

WATER PERMIT NO. 6019-3

Name of Applicant: **Mark Froning**

Address: **21927 471st Ave, Brookings SD 57006**

Phone: **605 693-4422**

Amount of Water Claimed: **0.355 cfs**

Total Acres: **NA**

Source of Water Supply: **groundwater**

Water to be used for: **commercial & domestic use**

County: **Brookings**

Type of Waste Disposal System: **septic tank & drainfield for home & office**

Location: **5 miles south of Brookings**

PRIORITY

Date Received: **8-11-1997**

Fee: **\$250.00**

Corrected Application Received:

Period of Annual Use: **January 1 - December 31**

Remarks: **Water is pumped from the well into a pond (gravel pit) for raising fish**

Diversion Point (well and gravel pit):

NE 1/4 NE 1/4 Sec 35-T109N-R50W

Land to be Irrigated: **NA**

Depth of Well: **25 feet deep**

Well Driller: **Lacey Well Drilling**

Remarks:

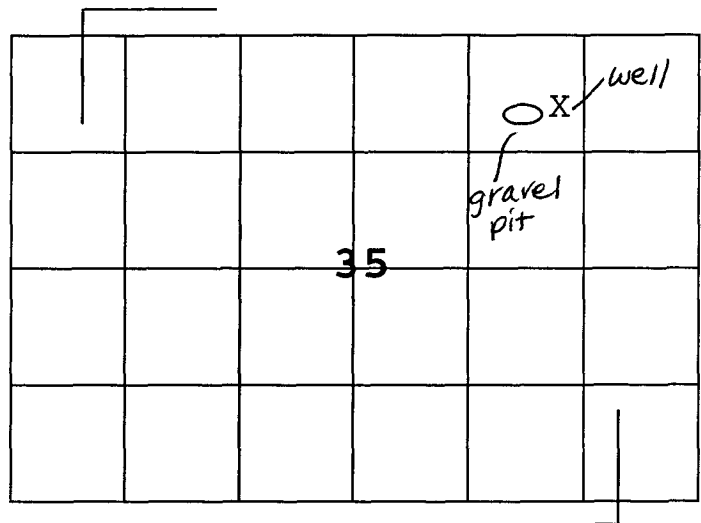
Type of Map: **aerial**

Prepared by: **Lois Buus, Brookings FSA**

Reviewed and the Number Assigned on: **8-11-97**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



SOUTH DAKOTA
WATER PERMIT NO. 6019-3

Date of first receipt of application August 11, 1997.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6019-3 to Mark Froning, dba Dakota Wholesale Bait, Inc., 21927 471st Ave, Brookings SD 57006 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. 6019-3 appropriates 0.355 cubic feet of water per second (160 gallons per minute) from one well (Big Sioux:Brookings Aquifer) 25 feet deep located in the NE 1/4 NE 1/4 Section 35-T109N-R50W. Water will be pumped from the well into a storage pond located in the NE 1/4 NE 1/4 Section 35-T109N-R50W.
2. The water appropriated shall be used for the purpose of supplying water for a fish raising (bait) operation and may not exceed the amount of water needed for beneficial use for domestic and commercial use.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date of approval of Permit No. 6019-3 is November 3, 1997.
5. The date from which applicant may claim right is August 11, 1997.
6. One-fifth of the construction is to be completed on or before May 3, 2000.
7. All construction is to be completed on or before November 3, 2002.
8. Water is to be put to beneficial use on or before November 3, 2006.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

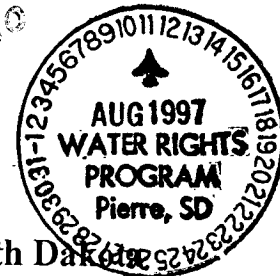
By: John Hatch
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

NOV 12 1997
date



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)
	No. <u>6019-3</u> Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u> Newspaper <u>Brookings Register, Brookings, SD</u>



Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal ☐ Suburban Housing ☐ Recreational ☐ Institutional
☐ Rural Water System ☒ Commercial ☒ Fish & Wildlife ☐ Geothermal Heat
☒ Domestic (over 18 gpm) ☐ Industrial ☐ Other

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____

- Name of Applicant MARK FRONING (dba) Dak. Whse. Bldg Inc. Phone 605-693-4422
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address 21927 471st Ave Brookings SD 57006
(Street, RR. or Box) (Zip Code)
- Amount of water claimed 0.355 *CFS or 160 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply well + gravel pit
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
Well NE 1/4, NE 1/4 Sec. 35-109-50
Gravel Pit (same as above) County Brookings
- County or counties where water will be used Brookings
- Annual period during which water is to be used Year around Jan 1 - Dec. 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

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

STATE OF SOUTH DAKOTA)

SS

County of BROOKINGS)

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

Signed Mark Froning

Subscribed and sworn to before me this 8th day of August, 19 97

Lain K. Blocker
Notary Public

Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 20" Depth 25'
b) Casing Type Plastic Diameter 8" Thickness 1/4"
c) Screen Type — Diameter — Thickness —
d) Gravel Pack Thickness — Length of Gravel Pack Test hole went to 39'
e) Depth to Top of Water Bearing Material 4'
f) Depth to Water (ground surface to water level) 7'
g) Distance to nearest existing domestic well:

On applicants property — On property owned by others 1/4 mi. *I talked to Lacey Well Drilling in TRENT, SD. He advised me that he sent the well completion report to Pierre - AND that they must have lost it.*

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) septic tank + drain field for home + office
b) System Capacity (gallons) 1000 c) Year Constructed 1985
d) Connected to the City of — Sanitary System.

3. Dugout Information

- a) Surface Dimensions 700 sq. ft. Depth 6'
b) Depth to water (ground surface to water level) 18"



4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to 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:

N/A

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 —

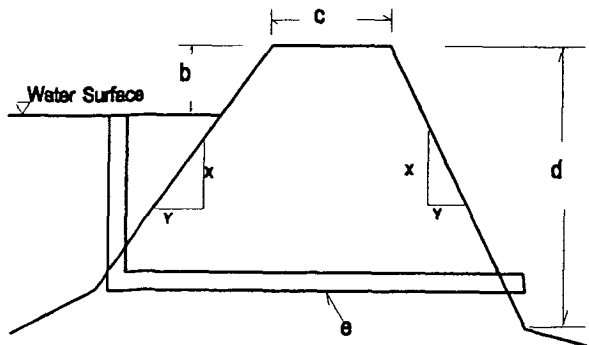
Upstream —

Downstream —

h) Surface Area of Impoundment —

i) Storage — Acre Feet

j) Drainage Area Above Dam — Acres

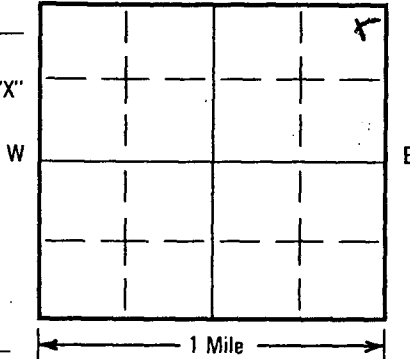


SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NE 1/4 NE 1/4 Sec 35 Twp 109-N Rg 50-W
County Brookings

Please mark well location with an "X"



Well Completion Date

1-22-01

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 1/4 mi. from River (identify source).

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☒ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

False casing - Bucket

CASING DATA:

☒ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>12" IN</u>	<u>+2 FT</u>	<u>35 FT</u>	<u>20" IN</u>
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>		lb./gal	<u>0</u> ft	<u>10'</u> ft
		lb./gal	ft	ft

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 12" IN Length 8' FEETMaterial Stainless SteelSlot Size .080 Set From 35 Feet to 43 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: Chlorine☐ NO, Why Not? W/ pack

Laboratory sent to for water quality analysis _____

Well Owner: MARK FRONING
 Business Name: Dakota Bait
 Address: 21927 471 Ave.
Brookings, SD 57006

WELL LOG:

DEPTH

FORMATION	FROM	TO
Black Topsoil	0	8
GRAVEL	8	32
Fine Sand	32	40
GRAVEL	40	50

STATIC WATER LEVEL 10' Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: 1/2" sand
☐ Bailed 4/4" PRESSURE
☐ Other _____

Pumping Level Below Land Surface

15' ft. After 2 Hrs. pumped 300 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

Good WellThis well was drilled under license # 111

And this report is true and accurate.

Drilling firm Lacey Well Drilling

Signature of License Representative:

John Redden Lacey

Signature of Well Owner or Equitable Property Holder:

Mark FroningDate: 8-23-01

FEB 1995

NOT TO SCALE 919

Transferred to
Moody Co.

Listed in
Moody Co.

109-50

35

T1588

4 25.4 NHEL

1 14.6 NHEL

T464

NHEL 11.9

2 well

pond
pumped

NHEL 21.1

CRP# 353
89-98

2A 34.0 NHEL

2B 14.0

I13

6019-3

Department of Environment & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, S.D. 57501-3181

Western Trust Company
P.O. Box 1052
Watertown, S.D. 57201

Gary G. Hoffman, Trustee
Phone: (605)874-2903

Attention: Ron Duvall

August 5, 1997

Dear Ron,

I am enclosing a copy of Water Right Permit NO. 2211-3 transferred to Western Trust Company, Gary G. Hoffman, Trustee on 4-19-95.

This Water Permit shows that the water is being pumped from a gravel pit some 3100 feet away from the center pivot. This is know as the Kellogg Gravel Pit and on the Deed Restriction as the north pond.

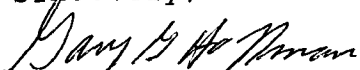
In recent court action in Brookings County for the right to use the gravel pit it was discovered that a well has been installed by Mark Froning, Dakota Wholesale Bait, Inc. As I understand there has been NO application for installing this well. Since my right to pump water has been there for many years and Mark Froning's Well has been installed only recently without a Well Permit and we are both competing for the same water I ask that if you issue him a Permit to Pump Water from his well that you make it subject to my right to pump water first.

I am enclosing a copy of the Deed Restriction on the Warrant Deed to Mark Froning from the Jorgenson's . I am also enclosing copies of the right to those restrictions Deeded to Western Trust Company, Gary G. Hoffman, Trustee.

Judge Steel, of the Brookings County Court has just issued a restraining order on Mark Froning allowing Western Trust Company, Gary G. Hoffman, Trustee to pump the water from the gravel pit located on his land as allowed by Permit NO. 2211-3.

If you have any questions you may contact me at my address listed above or call me at (605)874-2903.

Sincerely,


Western Trust Company
Gary G. Hoffman, Trustee

Enclosures



NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2211-3

Date: _____

I/We request that Water Right No. 2211-3

formerly owned by: Martin Jorgensen, Jr.

be transferred to: (name & address) Western Trust Company - Gary G. Hoffman, Trustee

P.O. Box 1052 - Watertown, SD 57201 (Telephone No) (605) 874-2903

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

164 acres in the SE 1/4 NW 1/4, S 1/2 NE 1/4, NE 1/4 SW 1/4, and the SE 1/4 Section 26, T109N, R50W

I/We understand that the validity of Water Right 2211-3 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 at the Division of Water Rights, as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)

County of Codington)

I/We Gary G. Hoffman 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.

Western Trust Company
Gary G. Hoffman Trustee
(Signed)

Subscribed and sworn to before me this 19th day of April, 19 95.

Comm. Expires:
Nov. 25, 1996

Patricia L. Yetter
(Notary Public) Patricia L. Yetter
State of South Dakota

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.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2211-3

(1) WHEREAS, On the 18th day of February, A. D. 19 75
Martin Jorgensen, Jr.
 made Water Right Application No. 2211-3 for a permit to use 3.3 cubic feet per second of the waters of a gravel pit
 County of Brookings, State of South Dakota, for Irrigation

purpose; and
 (2) WHEREAS, On the 20th day of March, A. D. 19 75
 Permit No. 2211-3, with a date of priority of February 18, 1975
 was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 30th day of March, A. D. 19 80 and for the application to beneficial use of said water on or before the 20th day of March, A. D. 19 83

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 2.33 cubic feet per second of water for beneficial use and,

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

to irrigate parts of the following lands in Section 26-T109N-R50W

Description	Acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$	3
SW $\frac{1}{4}$ NE $\frac{1}{4}$	36
SE $\frac{1}{4}$ NE $\frac{1}{4}$	28
NE $\frac{1}{4}$ SW $\frac{1}{4}$	7
NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
NE $\frac{1}{4}$ SE $\frac{1}{4}$	37
SW $\frac{1}{4}$ SE $\frac{1}{4}$	8
SE $\frac{1}{4}$ SE $\frac{1}{4}$	5
TOTAL	164

STATE OF SOUTH DAKOTA - BUREAU OF ADMINISTRATION - OFFICE OF RECORDS MANAGEMENT - CERTIFICATE OF AUTHENTICITY
 THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPHIC IMAGE APPEARING ON THIS SLIDE OF MICROFILM IS AN ACCURATE REPRODUCTION OF THE ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SOUTH DAKOTA COMPILATION LAW 1-27-4. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A MANNER AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROPHOTOGRAPHIC REPRODUCTIONS. REDUCTION 25:1 ROLL NO. 32 4-14-82
 DATE MICROFILMED
 OPERATOR

By virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and
to Jorgensen, Jr.

of Ideal SD

the holder and owner of said permit No. 2211-3 a water right, dating from February 13, 1975
to use of 2.23 cubic feet per second of the waters
of a gravel pit
in the County of Brookings and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinafter mentioned, to be diverted at a point 400 feet south and 700 feet west of the NE
corner, Section 35-T109N-R50W

and conduct to and upon portions of land in Section 26-T109N-R50W, more fully described
on the face of this License

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 2211-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 23rd day of January A. D.
Nineteen Hundred and Seventy-nine

WATER RIGHTS COMMISSION

By:

John Hatch
Chief Engineer, Executive Officer, JOHN HATCH

STATE OF SOUTH DAKOTA - BUREAU OF ADMINISTRATION - OFFICE OF RECORDS MANAGEMENT - CERTIFICATE OF AUTHENTICITY
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ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SOUTH DAKOTA COMPILATION
LAW 1-27-4. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A
AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROPHOTOGRAPHIC
REPRODUCTIONS. REDUCTION 25:1 ROL NO 32
DATE MICROFILMED 1-14-82
Diana Polunsky

Permit No. 2211-3

Water Division 3 Big Sioux River Water District

REPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by hinton
Jorgensen Jr. of Idéal, South Dakota 57541 holder
of Permit No. 2211-3, bearing date of priority of February 18, 1975
authorizing the diversion of 3.3 cu. ft. per second of the waters of Grand Pt.
for Irrigation purposes, in Brookings County.
I have to report on the condition of the same as follows:

The Water Use System consists of,

A. Works used to divert the water:
Motor - Gould Century Part # 6-323069-01, 100HP 3530 RPM
Pump - Berkeley, Model B5E DBM, Ser # 7575144, 3600 RPM
Pumping, 1000 gpm.

B. Works used to transport water to place of use,
3100 ft. 10" PVC. Underground Pipe

C. Works used to apply water to beneficial use.
Valley Water drive Center Pivot.

The system is in the following condition: Good.

The point of diversion is located 400 ft South and 700 ft West of the
NE corner of Section 35, T104N R50W

The works are capable of diverting and conveying to the place of use 2.23
cu. ft. per second of water which is to be used for Irrigation

Water has been put to beneficial use to the maximum extent as follows: All in Sec. 26, T104N R50W
SE 1/4 NW 1/4 - 3 Ac. SW 1/4 NE 1/4 - 26 Ac. SE 1/4 NE 1/4 - 18 Ac. NE 1/4 SW 1/4 - 7 Ac.
NW 1/4 SE 1/4 - 40 Ac. NE 1/4 SE 1/4 - 37 Ac. SW 1/4 SE 1/4 - 8 Ac. SE 1/4 SE 1/4 - 5 Ac.

comprising a total of 164 acres of land.

Date January 9 1974
L. R. Thompson
(Signature)

STATE OF SOUTH DAKOTA - BUREAU OF ADMINISTRATION - OFFICE OF RECORDS MANAGEMENT - CERTIFICATE OF AUTHENTICITY
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ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SOUTH DAKOTA COMPILERS
LAW 1-22-4. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A MANNER
AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROPHOTOGRAPHIC
REPRODUCTIONS. REDUCTION 25:1 RAL NO. 32 4-14-82
DATE MICROFILMED
Operator Alma Palank

JORGENSEN IRRIGATION

PROJECT #ONE

Martin Jorgensen Jr. - owner

Ideal, South Dakota 57541

Land Located in Brookings County

(see)

40

39

38

37

36

35

34

33

234

Water Claimed 3.3 cfs

Diversion Point is a gravel-pit located
in NE¹ or NE² of Section 35-109-50

Cross hatch indicates irrigated area

Surveyor's Certificate

I, John L. Wiersona, do hereby certify that
this represents a reasonably accurate
record of the land of:

Martin Jorgensen Jr.

Ideal, South Dakota Land in Brookings County

Drawn by: J.W.

Feb. 12, 1975

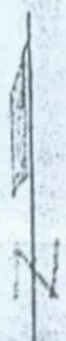
John L. Wiersona

P.E. #1910

Brookings, S. Dak.

MAP NO 1610-3 (APP NO 2211-3)

23/24
26/25



40 Acres
SW¹/₄ of NE¹/₄
Sec 26
T 109
R 60

35 Acres
SE¹/₄ of NE¹/₄

NE¹/₄ of SW¹/₄
Sioux River

40 Acres
NW¹/₄ of SE¹/₄

38 Acres
NE¹/₄ of SE¹/₄

Land to be I
SW¹/₄ of NE¹/₄
SE¹/₄ of NE¹/₄
NE¹/₄ of SW¹/₄
SE¹/₄ of SW¹/₄
NW¹/₄ of SE¹/₄
NE¹/₄ of SE¹/₄
SW¹/₄ of SE¹/₄
SE¹/₄ of SE¹/₄

1 Acre
3 Acres
SW¹/₄ of SE¹/₄

38 Acres
SE¹/₄ of SE¹/₄

26/25
35/36

Pump m^y Sta
Kellogg
Gravel Pit

700' N 82° W

Scale 8" = 1 Mile

STATE OF SOUTH DAKOTA, COUNTY OF BROOKINGS-SEN

4th DAY OF Aug 1987 AT 2:25 P.M. 109 Deeds

638-639

REGISTER OF DEEDS

WARRANTY DEED

MARY I. JORGENSEN and MARTIN F. JORGENSEN, her husband, State of SOUTH DAKOTA, for and in consideration of Ten Thousand dollars (\$10,000.00) GRANT, CONVEY AND WARRANT TO MARK FRONING and Grantee, of R.R 4 Box 255 Brookings, SD 57006, the following described real estate in the County of Brookings, in the State of South Dakota, to wit:

The Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$), including Outlot "A" thereof, but excluding Outlot "B" thereof, in Section Thirty-Five (35), Township One Hundred Nine (109) North, Range Fifty (50)

West of the 5th P.M., Brookings County, South Dakota,

subject to an Option Agreement dated July 31, 1982 and recorded in Book 101 of Miscellaneous on pages 599-600 with the Register of Deeds of Brookings County, and the Addendum to Option Agreement dated February 22, 1983 and recorded in Book 102 of Miscellaneous on pages 305-306 with the Register of Deeds of Brookings County,

AND;

Grantors do reserve unto themselves, their heirs, successors and assigns, and the owners of the South Half of the Northeast Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$); the Southeast Quarter (SE $\frac{1}{4}$); the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) and the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Twenty-Six (26) Township One Hundred Nine (109) North, Range Fifty (50) West of the 5th P.M., (hereinafter described as the dominant tenement) the right to pump and take water from the property conveyed to the Grantee herein for purposes of irrigation on the property referred to herein as the dominant tenement, as allowed by the water right permit held the Grantors and their heirs, successors and assigns, including the right to enter upon and onto the property conveyed to the Grantee (hereinafter referred to as the servient tenement) for such purpose, including the installation, repair and maintenance of pumps, water lines and other devices and equipment normally associated with irrigation;

Grantors agree that the easement created and reserved hereby shall be limited to the area of the servient tenement known as the "north pond" situated thereon, and that the Grantors will do no harm or injury to the servient tenement in the exercise of this easement.

TRANSFER FEE

PAID \$10.00

DAKOTA WHOLESALE BAIT, INC.

Mark Froning
605-693-4422

RR 4 Box 255
Brookings, SD 57006

OVER-

Dated this 21 day of July, 1987.

Mary I. Jorgensen

Martin F. Jorgensen

STATE OF SOUTH DAKOTA)

SS

COUNTY OF TRIPP)

On this the 21 day of July, 1987, before me Kim R. Varnema the undersigned officer, personally appeared Mary I. Jorgensen and Martin F. Jorgensen, known to me or satisfactorily proven to be the persons whose names were subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In Witness whereof I hereunto set my hand and official seal.

Kim R. Varnema

Notary Public

My commission expires 10-8-90



Donald M. Jorgensen, Martin F. Jorgensen^{Jr.} and Mary I. Jorgensen, Husband and Wife and Gregory Lee Jorgensen, a/k/a Greg Jorgensen, doing business as Jorgensen Bros.

470

grantor s., of Tripp County

County, State of South Dakota, for and in consideration of

One dollar and other good and valuable consideration (\$1.00) Dollars,

convey and quit claim to Western Trust Co., Gary G. Hoffman, Trustee, the

Box 1052

grantee, of Watertown, S.D. P. O. all interest in the following described real

estate in the County of Brookings in the State of South Dakota:

The Southeast One-Fourth (SE $\frac{1}{4}$) EXCEPT Lot H-1 thereof, and EXCEPT the Medary Monument site in the southeast corner thereof, and EXCEPT Jorgensen Addition and Block Three (3) of Vrchota Addition thereof; AND the East Half of the Southwest One-fourth (E $\frac{1}{2}$ SW $\frac{1}{4}$), EXCEPT Block Three (3) of Vrchota Addition thereof; AND the South Half of the Northeast One-fourth (S $\frac{1}{2}$ NE $\frac{1}{4}$); EXCEPT Lot H-1 thereof; AND the South Six Hundred Seventy Feet (S 670') of the East Two Hundred Eighty Feet (E 280') of the Northwest One-fourth (NW $\frac{1}{4}$); ALL IN Section Twenty-six (26), Township One Hundred Nine (109) North, Range Fifty (50) West of the 5th P.M., Brookings County, South Dakota;

AND any and all of the Grantors interest in a certain Deed Reservation accruing to the above described real property as reserved in Warranty Deed dated July 21, 1987, filed August 4, 1987 @ 2:25 P.M. and recorded in Book 109 of Deeds on pages 638-639; Reservation states: "Grantors do reserve unto themselves, their heirs, successors and assigns, and the owners of the South Half of the Northeast Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$); the Southeast Quarter (SE $\frac{1}{4}$); the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) and the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Twenty-six (26), Township One Hundred Nine (109) North, Range Fifty (50) West of the 5th P.M., (hereinafter described as the dominant tenement) the right to pump and take water from the property conveyed to Grantee herein (NE $\frac{1}{4}$ NE $\frac{1}{4}$ -including O.L. "A" but Excluding O.L. "B" in Section 35, T 109 N, R 50 W of 5th P.M. Brookings County, South Dakota) for the purposes of irrigation on property referred to herein as dominant tenement, as sitowed by water right permit held by Grantors and their heirs, successors

Dated this 28th day of March, 1996 ** Continued

Donald M. Jorgensen
Donald M. Jorgensen

Martin F. Jorgensen, Jr.
Martin F. Jorgensen, Jr. on back side of deed

Gregory Lee Jorgensen
Gregory Lee Jorgensen, a/k/a Greg Jorgensen

Mary I. Jorgensen
Mary I. Jorgensen

STATE OF SOUTH DAKOTA,
County of TRIPP ss.

This Deed corrects Warranty Deed dated April 7, 1995, filed April 17, 1995 @ 2:15 P.M. and recorded in Book 123 of Deeds on page 880.

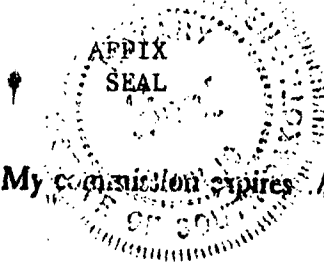
On this the 28th day of March, 1996, before me,

Brenda Jorgensen

Donald M. Jorgensen, Martin F. Jorgensen^{Jr.} and Mary I. Jorgensen, the undersigned officer, personally appeared Husband and Wife, and Gregory Lee Jorgensen, a/k/a Greg Jorgensen, known to me doing business as Jorgensen Bros.

or satisfactorily proven to be the person whose name s. are subscribed to the within instrument and acknowledged that t he y. executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Brenda Jorgensen

Notary Public - State of South Dakota

My commission expires 11-10-2000

Title of Officer

- OVER -

471
No. 133938

QUIT-CLAIM
DEED

TO

STATE OF SOUTH DAKOTA

County of Brookings ss.

OFFICE of REGISTER of DEEDS

Filed for record the 9th day of

April, 1996, at

3:40 o'clock and Minutes P.M.,

and recorded in Book 125 of Deeds

on page 490-491.

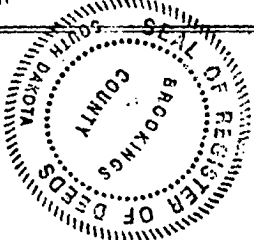
Register of Deeds

Deputy

Fees, \$ Charge

+ Return

1 Aerial Photo



** Continued Legal Description from front side of Deed

and assigns, including the right to enter upon on onto property conveyed to Grantee (hereinafter referred to as the servient tenement) for such purposes, including the installation, repair and maintenance of pumps, water lines and other devices and equipment normally associated with irrigation; Grantors agree that easement created and reserved hereby shall be limited to area of servient tenement known as the "north pond" situated thereon, and Grantors will do no harm or injury to servient tenement in exercise of this easement."

DONALD M. JORGENSEN, MARTIN F. JORGENSEN, JR.
and GREGORY LEE JORGENSEN, aka., GREG JORGENSEN,
doing business as JORGENSEN BROS.,

grantor S, of Tripp County,

State of South Dakota for and in consideration of One (\$1.00)

Dollar and other valuable consideration - - - - - DOLLARS

GRANT, CONVEY AND WARRANT, TO WESTERN TRUST CO., GARY G. HOFFMAN,
TRUSTEE,

grantee, of P. O. Box 1052, Watertown, South Dakota 57201 P. O. the following described
real estate in the County of Brookings in the State of South Dakota:

The Southeast One-fourth (SE $\frac{1}{4}$), except Lot H-1 thereof, and except the Medary Monument site in the southeast corner thereof, and except Jorgensen Addition and Block Three (3) of Vrchota Addition, thereof; and the East One-half (E $\frac{1}{2}$) of the Southwest One-fourth (SW $\frac{1}{4}$), except Block Three (3) of Vrchota Addition, thereof; and the South One-half (S $\frac{1}{2}$) of the Northeast One-fourth (NE $\frac{1}{4}$), except Lot H-1 thereof; and the South Six Hundred Seventy (S 670') Feet of the East Two Hundred Eighty (E 280') Feet of the Northwest One-fourth (NW $\frac{1}{4}$); All in Section Twenty-six (26), Township One Hundred Nine (109) North, Range Fifty (50) West of the 5th P. M., Brookings County, South Dakota.

REMARKS: The Grantors herein hereby certify that the above described property is not now nor has it ever been used by Grantors or their families as a homestead.

Transfer Fee: \$88.50

Dated this 7th day of April, 19 95

Prepared by ALAN F. GLOVER
DENHOLM, GLOVER & BRITZMAN LAW FIRM
418 Fourth Street - Box 0686
Brookings, South Dakota 57006
Telephone No. (605) 692-2111

x Brenda Jorgensen
x Donald M. Jorgensen
x Martin F. Jorgensen, Jr.

STATE OF SOUTH DAKOTA, }
County of Brookings } ss.

Filed for record this 17th day of

April, 19 95 at

2:15 o'clock P.M., and recorded in

Book 123 Page 880

G. M. Slocum
Register of Deeds.

By [Signature] Deputy.

FILED 5-7-95

STATE OF SOUTH DAKOTA, }
County of Tripp } ss.

On this the 7th day of April, 19 95, before

me, Brenda Jorgensen
the undersigned officer, personally appeared Donald M. Jorgensen, Martin F. Jorgensen, Jr. and Gregory Lee Jorgensen, aka., Greg Jorgensen,

known to me or satisfactorily proven to be the person S whose name S are subscribed to the within instrument and acknowledged that he y executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Brenda Jorgensen
Notary Public
My commission expires 11-12 2000



August 13, 1996

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

2554-3

Mark Froning
Dakota Wholesale Bait Inc
RR 4 Box 255
Brookings, SD 57006

Dear Mr. Froning:

Thank you for taking the time to visit with me regarding the status of Water Right No. 2554-3. You indicated during our telephone conversation that the land described in the water right (copy enclosed) was no longer being irrigated. A review of our past irrigation questionnaires reflects irrigation has not taken place for at least 10 years.

Under South Dakota water law, a permit holder must use the water at least once every three years (unless legal excuse exists) in order for the water permit or water right to remain valid. Based on our telephone conversation and review of our records, Water Right No. 2554-3 is subject to cancellation. Water Right No. 2554-3, will be scheduled for cancellation consideration at our next Water Management Board Meeting. You will be notified of the time, date and place of the hearing, once it is scheduled.

You also indicated that you use the dugout described in the water right to raise fish. It is my understanding that the well is used, or can be used if needed, to supply water to the dugout. Use of water for raising fish is a commercial use and will require a water permit. I am enclosing a set of water permit application forms for use in filing for a permit. If you have any questions concerning completion of the forms, please contact either Eric Gronlund or myself at (605) 773-3352.

Sincerely,

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

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

enclosures

RECEIPT

415437

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ August 11, 19 97

RECEIVED OF Dakota Wholesale Bait, Inc., 21927 - 471st Ave., Brookings, SD 57006
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>6617-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	250	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	250 00

By John Hatch 
Chief Engineer

REPORT ON WATER PERMIT APPLICATION NO. 6019-3
for Mark Froning dba Dakota Wholesale Bait, Inc.
September 4, 1997

Application No. 6019-3 proposes to appropriate 0.355 cfs (160 gpm) from one well approximately 25 feet deep located in the NE 1/4 NE 1/4 of Section 35, T109N-R50W in Brookings County. Water will be pumped from the well into a storage pond located in the NE 1/4 NE 1/4 of Section 35, T109N-R50W. The water is for domestic and commercial use in a fish raising (bait) operation.

AQUIFER - BIG SIOUX BROOKINGS (BS-B)

The Big Sioux Brookings is a surficial outwash (sand and gravel) which is under predominantly unconfined or water table conditions in this area. The aquifer is hydraulically connected to the Big Sioux River and ground water movement is probably toward the river. The aquifer underlies 540 square miles and contains an estimated 2 million acre feet of water in storage in Brookings and Kingsbury Counties (Hamilton, 1989). The Big Sioux River and area streams and lakes are discharge/recharge zones for the aquifer but normally they are discharge zones for water from the aquifer.

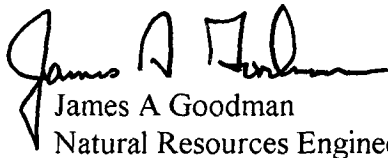
The Water Rights Program does monitor observation wells in this area. BG-20, BG-21 and BG-57H are all located within a one mile radius of this application. Water levels for these wells show good response to climatic conditions, that is, rising during wet years (recharge) and gradually declining during dry years. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1997). Hydrographs for these wells are included with this report.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There is an existing Water Right No. 2211-3 with a diversion point located in this immediate area. The actual diversion point for Water Right No. 2211-3 is from a gravel pit located about 700 feet south and 400 feet west of the northeast corner of Section 35. This location corresponds to the pit #5 on the permit application map filed with this application. This would mean the well for this application would be approximately 750 southeast of the licensed diversion point. The source of water for the gravel pits and the well are from the same aquifer. Interference is not expected to be a concern. Water is pumped to the gravel pit from the well for the purpose of raising bait fish which is basically circulating the water.

CONCLUSIONS

1. Water is available from the Big Sioux Brookings aquifer.
2. The aquifer is under water table conditions. Interference is not considered to be a concern.
3. The well for this application will simply be recycling the ground water from the aquifer to the pond which is hydraulically connected to the aquifer.
4. There is no well log submitted with this application. The well construction for this application can not be evaluated.
5. Water Right No. 2211-3 does have priority over this diversion. However, pumping from a pond (gravel pit) will require some maintenance. Gravel pits have a tendency to fill in with sediment or sand and gravel from the pit walls thus diminishing the depth of the pit. With the natural fluctuation of the ground water level of about nine feet the capacity of the pit to produce water may diminish over time.


James A Goodman
Natural Resources Engineer

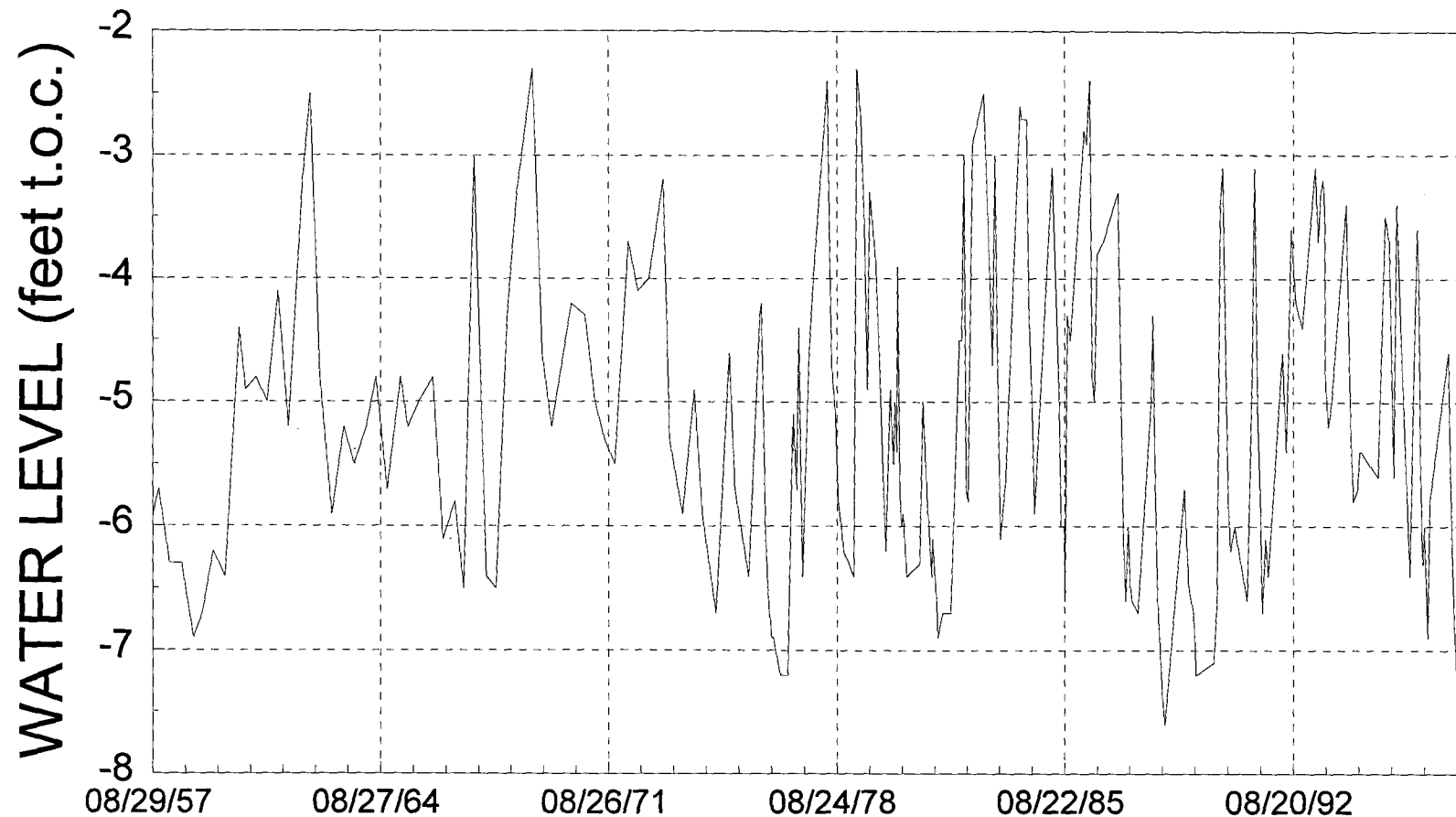
BIBLIOGRAPHY

Hamilton, L.J., 1989, Water Resources of Brookings and Kingsbury Counties, South Dakota, USGS, WRI 88-4185, USGS, Huron, SD, 57350.

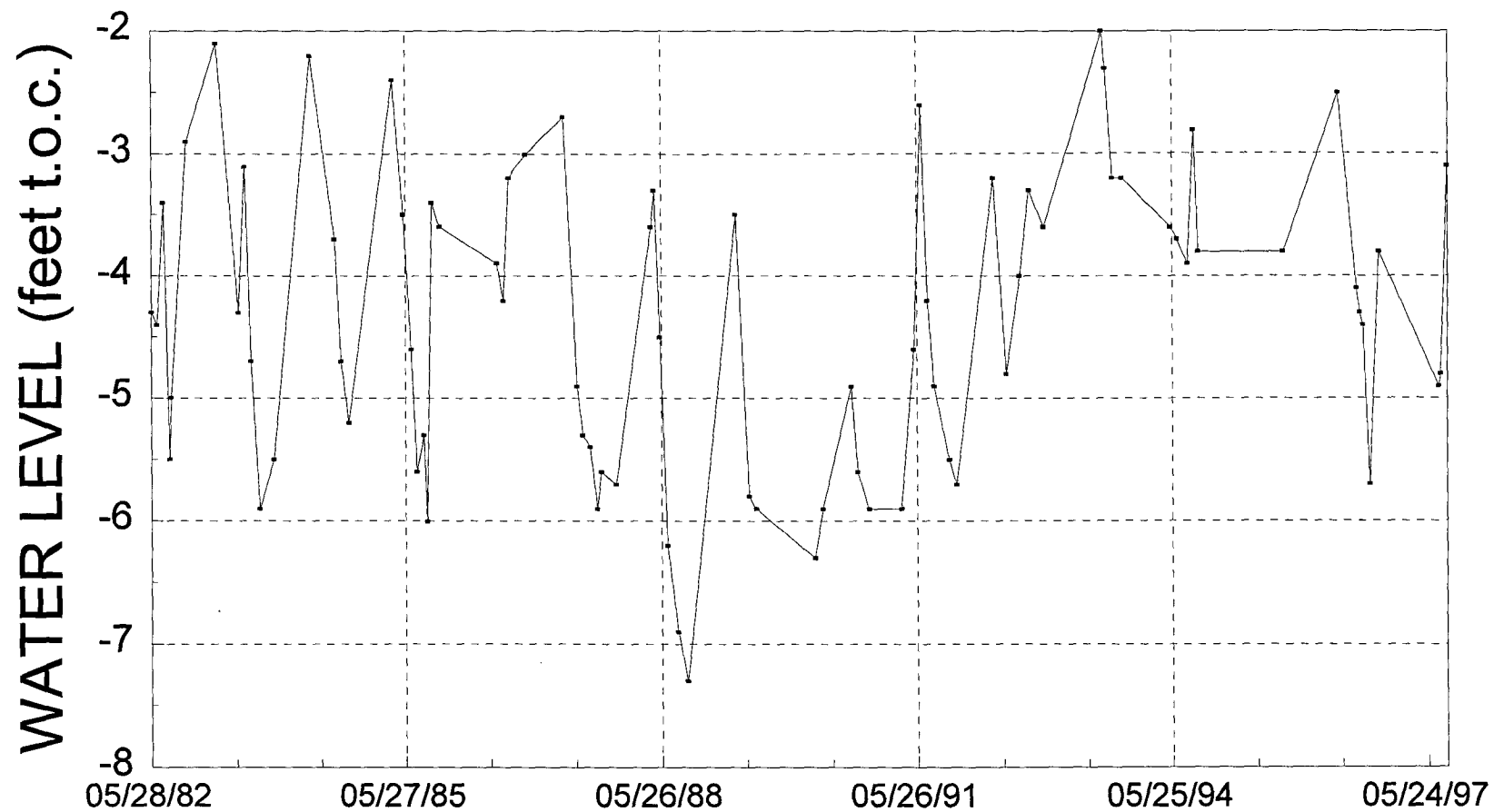
Water Rights, 1997, Unpublished Observation Well Data for Brookings County, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS OBSERVATION WELL

BG-57H

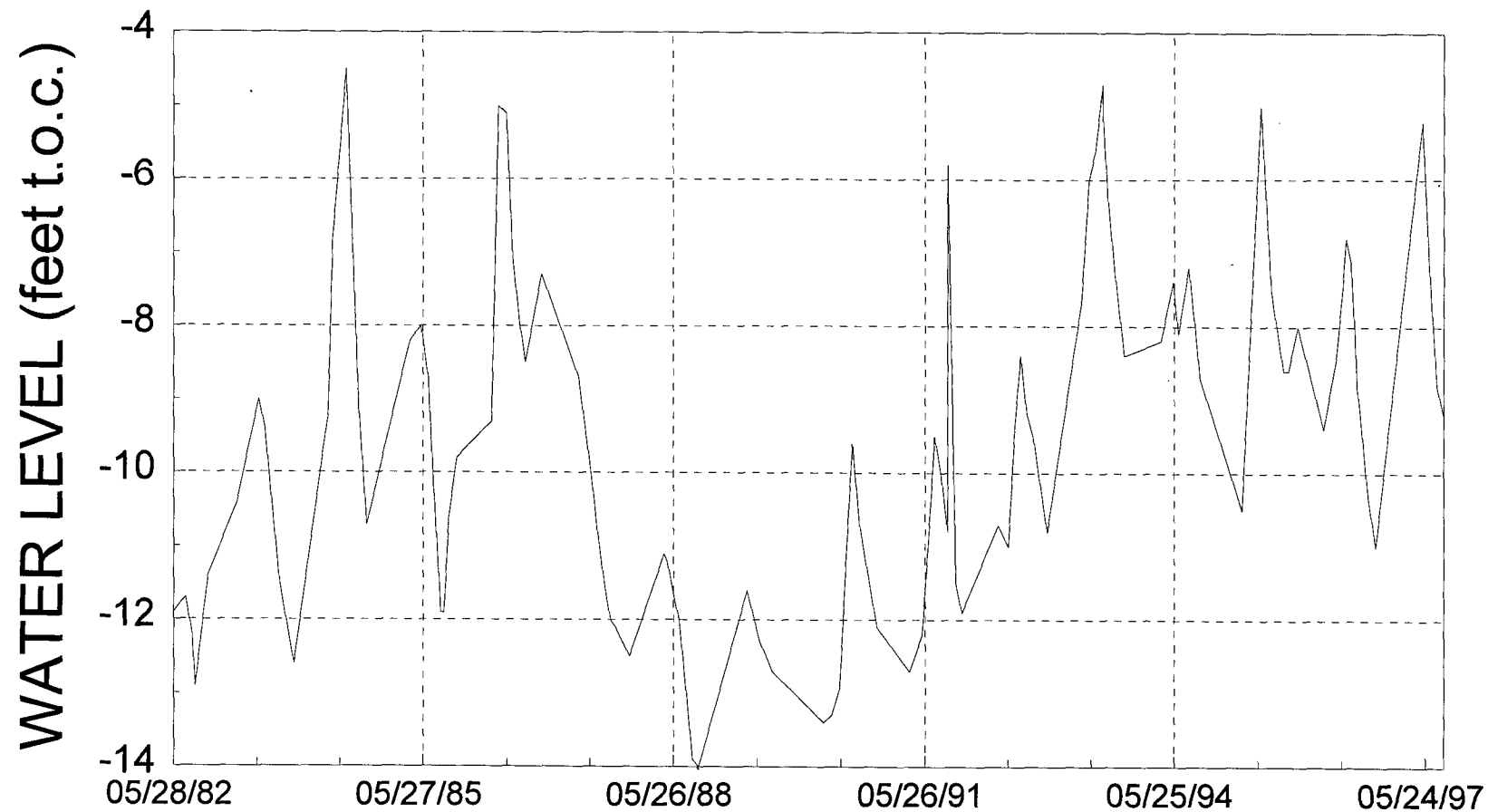


BG-#21



WATER RIGHTS OBSERVATION WELL

BG-#20

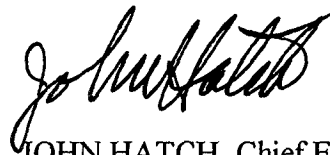


**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6019-3, Mark Froning**

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. 6019-3, Mark Froning, dba Dakota Wholesale Bait Inc., 21927 471st Ave., Brookings, SD 57006.

The Chief Engineer is recommending APPROVAL of Application No. 6019-3 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) it is in the public interest.

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
October 2, 1997



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 7, 1997

Gary Hoffman
Western Trust Company
P.O. Box 1052
Watertown, SD 57201

Dear Mr. Hoffman:

Enclosed is a copy of the Report, Recommendation and Notice of Publication for Water Permit Application No. 6019-3. This information is being sent to you because of the interest you have shown in the application.

If you have any questions, please feel free to contact me.

Sincerely,

Eric Gronlund
Natural Resources Engineer
Water Rights Program
(605) 773-3352

enclosures



**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.

October 7, 1997

Mark Froning
Dakota Wholesale Bait, Inc.
21927 471st Ave.
Brookings, SD 57006

Dear Mr. Froning:

Water Permit Application No. 6019-3 for commercial and domestic use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Brookings Register printed at Brookings, SD (Ph # (605) 692-6271). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 7, 1997

Brookings Register
P.O. Box 177
Brookings, SD 57006-0177

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 6019-3 to be published twice. Please publish the first notice on October 16, 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 Mark Froning, Dakota Wholesale Bait, Inc., 21927 471st Ave., Brookings, SD 57006 (Ph # (605) 693-4422).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on October 16, 1997, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6019-3 to Appropriate Water

Notice is given that Mark Froning, dba Dakota Wholesale Bait Inc., 21927 471st Ave, Brookings SD 57006 has filed an application for a water permit to appropriate 0.355 cubic feet of water per second (160 gallons per minute) from one well (Big Sioux:Brookings Aquifer) 25 feet deep located in the NE 1/4 NE 1/4 Section 35-T109N-R50W. Water will be pumped from the well into a storage pond located in the NE 1/4 NE 1/4 Section 35-T109N-R50W. The water is for domestic and commercial use in a fish raising (bait) operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6019-3 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 November 3, 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.

Form 8



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Brookings) SS

I, Nancy P Skyberg

certify that the attached printed Notice was taken
from the Brookings Register

printed and published in Brookings

County of Brookings and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

October 16, 1997

October 23, 1997

Cost of Printing thirty-seven
dollars even, \$37.00

Nancy P Skyberg
(Signature)

Legal Ad Coordinator
(Title)

Nancy P Skyberg 10-30-97
(Date Signed)

Legal 590, 2x, 10/16, 23
NOTICE OF APPLICATION NO. 6019-3 to Appropriate Water

Notice is given that Mark Froning, dba Dakota Wholesale Bait Inc., 21927 471st Ave, Brookings SD 57006 has filed an application for a water permit to appropriate 0.355 cubic feet of water per second (160 gallons per minute) from one well (Big Sioux-Brookings Aquifer) 25 feet deep located in the NE 1/4 NE 1/4 Section 35-T109N-R50W. Water will be pumped from the well into a storage pond located in the NE 1/4 NE 1/4 Section 35-T109N-R50W. The water is for domestic and commercial use in a fish raising (bait) operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6019-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is 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.

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(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 November 3, 1997.

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 12 1997

Mark Froning
dba Dakota Wholesale Bait, Inc.
21927 471st Ave.
Brookings, SD 57006

Dear Mr. Froning:

Enclosed is Water Permit No. 6019-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

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

enclosures

PLEASE NOTE: Certain changes may be made to your water permit 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 11/21/97

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

FROM: MARK FRONING, dba 21927 471st Ave
DAKOTA WISE BAIT INC. (address)
Brookings, SD 57006 605-693-4422
(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. 6019-3.

Water Permit No. 6019-3 states that the diversion system is to be constructed by NOV. 3, 2002, and that the water is put to beneficial use by
(date)

NOV. 3, 2006
(date)

The diversion system was completed on already in existence when permit was applied for,
(date)

Applying the water to beneficial use was completed on already in existence when the permit was applied for,
(date)

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

Mark Froning
(signature)

Permit No. 6019-3
Big Sioux River - Water District

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

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

I have this day, **June 28, 2001**, made a thorough examination of the water use system constructed by **Mark Froning** of **21927 471st Avenue, Brookings SD 57006** holder of Permit No. **6019-3**, bearing the priority of **August 11, 1997** authorizing the diversion of **0.355** cu. ft. per second of the waters of **ground water (Big Sioux - Brookings aquifer)** for **domestic and commercial** purposes, in **Brookings** County.

Inspection contact & relationship to permit holder, if applicable: **Mark Froning**

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: **Lacey**
- 2) No. of Wells **2**
- 3) Depth(s) **52 (new) & 22 (old)** feet
- 4) Well log is available **Y**

Casing:

- 1) Diameter **12 (new) & 8 (old)** inches
- 2) Length **52 (new) & 22 (old)** feet

Pump\Motor (old well):

- 1) Make **submersible**
- 2) Model **cd5w**
- 3) Size **ABS ½ hp**
- 4) Capacity **60** GPM

Motor (new well):

- 1) Make **Dayton**
- 2) Horsepower rating **3** hp

Pump (new well):

- 5) Make **centrifugal**
- 6) Capacity **100** GPM

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

- 1) Type **PVC**
- 2) Size **3** inches
- 3) Length **250** feet

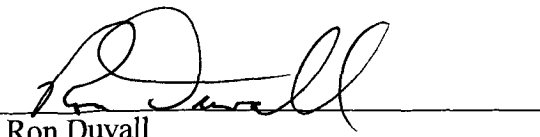
Water from the old well is used to fill trucks. Diversions from the new well supplies five fish rearing runs and overflows via pipeline to outdoor containment ponds. Walleye and Northern are hatched at site and several types of species are raised. Two homes are also supplied from the new well.

C. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by **no qualifications**
- 2) Exceptions to compliance are: **Developed a second well - see file documentation dated 8/17/2001.**

The system is in **good** condition with the point(s) of diversion located as follows: **Old well: ≈ 1,050 feet S and ≈ 300 feet W; New well: ≈ 1,000 feet S and ≈ 380 feet W; both from the NE corner section 35-T109N-R50W (both in NE¼NE¼).** The works are capable of diverting and conveying to the place of use **0.355** cu. ft. per second of water which is to be used for **domestic and commercial purposes**. Water has been put to beneficial use to the maximum extent and the license should be issued for **0.355** cfs.

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



Ron Duvall
 Natural Resources Engineer
 DENR, Water Rights Program

Date report completed: **August 17, 2001**

Approval of Location Change and/or Additional Diversion Point(s)

NAME: Mark Froning**ADDRESS:** 21927 471st Avenue, Brookings SD 57006**DATE:** August 17, 2001 **COUNTY:** Brookings **TELEPHONE:** 693-4422**AUTHORITY:**

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

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

Water Permit No. 6019-3 authorized construction of one well with a diversion rate of 0.355 cfs (160 gpm). An inspection found that a second well had been constructed in order to divert water at the permitted 160 gpm. Both wells are completed into the Big Sioux – Brookings aquifer and no additional water is being appropriated.

- **If irrigation, no new land is irrigated**

Not applicable – the wells are used for domestic and commercial purposes.

- **Review of Existing Diversions**

The nearest existing diversion is authorized by Water Right No. 2211-3 for 2.23 cfs (1,000 gpm) to irrigate 164 acres. The diversion point is from one of the ponds (North pond) that is used for fish rearing. Approximately 850 feet separate the irrigation diversion point from the new well on Mr. Froning's property. The pond and ground water source for the Froning wells is hydrologically-connected. There have been past disputes/lawsuits between the landowners regarding damages caused by pumping from the North pond to the irrigation system. The drawdown caused by the pumping allegedly affects the fish being reared in the pond. Use of the new Froning well should not increase the risk of adverse interference with diversions under No. 2211-3. Diversions from the well are circulated through five runs and then the water is discharged to the outdoor ponds. Use of the well may help mitigate irrigation diversions from the pond.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the additional diversion point be licensed as developed.



Ron Duvall, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This additional diversion point does not increase the potential for adverse effects to existing diversions.



Garland Erbele, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 20, 2001

6019-3

Mark Froning
21927 471st Ave
Brookings, SD 57006

Dear Mr. Froning:

On June 28, 2001, the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 6019-3, was completed by Ron Duvall, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

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

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

Sincerely,

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

416908

Pierre, August 29, 2001

RECEIVED OF Mark Froning, Dakota Wholesale Bait, Inc., 21927 471st Avenue, Brookings, SD 57006
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. 6019-3

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By Darland Erbe
Chief Engineer

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 24 2001

6019-3

Mark Froning
21927 471st Ave
Brookings, SD 57006

Dear Mr. Froning:

Enclosed is Water License No. 6019-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416908 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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. 6019-3, 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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6019-3

(1) Mark Froning, 21927 471st Ave, Brookings, SD 57006 (dba Dakota Wholesale Bait, Inc.) made Application No. 6019-3, August 11, 1997 for a water permit to divert 0.355 cubic feet of water per second (cfs) from ground water (one well – Big Sioux:Brookings Aquifer), Brookings County, South Dakota for commercial and domestic purposes. Permit No. 6019-3, with a priority date of August 11, 1997 was approved November 3, 1997 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before November 3, 2002 and for the application to beneficial use of said water on or before November 3, 2006.

The permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" that indicated the system was in existence prior to when the permit was applied for.

The investigation found the permit holder had developed an additional diversion point in order to divert up to the 0.355 cfs (160 gallons per minute) authorized under the water permit. The Chief Engineer made a finding pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that the additional diversion point does not increase the potential for adverse effects to existing diversions.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.355 cubic feet of water per second for beneficial use. The location of the diversion points are:

- **old well** - $\approx 1,050'S$ and $\approx 300'W$ of the NE corner of Section 35, T109N, R50W (NE $\frac{1}{4}$ NE $\frac{1}{4}$);
- **new well** - $\approx 1,000'S$ and $\approx 380'W$ of the NE corner of Section 35, T109N, R50W (NE $\frac{1}{4}$ NE $\frac{1}{4}$).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use for domestic and commercial purposes. Water from the old well is used to fill trucks. Water from the new well is used to supply two homes and is also used for supplying five fish rearing runs which overflow to an outdoor containment pond.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Mark Froning, 21927 471st Ave, Brookings, SD 57006 (dba Dakota Wholesale Bait, Inc) the holder and/or owner of Water Right No. 6019-3 is issued a license to appropriate water, the right to use 0.355 cubic feet of water per second from ground water (two wells – Big Sioux: Brookings Aquifer) with a priority date of August 11, 1997 from the locations specified in (2) of this license. The water is used for commercial and domestic purposes. This license is subject to any limitations or qualifications listed in Water Right No. 6019-3 and subject to South Dakota State Law.



Garland Erbele, Chief Engineer
Water Rights Program

Department of Environment and Natural Resources

SEP 24 2001

date



Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 6019-3, Mark Froning

ADDRESS: 21927 471st Ave, Brookings SD 57006 COUNTY: Brookings

DATE: May 27, 2003 TELEPHONE:

RE: Call from Mr. Froning

COMMENTS:

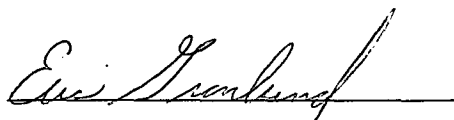
Mr. Froning called to discuss his water right for Dakota Wholesale Bait and the neighboring water right (No. 2211-3) held by Western Trust, Inc. (Gary Hoffman). They share a diversion from the one of the rearing ponds (Kellogg gravel pit) that Mr. Hoffman diverts from for irrigation and Mr. Froning puts well water into the ponds for the purpose of raising bait. Mr. Hoffman's water right has priority. There has been some controversy over diversions from the pond in the past including court action.

Mr. Froning stated that Mr. Hoffman has approached him about excavating another pond along the Big Sioux River. Then using water from Mr. Froning wells to supplement this pond which Mr. Hoffman would then use for irrigation of the lands under WR No. 2211-3 instead of relying solely on the Kellogg pit. This new pond would supposedly be right along the bank of the Big Sioux River and subject to receiving river flow during high flow periods. Mr. Froning wondered about the legality of doing this. He expressed that Mr. Hoffman wanted to do this without going through the water rights. I said that a water right is necessary to include another pond for irrigation and that his (Mr. Froning's) water right does not allow making diversions for irrigation.

Mr. Froning also expressed concern over use of fertilizer in farming practices. He thought someone should come out and look at the situation.

I talked to Ron Duvall who has recently visited with Mr. Hoffman. Mr. Hoffman has discussed his concept with Ron and is aware of the need to go through water right permitting. Mr. Hoffman has investigated putting in a well to supply his irrigation but the saturated thickness of the aquifer at that location is not sufficient to supply irrigation.

NAME:



300 0 300 Feet



South Dakota
Department of Environment
& Natural Resources
Water Rights

Ron Duvall, Nat. Res. Engineer
August 17, 2001

No. 6019-3

No. 6019-3

Water Rights Program - DENR Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 6019-3, Dakota Wholesale Bait

ADDRESS: COUNTY: Brookings

DATE: July 31, 2013 TELEPHONE:

RE: call from Dianna Froning

On July 30, Ms. Froning contacted Jeanne Goodman about the neighboring water right holder of Water Right No. 2211-3 and Permit No. 2211A-3 moving the pump to the dugout on their property for irrigation of the land in the E ½ Section 26, T109N, R50W. They are doing so because their own dugout has been pumped dry. She was concerned with the impact to their fish farming business authorized by Water Right No. 6019-3.

I reviewed the files and Jeanne Goodman and I contacted Ms. Froning back on July 31st. Water Right No. 2211-3 authorized from a gravel pit in the NE ¼ Section 35, T109N, R50W for irrigation of the property in Section 26. Water Permit No. 2211A-3 added an additional dugout completed in the Big Sioux:Brookings Aquifer. Here is what we told her:

1. The holder of Water Right No. 2211-3 and Permit No. 2211A-3 has priority over their water right.
2. There have been past disputes between parties about the use of gravel pit / dugout on the Froning property.
3. The record reflects that the warranty deed when they purchased the property included providing the holder of WR No. 2211-3 access and use of this water source.
4. Annual irrigation questionnaires indicate a diversion rate for irrigation of 800 gpm which is consistent with the requirement to operate a center pivot.
5. Ms. Froning expressed that the neighbor would over pump and how do we regulate and monitor. We answered through the irrigation questionnaires and observation wells. Also, general practice is not to irrigate more than the consumptive need of the crop.
6. Area observation wells show normal fluctuations. BG-#20 had a reading of 8.9 feet below ground surface on July 25, 2013. Over the period of record, fluctuations range from 4 to 14 feet below ground surface.

We informed her that Water Rights had no reason to take action regarding this neighboring water right. She indicated their source was no longer a gravel pit but a dugout which we viewed as a differing terminology since it is no longer operated as a gravel pit. Her concern was the permit holder dried up their own dugout and no will do the same to their water source. Also, the diversion

from this gravel pit/dugout impacts their other dugouts where they raise fish. I stated that these dugout are completed into top of the aquifer and as such the water level is not protected under water rights law. Further we monitor observation wells in the area that show fluctuations occur but do not appear to be significant to the aquifer.

We told Ms. Froning that there was not any action the Water Rights Program could take to protect their use of water in this instance. We encouraged her to talk with the irrigator to both their mutual benefit.

NAME: Eric Trunk