

WATER PERMIT NO. 6072-3

Name of Applicant: James Geary

Address: RR 1 Box 5, Elk Point SD 57025

Phone: 605 356-2938

Amount of Water Claimed: 2.0 cfs (900 gpm)

Total Acres: 90 acres

Source of Water Supply: groundwater

Water to be used for: irrigation County: Union

Type of Waste Disposal System: NA

Location: 3 miles south of Elk Point

PRIORITY Date Received: 4-9-1998

Fee: \$225

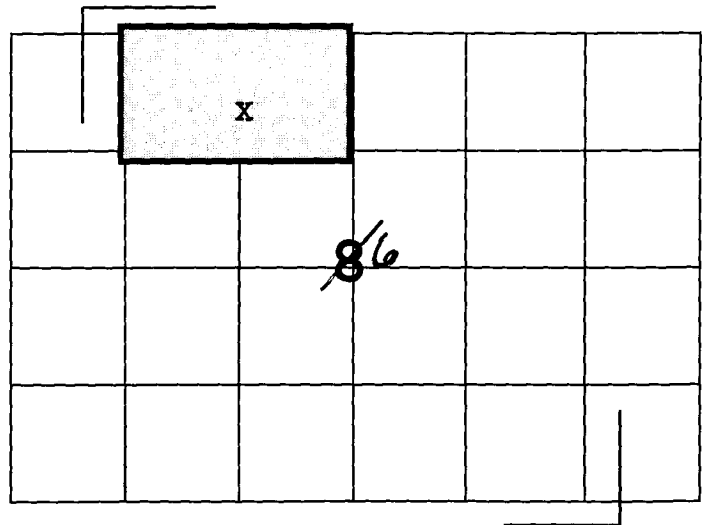
Corrected Application Received: 4-22-1998

Period of Annual Use: April 1- September 30

Remarks: Mr. Geary is requesting more water than statutory limit because he needs 900 gpm to operate his system.

Diversion Point: N ½ NW ¼ Sec 6-T90N-R49W

Land to be Irrigated: N ½ NW ¼ Sec 6-T90N-R49W



Depth of Well: 120 feet

Well Driller: Wetmore Drilling

Remarks:

Type of Map: aerial

Prepared by: Larry D Wilcox, Union Co FSA

Reviewed and the Number Assigned on: 4-22-1998

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 6072-3

Date of first receipt of application April 9, 1998.

Date of return to applicant for corrections, amendments or changes April 9, 1998.

Date of receipt of corrected application April 22, 1998.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6072-3 to James Geary, RR 1 Box 5, Elk Point SD 57025 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. 6072-3 appropriates 2.0 cubic feet of water per second (900 gallons per minute) from one well (Missouri:Elk Point Aquifer) 120 feet deep located in the N ½ NW ¼ Section 6 to irrigate 90 acres located in portions of NW ¼ Section 6; all in T90N-R49W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – September 30.
3. The date from which applicant may claim right is April 9, 1998.
4. The date of approval of Permit No. 6072-3 is June 22, 1998.
5. One-fifth of the construction is to be completed on or before December 22, 2000.
6. All construction is to be completed on or before June 22, 2003.
7. Water is to be put to beneficial use on or before June 22, 2007.
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. Pursuant to SDCL 46-5-6, Permit No. 6072-3 authorizes a maximum diversion rate of 2.0 cfs and 2 acre-feet of water per acre per year.
3. 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

SEP 4 1998

date



FORM 2: Application for irrigation in South Dakota
(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>6072-3</u>	Hydrologic Unit <u>10/70/01</u>
	Basin <u>Missouri River</u>	
	Newspaper <u>Leader Courier, Elk Point, SD</u>	



Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

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

1. Name of Applicant James Leary Phone 605 356 2938
 (check one) ☒ Owner ☐ Tenant/lessee
 Mailing Address R#1 Box 5 Elk Point SD State 57025
 (Street, RR. or Box) (Zip Code)

2. Amount of water claimed 2.0 *CFS or 900 **GPM 90 ac ***AF
 (*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Ground well

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 1 well
NW 1/4 of NW 1/4 Sec. 6 - T90N - R49W
 County Union

5. County or counties where water will be used Union

6. Annual period during which water is to be used April 1 through June 30 ~~May June July Aug Sept 30~~

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
 (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 of NW 1/4 of NW 1/4	45	NW 1/4 NW 1/4	45
SE 1/4 of NW 1/4 of NW 1/4	45	NE 1/4 NW 1/4	45

8. Give a description of the project. (Attach sheet if more space is needed)
To pump water to irrigate farm land with center pivot

STATE OF SOUTH DAKOTA)
 County of Union SS

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)

I, James Leary,
 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.

Subscribed and sworn to before me this _____

Signed James Leary
 7 day of April 19 98

Audrey L. Morse
 Notary Public

My Commission expires - 10-27-02



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 13, 1997

James Geary
RR 1 Box 95
Elk Point SD 57025

Dear Mr. Geary:

Forest Walter, with this office indicated he recently spoke with you concerning a South Dakota Water Well Completion Report. The report was for a well drilled by Wetmore Drilling in May, 1996 located in the NW 1/4 Section 6-T90N-R49W. A review of our files indicates that you have several irrigation permits but none for this particular well.

If you are using or intend to use this well for irrigation a water permit is required. Enclosed are the necessary forms and instruction sheet for applying for an *Application for a Permit to Appropriate Water for Irrigation*.

Mr. Geary, if you have any questions or need assistance in completing the application, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 9, 1998

James Geary
RR 1 Box 5
Elk Point SD 57025

Dear Mr. Geary:

Thank you for submitting your *Application for a Permit to Appropriate Water for Irrigation*.
Enclosed is the aerial photo submitted with the application. On the aerial photo, please outline the 90 acres to be irrigated.

Under state statutes you are allowed 1 cubic feet of water per second (cfs) (450 gallons per minute) for each 70 acres irrigated. This would mean that you are allowed 1.28 cfs (575 gpm) for the 90 acres to be irrigated. The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires. Your application requests 900 gpm. Is this the amount of water necessary to operate your proposed irrigation system?

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosure

T-696

T-766

NHEL

UNION COUNTY FSA OFFICE
Post Office Box 460
ELK POINT, SOUTH DAKOTA 57025-0460
Harry D. Wilcox, CED

NHEL

177.2

4 well

T-663

NHEL

193.8

1161.0 Irrigated

2

90-49 T-676

T-665 90-49

NHEL

1109.5

NHEL

271.8

T-733

NHEL

NHEL

1104.4

90-49

1142.8

90-49 6072-3

4-20-98

Karen,

IT takes 900 gallons
of water to Run the
irrigation system.

Jim Seary
Rt 1 Box 5
Elk Point SD

57025

Map Enclosed
90 acres Marked
in Red



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

42 415731

Pierre, April 9, 19 98

RECEIVED OF James or Lititia Geary, RR 1, Box 5, Elk Point, SD 57025
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>6072-3</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 _____
Chief Engineer

John Hatch

REPORT ON WATER PERMIT APPLICATION NO. 6072-3

for James Geary

May 20, 1998

Application No. 6072-3 proposes to appropriate 2.0 cfs (900 gpm) from one well approximately 120 feet deep located in the N 1/2 NW 1/4 of Section 6 to irrigate 90 acres located in the N 1/2 NW 1/4 of Section 6; all in T90N-R49W in Union County.

AQUIFER - MISSOURI ELK POINT (M-EP)

The Missouri Elk Point is an alluvium mantled outwash (sand and gravel) in this area. The aquifer is under water table conditions in the area of this application. The Missouri Elk Point (or Missouri aquifer in Niehus Report) underlies 180 square miles and contains an estimated 1.5 million acre feet of water in storage in Union County (Niehus, 1994). The aquifer is areally extensive into Clay County to the west, and is hydraulically connected to the Lower Vermillion Missouri aquifer to the west and north, the Big Sioux South aquifer to the north, and to the Big Sioux and Missouri Rivers. A Well Completion Report filed with the application indicates topsoil and yellow clay from the surface to 16 feet, fine sand from 16 feet to 52 feet, and sand and gravel from 52 feet to 120 feet all below ground surface. The well had a static water level of 19 feet below land surface and was capable of producing 900 gpm with a pumping level of 34 feet below land surface. This results in a specific capacity of 60 gpm/ft of drawdown. The well as built is in accordance with SD Well Construction Standards.

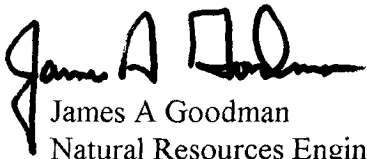
The Water Rights Program monitors four observation wells within a two mile radius of this application. Water levels for these wells show good response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. In general, the water level record indicates that the aquifer is capable of sustaining additional withdrawals. Hydrographs for observation wells, UN-78A and UN-80E, are included in this report.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

The land area to the north and east of this application is intensely irrigated. There is no irrigation to the south and west of this application for about one and one-half miles. There are two irrigation wells within a one-half mile radius of this well. Interference is not a concern. Significant drawdown created by pumping does not extend very far from production wells. The observation well hydrographs illustrate the limited effects of pumping upon the aquifer.

CONCLUSIONS

1. Water is available from the Missouri Elk Point aquifer.
2. The aquifer is under water table conditions. Drawdown created by pumping is not significant and interference is not expected to be a concern.
3. The well for this application has been constructed in accordance with SD Well Construction Standards.
4. The applicant requests a greater diversion rate than the statute allows. Because a center pivot will be used to irrigate 90 acres and the pivot requires 900 gpm to operate this request is reasonable. The pivot will not be making a complete circle but still requires the 900 gpm to operate. The application will still be limited to applying a maximum volume of two acre feet per acre.



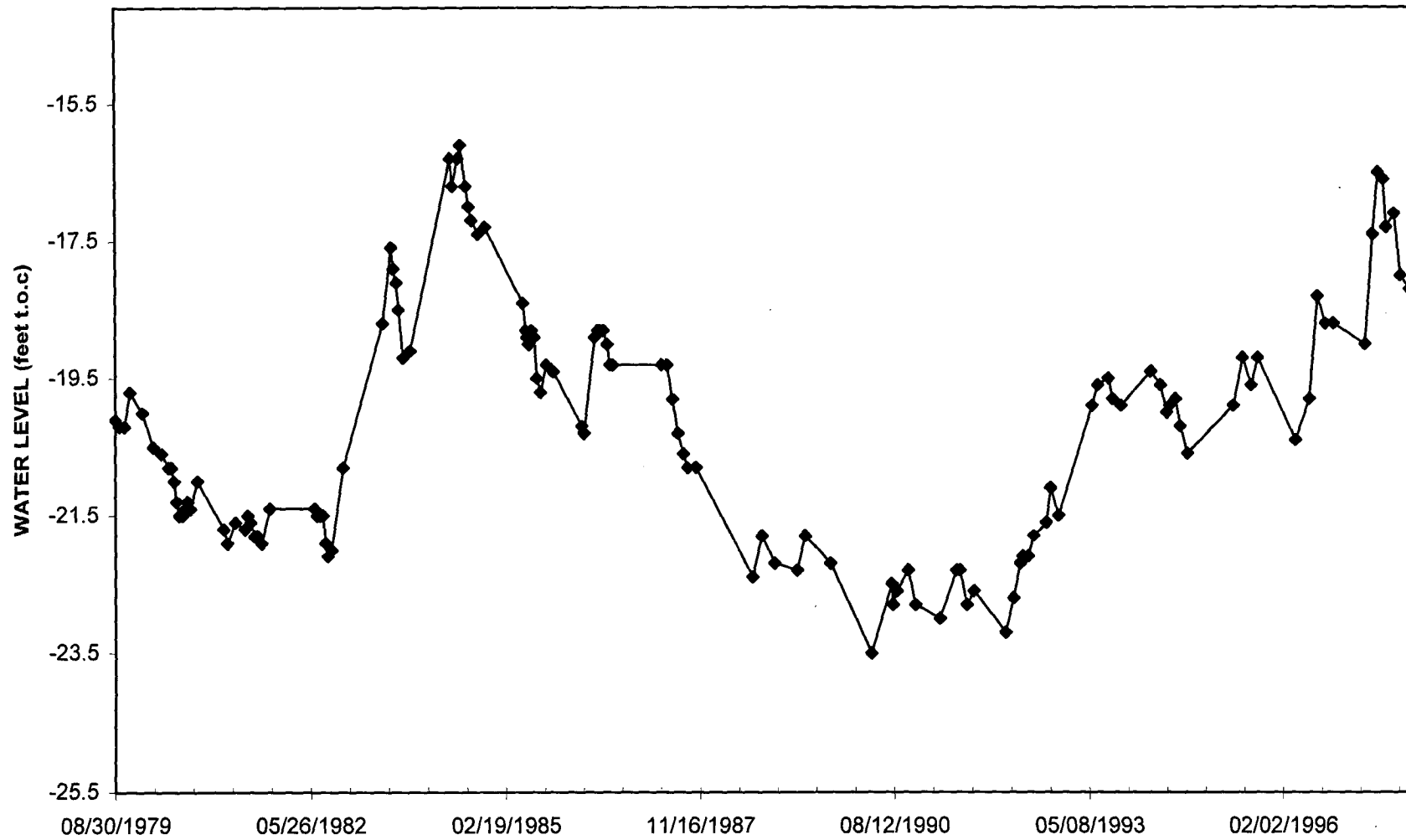
James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

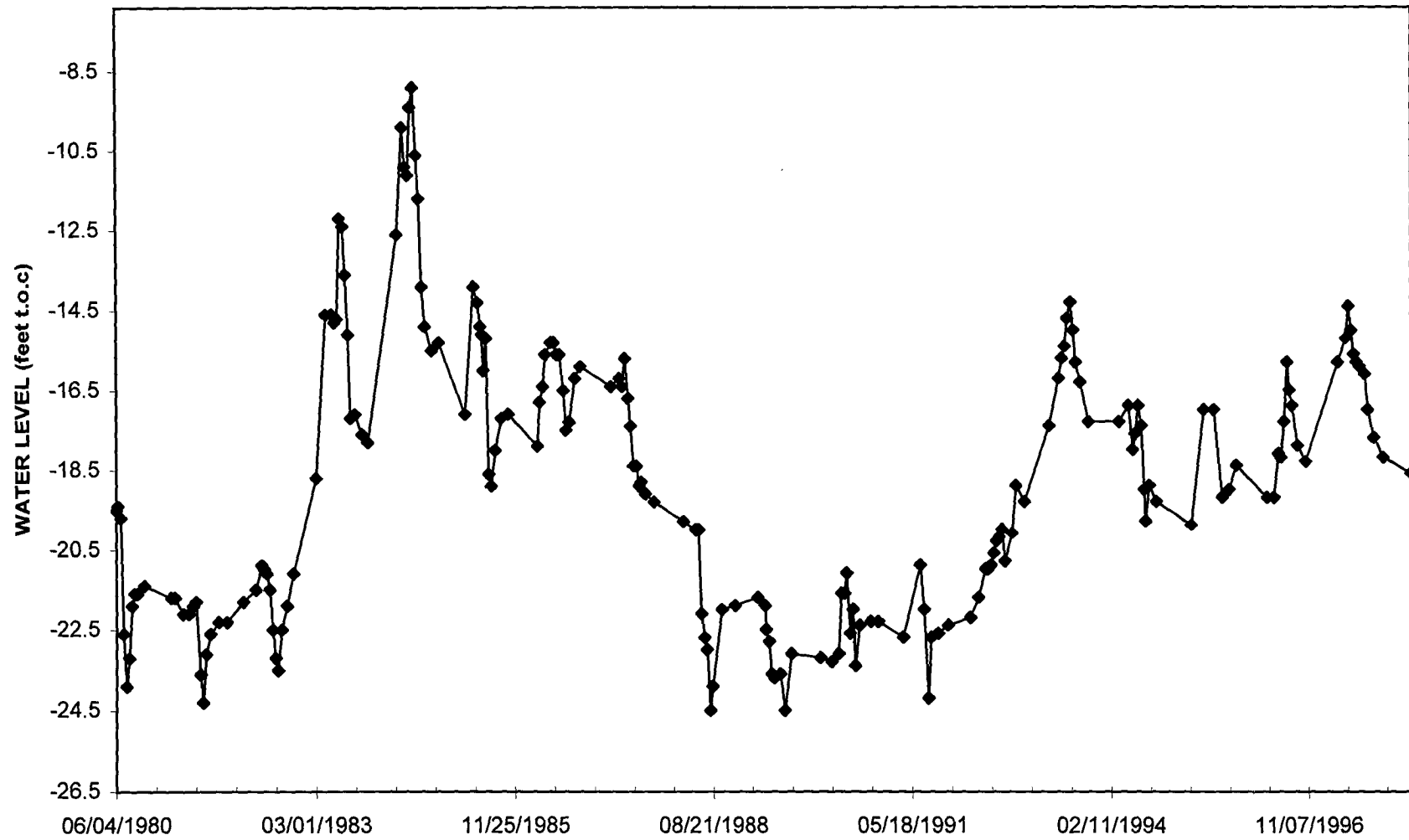
Niehus C.A., 1994, Water Resources of Lincoln and Union Counties, South Dakota, Water-Resources Investigations Report 93-4195, USGS, Rapid City, SD, 57702.

Water Rights, 1998, Unpublished Observation Well Data for Union County, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

**WATER RIGHTS' OBSERVATION WELL
UN-78A**



**WATER RIGHTS' OBSERVATION WELL
UN-80E**



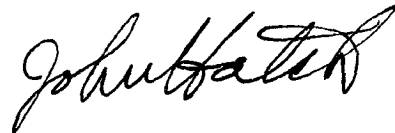
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6072-3, James Geary**

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. 6072-3, James Geary, RR 1 Box 5, Elk Point, SD 57025.

The Chief Engineer is recommending APPROVAL of Application No. 6072-3 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 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. Pursuant to SDCL 46-5-6, Permit No. 6072-3 authorizes a maximum diversion rate of 2.0 cfs and 2 acre-feet of water per acre per year.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", with a stylized, cursive script.

JOHN HATCH, Chief Engineer
May 27, 1998



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

May 28, 1998

James Geary
RR 1, Box 5
Elk Point, SD 57025

Dear Mr. Geary:

Water Permit Application No. 6072-3 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 Leader Courier printed at Elk Point, SD (Ph # (605) 356-2632). 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
www.state.sd.us/denr

May 28, 1998

Leader Courier
Box 310
Elk Point, SD 57025-0310

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 6072-3 to Appropriate Water to be published twice. Please publish the first notice on June 4, 1998, 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 James Geary, RR 1, Box 5, Elk Point, SD 57025 (Ph # (605) 356-2938).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 6072-3

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

Date _____

We are in receipt of your letter of May 28, 1998, enclosing Notice of Hearing to Appropriate Water by Application No. 6072-3 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 June 4, 1998, with the second publication 7 days later. The applicant is responsible for payment.

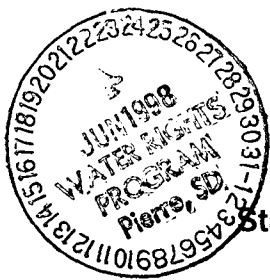
NOTICE OF APPLICATION NO. 6072-3 to Appropriate Water

Notice is given that James Geary, RR 1 Box 5, Elk Point SD 57025 has filed an application for a water permit to appropriate 2.0 cubic feet of water per second (900 gallons per minute) from one well (Missouri:Elk Point Aquifer) 120 feet deep located in the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6 to irrigate 90 acres located in portions of the NW $\frac{1}{4}$ section 6; all in T90N-R49W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6072-3 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 22, 1998.

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

being first duly sworn, deposes and says: That he/she is a resident of the county of Union and State of South Dakota; that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, in said County and State, 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 No. 6072-3

James Geary

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 4 day of June 19 98, and that the succeeding publications were

on Thursday, the 11 day of June, 19 98

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 \$37.36, 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 11 day of June 19 98

My commission expires 3-22-04

[Signature]

Notary Public

NOTICE OF APPLICATION NO. 6072-3 TO APPROPRIATE WATER

Notice is given that James Geary, RR 1 Box 5, Elk Point, SD 57025 has filed an application for a water permit to appropriate 2.0 cubic feet of water per second (900 gallons per minute) from one well (Missouri: Elk Point Aquifer) 120 feet deep located in the N1/2NW1/4 Section 6 to irrigate 90 acres located in portions of the NW1/4 Section 6; all in T90N-R49W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6072-3 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 22, 1998.

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 June 4 and 11, 1998
47-3-65

37.36



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 No. 6072-3

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 4 day of June 1998, and that the succeeding publications were

on Thursday, the 11 day of June, 1998

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 \$ 37.31, 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 29 day of June 1998

My commission expires 3-22-04

[Signature]

Notary Public

NOTICE OF APPLICATION NO. 6072-3 TO APPROPRIATE WATER

Notice is given that James Geary, RR 1 Box 5, Elk Point, SD 57025 has filed an application for a water permit to appropriate 2.0 cubic feet of water per second (900 gallons per minute) from one well (Missouri: Elk Point Aquifer) 120 feet deep located in the N1/2NW1/4 Section 6 to irrigate 90 acres located in portions of the NW1/4 Section 6; all in T90N-R49W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6072-3 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 22, 1998.

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 June 4 and 11, 1998

47-3-65

37.31



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 4 1998

James Geary
RR 1, Box 5
Elk Point, SD 57025

Dear Mr. Geary:

Enclosed is Water Permit No. 6072-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes 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

9-5-98

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

FROM:

James Seary

(name)

47643 3275T

(address)

Elk Point

(city)

SD

(state)

57025

(zip)

605-356 2938

(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. 6072-3.

Water Permit No. 6072-3 states that the diversion system is to be constructed by

6-22-2003, and that the water is put to beneficial use by

(date)

6-22-2007

(date)

The diversion system was completed on 6-15-1998

(date)

Applying the water to beneficial use was completed on 6-20-1998

(date)

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

James Seary

(signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 10, 1999

5870-3 and 6072-3

James Geary
47643 327th St
Elk Point SD 57025

Dear Mr. Geary:

The investigation of your water use system was conducted on August 11, 1999 by Eric Gronlund, staff engineer, included the extent of application of water to beneficial use, as developed under Water Permit Nos. 5870-3 and 6072-3. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of each Water License. Upon receipt of \$100.00 fee from you, we will begin processing the Water Licenses.

Also, enclosed is Form 10 *Notice of Completion of Works and Application of Water to Beneficial Use* which needs to be completed for Permit No. 5870-3. Please complete the form, sign and return with the fee.

Please remit fee to:

**Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Karen Schlaak
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.



6072-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 14, 2000

NOTICE

TO: JAMES GEARY, 47643 327 ST, ELK POINT, SD 57025
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1999 Irrigation Questionnaires

Our records indicate that the 1999 Irrigation Questionnaires have not been submitted for Permit Nos. 5870-3 & 6072-3, 2345-3 & 2346-3. The request for the Questionnaires was dated October 7, 1999. The Water Management Board has directed that owners of water permits who have not submitted the 1999 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2345-3 & 2346-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5870-3 & 6072-3 qualification:

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

The hearing will be held at 1:30 pm, March 1, 2000 in Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5870-3 & 6072-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2345-3 & 2346-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office on/or before February 28, 2000, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (605) 773-3352.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 20, 2000

James Geary
47643 327th St
Elk Point, SD 57025

RE: Water Permit/Right Nos. 2345-3, 2346-3, 5870-3 and 6072-3

Dear Mr. Geary:

I am writing to acknowledge receipt of your 1999 irrigation questionnaires. You may disregard the January 14, 2000, "Notice" concerning reporting requirements for Water Permit/Right Nos. 2345-3, 2346-3, 5870-3 and 6072-3.

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

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 25, 2000

5870-3
6072-3

REMINDER NOTICE

TO: James Geary, 47643 327th St, Elk Point, SD 57025

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

SUBJECT: Water License/Investigation Fee Requirement

On November 10, 1999, we advised you that a \$100.00 fee was due for the completed investigation of Water Permit Nos. 5870-3 and 6072-3. The fee also covers issuance of the water licenses which are the final documents in obtaining and perfecting your water rights.

To date, we have not received the \$100.00 fee; therefore, we can not issue the water licenses. 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 any permit requirements.

A "Notice of Completion of Works and Application of Water to Beneficial Use" is also required to complete the file for Water Permit No. 5870-3. Enclosed is a partially completed form. Please complete the remainder of the form, sign it and return it along with the fee.

Please remit the fee as soon as possible to obtain your water license. In addition, South Dakota water law does not allow water to be diverted until the license fee is paid. To avoid jeopardizing your ability to use water, please send the fee to the following address:

Department of Environment and Natural Resources
Water Rights Program
523 E Capitol
Pierre SD 57501-3181

Thank you for your prompt response. If you have any questions or believe our records are in error, please contact Genny McMath at (605) 773-3352.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N~~2~~ 416413

Pierre, March 3, 2000

RECEIVED OF James Geary, 47643 327th St., Elk Point, SD 57025
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. 6072-3

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

50 00

By

Chief Engineer

Harland Erbele

Permit No. 6072-3
Missouri 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, August 11, 1999, made a thorough examination of the water use system constructed by James Geary of RR 1 Box 5, Elk Point SD 57025 holder of Permit No. 6072-3, bearing the priority of April 9, 1998 authorizing the diversion of 2.0 cu. ft. per second of the waters of Missouri Elk Point Aquifer for irrigation purposes, in Union County.

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

A. Works used to divert the water:

**40 HP US Motor
Ingersoll Dresser Model 12B**

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

Well is within 25 yards of pivot point

C. Works used to apply water to beneficial use:

A 7 tower Reinke center pivot

The system is in the following condition **good**. The point of diversion is located approximately 1,320 feet south and 1,280 feet west of the N ¼ corner (NE ¼ NW ¼) of Section 6, T90N, R49W. The works are capable of diverting and conveying to the place of use 2.0 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:

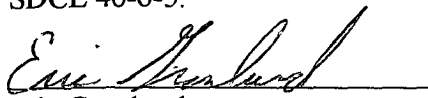
NW ¼ NW ¼ Section 6, T90N, R49W	37 acres
NE ¼ NW ¼ Section 6, T90N, R49W	37 acres

comprising a total of 74 acres of land and the license should be issued for 2.0 cfs.*

Applicable permit qualifications have been complied with: Yes X

Exceptions to compliance are: none Date Report Completed: November 4, 1999

* qualification allowed a diversion rate greater than 1 cfs per 70 acres based on the authority of SDCL 46-6-5.


Eric Gronlund
Natural Resources Engineer
DENR, Water Rights Program

FIELD INVESTIGATION REPORT FOR PERMIT NO. 6072-3, James Geary

DATE OF INVESTIGATION:	August 11, 1999
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	Robert Geary -- son RR 1 Box 95 Elk Point SD 57025
NAME & ADDRESS OF PERMIT HOLDER	James Geary RR 1 Box 5 Elk Point SD 57025
DIVERSION POINT LEGAL LOCATION	<u>approximately 1,320 feet south and 1,280 feet west of the N ¼ corner (NE ¼ NW ¼) of Section 6, T90N, R49W</u>

WATER SUPPLY

Source: Missouri Elk Point Aquifer

Well Information:

- | | |
|---------------------------------------|-------------------------------------|
| 1) Well Drilling Firm: <u>Wetmore</u> | 2) No. of Wells <u>one</u> |
| 3) Depth(s) <u>120</u> feet | 4) Well log is available <u>yes</u> |

Casing:

- | | |
|------------------------------|--------------------------|
| 1) Diameter <u>16</u> inches | 2) Length <u>80</u> feet |
| 3) Type <u>PVC Sch 40</u> | |

Screen:

- | | |
|--------------------------------------|--------------------------|
| 1) Type <u>PVC</u> | 2) Length <u>40</u> feet |
| 3) Static water level <u>19</u> feet | |

Pump:

- | | |
|----------------------------------|---|
| 1) Make <u>Ingersoll Dresser</u> | 2) Model <u>12B – Serial No. 9604N69832</u> |
| 3) Size # | 4) Capacity <u>900</u> GPM |

Motor:

- | | |
|-------------------------|--|
| 1) Make <u>US Motor</u> | 2) Model No. 3) Horsepower rating <u>40</u> hp |
|-------------------------|--|

DISTRIBUTION LINES OR CANALS:

- 1) Type steel pipe goes from well to pivot 2) Size ? inches 3) Length approx. 75 feet

SYSTEM TYPE:

Center pivot:

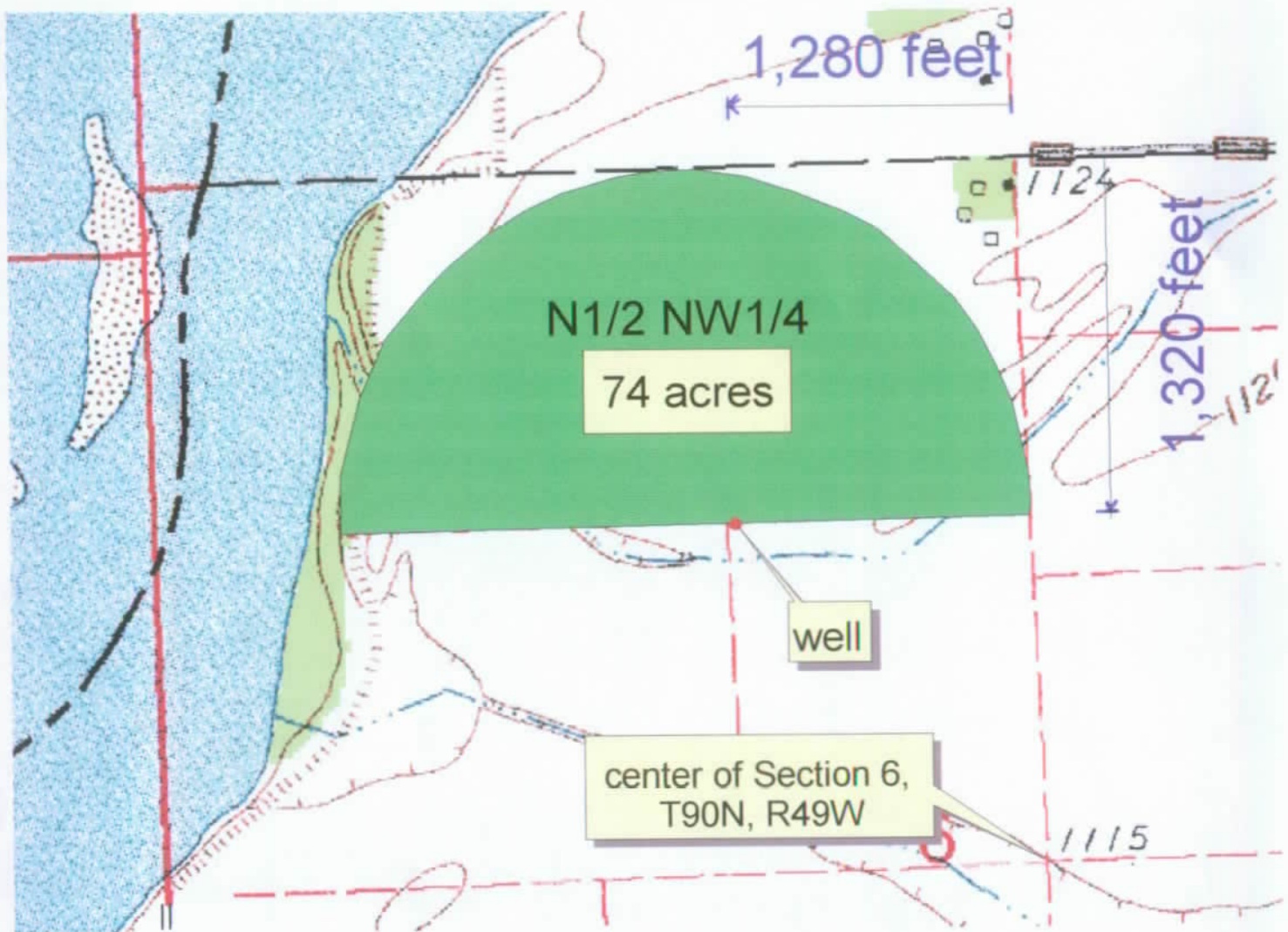
- | | |
|-------------------------------------|------------------------------------|
| 1) Make <u>Reinke</u> | 2) Overall length <u>1346</u> feet |
| 3) Number of towers <u>7</u> | 4) End gun <u>yes</u> |
| 5) High or low pressure <u>high</u> | 6) Capacity <u>900</u> GPM |

CHEMIGATION EQUIPMENT:

- 1) Does chemigate NO

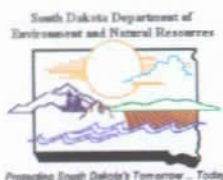
PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Construction period is not up but system was operating at time of licensing investigation



1000 0 1000 2000 Feet

Well Location - approximately 1,280 feet east and
1,320 feet south of N 1/4 of
Section 6, T90N, R49W



Eric Gronlund

Eric Gronlund
Water Rights Program
Licensing Investigation
Conducted - August 11, 1999

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6072-3

(1) James Geary, 47643 327th St, Elk Point SD 57025 made Application No. 6072-3, April 9, 1998 for a water permit to divert 2.0 cubic feet of water per second from groundwater (one well), Union County, South Dakota for irrigation purposes. Permit No. 6072-3, with a priority date of April 9, 1998 was approved June 22, 1998 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before June 22, 2003 and for the application to beneficial use of said water on or before June 22, 2007.

The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on September 10, 1998. The *Notice* stated the diversion system was completed on June 15, 1998 and the water placed to beneficial use on June 20, 1998.

(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 2.0 cubic feet of water per second for beneficial use. The location of the diversion point is approximately 1,320 feet south and 1,280 feet west of the north quarter corner of Section 6-T90N-R49W (NE ¼ NW ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 6-T90N-R49W	NW ¼ NW ¼	37 acres
	NE ¼ NW ¼	37 acres
Total		74 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 James Geary, 47643 327th St, Elk Point SD 57025 the holder and/or owner of Water Right No. 6072-3 is issued a license to appropriate water, the right to use 2.0 cubic feet of water per second from groundwater (one well) with a priority date of April 9, 1998 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Right No. 6072-3 and subject to South Dakota State Law.



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

APR 10 2000

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 10 2000

5870-3
6072-3

James Geary
47643 327th St.
Elk Point, SD 57025

Dear Mr. Geary:

Enclosed is Water License Nos. 5870-3 and 6072-3. These are the final water right documents completing your process of obtaining a Water Right. Enclosed are Receipt Nos. 416412 and 416413 in the amount of \$50.00 each which you paid for the investigation and issuance of the Water Licenses.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by Water Right Nos. 5870-3 and 6072-3, 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 Licenses, 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

ks
enclosures



January 26, 2007

NOTICE

6072-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

TO: JAMES GEARY, 47643 327 ST, ELK POINT, SD 57025
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2006 Irrigation Questionnaires

Our records indicate that the 2006 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2006. The Water Management Board has directed that owners of water permits who have not submitted the 2006 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2345-3 & 2346-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5870-3 & 6072-3 qualification:

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

The hearing will be held at 10:30 am, March 7, 2007 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5870-3 & 6072-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2345-3 & 2346-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is(are) received in this office on/or before March 1, 2007, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V5-IQ.pdf>

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

6072-3

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Track & Confirm

Search Results

Label/Receipt Number: 2303 2160 0000 0799 7153
Status: **Delivered**

Your item was delivered at 1:09 PM on January 27, 2007 in ELK POINT, SD 57025. The item was signed for by L GEARY.

[Additional Details >](#)[Return to USPS.com Home >](#)

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Signature Confirmation

SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0799 7153

JAMES GEARY
47643 327 ST
ELK POINT SD 57025

Waiver of Signature ☐ YES ☐ NO

Postmark
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PS Form 156, May 2002

(SEE REVERSE)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 23, 2007

2345-3
2346-3
5870-3
6072-3

James Geary
47643 327th St
Elk Point SD 57025

Dear Mr. Geary:

I am writing to acknowledge receipt of your 2006 irrigation questionnaires. You may disregard the January 26, 2007, "Notice" concerning reporting requirements for Water Right Nos. 2345-3, 2346-3, 5870-3 and 6072-3.

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

If you have any questions, please contact me.

Sincerely,

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



6072-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 18, 2013

NOTICE

TO: JAMES GEARY, 47643 327 ST, ELK POINT, SD 57025

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

SUBJECT: Reporting Requirement for 2012 Irrigation Questionnaires

Our records indicate that the 2012 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 12, 2012. The Water Management Board has directed that owners of water permits who have not submitted the 2012 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2345-3 & 2346-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5870-3 & 6072-3 qualification:

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

The hearing will be held at **8:30 am, March 7, 2013** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5870-3 & 6072-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2345-3 & 2346-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 4, 2013**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link:

<http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 25, 2013

2345-3
2346-3
5870-3
6072-3

James Geary
47643 327th St
Elk Point SD 57025

Dear Mr. Geary:

I am writing to acknowledge receipt of your 2012 irrigation questionnaires.

You may disregard the January 18, 2013, "Notice" concerning reporting requirements for Water Right Nos. 2345-3, 2346-3, 5870-3 and 6072-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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



6072-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

December 28, 2016

Robert J Geary
32750 480th Ave
Elk Point SD 57025

RE: Water Right Nos. 2345-3, 2346-3, 5870-3 and 6072-3

Dear Mr. Geary:

Thank you for taking the time to visit with me concerning Water Right Nos. 2345-3, 2346-3, 5870-3 and 6072-3 currently listed in the name of James Geary. I have included copies of all four water rights for your records.

Enclosed are four partially completed transfer forms for use in filing ownership changes on the water rights. Please review the forms and complete as needed. Upon completion, please sign and return them to our office with a required filing fee of \$50.00 each (**total of \$200**). The check or money order for the fee can be made payable to the Water Rights Program.

You indicated during our phone conversation that you did not receive the questionnaires for these water rights. They were all mailed to "47643 327th St, Elk Point, SD." They very well could have been lost in the mail because we did not receive them back from the post office.

It is my understanding from our conversation that the irrigation of land in Section 16 was reported on one of your questionnaires pertaining to the same section. The two questionnaires still needed are enclosed and pertain to:

- No. 5870-3 (land in Section 17, T90N, R49W)
- No. 6072-3 (land in Section 6, T90N, R49W)

Please return the transfer forms, filing fees and the enclosed irrigation questionnaires by January 6th. I have included a postage paid envelope for your convenience. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

JAN 23 2017

WATER RIGHTS
PROGRAM

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

No. 6072-3

Date: 1-21-17

I/We request that Water Right No. 6072-3

formerly owned by: James Geary

be transferred to: (name & address) Robert J Geary 32760 480th Ave
Elk Point S.D 57025

Telephone No. 712 540 1633

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

74 acres - N 1/2 NW 1/4 Section 6, T90N, R49W

I/We understand that the validity of Water Right No. 6072-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

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

Robert J Geary
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/23, 20 17

RECEIVED OF Robert J Geary 32750 480th Ave Elk Point SD 57025

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50 00	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>6072-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50 00	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **08117**

By James Goodman
Chief Engineer



6072-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 24, 2017

Robert J Geary
32750 480th Ave
Elk Point SD 57025

RE: Water Right Nos. 2345-3, 2346-3, 5870-3 and 6072-3

Dear Mr. Geary:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership of Water Right Nos. 2345-3, 2346-3, 5870-3 and 6072-3. Also were received were irrigation questionnaires pertaining to Sections 6 & 17, T90N, R49W.

The ownership changes have been completed. The above listed water rights formerly held by James Geary are now listed in your name.

Enclosed for your records are Receipt Nos. 08114, 08115, 08116 and 08117 in the amounts of \$50 each which you paid for filing the ownership changes. Thank you for updating the water rights and for taking the time to complete the remaining irrigation questionnaires.

If you have any questions, please contact me.

Sincerely,

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

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

enclosures



6072-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 29, 2018

denr.sd.gov

Robert Geary
32750 480th Avenue
Elk Point SD 57025

Dear Mr. Geary:

The Department of Environment and Natural Resource (DENR) became aware that the center pivot located in the NW $\frac{1}{4}$ Section 6-T90N-R49W is making full rotation. Currently Water Right No. 6072-3 appropriates 2.0 cubic feet of water per second from one well located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ to irrigate 74 acres in the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6-T90N-R49W. The water right is enclosed.

It is clear from FSA aerial imagery of this section that the pivot is being allowed to make full rotation to include the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 6. The 2012 FSA aerial image is enclosed. Based on a review of the database maintained for water rights, DENR is unable to find that a water permit was obtained to included irrigation of the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 6. Water in South Dakota is property of the people of the state, and as such, water law requires a permit to use water anytime it is put to beneficial use beyond typical domestic use.

A water permit must be obtained to have a right to irrigate the land in the S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6. Enclosed is an application form and instruction sheet to apply for a water permit for irrigation the land. The completed forms with the application fee and map are to be returned to Water Rights Program, 523 East Capitol Avenue, Pierre SD 57501. Please file the application as soon as possible but not later than April 13, 2018. If a water permit is not in place the user does not have a legal right to the use of water on the acres not covered by a water permit and the Chief Engineer has authority to issue an order to discontinue the use of water to which the user has no legal right.

If you believe you have an existing permit for this acreage or if help is needed completing the application, please contact me. DENR wants to work with you to get the permit in place to accurately reflect the irrigation systems as operated.

Sincerely,

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

enclosures





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

April 20, 2018

Robert Geary
32750 480th Ave
Elk Point SD 57025

Dear Mr. Geary:

On March 29, 2018, we informed you that the Department of Environment and Natural Resources (DENR) became aware that the center pivot located in the NW 1/4 Section 6-T90N-R49W is making a full rotation. Currently, Water Right No. 6072-3 authorizes irrigation of only the N 1/2 NW 1/4 Section 6-T90N-R49W. A copy of that letter is enclosed.

As of today, we have not received a response or submittal of an application for a water permit to irrigate the S 1/2 NW 1/4 Section 6-T90N-R49W.

As stated in the previous letter, if a water permit is not in place the user does not have a legal right to the use of water on the acres not covered by a water permit and the Chief Engineer has authority to issue an order to discontinue the use of water to which the user has no legal right.

DENR wants to work with you to get the permit in place that accurately reflects the irrigation system as operated.

Sincerely,

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

enclosure



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2023

NOTICE

TO: ROBERT J GEARY, 32750 480TH AVE, ELK POINT, SD 57025
FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaires

Our records indicate your 2022 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1567A-3, 1786-3, 2109-3, 2345-3 & 2346-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5870-3, 6044-3, 6072-3, 7768-3, 7769-3, 7770-3, 7771-3, 7772-3, 7773-3, 7774-3, 7775-3, 7776-3 & 8332-3 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5870-3, 6044-3, 6072-3, 7768-3, 7769-3, 7770-3, 7771-3, 7772-3, 7773-3, 7774-3, 7775-3, 7776-3 & 8332-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1567A-3, 1786-3, 2109-3, 2345-3 & 2346-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: AVHJEY**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 30, 2023

Robert Geary
32750 480th Ave
Elk Point SD 57025

RE: Water Right/Permit Nos. 1567A-3, 1786-3, 2109-3, 2345-3, 2346-3, 5870-3, 6044-3, 6072-3,
7768-3, 7769-3, 7770-3, 7771-3, 7772-3, 7773-3, 7774-3, 7775-3, 7776-3 & 8332-3

Dear Mr. Geary:

I am writing to acknowledge receipt of your 2022 irrigation questionnaires.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for the above listed Water Rights and/or Water Permits. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2024

NOTICE

TO: ROBERT J GEARY, 32750 480TH AVE, ELK POINT, SD 57025

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaires

Our records indicate your 2023 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1567A-3, 1786-3, 2109-3, 2345-3 & 2346-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5870-3, 6044-3, 6072-3, 7768-3, 7769-3, 7770-3, 7771-3, 7772-3, 7773-3, 7774-3, 7775-3, 7776-3 & 8332-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5870-3, 6044-3, 6072-3, 7768-3, 7769-3, 7770-3, 7771-3, 7772-3, 7773-3, 7774-3, 7775-3, 7776-3 & 8332-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1567A-3, 1786-3, 2109-3, 2345-3 & 2346-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: FXZKPW**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 23, 2024

1567A-3, 1786-3, 2109-3, 2345-3
2346-3, 5870-3, 6044-3, 6072-3
7768-3, 7769-3, 7770-3, 7771-3
7772-3, 7773-3, 7774-3, 7775-3
7776-3 & 8332-3

Robert & Theresa Geary
32750 480th Ave
Elk Point SD 57025

Dear Mr. & Ms. Geary:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 1567A-3, 1786-3, 2109-3, 2345-3, 2346-3, 5870-3, 6044-3, 6072-3, 7768-3, 7769-3, 7770-3, 7771-3, 7772-3, 7773-3, 7774-3, 7775-3, 7776-3 & 8332-3. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us