

WATER PERMIT NO. 5989-3

Name of Applicant: Robert L Peterson Irrevocable Trust

Address: 2514 Canterbury, Sergeant Bluff IA 51054

Phone: 712-943-4247 or

Amount of Water Claimed: 1.2 cfs Total Acres: 84

Terry Kucera 402-241-2900

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation County: Union

Type of Waste Disposal System: NA

Location: 8 miles south of Elk Point

PRIORITY Date Received: 2-18-97

Fee: \$225

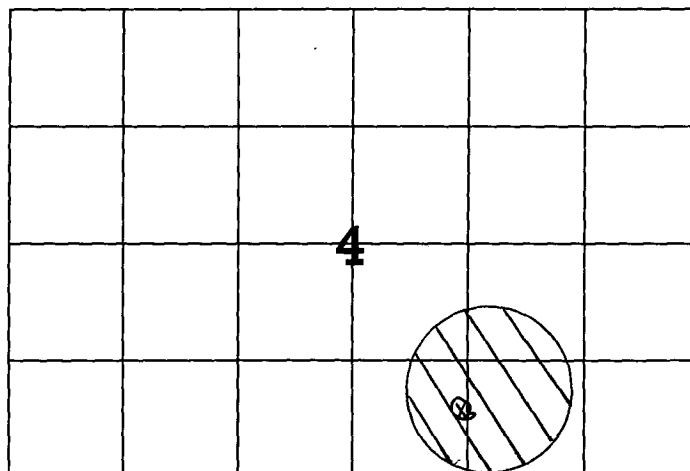
Corrected Application Received: 3-26-97

Period of Annual Use: March 1- October 31

Remarks:

Diversion Point: S 1/2 SE 1/4 Sec 4-T89N-R49W

Land to be Irrigated: SE 1/4 Sec 4-T89N-R49W



Depth of Well: 82 feet

Well Driller: Wetmore Drilling

Remarks:

Type of Map: aerial

Prepared by: Ron Olsen, FSA

Reviewed and the Number Assigned on: 3-27-1997

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 5989-3**

Date of first receipt of application February 18, 1997.

Date of return to applicant for corrections, amendments or changes February 26, 1997.

Date of receipt of corrected application March 26, 1997.

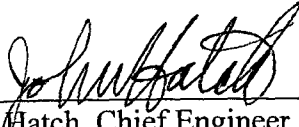
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5989-3 to Robert L Peterson Irrevocable Trust, 2514 Canterbury, Sergeant Bluff IA 51054 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5989-3 appropriates 1.2 cubic feet of water per second from one well (Missouri Elk Point Aquifer) 82 feet deep located in the S 1/2 SE 1/4 Section 4 to irrigate 84 acres located in the SE 1/4 Section 4; all in T89N-R49W.
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 February 18, 1997.
4. The date of approval of Permit No. 5989-3 is June 2, 1997.
5. One-fifth of the construction is to be completed on or before December 2, 1999.
6. All construction is to be completed on or before June 2, 2002.
7. Water is to be put to beneficial use on or before June 2, 2006.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

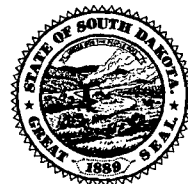
1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUN 11 1997

date



Mail to: Water Rights Div.
DWNR, Foss Bldg.
Pierre, SD 57501
(605) 773-3352

(See instructions)

No. 5989-3 Hydrologic Unit 10170101
Basin Vermillion River
Newspaper Elk Point Leader-Courier, Elk Point, SD

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

- Type of Application: ☒ New ☐ Vested Right ☐ Amend Permit No. _____
- ☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
- ☐ Add Acreage ☐ Increase diversion rate ☐ Other _____
1. Name of Applicant Robert L Peterson Irrevocable Trust Phone No. 712-943-4249
- Post Office Address 2514 Canterbury Sgt Bluff State IA Zip Code 51054
- (Street, RR or Box) (City)
2. Amount of water claimed (c.f.s.) 1.2 Total acres irrigated 89 TJK
3. Source of Water supply under ground
4. Location of point of diversion SE 1/4 of SE 1/4 Sect 4 Township 89 North
Range 49 West of 5th PM Union County SD
(5 1/2 SE 1/4) County Union
5. Counties where water will be used Union
6. Annual period during which water is to be used Spring, Summer, Fall March 1 - Oct 31
7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
<u>SE 1/4 of SE 1/4</u>	<u>3.0</u>
<u>SW 1/4 of SE 1/4 TJK</u>	<u>3.0</u>
<u>NE 1/4 of SE 1/4 TJK</u>	<u>8</u>
<u>NW 1/4 of SE 1/4 TJK</u>	<u>8</u>

Land Description	No. Acres Irr.
<u>SE 1/4 of SW 1/4</u>	<u>6</u> TJK

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: _____ Towline: _____ Center Pivot: ☒ Gun: _____ Other: _____ (Specify) _____
9. Crops to be Irrigated: Corn Soybeans Alfalfa
10. Give a description of proposed project. (Attach sheet if more space is needed)
- Project involves drilling a well and using said water for irrigation of crops

Attachments: Attach Form 2A if diversion from a well or dugout, or if surface water diversion, and any other technical information.

STATE OF SOUTH DAKOTA)
County of Union)^{ss}

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

Signed Terry J Kucera

Subscribed and sworn to before me this 6 day of February 19 97



Linda D. Jefferson
Notary Public

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter 22" Depth 85'
- b) Casing Type PVC Diameter 16" Thickness Sch 40
- c) Screen Type PVC Diameter 16" Thickness Sch 40
- d) Gravel Pack Thickness 3" Length of Gravel Pack 30'
- e) Depth to Top of Water Bearing Material 1'
- f) Depth to Water (ground surface to water level) 12'
- g) Distance to nearest existing domestic well:

On applicants property _____ On property owned by others _____

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
If Pipe, diameter _____

f) Secondary Spillway Capacity _____
Spillway width _____

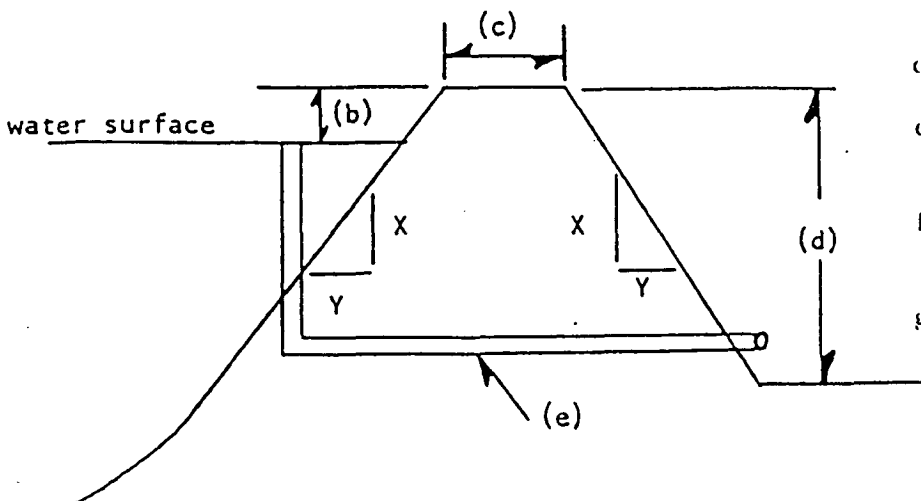
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant _____

NOT TO SCALE



RECEIPT

415270

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ March 17, 1989

RECEIVED OF Petersons Operations Account, 935 Spyglass Cir., Dakota Dunes, SD 57049

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

Fee for Application for Permit No. <u>5989 J</u> to Appropriate Water, to construct and to put water to beneficial use _____	225	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	225 00

By John Hatch
Chief Engineer

Water Rights Program - File Documentation

NAME: Terry Kucera for Robert L. Peterson Irrevocable Trust Application

ADDRESS: Sergeant Bluff IA

DATE: 3-26-96 **COUNTY:** Union **TELEPHONE:** 402 241-2900 (Kucera)

RE: Pending applications

COMMENTS:

I called Terry Kucera to clarify the two applications.

The application located in Section 26-T91N-R50W should include the following lands:

NE 1/4 NW 1/4	40 acres	SE 1/4 NW 1/4	3 acres
NW 1/4 NW 1/4	40 acres	SW 1/4 NW 1/4	3 acres
Total			86 acres

Mr. Kucera stated he did not own any of the land located in Section 23, even though some of the land was highlighted on the aerial photo. I informed Mr. Kucera that based on the 1 cfs per 70 acres, the amount of water claimed should be changed to 1.22 cfs for the 86 acres. Mr. Kucera concurred with the change.

The application located in Section 4-T89N-R49W should include the following lands:

SE 1/4 SE 1/4	38 acres	NE 1/4 SE 1/4	8 acres
SW 1/4 SE 1/4	30 acres	NW 1/4 SE 1/4	8 acres
Total			84 acres

The amount of water claimed should be changed to 1.2 cfs for the 84 acres. Mr. Kucera concurred with the change.



Karen Schlaak
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 26, 1997

Terry Kucera
Robert L Peterson Irrevocable Trust
2514 Canterbury
Sergeant Bluff IA 51054

Dear Mr. Kucera:

Thank you for submitting the two *Applications for a Permit to Appropriate Water for Irrigation*. Before we can proceed with processing the applications, the following is required:

A map (for each application) outlining the lands to be irrigated and showing the location of the well in relation to a government section corner or quarter corner by direction and distance. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local NRCS office).

The filing fee for each application is \$225.00.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 17, 1997

Terry Kucera
Robert L. Peterson Irrevocable Trust
2514 Canterbury
Sergeant Bluff IA 51054

Dear Mr. Kucera:

We have received the filing fees and aerial photos for the two *Applications for a Permit to Appropriate Water for Irrigation*.

The aerial photos and applications are being returned because the area marked in yellow on the maps does not correspond with the lands to be irrigated as listed on the applications. The application for irrigation in Section 4-T89N-R49W indicates 6 acres to be irrigated in the SE 1/4 SW 1/4. From the aerial photo, it appears that irrigation of the SE 1/4 SW 1/4 would be impossible because of the location of the river.

Your letter indicated you wanted to amend the application for irrigation in Section 26-T9N-R50W. The amended application lists irrigation in the S 1/2 SW 1/4 Section 23. The area marked in yellow on the map, does not show acreage in the S 1/2 SW 1/4 Section 23 as being irrigated.

Please clarify each of the applications. If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosures

*Karen
Thank -you
I think they are
accurate now. Please
contact if you see a
problem
Terry J Kucera*

REPORT ON WATER PERMIT APPLICATION NO. 5989-3

for Robert L Peterson Irrevocable Trust

April 11, 1997

Application No. 5989-3 proposes to appropriate 1.2 cfs (539 gpm) from one well approximately 82 feet deep located in the S 1/2 SE 1/4 of Section 4 to irrigate 84 acres located the SE 1/4 of Section 4; all in T89N-R49W in Union County.

AQUIFER - MISSOURI ELK POINT (M-EP)

The Missouri Elk Point is an alluvium mantled outwash (sand and gravel) which is under unconfined or water table conditions in this area. The aquifer underlies 180 square miles and contains an estimated 1.5 million acre feet of recoverable water in storage in Union County (Niehus, 1994). The aquifer is hydraulically connected to the Big Sioux and Missouri Rivers, to the Big Sioux South aquifer to the north, to the Lower Missouri Vermillion aquifer to the northwest and also extends into Clay and Yankton Counties to the west. Ground water movement is generally from northwest to southeast and locally toward the Missouri River. The well log filed with the application indicates fine sand from 1-48 feet and sand and gravel from 48-82 feet. The well had a static water level of 12 feet below land surface and was capable of producing 800 gpm with 9 feet of drawdown. This results in a specific capacity of 89 gpm/ft of drawdown. According to the well completion report this well is constructed in accordance with SD Well Construction Standards.

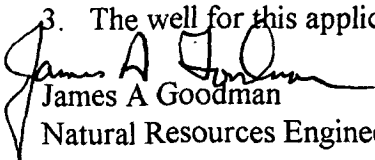
The Water Rights Program monitors 27 observation wells completed into the Missouri Elk Point aquifer in Union County. Two of these observation wells, UN-77Q and UN-77R, are located within a two mile radius of this application. Observation well UN-77R is located about one half mile southeast of the diversion point for this application. Water levels for these well show good response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1997). Hydrographs for these two wells are included with this application.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are two existing water permits/rights within a one mile radius of this application. Interference is not expected to be a problem. These wells have been in use for many years with no apparent problems. The observation well hydrographs verify this conclusion.

CONCLUSIONS

1. Water is available from the Missouri Elk Point aquifer.
2. The aquifer is unconfined and under water table conditions. Drawdown created by pumping should not be significant and interference is not a concern.
3. The well for this application has been completed in accordance with SD Well Construction Standards.

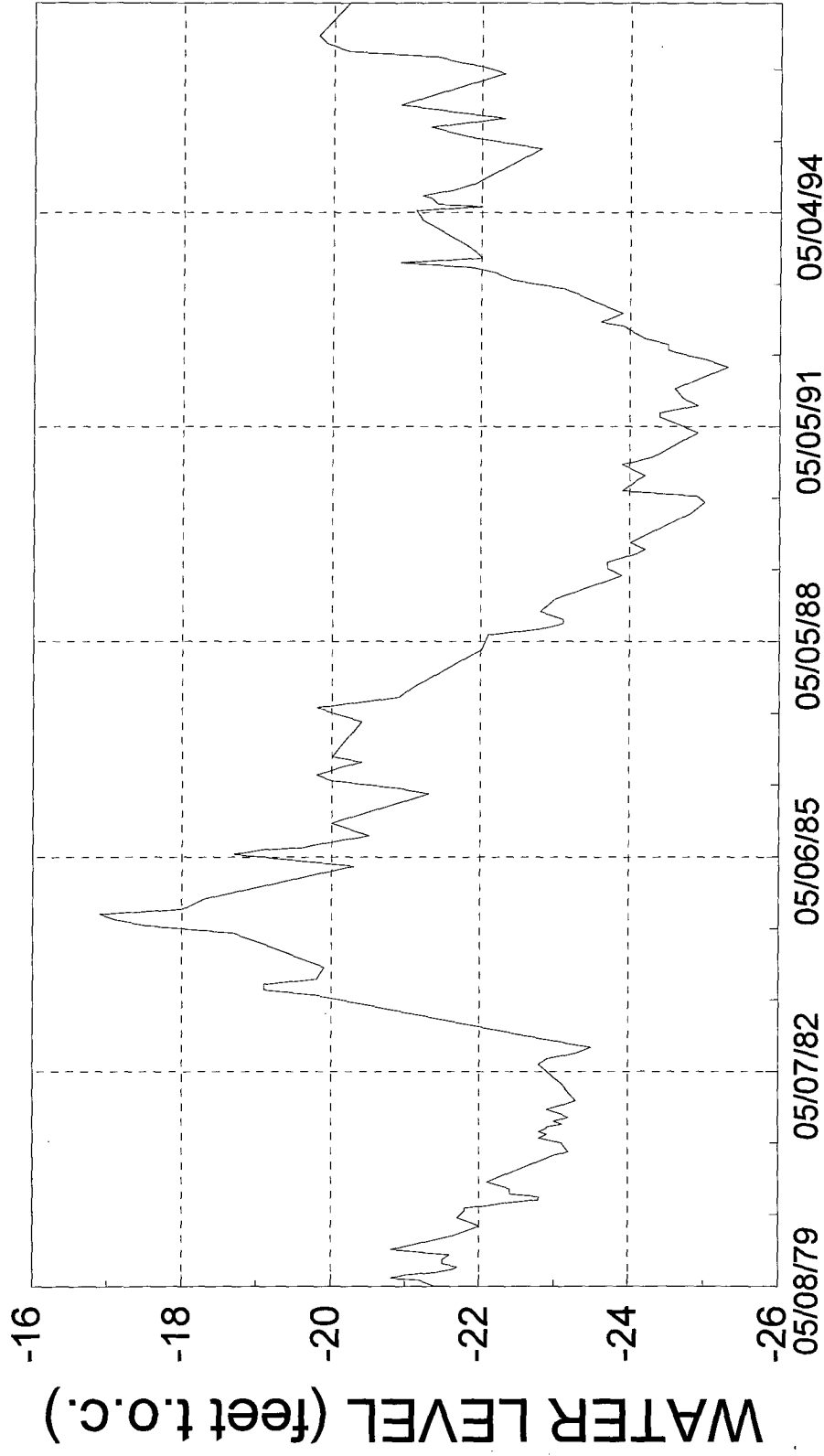

James A Goodman
Natural Resources Engineer

Niehus, C.A., 1994, Water Resources of Lincoln and Union Counties, South Dakota, Water Resources Investigations Report No. 93-4195, Rapid City, SD, 57702.

Water Rights, 1997, Unpublished Observation Well Records for Union County, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

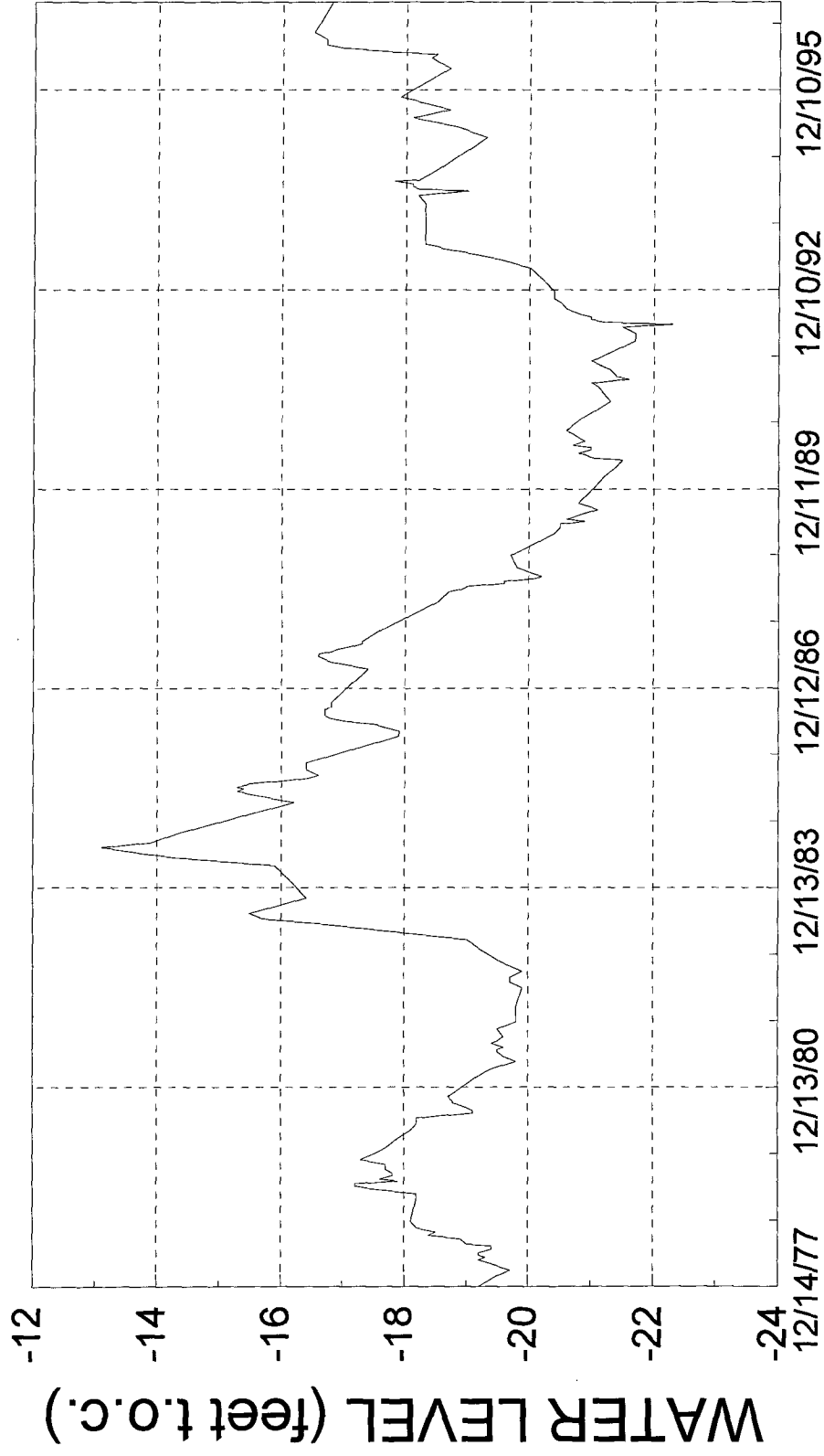
WATER RIGHTS OBSERVATION WELL

UN-77R



WATER RIGHTS OBSERVATION WELL

UN-77Q



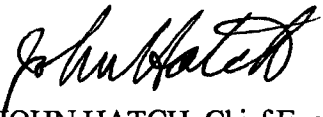
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5989-3, Robert L. Peterson Irrevocable Trust**

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. 5989-3, Robert L. Peterson Irrevocable Trust, c/o Terry Kucera, 2514 Canterbury, Sergeant Bluff, IA 51054

The Chief Engineer is recommending APPROVAL of Application No. 5989-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


JOHN HATCH, Chief Engineer
May 7, 1997



**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.

May 8, 1997

Robert L. Peterson Irrevocable Trust
%Terry Kucera
2514 Canterbury
Sergeant Bluff, IA 51054

Dear Mr. Kucera:

Water Permit Application Nos. 5989-3 and 5990-3 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 Elk Point Leader Courier printed at Elk Point, SD (Ph # (605) 356-2632). For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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 applications.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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 applications.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 8, 1997

Elk Point Leader-Courier
Box 310
Elk Point, SD 57025-0310

ATTENTION: Legal Department

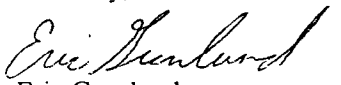
Enclosed is a Notice of Hearing on Application Nos. 5989-3 and 5990-3 to be published twice. Please publish the first notice on May 15, 1997, with the second publication 7 days later.

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 Robert L. Peterson Irrevocable Trust, %Terry Kucera, 2514 Canterbury, Sergeant Bluff, IA 51054 (Ph # (402) 241-2900).

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

Nos. 5989-3 and 5990-3

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application Nos. 5989-3 and 5990-3 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 May 15, 1997, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NOS. 5989-3 and 5990-3 to Appropriate Water

Notice is given that Robert L. Peterson Irrevocable Trust, %Terry Kucera, 2514 Canterbury, Sergeant Bluff, IA 51054 has filed the following applications.

Water Permit Application No. 5989-3 is to appropriate 1.2 cubic feet of water per second (cfs) from one well (Missouri Elk Point Aquifer) 82 feet deep located in the S 1/2 SE 1/4 Section 4 to irrigate 84 acres located in the SE 1/4 Section 4; all in T89N-R49W.

Water Permit Application No. 5990-3 is to appropriate 1.22 cfs from one well (Missouri Elk Point Aquifer) 100 feet deep located in the N 1/2 NW 1/4 Section 26 to irrigate 86 acres located in the NW 1/4 Section 26; all in T91N-R50W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 5989-3 and 5990-3 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 June 2, 1997.

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.



AFFIDAVIT OF PUBLICATION

State of South Dakota)
County of Union)
:ss

Kelly Kruithoff

an employee of the publisher of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and that has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit; and that the notice and advertisement headed

Notice of Application Nos. 5989-3 and 5990-3

to Appropriate Water

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in each week for 2 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper as

The first publication being made on Thursday, the 15 day of May 19 97, and that the succeeding publications were

on Thursday, the 22 day of May, 19 97

on Thursday, the _____ day of _____, 19 _____

on Thursday, the _____ day of _____, 19 _____

on Thursday, the _____ day of _____, 19 _____

on Thursday, the _____ day of _____, 19 _____

that the fees for the printing and publishing of said notice and advertisement in said newspaper as

aforesaid were 37.58, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Kelly Kruithoff

Subscribed and sworn to before me this 31 day of May 19 97

My commission expires 3-22-04

[Signature]
Notary Public

NOTICE OF APPLICATION NOS. 5989-3 AND 5990-3 TO APPROPRIATE WATER

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Water Permit Application No. 5990-3 is to appropriate 1.22 cfs from one well (Missouri Elk Point Aquifer) 100 feet deep located in the N1/2NW1/4 Section 26 to irrigate 86 acres in the NW1/4 Section 26; all in T91N-R50W.

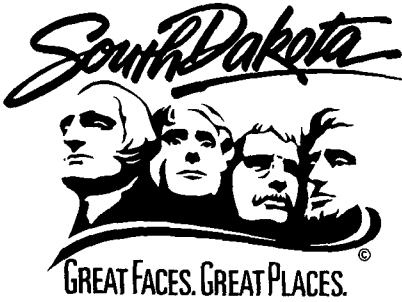
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NETTIE H. MYERS, Secretary
Department of Environment and Natural Resources
Publish May 15 and 22, 1997.
44-8-68



JUN 11 1997

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Terry Kucera
Robert L. Peterson Irrevocable Trust
2514 Canterbury
Sergeant Bluff, IA 51054

Dear Mr. Kucera:

Enclosed are Water Permit Nos. 5989-3 and 5990-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Also enclosed are Form 10's, 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 Licenses 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 may be made to your water permits usually without affecting the priority date. The location of a point of diversion may be changed or additional points of diversion may be approved if the water source remains unchanged; no additional water is appropriated; and, if irrigating, no additional land is irrigated. The change may be allowed without application or publication, if the Water Rights Program is contacted and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

A new water permit application is required to change water sources, increase the permitted diversion rate, or increase the irrigated acreage. If the application is approved, the water permit will receive a new priority date.



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

Date 8/15/97

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

FROM: Robert Peterson Trust 2514 Canterbury
(name) (address)
Sgt Bluff IA 51054 712-943-4241
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5989-3.

Water Permit No. 5989-3 states that the diversion system is to be constructed by 6/2/2002, and that the water is put to beneficial use by
(date)

6/2/2006
(date)

The diversion system was completed on 8/11/97
(date)

Applying the water to beneficial use was completed on 8/15/97
(date)

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

Terry J. Kucera
(signature)

Permit No. 5989-3
Big Sioux River - Water District

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

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

I have this day, July 27, 2005, made a thorough examination of the water use system constructed by Robert L. Peterson Irrevocable Trust of 2514 Canterbury, Sergeant Bluff IA 51054 holder of Permit No. 5989-3, bearing the priority of February 18, 1997 authorizing the diversion of 1.2 cu. ft. per second of the waters of Missouri Elk Point Aquifer for irrigation purposes, in Union County.

Inspection contact & relationship **John Trudeau – Leases land**
to permit holder, if applicable:

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Wetmore Drilling
- 2) No. of Wells 1
- 3) Depth(s) 82 feet
- 4) Well log is available yes
- 5) Comment:

Casing:

- 1) Diameter 16 inches
- 2) Length 52 feet
- 3) Type pvc

Screen:

- 1) Type pvc
- 2) Length 30 feet
- 3) Static water level 12 feet

Pump:

- 1) Make Ingersol Dresser
- 2) Model 12B
- 3) Size
- 4) Capacity 600 GPM

Motor:

- 1) Make Isuzu
- 2) Model No. 4BG1
- 3) Horsepower rating 80 hp

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

- 1) Type steel
- 2) Size 10 inches
- 3) Length 10 feet

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Valley
- 2) Overall length 1080 feet
- 3) Number of towers
- 4) Distance between towers 5 feet
- 5) End gun yes
- 6) High or low pressure low
- 7) Capacity 540 GPM

Chemigation Equipment:

- 1) Does chemigate no

D. Compliance with Permit Requirements:

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

The system is in good condition with the point(s) of diversion located as follows: 1025' N and 1130' W of the SE corner Section 4-T89N-R49W, SE¼ SE¼ (Lat: 42.55019, Long: -96.629965). The works are capable of diverting and conveying to the place of use 1.2 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 4-T89N-R49W:

NE¼ SE¼ 15 acres

NW¼ SE¼ 11 acres

SW¼ SE¼ 22 acres

SE¼ SE¼ 36 acres

Comprising a total of 84 acres of land and the license should be issued for 1.2 cfs.

All structures, wells and lands on map yes

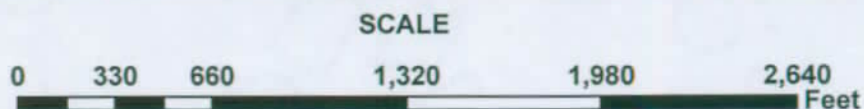
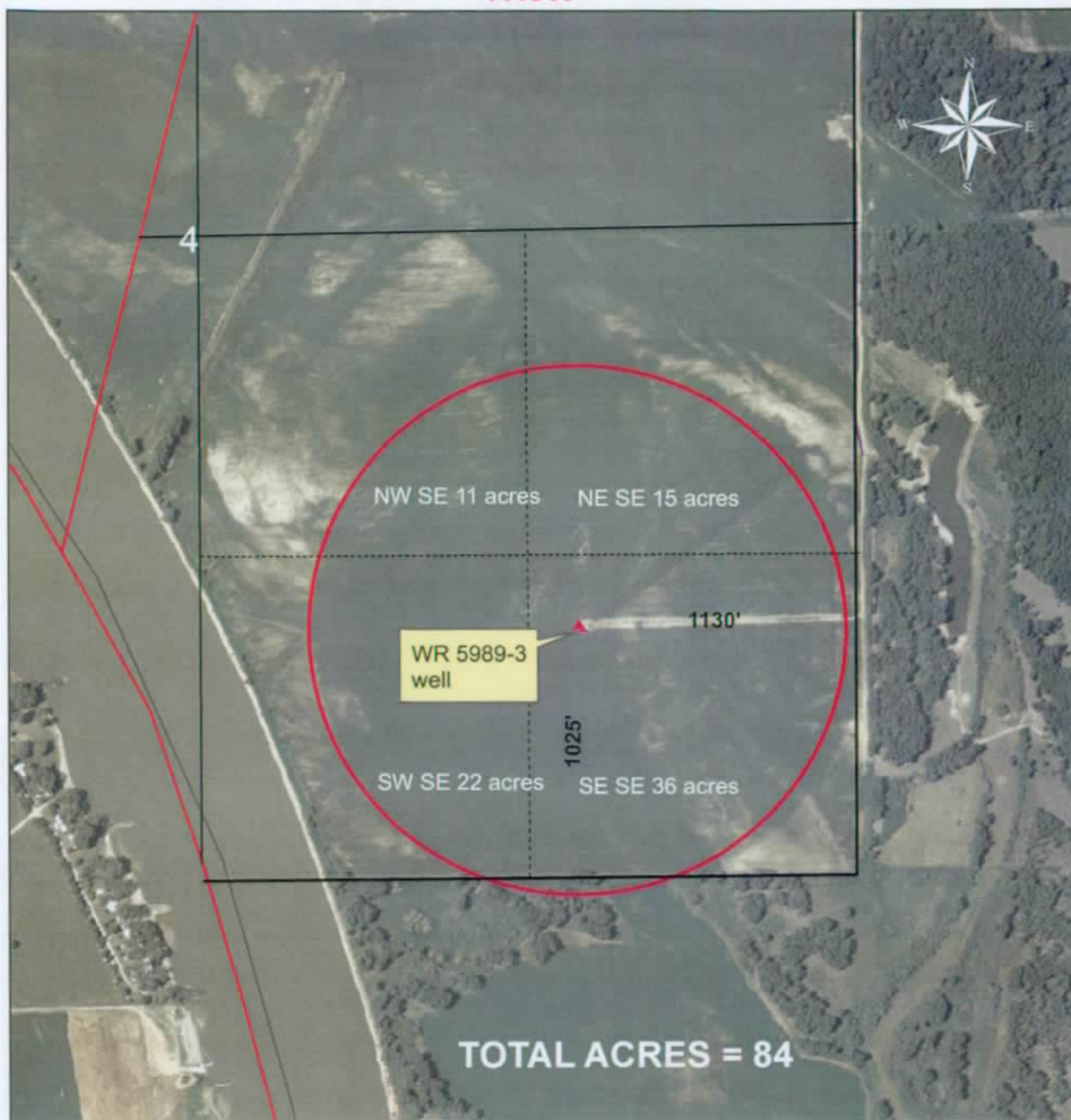
Comments or other permit(s) associated with the project:


Lynn Beck

Natural Resources Engineer Specialist
DENR, Water Rights Program

Date report completed: August 9, 2005

WATER RIGHT NO. 5989-3
ROBERT L. PETERSON IRREVOCABLE TRUST
August 9, 2005
R49W



Lynn Beck

Lynn Beck
Natural Resources Engineer Specialist
DENR, Water Rights Program
August 9, 2005

South Dakota Department of
Environment and Natural Resources



Protecting South Dakota's Tomorrow ... Today





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 14, 2005

5989-3

Robert L Peterson Irrevocable Trust
c/o Terry Kucera
2514 Canterbury
Sergeant Bluff IA 51054

Dear Mr. Kucera:

On July 27, 2005 the investigation of the water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 5989-3 (SE ¼ Section 16-T89N-R49W), was completed by Lynn Beck, a staff engineer with our program. The 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, we will complete processing the water license. The check or money order for the fee should be made payable to the "Water Rights Program".

A 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
Water Rights Program
(605) 773-3352

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 23, 20 05

RECEIVED OF Petersons Operations Account, 891 Two Rivers Dr Suite 100, Dakota Dunes SD 57049

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. <u>5989-3</u>		
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.

By

Donald E. Ebel

Chief Engineer

129

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5989-3

(1) Robert L Peterson Irrevocable Trust, 2514 Canterbury, Sergeant Bluff IA 51054 made Application No. 5989-3, February 18, 1997 for a water permit to divert 1.2 cubic feet of water per second from groundwater (one well), Union County, South Dakota for irrigation purposes. Permit No. 5989-3, with a priority date of February 18, 1997 was approved June 2, 1997 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before June 2, 2002 and for the application to beneficial use of water on or before June 2, 2006.

(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. 5989-3 is issued a license, bearing a priority date of February 18, 1997 to appropriate 1.2 cubic feet of water per second from groundwater (one well) to irrigate 84 acres.

The diversion point is located: 1,025 feet north and 1,130 feet west of the southeast corner of Section 4-T89N-R49W (SE ¼ SE ¼). The acres authorized for irrigation are as follows:

Section 4-T89N-R49W	NE ¼ SE ¼	15 acres
	NW ¼ SE ¼	11 acres
	SW ¼ SE ¼	22 acres
	SE ¼ SE ¼	36 acres
Total 84 acres		

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 5989-3 including the following now applicable qualifications:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Garland Erbele

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

SEP 30 2005

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 30 2005

5989-3

Robert L Peterson Irrevocable Trust
2514 Canterbury
Sergeant Bluff IA 51054

Dear Sir:

Enclosed is Water License No. 5989-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 001969 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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

Sincerely,

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

c: John Trudeau

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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523 EAST CAPITOL
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www.state.sd.us/denr

October 19, 2010

3871-3
5989-3

Peterson Management
324 Dakota Dunes Blvd Ste 200
N Sioux City SD 57049 5459

Dear Sir:

Enclosed is a "Notice" dated October 15, 2010 concerning the 2010 irrigation questionnaire.

The notice was originally mailed to 891 Two River Dr, Suite 100, Dakota Dunes, SD. 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
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures



5989-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2012

NOTICE

TO: PETERSON MANAGEMENT, 324 DAKOTA DUNES BLVD STE 200, N SIOUX CITY, SD 57049 5459

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

SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaires

Our records indicate that the 2011 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 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) 3871-3 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) 5989-3 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 7, 2012** 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) 5989-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3871-3 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 2, 2012**, 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. 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.

5989-3

English

Customer

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YOUR LABEL NUMBER

SERVICE

STATUS OF YOUR ITEM DATE & TIME

LOCATION

FEATURES

23032160000008019366

Delivered

January 25, 2012, 1:12
pm

NORTH SIOUX
CITY, SD 57049

Signature
Confirmation™
Proof of Delivery

Out for Delivery

January 25, 2012, 8:56
am

NORTH SIOUX
CITY, SD 57049

Sorting Complete

January 25, 2012, 8:46
am

NORTH SIOUX
CITY, SD 57049

Arrival at Post Office

January 25, 2012, 7:57
am

NORTH SIOUX
CITY, SD 57049

SIGNATURE CONFIRMATION NUMBER:
0000 0000 0000 0000

PETERSON MANAGEMENT
324 DAKOTA DUNES BLVD STE 200
N SIOUX CITY SD 57049 5459

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

Delivered Jan 25th
L. Jefferson

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5989-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 7, 2012

NOTICE

TO: Peterson Management, 324 Dakota Dunes Blvd Ste 200, N Sioux City SD 57049 5459

FROM: Garland Erbele Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: One Year Suspension of Water Right No. 5989-3 and Amendment of Water Right No. 3871-3

On March 7, 2012, the Water Management Board ordered:

Water Right No. 3871-3, authorizing irrigation of 281 acres in portions of the E ½ and E ½ NW ¼ and NE ¼ SW ¼ Section 4, T89N, R49W, be amended to add the following qualification: "This water right is subject to the Irrigation Water Use Questionnaire being submitted each year."

The addition of this qualification to your water right was effective March 7, 2012 and means failure to submit the required irrigation questionnaire in the future could result in suspension of the water right with no use of water for up to one year for the first violation.

Effective April 7, 2012, Water Right No. 5989-3, authorizing irrigation of 84 acres in the SE ¼ Section 4, T89N, R49W be suspended for the 2012 irrigation season for failure to submit the 2011 irrigation questionnaire. If the 2011 irrigation questionnaire is received prior to April 7, 2012 the suspension will not take effect.

Suspension of Water Right No. 5989-3 means water may not be pumped during the 2012 irrigation season. Consistent with the Board's order, you are not permitted to irrigate under No. 5989-3 in 2012 unless the irrigation questionnaire is submitted by April 7th.

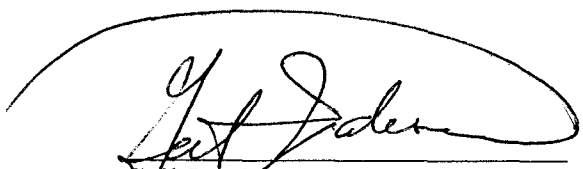
After April 7th, you may petition the Water Management Board to rescind the suspension. You will need to submit the 2011 irrigation questionnaire and a letter to our office requesting time on the agenda for the next Water Management Board meeting scheduled for May, 2012 in Pierre, SD. The letter should include your reasons for not completing the 2011 irrigation questionnaire. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Please contact Genny McMath (605) 773-3352, if you have any questions.

CERTIFICATION

I hereby certify that on March 7, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated March 7 2012 regarding suspensions addressed as stated below:

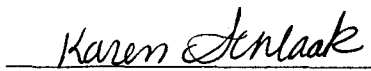
Peterson Management, 324 Dak Dunes Blvd, # 200 N Sioux City SD 57049	3871-3
Wayne F Childers, 11086 Burlington Dam Rd, Edgemont SD 57735	858-2
Erik Roth, 1001 S 3 rd St, Parkston SD 57366	607-3
Nathan Stencil, Stencil Const. PO Box 2786, Sioux Falls SD 57101	6739-3
Stuart Rice, 2300 Skyline Ranch Rd, Rapid City SD 57701	2106-2
Kenneth Braunschmidt, 2294 White Dr, Durham CA 95938	521-3
Danny L Adams, 2010 Avalon Pkwy # 400 McDonough GA 30253	1828-1
Lee Ahrlin, 531 Fox Run Dr, Rapid City SD 57701	1769-1

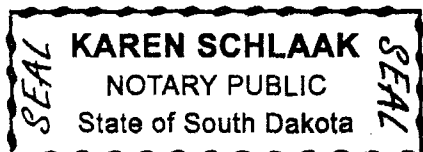


Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of March, 20 12.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 13, 2012

Peterson Management
324 Dakota Dunes Blvd Ste 200
N Sioux City SD 57049 5459

RE: 2011 irrigation questionnaires for Water Right Nos. 3871-3 and 5989-3

Dear Sir:

Dan Trudeau with Trudeau Family Farms contacted our office today with the irrigation questionnaire information for Water Right Nos. 3871-3 and 5989-3. It is our understanding that the land was flooded during 2011 and could not be irrigated. Questionnaires were completed for you based on the information provided by Mr. Trudeau.

On March 7th, the Water Management Board ordered Water Right No. 5989-3 be suspended if the 2011 irrigation questionnaire was not received prior to April 7, 2012. Water Right No. 3871-3 was amended to require submission of the irrigation questionnaire but was not suspended. Since the irrigation questionnaire is on file, no violation has occurred under Water Right No. 5989-3 and no suspension will take place. You may irrigate during the 2012 irrigation season.

Mr. Trudeau was agreeable to having the annual irrigation questionnaires directed to Trudeau Family Farms as the operator. This does not change ownership of the property, it allows us to mail the questionnaires to the person who is doing the irrigation and would have the necessary information to complete the forms.

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

Sincerely,

A handwritten signature in black ink that reads "Ron Duvall". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

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

c: Dan Trudeau, Trudeau Family Farms, 33297 478th Ave, Jefferson SD 57038



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



December 12, 2014

5989-3

Rod Leber
310 N Derby Ln
PO Box 380
North Sioux City SD 57049

Dear Mr. Leber:

I am writing in follow-up to our phone conversation concerning Water Right No. 5989-3 (copy enclosed).

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and complete as needed. 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.

For informational purposes, under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. This three year period can be waived if legal excuse exists for the years of nonuse. Enclosed are excerpts of the water right laws and Water Management Board Rules dealing with these issues.

If you have any questions when completing the transfer form or if you have additional questions concerning the water right, please let me know.

Sincerely,

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

enclosures

RECEIVED

DEC 22 2014

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 5989-3

Date: 12-17-14

I/We request that Water Right No. 5989-3

formerly owned by: Robert L Peterson Irrevocable Trust

be transferred to: (name & address) Lieber Land Holdings LLC
310 N. Derby Lane Box 380
N. Sioux City, SD 57049 Telephone No. 605-422-0543

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

84 acres - SE ¼ Section 4, T89N, R49W

I/We understand that the validity of Water Right No. 5989-3 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 Rodney Lieber, the new owner, certify that the above information is true and correct.

Rodney Lieber
(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 12/22, 20 14

RECEIVED OF Lieber Land Holdings LLC PO Box 217 Lawton IA 51030

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>5989-3</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. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. 07032

By Jeanne Hoodman
Chief Engineer



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



December 12, 2014

5989-3

Rod Lieber
Lieber Land Holdings LLC
310 N Derby Lane Box 380
North Sioux City SD 57049

Dear Mr. Lieber:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Right No. 5989-3. The ownership change has been completed.

Water Right No. 5989-3 formerly held by Robert L Peterson Irrevocable Trust is now listed in the name of "Lieber Land Holdings LLC".

Enclosed for your records is Receipt No. 07032 in the amount of \$50 which you paid for filing the ownership change. If you have any questions, please contact me.

Sincerely,

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

enclosure



5989-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: LIEBER LAND HOLDINGS LLC, RODNEY LIEBER, 310 N DERBY LANE BOX 380, N
SIOUX CITY, SD 57049

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

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5989-3. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 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) 5989-3 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 at 9:30 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) 5989-3 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 before the **March 3, 2016** 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. 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

January 27, 2016

5989-3

Rodney Lieber
Lieber Land Holdings LLC
310 N Derby Ln # 380
N Sioux City SD 57049

Dear Mr. Lieber:

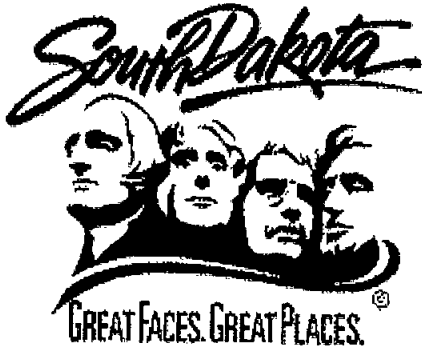
I am writing to acknowledge receipt of your 2015 irrigation questionnaire.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right No. 5989-3. 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**

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September 20, 2016

3871-3
3871B-3
5989-3

Rodney Lieber
Lieber Land Holdings LLC
310 N Derby Ln, Box 380
N Sioux City SD 57049

Dear Mr. Lieber:

Thank you for returning my call concerning the ownership change needed for Water Right No. 3871-3.

Dan Trudeau filed an ownership change for part of the land described in the water right and it is my understanding you own the remainder of the land. The water right will need to be divided and reissued to reflect separate ownership. Once the water right is divided into 3871A-3 (Trudeau) and 3871B-3 (Lieber Land Holdings LLC), a reissued water right will be directed to each of you outlining what is authorized for irrigation.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. 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.

During our conversation you indicated the land you own under Water Right No. 3871-3 and also the land described in your Water Right No. 5989-3 have been enrolled in CRP for a term of 10 years. Under SDCL 46-5-37.2, no water right or permit may be forfeited for nonuse if land authorized for irrigation is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:

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

September 20, 2016
Rodney Lieber
Page 2

The annual irrigation questionnaire for Water Right Nos. 3871B-3 and 5989-3 will not be mailed to you until the land comes out of CRP in 2027. If the land is sold or other changes occur prior to the land coming out of the program, please notify us so that appropriate changes can be made to the water rights.

During our phone conversation you indicated once the land comes out of CRP, you would be using the well authorized under Water Right No. 5989-3 located in the SE ¼ SE ¼ Section 4, T89N, R49W to irrigate the land to be described under Water Right No. 3871B-3. At that time, you will need to file a water permit application for a change in diversion point location which will effectively allow use of your existing well to irrigate the entire acreage. There is no need to go through that process before the land comes out of CRP.

If you have any questions, please contact me.

Sincerely,



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

enclosure