

WATER PERMIT NO. 5990-3

Name of Applicant: Robert L Peterson Irrevocable Trust

Address: 2514 Canterbury, Sergeant Bluff IA 51054

Phone: 712-943-4247 or

Amount of Water Claimed: 1.22 cfs Total Acres: 86

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: 1 mile west of Elk Point

PRIORITY Date Received: 2-18-97

Fee: \$225

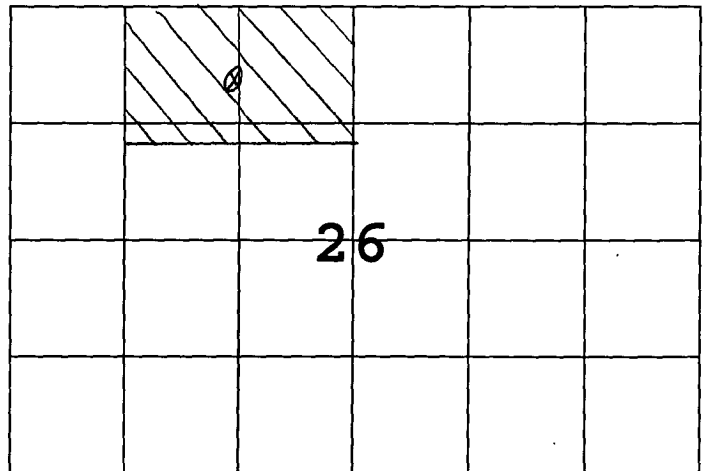
Corrected Application Received: 3-26-97

Period of Annual Use: March 1- October 31

Remarks:

Diversion Point: N 1/2 NW 1/4 Sec 26-T91N-
R50W

Land to be Irrigated: NW 1/4 Sec 26-T91N-
R50W



Depth of Well: 100 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. 5990-3**

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. 5990-3 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. 5990-3 appropriates 1.22 cubic feet of water per second 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.
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. 5990-3 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
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 11 1997

date



(See instructions)

No. 5990-3 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. 712-943-4247
- Post Office Address 2514 Canterbury Sgt Bluff State IA 51054
(Street, RR or Box) (City) Zip Code
2. Amount of water claimed (c.f.s.) 1.22 Total acres irrigated 86
3. Source of Water supply Underground
4. Location of point of diversion SE 1/4 of Sect 26 T 9 North
Range 50 W of 5th PM Union County (N 1/2 NW 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.

Amended

Land Description	No. Acres Irr.
SE 1/4 of SW 1/4	2.5
SW 1/4 of SE 1/4	2.5
NE 1/4 of SE 1/4	2.5
NW 1/4 of SE 1/4	2.5

Attach sheet if more space is needed

All in Sec. 26 - T 9 N - R 50 W

Land Description	No. Acres Irr.
SE 1/4 of SW 1/4	2.5
SW 1/4 of SE 1/4	2.5
<u>NE 1/4 NW 1/4 40 AC</u>	<u>3 AC</u>
<u>NW 1/4 NW 1/4 40 AC</u>	<u>3 AC</u>

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

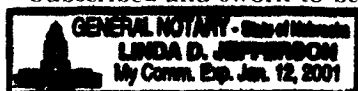
Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach any other information and any other technical information.

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 100'
- 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 40'
- e) Depth to Top of Water Bearing Material 1'
- f) Depth to Water (ground surface to water level) 20'
- 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 _____

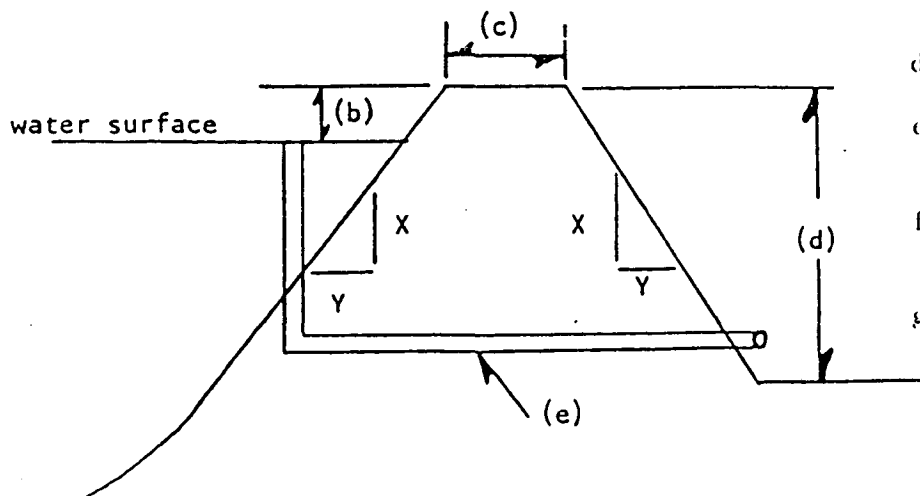
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant _____



WETMORE DRILLING

Mike Wetmore
Geologist



Shop: (605) 356-2248
I-29 Exit 15
Elk Point, SD 57025

Office: 1-800-399-7713
(605) 356-3757
P. O. Box 880
Elk Point, SD 57025

Cellular: (712) 251-7599



Re: State of South Dakota water well completion report

Dear Sir and/or Madam,

Enclosed, you will find three copies of the South Dakota water well completion report. Please sign and date the reports in the spaces provided in the bottom-right of the documents. After signing the reports, please distribute the copies as follows:

One copy - Water Rights Division (envelope enclosed)

One copy - Wetmore Drilling (address listed above)

One copy - for your records

If you have any questions, please feel free to give me a call at the telephone number listed above. I thank you for your time and attention to this matter.

Sincerely,

WETMORE DRILLING

Mike Wetmore

enclosures

T-892

1996

NHEL
IRRIGATED

2 240.8

7.2

249.5

NHEL

91-50

3

2

47

52.2

154.0

1A

60.0
NHEL
X well

Bns

BEANS

748

For Glen
Lemon Co. FSR

NHEL

100

NHEL

39

CRP
NHEL

1237

5990-3

5990-3
26

Set
23

RECEIPT

415269

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ March 17, 19 97

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>5990-3</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

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

Karen Schlaak
Water Rights Program
605 773-3352

RLD
yes
Well Irrigation
permit for
Kneebone & Rosenbaum
for the wells last
year $225 \times 2 =$
 450°

send to me
so I can enclose
checks with permit

Dept of Environment

Karen
Schlack

Thanks
Terry & Kucera



Karen

In reviewing the maps I see
where the location of point of
diversion on Permit in Sect 26
should be NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sect 26

Legal description for each 40 would
be NE $\frac{1}{4}$ of NW $\frac{1}{4}$ } Sect 26 40 Acres
NW $\frac{1}{4}$ of NW $\frac{1}{4}$ 40 Acres

SE $\frac{1}{4}$ of SW $\frac{1}{4}$ } Sect 23 14 $\frac{1}{2}$ Acres
SW $\frac{1}{4}$ of SW $\frac{1}{4}$ } T 90 N
50 West 14 $\frac{1}{2}$ Acres





**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
Water Rights Program
605 773-3352

enclosures

Karen

In reviewing the maps I see
where the location of point of
diversion on Permit in Sect 26

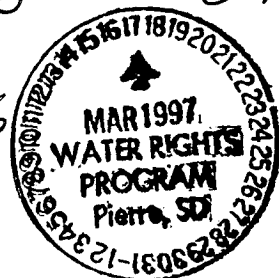
should be NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sect 26



Legal description for each 40 would
be NE $\frac{1}{4}$ of NW $\frac{1}{4}$ } Sect 26 40 Acres
NW $\frac{1}{4}$ of NW $\frac{1}{4}$ 40 Acres

~~SE $\frac{1}{4}$ of SW $\frac{1}{4}$ sect 23 TJK 14 $\frac{1}{2}$ Acres~~
~~SW $\frac{1}{4}$ of SW $\frac{1}{4}$ T 70 N 50 West TJK 14 $\frac{1}{2}$ Acres~~

TJK SE $\frac{1}{4}$ of NW $\frac{1}{4}$ Sect 26 3 Acres
SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sect 26 3 Acres



86 Acres

REPORT ON WATER PERMIT APPLICATION NO. 5990-3
for Robert L. Peterson Irrevocable Trust
April 11, 1997

Application No. 5990-3 proposes to appropriate 1.22 cfs (548 gpm) from one well approximately 100 feet deep located in the N 1/2 NW 1/4 of Section 26 to irrigate 86 acres located the NW 1/4 of Section 26; all in T91N-R50W 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 1-53 feet and sand and gravel from 53-100 feet. The well had a static water level of 20 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.

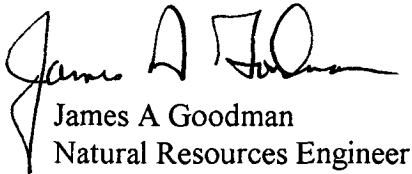
The Water Rights Program monitors 27 observation wells completed into the Missouri Elk Point aquifer in Union County. Two of these observation wells, UN-77L and UN-78A, are located within a two mile radius of this application. Observation well UN-77L is located about two miles northwest and UN-78A is located about two miles east 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 seven 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.
4. The production well for this application is located within one half mile of the Missouri River and the stage of the river will dominate the ground water levels.

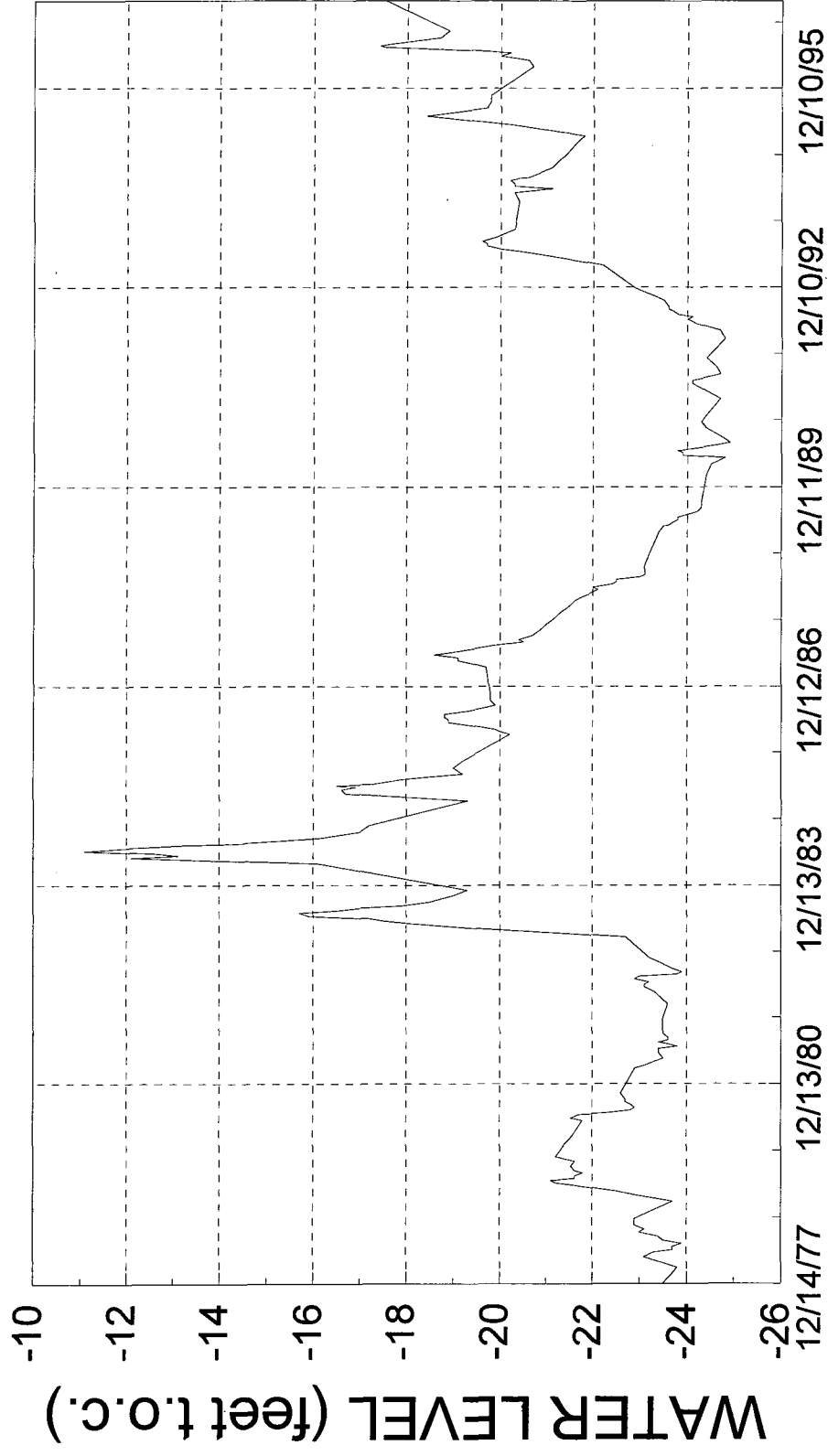

James A Goodman
Natural Resources Engineer

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.

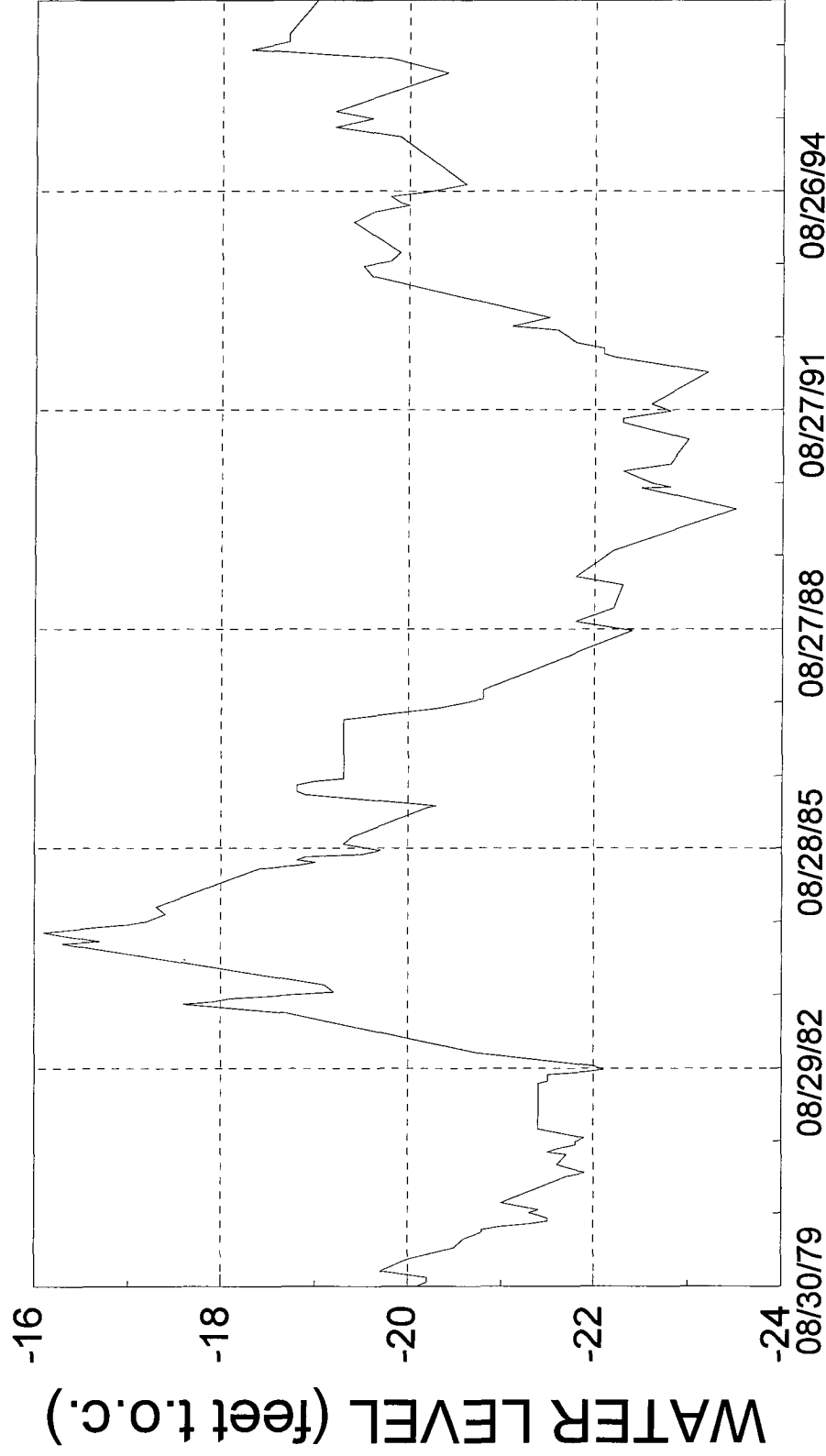
WATER RIGHTS OBSERVATION WELL

UN-77L



WATER RIGHTS OBSERVATION WELL

UN-78A



**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5990-3, 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. 5990-3, Robert L. Peterson Irrevocable Trust, c/o Terry Kucera, 2514 Canterbury, Sergeant Bluff, IA 51054

The Chief Engineer is recommending APPROVAL of Application No. 5990-3 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.

A handwritten signature in black ink, appearing to read "John Hatch", written in a cursive style.

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

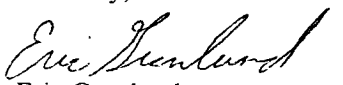
Enclosed is a Notice of Hearing on Application Nos. 5989-3 and 5990-3 to be published twice. Please publish the first notice on May 15, 1997, with the second publication 7 days later.

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

Notice is given that Robert L. Peterson Irrigation Trust do 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 S1/2SE1/4 Section 4 to irrigate 84 acres located in the SE1/4 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 N1/2NW1/4 Section 26 to irrigate 86 acres in the NW1/4 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 (605-773-3362) 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
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 L 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. 5990-3.

Water Permit No. 5990-3 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 8/5/97
(date)

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

Terry J Kucera
(signature)

1999 WATER MANAGEMENT BOARD IRRIGATION QUESTIONNAIRE
PLEASE FILL OUT AND RETURN BEFORE DECEMBER 1, 1999

5990-3
TERRY J KUCERA
ROBERT L PETERSON IRREVOCABLE TRUST
2514 CANTERBURY
SERGEANT BLUFF IA 51054

CHANGES TO ADDRESS LABEL, IF ANY:

*Sold to John Roost
600 Stevens Port Drive*

Telephone No. *Suite 100*

Dakota Dunes SD 57049

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

IS SYSTEM CONSTRUCTED? YES ☒ NO ☐ DID YOU IRRIGATE IN 1999? *YES ☐ *NO ☐

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

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

DID YOU APPLY CHEMICALS OR FERTILIZER THROUGH THE SYSTEM IN 1999? YES ☐ NO ☐

SOURCE OF WATER *Well*

TYPE OF SYSTEM (CHECK ALL THAT APPLY):

CENTER PIVOTS ☐ TOWNLINES ☐ BIG GUN ☐

FLOOD ☐ SPRINKLERS ☐ OTHER ☐

COMMENT SECTION:



THE PORTION OF THE FORM FOR REPORTING ACRES IRRIGATED IS ON THE BACK OF THIS PAGE.
LISTED BELOW ARE TWO EXAMPLES OF HOW TO COMPLETE THE FORM:

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

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

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

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

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

MONTH IRRIGATED	CROP TYPE	NUMBER OF ACRES IRRIGATED	PUMP RATE IN GALLONS PER MINUTE	DAYS PER MONTH WATER WAS APPLIED	AVERAGE HOURS PER DAY
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MARCH					
APRIL					
MAY					
JUNE					
JULY					
AUGUST					
SEPTEMBER					
OCTOBER					

IF MORE ROOM IS NEEDED, PLEASE INCLUDE THE INFORMATION ON A BLANK SHEET OF PAPER



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 9, 2000

4585-3
5990-3

John F Roost
1 Edgewater Ln
Dakota Dunes, SD 57049-5016

Dear Mr. Roost:

I am writing in follow-up to our phone conversation concerning Water Permit No. 4585-3 and the one year suspension the Water Management Board imposed. In order to have the Board reconsider their action, you will need to send us a letter requesting the matter be placed on the agenda for their May, 2000 meeting. Your letter should include your reason(s) for not returning the 1999 irrigation questionnaire in a timely manner.

I am enclosing the following materials for you to complete and return to our office:

- 1999 irrigation questionnaire for Water Permit No. 4585-3
- "Notice of Transfer of Ownership" form for Water Permit No. 4585-3 (as we discussed, you have already paid the \$2.50 filing fee for the transfer – all we need to have you do is sign the form in the presence of a notary and return it to us)

The above items should be returned prior to the May, 2000 Water Management Board meeting.

It is my understanding that you also now own the land formerly held by the Robert Peterson Irrevocable Trust % Terry Kucera. I am enclosing the 1999 irrigation questionnaire and a "Notice of Transfer of Ownership" form for use in filing an ownership change with Water Permit No. 5990-3. A \$2.50 filing fee is required for filing the transfer. The check or money order for the fee can be made payable to the Water Rights Program. I am including a copy of No. 5990-3 in the event you do not have one.

As you requested, I am faxing all of this information to you today. I will also mail the materials to you at the above address. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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



No. 5990-3

Date: 3/27/00

I/We request that Water Permit No. 5990-3

formerly owned by: Robert L Peterson Irrevocable Trust % Terry Kucera

be transferred to: (name & address) JFR-INV-LTD, LLC % JOHN F. ROOST, 1 Edgewater Lane, Dakota Dunes
SD, 57049-5016 Telephone No. 605-232-8903

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

86 acres - NW 1/4 Section 26, T91N, R50W

I/We understand that the validity of Water Permit No. 5990-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

STATE OF SOUTH DAKOTA)
County of Union)

I/We JOHN F. ROOST 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.

John F. Roost, Mgr. Mgr.
(Signed)

Subscribed and sworn to before me this 28th day of March, 2000.



Christine Janssen
(Notary Public)
My commission expires 10-13-2004

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.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NE 416451

Pierre, _____ March 30, 2000

RECEIVED OF John F. Roost, P.O. Box 1877, North Sioux City, 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 _____		
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>Water Permit No. 5990-3</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By Harold Erbe
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 31, 2000

4585-3
5990-3

John F Roost
PO Box 1877
North Sioux City, SD 57049

Dear Mr. Roost:

Thank you for following up on the ownership changes for Water Permit Nos. 4585-3 and 5990-3. The transfers have been completed and the water permits are now listed in the name of JFR-INV-LTD, LLC % John F Roost.

Enclosed are your Receipt Nos. 414669 and 416451 in the amounts of \$2.50 each. You may keep these for your records.

If I can answer any questions for you, please get in touch with me.

Sincerely,

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

enclosures



5990-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUN 27 2008

6987-3

JFR-INV-LTD, LLC
c/o John Roost
PO Box 1877
North Sioux City SD 57049

Dear Mr. Roost:

Enclosed are Water Permit and License No. 6987-3. These are the final water right documents completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6987-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

Note: The applicable portions of No. 5990-3[✓] are incorporated into Water License No. 6987-3.

enclosures