

WATER PERMIT NO. 6242-3

Name of Applicant: Gary D Wipf

Address: 17801 401st Ave, Frankfort SD 57440

Phone: 605 472-1690

Amount of Water Claimed:

Total Acres: 136 acres

Source of Water Supply: groundwater

Water to be used for: irrigation

County: Spink

Type of Waste Disposal System:

Location: 8 miles southeast of Frankfort

PRIORITY

Date Received: 11-22-2000

Fee: \$50

Corrected Application Received::

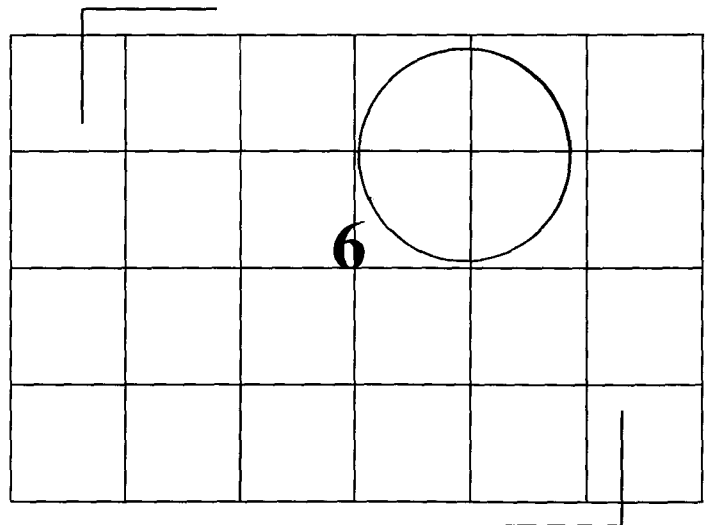
Period of Annual Use: May 1 – October 31

Remarks:

Diversion Point: center of NE ¼ or SW ¼

Sec 6-T115N-R61W

Land to be Irrigated: NE ¼ Sec 6-T115N-R61W



Depth of Well: approximately 60 feet

Well Driller: :

Remarks:

Type of Map: aerial

Prepared by: Jim Dylla, NRCS

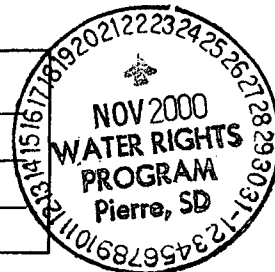
Reviewed and the Number Assigned on: 22-27-2000

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

(office use only)
No. 6242-3 Hydrologic Unit 10160006
Basin James River
Newspaper Redfield Press Redfield



Application For Permit To Appropriate Water For Irrigation

Type of Application: New Vested Right X Amendment/Correction to Permit No. 4376-3
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Change of ownership of permit and location of permit

1. Name of Applicant Gary D. Wipf Phone 605-472-1690
(check one) Owner Tenant/lessee
Mailing Address 17801 401st Ave. Frankfort, SD State 57440
(Street, RR, or Box and City) (Zip Code)

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

3. Source of water supply well

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 1 well in center of NE 1/4 sec 6 range 115-61 or piped from well in center of SW 1/4 of sec 6 - 115-61 Permit # 1312-3 County Spink

5. County or counties where water will be used Spink

6. Annual period during which water is to be used Existing Permit (May-Oct)

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
Severing land from existing permit and transferring to other land.		SE 1/4 of NE 1/4 of sec 6 range 115-61	34
		SW 1/4 of NE 1/4 of sec 6 range 115-61	34
		NE 1/4 of NE 1/4 of sec 6 range 115-61	34
*(see attached letter)		NW 1/4 of NE 1/4 of sec 6 range 115-61	34

8. Give a description of the project. (Attach sheet if more space is needed)

See attached letter

STATE OF SOUTH DAKOTA)

County of Spink)

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, Gary D. Wipf, 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.

Applicant's signature Gary D. Wipf

Subscribed and sworn to before me this 16 day of November 2000

JANET MORRISON
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

Notary Public signature Janet Morrison
My Comm Exp 3-13-2003

SOUTH DAKOTA
WATER PERMIT NO. 6242-3 FOR IRRIGATION

Date of first receipt of application November 22, 2000.

The Water Management Board approved Water Permit Application No. 6242-3 on March 7, 2001 for Gary D Wipf, 17801 401st Ave, Frankfort SD 57440 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. 6242-3 amends Water Right No. 4376-3 by transferring irrigated acreage and the point of diversion to other land. Water Right No. 4376-3 held by Robert Freeburg appropriates 1.56 cubic feet of water per second (cfs) from two wells located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 3 to irrigate 138 acres in the SW $\frac{1}{4}$ Section 3; all in T116N, R62W. This water right is being transferred to Gary Wipf. This permit proposes to sever the water right from the current irrigated lands under Water Right No. 4376-3 and simultaneously transfer and begin irrigating the NE $\frac{1}{4}$ of Section 6, T115N, R61W. The point of diversion will be a new well constructed near the center of the NE $\frac{1}{4}$ Section 6, T115N, R61W or Mr. Wipf proposes to use his existing well authorized by Water Right No. 1312-3 located near the center of the SW $\frac{1}{4}$ Section 6, T115N, R61W. The water source for this irrigation system is the Tulare:East James Aquifer and no increase in the 1.56 cfs diversion rate is authorized by this permit.
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: May 1 - October 31.
3. The date from which applicant may claim right is October 1, 1976.
4. One-fifth of the construction is to be completed on or before September 7, 2003.
5. All construction is to be completed on or before March 7, 2006.
6. Water is to be put to beneficial use on or before March 7, 2010.
7. 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. The well authorized by Permit No. 6242-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

(continued)

Water Permit No. 6242-3

Gary D Wipf

Page 2

3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
4. Deferred Water Right Permit Application No. 3391-3 originally filed by Albert Wipf for the same acres is denied with approval of Water Permit No. 6242-3.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

MAY 09 2001

date



• **Subject: Water Permit #4376-3**

• **Water permit #4376-3 is located in section 3 of Frankfort Township, 166-62, in Spink County, S.D. Presently this permit is owned by Robert Freeburg, Frankfort, S.D. and he would like to transfer this permit. Robert Freeburg removed the center pivot irrigation system from this land in the spring of 2000 for the following reasons.**

• **1. Robert Freeburg has retired from farming and has no desire to irrigate this field.**

• **2. Water quantity is limited, due to the fact that it takes two water wells to supply enough water for a center pivot irrigation system.**

• **3. Soil type is questionable in this field, as it has numerous alkaline spots.**

• **This letter proposes to transfer ownership of permit #4376-3, from Robert Freeburg to Gary Wipf and to transfer the location of said permit to NE 1/4 of section 6 in Harrison Township-115-61, Spink County, S.D. in order to continue beneficial use of the water to irrigate crop land.**

Gary D. Wipf

11-16-00

Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

Note: Well would be similar to existing well in SW 1/4 of 6-115-61

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well: _____

On applicants property _____ On property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System _____

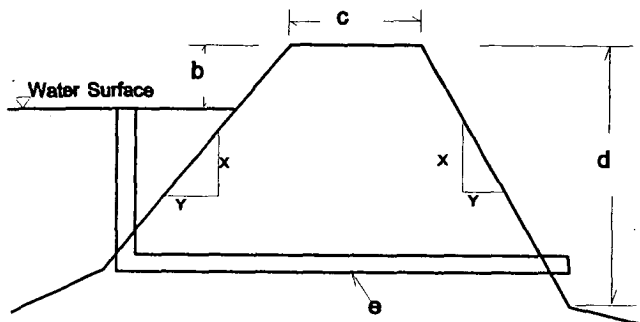
3. Dugout Information

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

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.

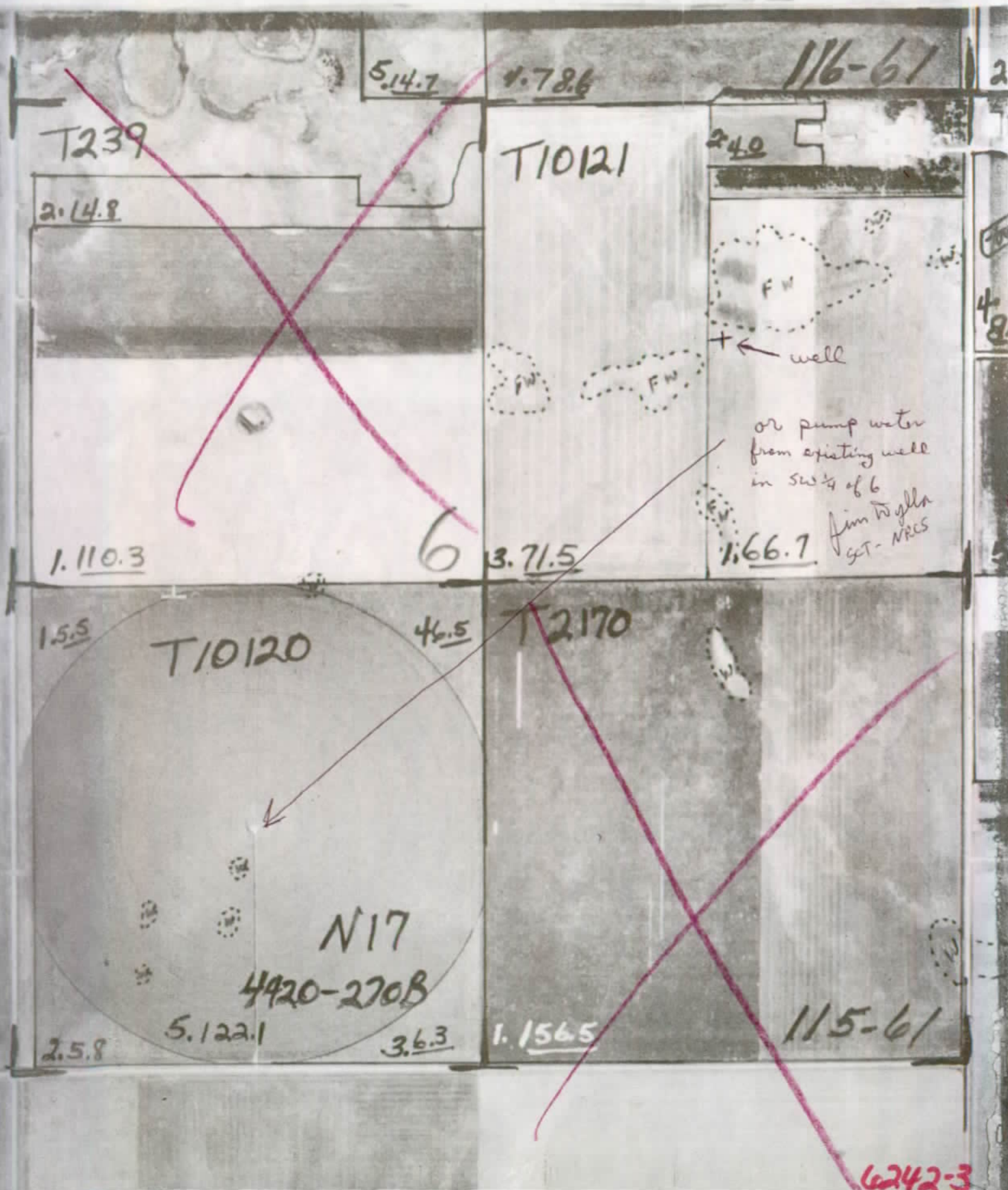
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- 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

2000 MAP NOT TO SCALE
THIS IS NOT AN OFFICIAL WETLAND MAP.

5690



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

No 416693

Pierre, November 22, 2000

RECEIVED OF Gary D Wipf, 17801 401st Ave, Frankfort SD 57440
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>6242-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	50	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>6242-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	100 00

By Harland Erbele
Chief Engineer

KS

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Application No. 6242-3, Gary Wipf

ADDRESS: COUNTY: Spink

DATE: 2-2-2001 TELEPHONE:

RE: Status of Deferred Application No. 3391-3

COMMENTS:

I contacted Mr. Wipf stating that we were conducting our final review of his Application No. 6242-3 to sever and transfer water and lands previously irrigated by Mr. Freeburg to Wipf's property. I stated that there was an application deferred since 1976 that was filed by Albert Wipf for the same acreage he proposes to irrigation under Application No. 6242-3. Gary Wipf stated that Albert Wipf is his father.

I indicated that we did not want a deferred application from the same water source to remain on property that now had a permit. Water Right Program suggested either withdrawal or denial of the deferred application. I stated that since that application was deferred there have been other permit applications denied from this water source.

Mr. Wipf wanted a mechanism to preserve this deferred application so in the future if water became available he could transfer to a neighboring quarter section. I stated what he wanted to do is similar to preserving a future use permit and that was not something we are willing to do.

I stated that if we recommended denial of deferred Application No. 3391-3 as a qualification to approving Water Permit Application No. 6242-3, then he would be able to argue his case before the Board if he wanted to. He stated to proceed with denying Application No. 3391-3.

He wanted me to fax him a copy of the report, recommendation and notice for Application No. 6242-3 at (605) 472-1941.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Lundberg



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6242-3, Gary D. Wipf**

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. 6242-3, Gary D. Wipf, 17801 401st Avenue, Frankfort, SD 57440.

The Chief Engineer is recommending APPROVAL of Application No. 6242-3 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. The well authorized by Permit No. 6242-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
4. Deferred Water Right Permit Application No. 3391-3 originally filed by Albert Wipf for the same acres is denied with approval of Water Permit No. 6242-3.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 2, 2001

REPORT ON WATER PERMIT APPLICATION NO. 6242-3

for Gary D. Wipf

January 19, 2001

Application No. 6242-3 proposes to amend and transfer Water Right No. 4376-3 held by Robert Freeburg to Gary D. Wipf. Water Right No. 4376-3 currently authorizes 1.56 cfs from two wells located in the E 1/2 SW 1/4 of section 3 to irrigate 138 acres located in the SW 1/4 of section 3; all in T116N R62W in Spink County. This application proposes to sever the water right from the current irrigated lands under Water Right No. 4376-3 and simultaneously transfer and begin irrigating the NE 1/4 of section 6, T115N R61W. The point of diversion may be a new well constructed near the center of the NE 1/4 of section 6, T115N R61W or Gary Wipf proposes to use his existing irrigation well authorized by Water Right No. 1312-3 located near the center of the SW 1/4 of section 6, T115N R61W in Spink County.

AQUIFER - TULARE EAST JAMES (T-EJ)

The Tulare East James is an outwash (sand and gravel) which can be either confined or under water table conditions but in this area is buried and under artesian conditions. However, the water level record indicates the aquifer behaves as if under water table conditions in this area. The aquifer underlies 167 square miles (Kuiper, 1984) and contains an estimated 630,000 acre feet of recoverable water in storage in Spink County (Goodman, 1984). Earlier published estimates for the Tulare East James aquifer are that it underlies 100,700 acres and contains an estimated 476,000 acre feet of recoverable water in storage (Hedges, 1982). Recharge to the aquifer has been estimated at 0.76 inches per year (Kuiper, 1984) or that recharge ranges from 0.38 to 1.52 inches per year with a "best fit" of 0.76 inches per year (Hedges, 1983). This equates to a recharge of about 6,800 acre feet per year for the Tulare East James aquifer (Kuiper, 1984). In this area the ground water movement is from northeast to southwest toward Timber Creek and the James River (Hamilton, 1996).

The Water Rights Program monitors 33 observation wells completed into the Tulare East James aquifer in Spink County. Water levels for these wells show good response to climatic conditions and pumping. For example, a hydrograph for observation well SP-66E which is located about 2 miles northeast of this application shows gradually declining water levels from the late 1960's to the mid 1980's. There was a sharp rise in water levels in the mid 1980's because of unusually wet weather conditions. This was followed by declining water levels until the early 1990's when unusually wet conditions again prevailed for the most of the 1990's. Also this particular hydrograph illustrates the annual fluctuations due to pumping. Hydrographs for observation wells SP-66E and SP-77K are included with this report. SP-77K is located in the same quarter section as this new application. Even though both of these observation wells are buried and technically under confined conditions, the behavior of the water levels is more indicative of water table conditions. The water level record indicates the aquifer does recharge and drawdown created by pumping is not significant in this area (Water Rights, 2001).

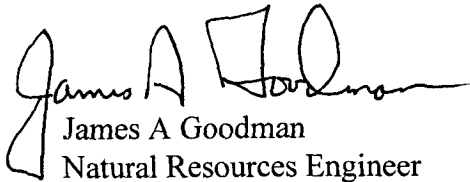
Irrigation Water Use from the Tulare East James aquifer has totaled 126,841 acre feet from 1979 through 1999 averaging about 6,040 acre feet per year. Comparing this to the average recharge estimate of 6,800 acre feet per year indicates that water would be available for appropriation. However, eight times during this 21 year period, pumping has exceeded the average annual recharge and in fact annual pumping has exceeded 12,000 acre feet once and 11,000 acre feet twice. Reports written in 1982 and 1988 for water permits from the Tulare East James aquifer both concluded that water was not available because water use was nearly the same as the estimated annual recharge. The unusually wet years of 1990's changed those averages somewhat but there is no reason to expect that to continue.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are two existing water rights Nos. 1321-3 and 1201-3 located within a one mile radius of this application. The existing well for No. 1321-3 may be used as a water source for this application. Interference is not a concern. The observation well SP-77K does not fluctuate much due to pumping and these wells have been in use for many years with no apparent problems. There is an existing deferred water permit application No. 3391-3 for the same lands as this application.

CONCLUSIONS

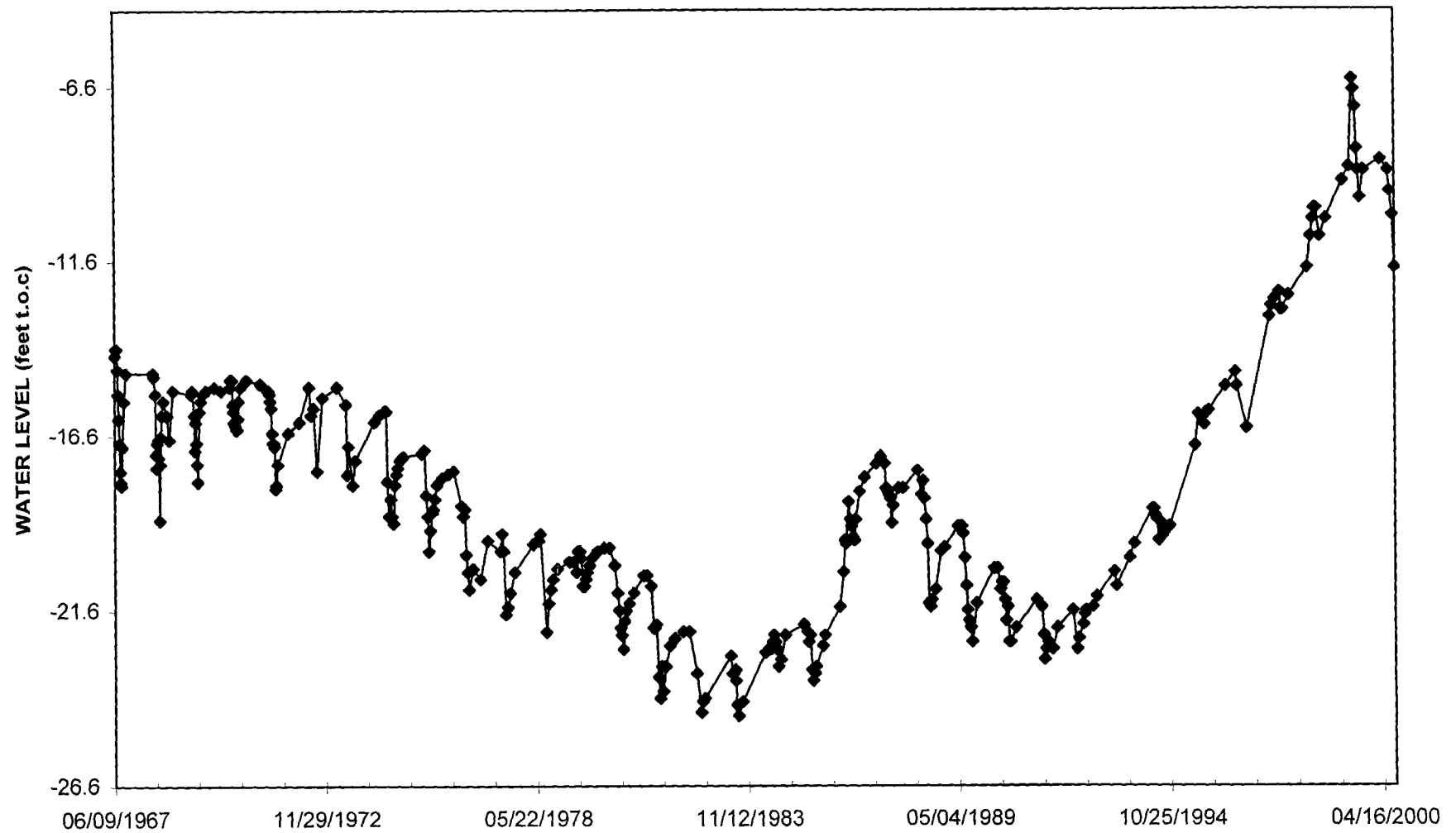
1. The Tulare East James aquifer has been determined by the Water Management to be fully appropriated based upon water use. (See findings of fact and conclusions of law for denied application No. 5527-3).
2. Water Right No. 4376-3 appropriates 1.56 cfs for irrigation of 138 acres and this is all that can be transferred. The source of water for No. 4376-3 and this application is the Tulare East James aquifer even though they are about six and one-half miles apart.
3. This irrigation water can be transferred from Water Right No. 4376-3 to Water Permit No. 6242-3 with no increase in diversion rate or irrigated acreage in accordance with SDCL 46-5-34.
4. The new well authorized by this application, if approved, must be constructed in accordance with SD Well Construction Standards.
5. The existing well authorized by Water Right No. 1312-3 which may be the source of water for this application also obtains water from the Tulare East James aquifer.
6. Approval of this application is not expected to adversely affect nearby Water Rights.
7. The wells authorized by Water Right No. 4376-3 must be plugged pursuant to ARSD 74:02:04:69.


James A Goodman
Natural Resources Engineer

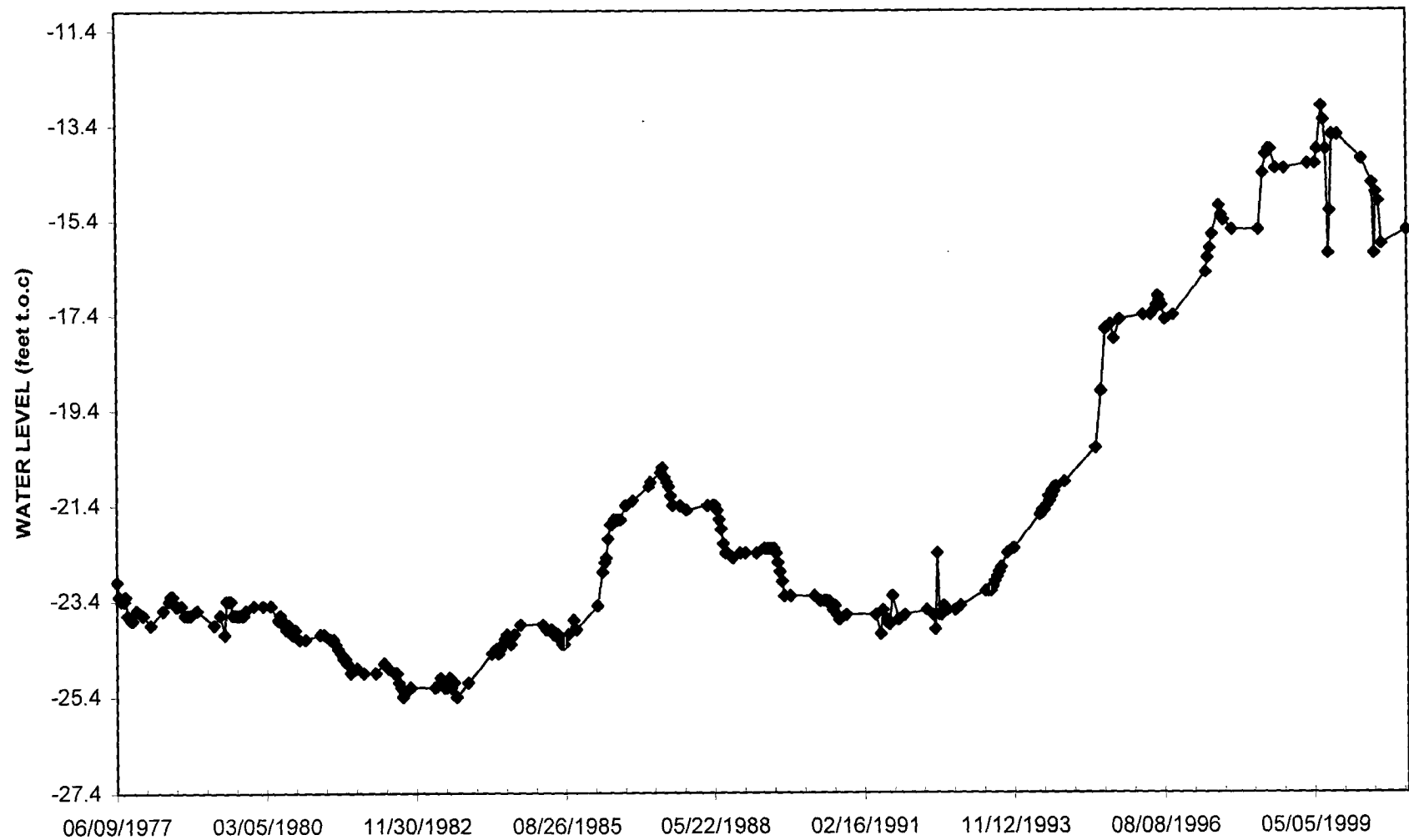
BIBLIOGRAPHY

- Goodman, J.A., 1984, Report on Water Permit Applications No. 5009-3 Duane Muxon, No. 3178-3 MJT Inc. and No. 2235A-3 Gary D Wipf, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.
- Hamilton, L.J., L.W. Howells, 1996, Water Resources of Spink County, South Dakota, WRI 96-4056, USGS, Rapid City, SD, 57702.
- Hedges, L.S., etal, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Hedges, L.S., 1983, Ground Water Recharge, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Kuiper, L.K., 1984, Appraisal of Water Resources of Eastern Part of the Tulare Aquifer, Beadle, Hand and Spink Counties, SD, WRI 84-4078, USGS, Huron, SD, 57350.
- Water Rights, 2001, Unpublished Observation Well Data for Spink County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL
SP-66E



WATER RIGHTS' OBSERVATION WELL
SP-77K



Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Spink

SS

I, Billy H. Hanson, of said County and State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Billy H. Hanson, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

No. 40 Notice of Hearing

Gary D. Wipf # 123034

a printed copy of which is hereto attached, was printed and published in said newspaper in 2 successive issues, to wit:

The first publication being made on February 7, 2001

2nd February 14, 2001 5th 20

3rd 20 6th 20

4th 20 7th 20

that the full amount of the fee charged for publishing the same to-wit: the sum of \$ 69.02, insures to the benefit of the publisher of THE REDFIELD PRESS, 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 person whomsoever.

Billy H. Hanson

Subscribed and sworn to before me this 8th day of February, 20 01.

Jamie R. Leuth
Notary Public, Spink County, South Dakota

Notice of Hearing

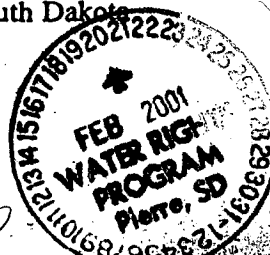
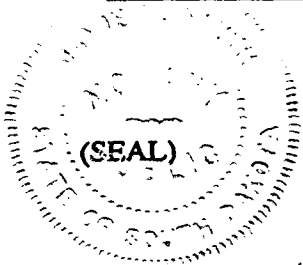
No. 40

NOTICE OF HEARING on
Application No. 6242-3 to
Appropriate Water

Notice is given that Gary D. Wipf, 17801 401st Avenue, Frankfort, SD 57440 has filed an application to amend and transfer Water Right No. 4376-3 by transferring irrigated acreage and the point of diversion to other land. Water Right No. 4376-3 held by Robert Freeburg appropriates 1.56 cubic feet of water per second (cfs) from two wells located in the E 1/2 SW 1/4 Section 3 to irrigate 138 acres in the SW 1/4 Section 3; all in T116N, R62W. This water right is being transferred to Gary Wipf. This application proposes to sever the water right from the current irrigated lands under Water Right No. 4376-3 and simultaneously transfer and begin irrigating the NE 1/4 of Section 6, T115N, R61W. The point of diversion will be a new well constructed near the center of the NE 1/4 Section 6, T115N, R61W or Mr. Wipf proposes to use his existing well authorized by Water Right No. 1312-3 located near the center of the SW 1/4 Section 6, T115N, R61W. The water source for his irrigation system is the Tulare: East James Aquifer and no increase in the 1.56 cfs diversion rate in proposed by this application.

State law (SDCL 46-5-34) allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Wipf indicates as his justification for this change that Mr. Freeburg retired from farming, that water quantity at the present site is limited and that the soils on the presently irrigated land has spots of alkaline.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Applications No. 6242-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.



119 X.29- \$34.51 13.50 in.



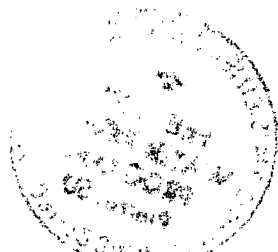
GARY D. WIPF & CAROL A. WIPF
17801 401ST AVE.
FRANKFORT, SD 57440-7303

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 February 26, 2001. 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.

The Water Management Board will consider this application at 10:00 A.M. March 7, 2001 in the Mathews Training Center, Foss Building, 523 E. Capitol, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 7, 2001 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 26, 2001.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by February 26, 2001, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

(February 7, 14)



Instruction to Newspaper - Publish first Notice on February 7, 2001 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 6242-3 to Appropriate Water

Notice is given that Gary D. Wipf, 17801 401st Avenue, Frankfort, SD 57440 has filed an application to amend and transfer Water Right No. 4376-3 by transferring irrigated acreage and the point of diversion to other land. Water Right No. 4376-3 held by Robert Freeburg appropriates 1.56 cubic feet of water per second (cfs) from two wells located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 3 to irrigate 138 acres in the SW $\frac{1}{4}$ Section 3; all in T116N, R62W. This water right is being transferred to Gary Wipf. This application proposes to sever the water right from the current irrigated lands under Water Right No. 4376-3 and simultaneously transfer and begin irrigating the NE $\frac{1}{4}$ of Section 6, T115N, R61W. The point of diversion will be a new well constructed near the center of the NE $\frac{1}{4}$ Section 6, T115N, R61W or Mr. Wipf proposes to use his existing well authorized by Water Right No. 1312-3 located near the center of the SW $\frac{1}{4}$ Section 6, T115N, R61W. The water source for this irrigation system is the Tulare:East James Aquifer and no increase in the 1.56 cfs diversion rate is proposed by this application.

State law (SDCL 46-5-34) allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Wipf indicates as his justification for this change that Mr. Freeburg retired from farming, that water quantity at the present site is limited and that the soils on the presently irrigated land has spots of alkaline.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6242-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 February 26, 2001. 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.

The Water Management Board will consider this application at 10:00 A.M March 7, 2001 in the Mathews Training Center, Foss Building, 523 E Capital, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 7, 2001 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 26, 2001.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by February 26, 2001, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

February 2, 2001

Gary D Wipf
17801 401st Ave
Frankfort, SD 57440

Dear Mr. Wipf:

Water Permit Application No. 6242-3 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 Redfield Press printed at Redfield, SD (Ph # 605-472-0822). 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 57501-3182
www.state.sd.us/denr

February 2, 2001

Redfield Press
Box 440
Redfield SD 57469

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 6242-3 to Appropriate Water to be published twice. Please publish the first notice on February 7, 2001 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 Gary D. Wipf, 17801 401st Ave., Frankfort, SD 57440 (Ph # 605-472-1690).

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. 6242-3

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

Date _____

We are in receipt of your letter of February 2, 2001 enclosing Notice of Hearing to Appropriate Water by Application No. 6242-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

MAY 09 2001

Gary D Wipf
17801 401st Ave
Frankfort SD 57440

Dear Mr. Wipf:

Enclosed is Water Permit No. 6242-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit. Receipts for payment of the fees and transfer of Water Permit No. 4376-3 are also enclosed.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

Note: The applicable portions of Water Right No. 4376-3 are incorporated into Permit No. 6242-3. Deferred Application No. 3391-3 originally filed by Albert Wipf for the same acres is denied with approval of Permit No. 6242-3.

enclosures



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



6242-3

JUL 07 2014

6242-3
6242A-3

Gary D Wipf
17801 401st Ave
Frankfort SD 57440

Dear Mr. Wipf:

Enclosed is Water License No. 6242A-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6242A-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.

Upon licensing, the applicable portions of Water Permit No. 6242-3 were incorporated into Water License No. 6242A-3. 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,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

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