were not included with No. 59-3. After speaking with Ron Duvall, it was decided that the Vested Right should be readvertised for 172 acres and would include the 13 acres located in the SW1/4 NE1/4 of Section 31. Also, the amount of water appropriated under No. 59-3 should remain at 1000 GPM (2.22 cfs) because that amount was listed as the diversion rate on the original application.

In addition, Mr. Chicoine asked if he could use the well used under Vested Right No. 59-3 as an additional diversion point for Water Permit No. 5282-3. No. 5282-3 appropriates 1.50 cfs for 105 acres located in Lot 2 SW1/4 and Lot 3 NW1/4 Section 31-T91N-R48W. The diversion point under No. 59-3 is located in the SE1/4 SW1/4 of Section 31-T91N-R48W. I explained that he would have to apply for an additional point of diversion under No. 5282-3 and that the combined diversions from the Big Sioux River under No. 5282-3 (located in Lot 3 NW1/4 Section 31) and the well under 59-3 could not exceed 1.5 cfs (675 GPM).

59-3

I will send the appropriate application material to Dennis Chicoine at the above address.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

REPORT ON INSPECTION OF VESTED RIGHT 59-3DATE 1/29/93

Other permit(s) associated with the project

DIVERSION POINT LEGAL LOCATION: 1320'N and 2580'E of the SW corner of Section 31 T91N-R48WWELL INFORMATION: Well Drilling Firm Unknown (No well completion report available)No. of Wells 1 Depth(s) 100 feet

- a) Casing: 1) diameter inches b) Screen: 1) type  
 2) length feet 2) length feet  
 3) type c) Pump 1) make Western Land Roller  
 d) Static Water Level 15 feet 2) model 8B 030  
 e) Motor: 3) size 8 inches  
 1) make US Electric 4) capacity 1000 GPM  
 2) model No. 50B003 5) turbine pump - No. of stages 3  
 3) horsepower rating 25 hp 6) operating pressure 30 PSI

## DISTRIBUTION LINES OR CANALS:

- a) type PVC b) size 10 inches c) length 1320 feet

## System Type:

## a) Gated pipe:

- 1) length 2 miles  
 2) diameter 8 inches  
 3) spacing of gates 30 and 40 inches

## CHEMIGATION EQUIPMENT:

a) does chemigate N (Y/N)

## PERMIT QUALIFICATIONS AND REGULATIONS:

- a) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A (Y/N)  
 b) Special qualifications to permit being abided by Y (Y/N)  
 c) All structures, wells and lands on map Y (Y/N)  
 d) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A (Y/N)



59-3

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

March 25, 1993

Dennis and Michelle Chicoine  
RR 1, Box 1230  
Jefferson SD 57038

Dear Mr. and Mrs. Chicoine:

The original Notice of Intent to Validate your Vested Water Right Claim No. 59-3 was published with an error. The original notice did not include the lands located in the SW 1/4 NE 1/4 Section 31-T91N-R48W. Therefore, the notice needs to be readvertised to include those lands. The Readvertisement of the Notice of Intent to Validate Vested Water Right Claims has been sent to the Publisher of the Leader-Courier printed at Elk Point SD. For your information, a copy of the notice is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

*Eric Gronlund*  
Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures



59-3

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3101

SEP 20 1993

Dennis and Michelle Chicoine  
RR 1, Box 1230  
Jefferson SD 57038

Dear Mr. & Mrs. Chicoine:

The Water Management Board has validated the enclosed Vested Water Right No. 59-3. This validation gives legal status to the claim and is the final document for your vested right. Enclosed is the reissued water license which reflects the acreage and diversion rate as validated by the Board.

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

Very truly yours,

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

enclosure

SOUTH DAKOTA

VESTED WATER RIGHT NO. 59-3 FOR IRRIGATION

Date of Receipt of Claim July 22, 1948.

Date of Validation May 5, 1993.

The Water Management Board validated Vested Water Right Claim No. 59-3 for irrigation purposes for Dennis and Michelle Chicone, RR 1, Box 1230, Jefferson SD 57038 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 59-3 appropriates 2.22 cubic feet of water per second from groundwater located in the NE 1/4 SW 1/4 Section 31 to irrigate 172 acres located in the E 1/2 SW 1/4, W 1/2 SE 1/4, SW 1/4 NE 1/4 Section 31; all in T91N-R48W.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: April 1 - November 1.
3. The priority date of the Vested Water Right is July 22, 1949.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By:   
Chief Engineer

SEP 20 1993

date

Division of Water Rights  
Dept. of Environment and Natural Resources

## STATE OF SOUTH DAKOTA/

### REISSUED VESTED RIGHT WATER LICENSE NO. 59-3 FOR IRRIGATION

(1) Emmet Tracy, of Jefferson SD made Application No. 59-3, July 22, 1949 for validation of a vested right claim to appropriate 2.22 cubic feet of water per second from groundwater, Union County, South Dakota for irrigation purposes. Vested Water Right No. 59-3 was validated May 5, 1993 with a priority date of July 22, 1949. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable portions of South Dakota Water Law.

Vested Water Right No. 59-3 was transferred January 24, 1992 to Dennis and Michelle Chicoine.

The original water license issued on January 26, 1971 did not include 13 acres of irrigation located in the SW 1/4 NE 1/4 Section 31-T91N-R48W. The original map submitted with the application indicated this acreage was irrigated. A field inspection conducted of the water use system found a total of 172 acres irrigated by this system. Based on the inspection and subsequent validation of the vested right claim, the license is being reissued to the extent of what is actually being irrigated.

(2) The vested right owner is entitled to divert 2.22 cubic feet of water per second for beneficial use. The location of the diversion point is NE 1/4 SW 1/4 Section 31-T91N-R48W (at a point 1320 feet north and 2580 feet east of the SW corner Section 31).

The location of the irrigated acreage is:

|           |            |               |           |
|-----------|------------|---------------|-----------|
| T91N-R48W | Section 31 | NE 1/4 SW 1/4 | 40 acres  |
|           |            | SE 1/4 SW 1/4 | 40 acres  |
|           |            | NW 1/4 SE 1/4 | 39 acres  |
|           |            | SW 1/4 SE 1/4 | 40 acres  |
|           |            | SW 1/4 NE 1/4 | 13 acres  |
|           |            | Total         | 172 acres |

(3) Pursuant to South Dakota Water Law 46-5-30.1 Dennis and Michelle Chicoine of RR 1, Box 1230, Jefferson SD 57038 the holders and/or owners of Vested Water Right No. 59-3 is issued a license to appropriate water, the right to use 2.22 cubic feet of water per second from groundwater (one well) with a priority date of July 22, 1949 from the location specified in (2) of this license. The water to be used for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Vested Water Right No. 59-3 and subject to South Dakota State Law.

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

SEP 20 1993



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

January 17, 2003

**NOTICE**

**TO:** DENNIS & MICHELLE CHICOINE, 32703 483RD AVE, JEFFERSON, SD 57038

**FROM:** Ron Duvall, Natural Resources Engineer  
for Garland Erbele, Chief Engineer  
Water Rights Program

**SUBJECT:** Reporting Requirement for 2002 Irrigation Questionnaires

Our records indicate that the 2002 Irrigation Questionnaires have not been submitted for Permit Nos. 5282-3 & 5340-3, 59-3. The request for the Questionnaires was dated October 11, 2002. The Water Management Board has directed that owners of water permits who have not submitted the 2002 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 59-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5282-3 & 5340-3 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 5, 2003 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) 5282-3 & 5340-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 59-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office on/or before February 28, 2003, 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 (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.



## Track & Confirm

### Delivery Status

You entered 2301 0370 0000 7541 4463

Your item was forwarded to a different address at 3:27 pm on January 21, 2003 in JEFFERSON, SD 57038. This was because of forwarding instructions or because the address or ZIP Code on the label was incorrect. No further information is available for this item.

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### U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:  
2301 0370 0000 7541 4463

DENNIS & MICHELLE CHICOINE  
32703 483RD AVE  
JEFFERSON SD 57038

Postmark  
Here

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[www.usps.com](http://www.usps.com)  
or call 1-800-222-1811

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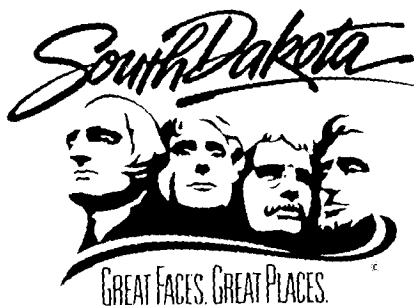
- ☐ Priority Mail  
☐ Package Services

**(See Reverse)**

PS Form 153, February 2001

*No confirmation of delivery available - questionnaire received so no further follow-up is required.*

*Scary*



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 28, 2003

59-3  
5282-3  
5340-3

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

Dear Mr. Chicoine:

I am writing to acknowledge receipt of your 2002 irrigation questionnaires. You may disregard the January 17, 2003, "Notice" concerning reporting requirements for Water Right Nos. 59-3, 5282-3 and 5340-3

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

If you have any questions, please contact me.

Sincerely,

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

59-3



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL

PIERRE, SOUTH DAKOTA 57501-3182

[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 14, 2004

NOTICE

TO: DENNIS & MICHELLE CHICOINE, 32703 483RD AVE, JEFFERSON, SD 57038

FROM: Ron Duvall, Natural Resources Engineer  
for Garland Erbele, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2003 Irrigation Questionnaires

Our records indicate that the 2003 Irrigation Questionnaires have not been submitted for Permit Nos. 5282-3 & 5340-3, 59-3, 1092-3, 1106-3 & 2410-3. The request for the Questionnaires was dated October 17, 2003. The Water Management Board has directed that owners of water permits who have not submitted the 2003 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 59-3, 1092-3, 1106-3 & 2410-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5282-3 & 5340-3 qualification:

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

The hearing will be held at 8:30 am, March 3, 2004 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5282-3 & 5340-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 59-3, 1092-3, 1106-3 & 2410-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office on/or before February 27, 2004, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (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.



59-3

## Track & Confirm

### Current Status

You entered 2301 3460 0000 8515 7780

Your item was delivered at 9:43 am on February 04, 2004 in JEFFERSON, SD 57038. The item was signed for by D CHICOINE.

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SIGNATURE CONFIRMATION NUMBER:  
2301 3460 0000 8515 7780

DENNIS & MICHELLE CHICOINE  
32703 483RD AVE  
JEFFERSON SD 57038

Ing.

Waiver of Signature ☐ YES ☐ NO

Postmark  
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February 9, 2004

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

Dear Mr. Chicoine:

I am writing to acknowledge receipt of your 2003 irrigation questionnaires. You may disregard the January 14, 2004, "Notice" concerning reporting requirements for Water Right Nos. 59-3, 1092-3, 1106-3, 2410-3, 5282-3 and 5340-3. We also received from you the questionnaires for the SD Parks and Wildlife Foundation.

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

On a couple of the forms, I noticed you included notations about possible changes to the water rights. With respect to using the well authorized under Water Right 59-3 to irrigate land authorized for irrigation from the Big Sioux River under Water Right No. 5282-3; this change will require a new permit. I am enclosing an application for this purpose. I have included a copy of both water rights for reference purposes.

In regard to your notation on the forms for the SD Parks and Wildlife Foundation, I need to visit with Tim Bjork (Director for the Foundation) to see how he wants to handle the application. I will be in touch with you as soon as I have had a chance to talk to Tim.

If you have any questions, please contact me.

Sincerely,

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

enclosures

59-3

NOT TO SCALE

VESTED RIGHT No. 59-3

DENNIS & MICHELLE CHICOINE

Drawn by: Gregory C. Johnston

Gregory C. Johnston

Natural Resources Engineer II

Water Rights Division, DENR

2/2/93

28 L

N

1" = 660'

1 113.2

T-830

NHEL

1 33.4

T-831

NHEL

3.5  
3

4 8.6

2 2.3

3 10.3

ALLIN Section 31 - T41N-R48W

2 54.9

NE 1/4 SW 1/4 = 40 acres

SE 1/4 SW 1/4 = 40 acres

T-1440 NW 1/4 SE 1/4 = 39 acres

SW 1/4 SE 1/4 = 40 acres

SW 1/4 NE 1/4 = 13 acres

Total = 172 acres

T-1312

NE 1/4 SW 1/4 = 40 acres

31

NW 1/4 SE 1/4 = 39 acres

Gated Pipe 10" PVC

Well

SE 1/4 SW 1/4 = 40 acres

SW 1/4 SE 1/4 = 40 acres

1320'

37.4

1 38.6

2580'

91-48

147.3

1 35.0

T-1663

28 L

T-1311

Gated Pipe

Gated Pipe

To  
PLYM



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 18, 2008

**NOTICE**

TO: DENNIS & MICHELLE CHICOINE, 32703 483RD AVE, JEFFERSON, SD 57038

FROM: Ron Duvall, Natural Resources Engineer  
for Garland Erbele, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2007 Irrigation Questionnaires

Our records indicate that the 2007 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 19, 2007. The Water Management Board has directed that owners of water permits who have not submitted the 2007 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 59-3, 1092-3, 1106-3 & 2410-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 53-3, 5282-3 & 5340-3 qualification:

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

The hearing will be held at **10:00 am, March 11, 2008** 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) 53-3, 5282-3 & 5340-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 59-3, 1092-3, 1106-3 & 2410-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **March 3, 2008**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V6-IQ.pdf>

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

February 1, 2008

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

RE: Water Right Nos. 53-3, 59-3, 1092-3, 1106-3, 2410-3, 5282-3 and 5340-3

Dear Mr. Chicoine:

I am writing to acknowledge receipt of your 2007 irrigation questionnaires. You may disregard the January 18, 2008, "Notice" concerning reporting requirements for Water Right Nos. 53-3, 59-3, 1092-3, 1106-3, 2410-3, 5282-3 and 5340-3.

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

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

December 23, 2009

59-3

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

Dear Mr. Chicoine:

I am writing in regard to the notation you added to the irrigation questionnaire for Vested Water Right No. 59-3. In the "ownership/address" change portion of the form you wrote in your name and address. I am assuming from the note that you wish to have the vested right listed only in your name instead of both you and Michelle's names.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

If you do not wish to have ownership changed on the water right, please discard the transfer form. Thank you in advance for your help in updating the vested right.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

enclosure

## NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED  
JAN 19 2010  
WATER RIGHTS  
PROGRAM

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

No. 59-3

Date: \_\_\_\_\_

I/We request that Vested Water Right No. 59-3

formerly owned by: Dennis & Michelle Chicoine

be transferred to: (name & address) Dennis Chicoine

32703 483rd Ave

Jellison, SD 57038 Telephone No. 712-259-7033

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

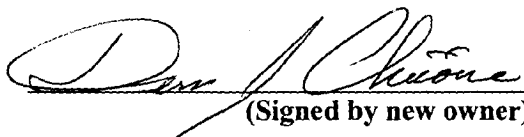
172 acres - E 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 NE 1/4 Section 31, T91N, R48W

I/We understand that the validity of Vested Water Right No. 59-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

**A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

I/We Dennis J. Chicoine, the new owner, certify that the above information is true and correct.

  
(Signed by new owner)

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

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

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/19, 20 10

RECEIVED OF Dennis Chicione 32703 483rd Ave Jefferson SD 57038

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 | 50    | 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 <u>59-3</u>                                                                       |       |       |
| Fee for _____                                                                                                  |       |       |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |       |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                             |       |       |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         |       |       |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |       |
| (Any Other Work Provided by Law)                                                                               | TOTAL | 50 00 |

No. 04574

By Harland Erbe  
Chief Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 19, 2010

59-3

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

Dear Mr. Chicoine:

I am writing to acknowledge receipt of the ownership change and the filing fee you submitted for transferring Vested Water Right No. 59-3. The transfer has been completed. The vested right is now listed solely in your name.

Enclosed for your records is Receipt No. 04374 in the amount of \$50.00.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is fluid and cursive, with the first name "Genny" being more prominent.

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

enclosure

Water Rights Division

I would like to add  
105 acres to permit 59-3  
that used to be a  
Sioux River division. I would  
like to feed that system  
from the well on permit 59-3.  
Could you steer me in the  
right direction;

Thank You

RECEIVED  
NOV 19 2012  
WATER RIGHTS  
PROGRAM

Dennis Chioine  
32703 483rd Ave  
Jefferson SD 57038

Pb 712 259-7073



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

November 20, 2012

59-3

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

Dear Mr. Chicoine:

I am writing in follow up to the note you included with your 2012 irrigation questionnaires.

In answer to your question, to add acreage to the irrigation system authorized under Vested Water Right No. 59-3, you would need to apply for a new water permit. Enclosed is a set of application forms and an instruction sheet. I have also included a copy of Vested Water Right No. 59-3.

Our program is currently inundated with new applications and the time frame to obtain a new permit can range from 4-6 months and perhaps longer. If you are thinking about being able to begin irrigation of the acreage by next crop season, please complete the application and submit it as soon as possible. Unfortunately, there is no guarantee the application would be through the process in time.

If you have any questions concerning completion of the application, please contact Eric Gronlund with our program at (605) 773-3352.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

enclosures



59-3

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 16, 2015

**NOTICE**

TO: DENNIS CHICOINE, 32703 483RD AVE, JEFFERSON, SD 57038

FROM: Ron Duvall, Natural Resources Engineer  
for Garland Erbele, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaires

Our records indicate your 2014 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 59-3, 1092-3 & 2410-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 53-3, 5340-3 & 7608-3 qualification:

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

The hearing will be held at **10:00 am, March 4, 2015** 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) 53-3, 5340-3 & 7608-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 59-3, 1092-3 & 2410-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us). If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

**c: KATHLEEN FITZPATRICK, 2925 SAFFORD AVE, DANBURY IA 51019**

**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.



59-3  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

January 28, 2015

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

RE: Water Right or Permit Nos. 53-3, 59-3, 1092-3, 2410-3, 5340-3 & 7608-3

Dear Mr. Chicoine:

I am writing to acknowledge receipt of your 2014 irrigation questionnaires.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for Water Right or Permit Nos. 53-3, 59-3, 1092-3, 2410-3, 5340-3 & 7608-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 20, 2017

NOTICE

TO: DENNIS CHICOINE, 32703 483RD AVE, JEFFERSON, SD 57038

FROM: Ron Duvall, Natural Resources Engineer  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaires

Our records indicate your 2016 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 59-3, 1092-3 & 2410-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 53-3, 5340-3 & 7608-3 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 am (Central Time)** 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) 53-3, 5340-3 & 7608-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 59-3, 1092-3 & 2410-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **March 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us). If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



59-3  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

January 31, 2017

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

RE: Water Permit/Right Nos. 53-3, 59-3, 1092-3, 2410-3, 5340-3 & 7608-3

Dear Mr. Chicoine:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Permit/Right Nos. 53-3, 59-3, 1092-3, 2410-3, 5340-3 & 7608-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



59-3  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 23, 2020

NOTICE

TO: DENNIS CHICOINE, OPERATOR, 32703 483RD AVE, JEFFERSON, SD 57038  
FROM: Ron Duvall, Natural Resources Engineer  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaires

Our records indicate your 2019 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 59-3, 1092A-3, 2410-3 & 3807-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 53-3, 5340-3, 6680-3 & 7608-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** 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) 53-3, 5340-3, 6680-3 & 7608-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 59-3, 1092A-3, 2410-3 & 3807-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us). **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: KCNOLK**

c: LISA WEYER, SD PARKS & WILDLIFE FOUNDATION, 523 E CAPITOL, PIERRE SD

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

February 3, 2020

Dennis Chicoine  
32703 483<sup>rd</sup> Ave  
Jefferson SD 57038

RE: Water Right/Permit Nos. 53-3, 59-3, 1092A-3, 2410-3, 3807-3, 5340-3, 6680-3 & 7608-3

Dear Mr. Chicoine:

I am writing to acknowledge receipt of your 2019 irrigation questionnaires.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Right/Permit Nos. 53-3, 59-3, 1092A-3, 2410-3, 3807-3, 5340-3, 6680-3 & 7608-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

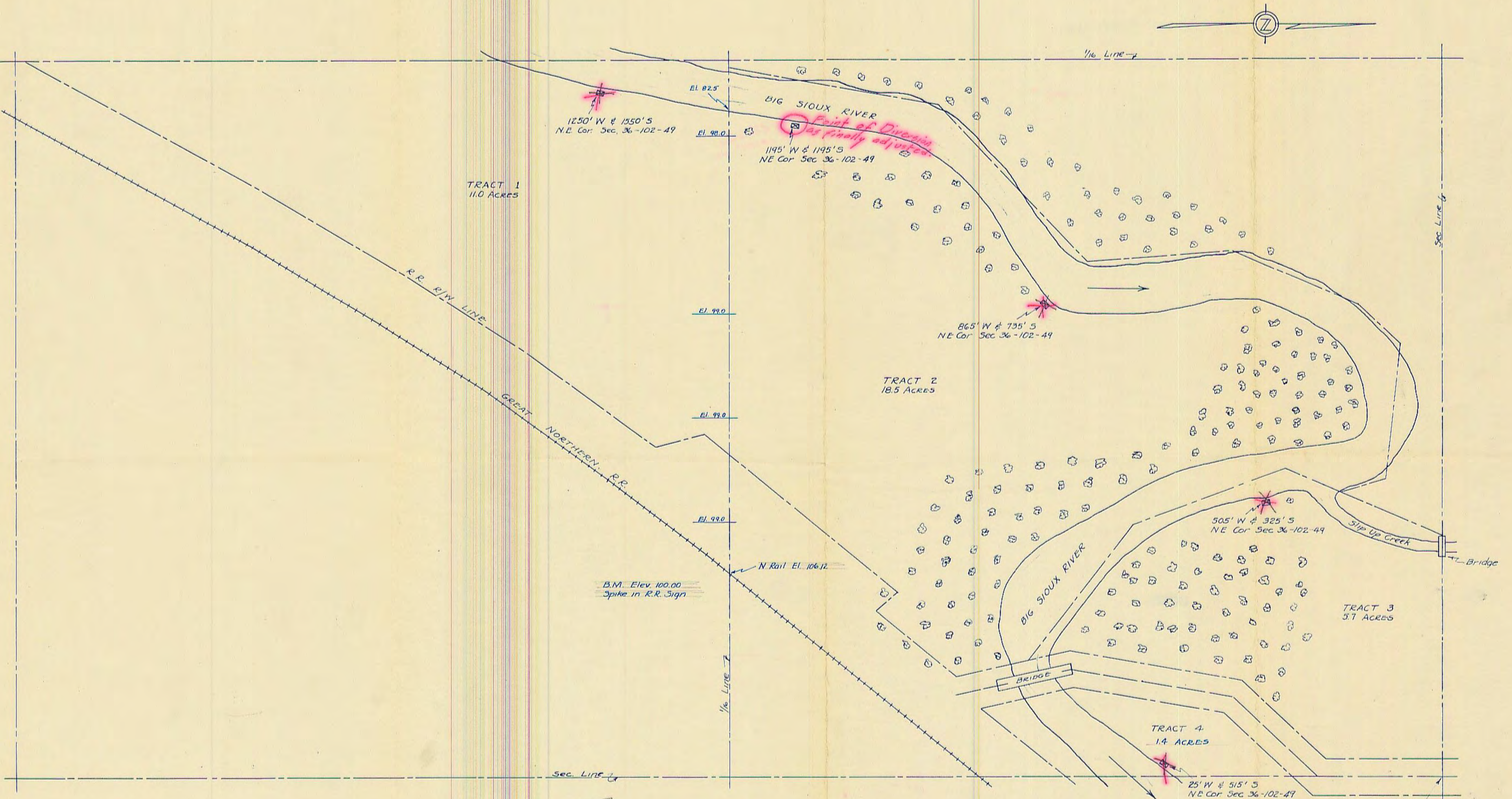
If you have any questions, please contact me.

Sincerely,

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

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

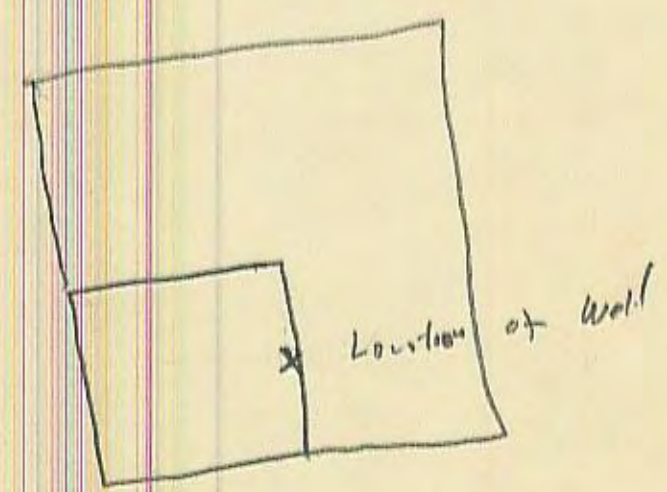
c: Lisa Weyer, SD Parks & Wildlife Foundation



SYMBOLS

TRACT BOUNDARY

DIVERSION POINTS



SCALE 1" = 100'

SURVEYOR'S CERTIFICATE

I, K.E. Benson, Registered Land Surveyor and Professional Engineer of the State of South Dakota do hereby certify that I have surveyed and mapped the area as shown above for purposes of water appropriation.

*K.E. Benson*  
K.E. Benson P.E. & L.S.

State of South Dakota  
County of Minnehaha

On this 9th day of March, A.D. 1900, before me the undersigned a notary public appeared K.E. Benson, well known to me to be the person described above and who acknowledged to me that he executed the foregoing certificate.

My Commission Expires  
March 21, 1950

*J.P. Korman*  
Notary Public

(56-3  
and  
59-3  
to  
62-3)

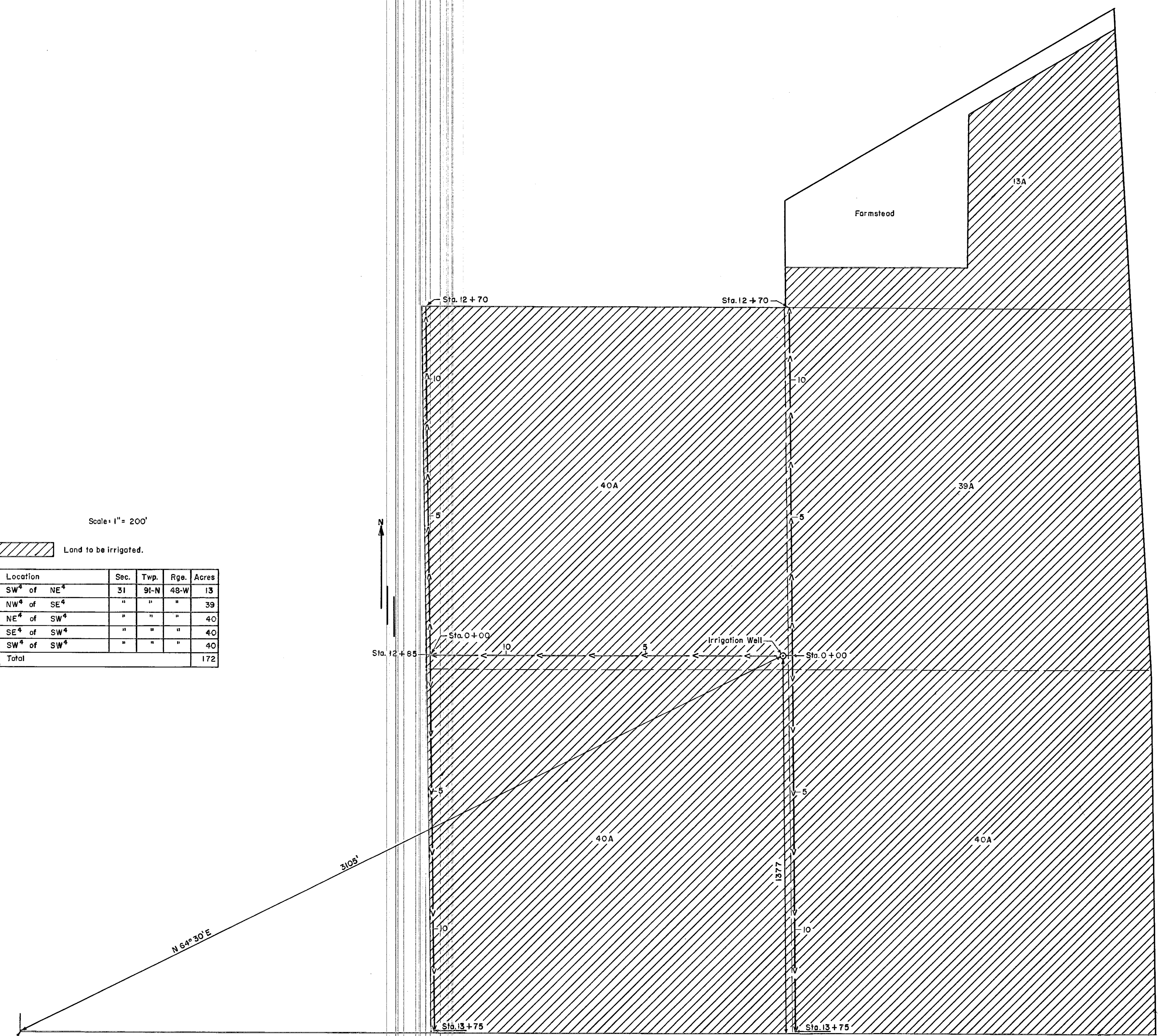
Water Right Number

42-3-map no.

Scale: 1" = 200'

 Land to be irrigated.

| Location                           | Sec. | Twp. | Rge. | Acres |
|------------------------------------|------|------|------|-------|
| SW <sup>4</sup> of NE <sup>4</sup> | 31   | 91-N | 48-W | 13    |
| NW <sup>4</sup> of SE <sup>4</sup> | "    | "    | "    | 39    |
| NE <sup>4</sup> of SW <sup>4</sup> | "    | "    | "    | 40    |
| SE <sup>4</sup> of SW <sup>4</sup> | "    | "    | "    | 40    |
| SW <sup>4</sup> of SW <sup>4</sup> | "    | "    | "    | 40    |
| Total                              |      |      |      | 172   |



SURVEYOR'S CERTIFICATE

I, W. J. P. Edgington, Registered Professional Engineer and Land Surveyor, No. 289, State of South Dakota, do hereby certify that a careful survey of the Emmet Tracy Irrigation Project, Union County, South Dakota, was made under my direction by Carl C. Weisz, Agricultural Engineer, Soil Conservation Service, and that the map hereon is a true and correct representation of the same.

Witness my hand and seal this 8<sup>th</sup> day of July, 1949, A.D.

*W. J. P. Edgington*  
 REGISTERED PROFESSIONAL ENGINEER  
 AND LAND SURVEYOR

SUBSCRIBED AND SWORN TO before me, a Notary Public, this 8<sup>th</sup> day of July, 1949, A.D.

*Mapine Fillmer*  
 NOTARY PUBLIC

59-3  
 (Water Right) 49-3  
 May 20 32-3

**EMMET TRACY WATER RIGHT**  
 UNION COUNTY SOUTH DAKOTA

U. S. DEPARTMENT OF AGRICULTURE  
 SOIL CONSERVATION SERVICE  
 H. H. Bennett, Chief

REGION FIVE  
 REFERENCE

|                       |        |                    |             |
|-----------------------|--------|--------------------|-------------|
| GEOTECHNICAL APPROVAL |        | TECHNICAL APPROVAL |             |
| COMPILED              | DRAWN  | DATE               | DRAWING NO. |
| C.C.W.                | D.L.R. | W.R.E.             | 7-1-49      |
|                       |        |                    | 5,R-11,240  |