

WATER PERMIT NO. 6269-3

Name of Applicant: Sutton Bay Golf, LLC

Address: 1601 Old Cheney Road, Lincoln NE 68517 Phone: 402 423-6653

Amount of Water Claimed: 3.11 cfs Total Acres: 100 acres

Source of Water Supply: Missouri River and dugout

Water to be used for: irrigation County: Sully/Potter

Type of Waste Disposal System:

Location: approximately 15 miles northwest of Agar

PRIORITY Date Received: 6-28-2001

Fee: \$200

Corrected Application Received:: 7-9-2001

Period of Annual Use: March 15 – November 15

Remarks: amends Water Right Nos. 3200-3 and 1272A-3

Diversion Point: Missouri River – NE ¼ SW ¼ Sec

33-T117N-R79W & SE ¼ SW ¼ Sec 4-T116N-

R79W

dugout –SE ¼ SE ¼ Sec 33-T117N-R79W

Land to be Irrigated: portions of Sec 33-T117N-

R79W and Sec 4 & 5; T116N-R79W

Depth of Well: na

Well Driller: : na

Remarks:

Type of Map: plat

Prepared by: Wesley W Schon, PE

Reviewed and the Number Assigned on: 7-9-2001

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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	No. <u>6269-3</u> (office use only) Hydrologic Unit <u>10/30/05</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Potter Co. News, Gettysburg 57442</u>
	<u>Onida Watchman, Onida SD 57564</u>



Application For Permit To Appropriate Water For Irrigation

Type of Application: New Vested Right X Amendment/Correction to Permit No. 3200-3 & 1272-3
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) change from ag
irrigation to golf course irrigation

- Name of Applicant Sutton Bay Golf, L.L.C. Phone 402-423-6653
(check one) Owner Tenant/lessee
Mailing Address 1601 Old Cheney Road, Lincoln State NE 68517
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 2.67 cfs - dugout 3.12 cfs - river 12 af - storage dugout
*CFS or **GPM 252 ***AF Total Acreage 83.9 100
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Lake Oahe, Missouri River
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) See attached
Missouri River - NE 1/4 SW 1/4 Sec 33-T117N-R79W (3200-3) SE 1/4 SW 1/4 Sec 4-T116N-
R79W (1272A-3) dugout - SE 1/4 SE 1/4 Sec 33-T117N-R79W County Potter
- County or counties where water will be used Potter & Sully, SD
- Annual period during which water is to be used March 15th to November 15th
- 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
See attached DWG & Schedule			

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

STATE OF SOUTH DAKOTA) SS
County of Minnehaha

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, Mark L. Amundson, 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 Mark L. Amundson

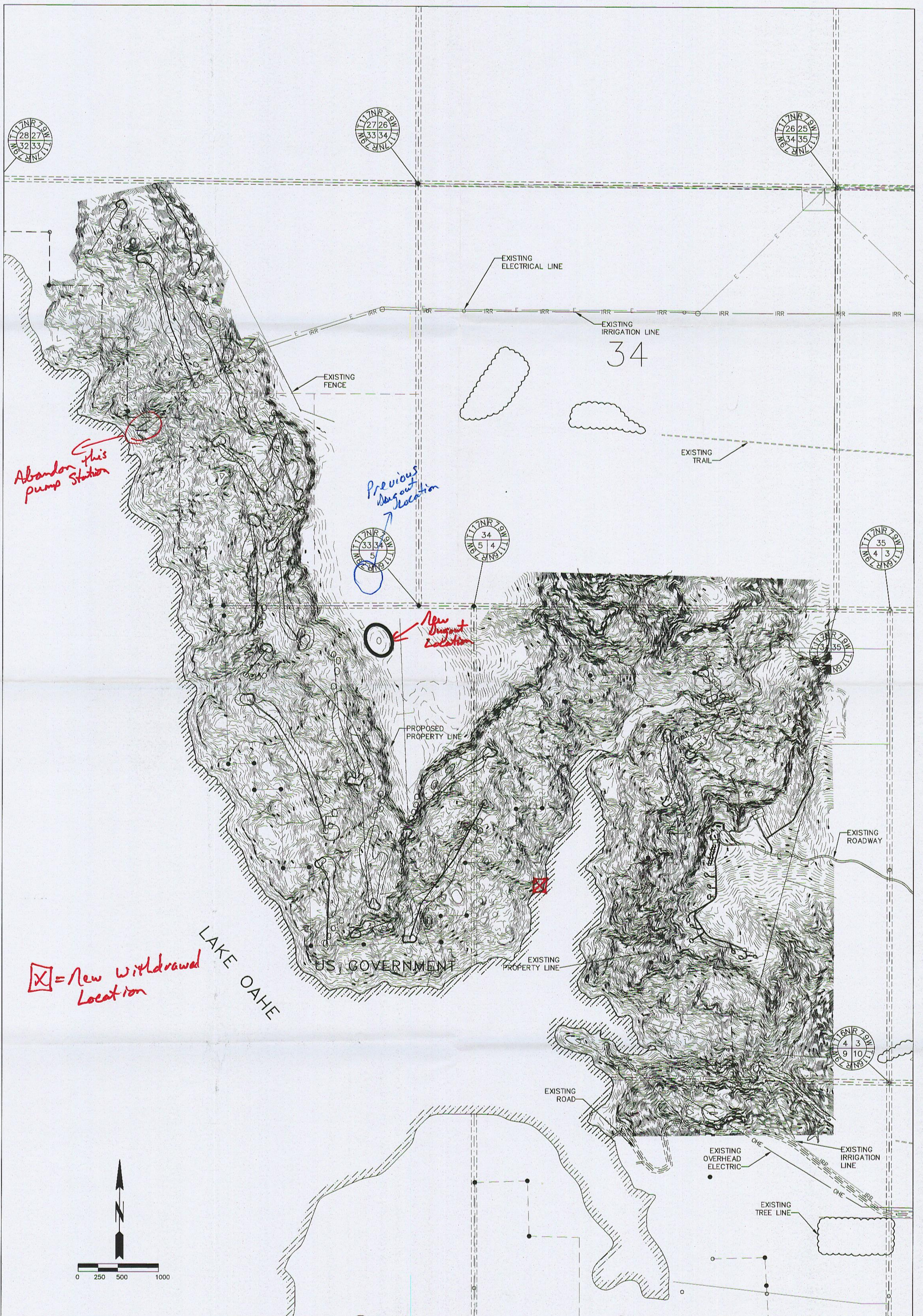
Subscribed and sworn to before me this 20 day of June 20 01

Ruth Vander Bosch

Notary Public signature

My commission expires: 7-11-01

6269-3



1 OF 1	SHEET: 3/6/02 DATE: 2001/05/20 PROJECT NO. 2001/05/20	 ULTEIG ENGINEERS, INC. CONSULTING ENGINEERS FARGO • BISMARCK • SIOUX FALLS • MINNEAPOLIS	DRAWN BY: CMH CHECKED BY: APPROVED BY:	SUTTON BAY RESORT SULLY COUNTY, SOUTH DAKOTA	PRELIMINARY SITE LAYOUT				
						REV.	DATE	DESCRIPTION	BY

6269-3

SOUTH DAKOTA
WATER PERMIT NO. 6269-3

Date of first receipt of application June 28, 2001.

Date of return to applicant for corrections, amendments or changes July 3, 2001.

Date of receipt of corrected application July 9, 2001.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6269-3 to Sutton Bay Golf, L.L.C., 1601 Old Cheney Road, Lincoln NE 68517 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. 6269-3 authorizes development of a golf course. Water Right Nos. 1272A-3 and 3200-3 have been transferred from John Sutton Jr. to Sutton Bay Golf LLC for the purpose of irrigating the golf course and landscaping at the clubhouse/lodge. Water Right Nos. 1272A-3 and 3200-3, combined, appropriate 10.44 cubic feet of water per second (cfs) from the Missouri River at two locations in the NE ¼ SW ¼ Section 33, T117N, R79W and the SE ¼ SW ¼ Section 4, T116N, R79W to irrigate 869.3 acres in portions of Sections 33, 34 and 35 of T117N, R79W and Sections 10 and 11 of T116N, R79W.

This permit authorizes to: 1) change the location of acreage authorized for irrigation; 2) construct a dugout to act as a regulating pond; 3) authorize an annual volume of water delivered to the land from 2 acre feet of water per acre to 3 acre feet of water per acre; and 4) expand the annual period of use from April 1 thru October 31 to March 15 thru November 15 of each year.

This permit authorizes irrigation of a total of 100 acres located in portions of Section 33, T117N, R79W and Sections 4 and 5, T116N, R79W. The other acres irrigated acres originally covered by the existing water rights will no longer be irrigated. Water will be diverted from the Missouri River diversion points at a maximum rate of 3.12 cfs directly for irrigation or to a dugout prior to application to the land. Water may be diverted from the dugout at a rate of 2.67 cfs to the land. The dugout has a storage capacity of 12 acre feet of water and will be located in the SE ¼ SE ¼ Section 33, T117N, R79W.

2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: March 15 – November 15.
3. The date from which applicant may claim right is June 28, 2001.
4. The date of approval of Permit No. 6269-3 is August 27, 2001.
5. One-fifth of the construction is to be completed on or before February 27, 2004.
6. All construction is to be completed on or before August 27, 2006.
7. Water is to be put to beneficial use on or before August 27, 2010.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

(continued)

QUALIFICATIONS

1. Water Permit No. 6269-3 incorporates the applicable portions of Water Right Nos. 1272A-3 and 3200-3 into this single permit. The abandoned diversion rate and acreage portions of Water Right Nos. 1272A-3 and 3200-3 are cancelled. The maximum Missouri River diversion rate authorized by this permit is 3.12 cfs.
2. Water Permit No. 6269-3 authorizes a dugout with an approximate storage capacity of 12 acre feet of water. The diversion of water from the Missouri River may be used for either direct application of water to the irrigated acreage or to maintain the dugout and then diverted from the dugout to the irrigated acres.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate and volume of water if the method of irrigation, time constraints, or type of soil so requires, Permit No. 6269-3 authorizes a maximum diversion rate applied to the land of 2.67 cfs for the irrigation of 100 acres with an annual volume not to exceed 3 acre-feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

SEP 04 2001

date



Supplemental Information

(Complete applicable portions only)

(type or print in ink)

1. Well Information - Proposed Construction

- 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 _____

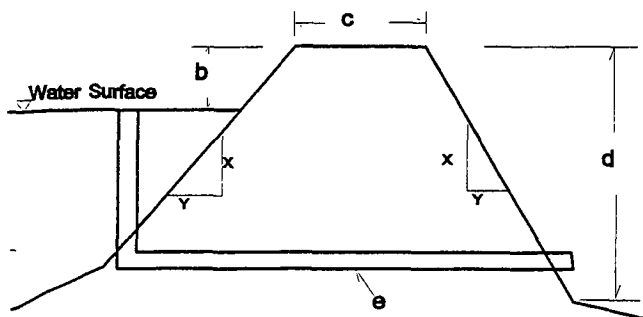
3. Dugout Information - Irrigation Storage Pond

- a) Surface Dimensions 3 acres - surface area Depth 8 feet
- b) Depth to water (ground surface to water level) not available at this time

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

Location of point of diversion for permit 3200-3:

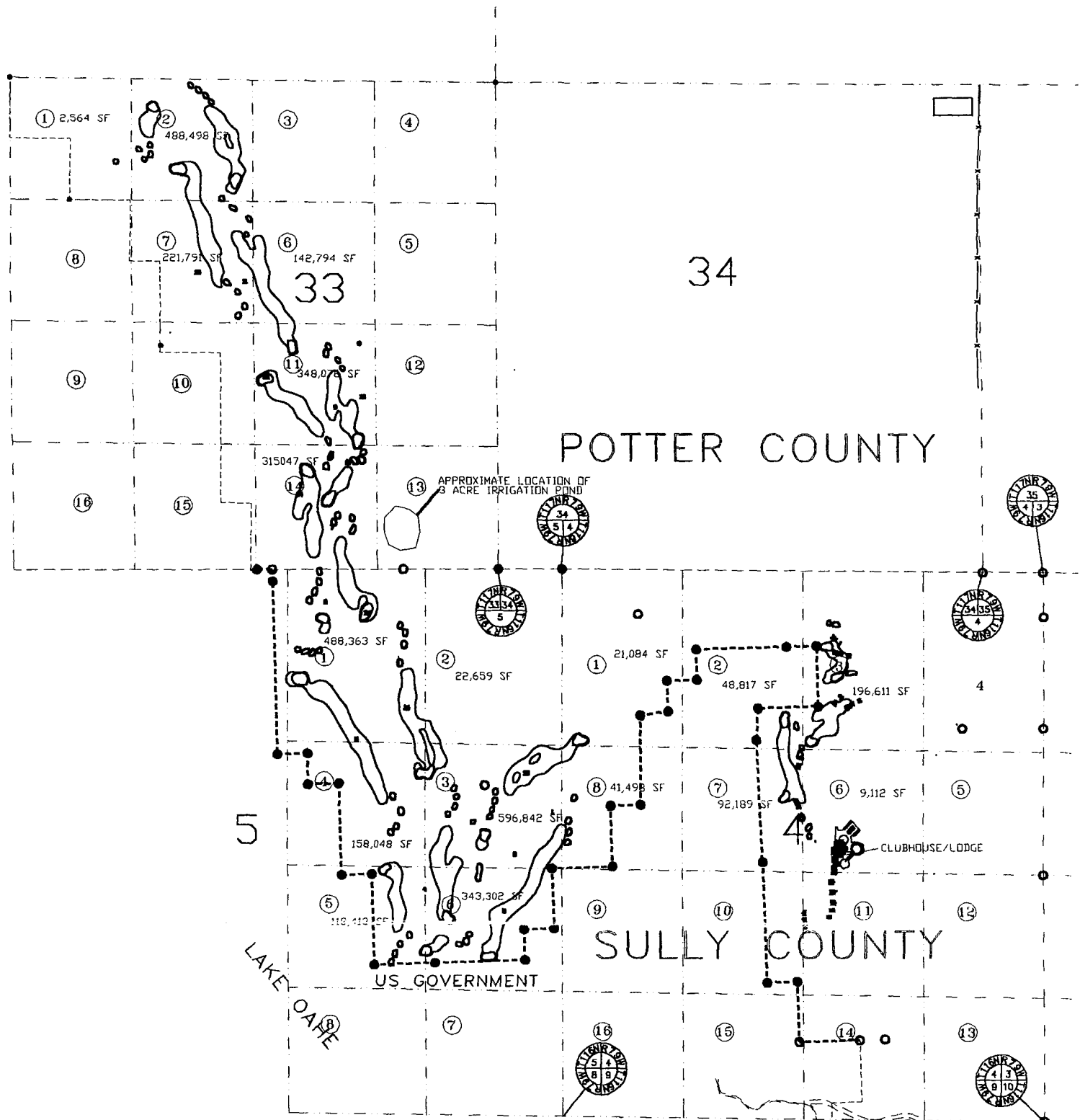
A tract of land 30 feet wide located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, Township 117 North, Range 79 West of the 5th P.M., Potter County, South Dakota, lying 15 feet on each side of the following described line: commencing at the northeast corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 33; thence southerly along the east line of said tract for a distance of 300 feet to a point on the said east line; said point being the point of beginning; thence South 75° West to the shoreline of Lake Oahe; containing 0.207 acres, more or less.

Location of point of diversion for permit 1272-3:

A parcel of land in the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of Section 4, Township 116 North, Range 79 West of the 5th Principal Meridian, Sully County, South Dakota being of varying width and lying equidistant on each side of the following described line: beginning at a point on the east line of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, said point being 132 feet north of the SE $\frac{1}{4}$ of said SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ in Section 4; thence north 45° west, for a distance of 660 feet. The strip of land shall be 66 feet in width, lying 33 feet on each side of the line last described; thence continuing north parallel to the east line of said section 4 to the shoreline of the Oahe Reservoir; the last described course shall be 330 feet in width, lying 165 feet on each side of said line, containing 2.25 acres, more or less.

SUTTON BAY GOLF, LLC

IRRIGATION EXHIBIT



13 QUARTER-QUARTER NO.
 --- PROPERTY LINE
 --- SECTION & SIXTEENTH LINE
 --- COUNTY LINE
 --- CORP OF ENGINEERS
 --- TAKE LINE

Irrigation Acres Sutton Bay Golf, LLC

Potter County Section	33	Area Sq.Ft.	Area Acres
Quarter/Quarter	1	2,564	0.06
	2	488,498	11.21
	6	142,794	3.28
	7	221,791	5.09
	11	348,076	7.99
	14	315,047	7.23
		<u>1,518,770</u>	<u>34.87</u>

Sully County Section	4	Area Sq.Ft.	Area Acres
Quarter/Quarter	1	21,084	0.48
	2	48,817	1.12
	3	196,611	4.51
	6	440,204	10.11
	7	92,189	2.12
	8	41,498	0.95
	11	269,200	6.18
		<u>840,403</u>	<u>25.47</u>

Section	5	Area Sq.Ft.	Area Acres
Quarter/Quarter	1	488,363	11.21
	2	22,659	0.52
	3	596,842	13.70
	4	158,048	3.63
	5	118,413	2.72
	6	343,302	7.88
		<u>1,727,627</u>	<u>39.66</u>

Grand Total 4,086,800 100.00
 Acre Ft of Water @ 3ft/Ac. 300.00

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR
 REPORT WAS PREPARED BY ME OR UNDER MY DIRECT
 SUPERVISION AND THAT I AM DULY REGISTERED
 PROFESSIONAL ENGINEER UNDER THE LAWS OF THE
 STATE OF SOUTH DAKOTA

WESLEY W. SCHON, P.E.
 DATE: 7/6/01 REG. NO. 4183



PREPARED BY
ULTEIG ENGINEERS, INC.
 FARGO-MINNEAPOLIS-BISMARCK-SIOUX FALLS

6269-3

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

416860

Pierre, July 9, 20 01

RECEIVED OF Davenport, Evans, Hurwitz & Smith, LLP, 513 S Main Ave, PO Box 1630, Sioux Falls, SD
the following amount in fees for services rendered as provided for by law: **57101**

Fee for Application for Permit No. 6269-3 to Appropriate Water, to construct
and to put water to beneficial use _____

150 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. 6269-3 _____

50 00

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

200 00

By

Chief Engineer

Darland Erbele

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 27, 2000

Mark Amundson
Sutton Bay Golf, LLC
6829 West Honeysuckle Court
Sioux Falls SD 57106

Dear Mr. Amundson:

I am writing in regard to your request to change the location of a diversion point and dugout authorized by Water Permit No. 6269-3. Water Permit No. 6269-3 authorizes irrigation of 100 acres located in portions of Section 33-T117N-R79W and Sections 4 and 5-T116N-R79W. Specifically, you have requested the following:

- Change the location of the Missouri River diversion point in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33-T117N-R79W (Potter County) to the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4-T116N-R79W (Sully County)
- Change the dugout location from the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33-T117N-R79W (Potter County) to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5-T116N-R79W (Sully County)

The request is not for any additional appropriation of water or change in the irrigated acreage. The conditions and qualifications to Water Permit No. 6269-3 still apply

Upon review of the request and pursuant to SDCL 46-5-13.1, you are authorized to change the location of the two diversion points described above, without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. A copy of the report prepared on your request is enclosed.

If you have any questions, please feel free to contact Eric Gronlund at (605) 773-3352.

Sincerely,

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

enclosure

P. DANIEL DONOHUE
DAVID L. KNUDSON
EDWIN E. EVANS
ROBERT E. HAYES
MICHAEL L. LUCE
CHARLES D. GULLICKSON
SARAH RICHARDSON LARSON
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SCOTT B. ANDERSON
MARK W. HAIGH
DIXIE K. HIEB
SANDRA K. HOGlund

DAVENPORT, EVANS, HURWITZ & SMITH, L.L.P.
LAWYERS

513 SOUTH MAIN AVENUE
P.O. Box 1030
SIOUX FALLS, SOUTH DAKOTA 57101-1030

TELEPHONE (605) 336-2880

FAX (605) 335-3639

June 26, 2001

KEITH A. GAUER
KRISTI GEISLER HOLM
MELISSA C. HINTON
BRENDAN W. REILLY
ROBERT L. THOMAS
DOUGLAS J. HAJEK
MARK F. MARSHALL
JON K. LAUCK
ERIC C. SCHULTE

OF COUNSEL
LOUIS R. HURWITZ
JEAN H. BENDER

HOLTON DAVENPORT
1892-1966
ELLSWORTH E. EVANS
1903-1996
DEMING SMITH
1920-1996

Direct Dial: 605-357-1213
E-mail: jlauck@dehs.com

Eric Gronlund
Water Rights Program
Department of Environment & Natural Resources
523 E. Capitol
Pierre SD 57501

Dear Mr. Gronlund:

Please find enclosed our application to amend two water permits held by John E. Sutton. Specifically, we ask that water permits numbered 3200-3 and 1272-3 be amended so that they are held by Sutton Bay Golf, L.L.C. In addition, we ask that the designated purpose of the water permits no longer be listed as agricultural. In the future, the water will be used to maintain a golf course.

As we discussed on the telephone on June 25, this application seeks to amend two water permits. As you indicated during our conversation, the two existing permits will ultimately be folded into one permit. We understand that this will not compromise the existing water permit rights. With the exception of usage levels, Sutton Bay Golf, L.L.C. will maintain the water rights currently held by John E. Sutton under the existing permits.

Thank you, Mr. Gronlund, for your help with this application. Please contact me if you have any questions.

Sincerely,



JON K. LAUCK
For the Firm

JKL:rvb

Enclosure





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 3, 2001

Jon K Lauck
Davenport, Evans, Hurwitz & Smith, LLP
PO Box 1030
Sioux Falls SD 57101-1030

Re: Sutton Bay Golf, LLC

Dear Mr. Lauck:

Thank you for submitting the *Application for a Permit to Appropriate Water* on behalf of the Sutton Bay Golf, LLC. This application does not transfer the existing water rights. Enclosed are two partially completed Notice of Transfer of Ownership forms for Water Right Nos. 3200-3 and 1272A-3 held by John E Sutton Jr. The transfer forms should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the forms to our office with a required filing fee of \$2.50 each. A blank transfer of ownership form is also enclosed in the event that you need to correct the forms we partially completed.

As discussed during your phone conversation with Eric Gronlund, this application will be considered a new water permit application because of the following:

- 1) the addition of the dugout,
- 2) the period of use during the year will be extended by this application to March 15th – November 15th; and
- 3) the volume of 3 acre feet of water per acre instead of the 2 acre feet allotted by the existing water rights is being requested.

In reference to the dugout, the storage capacity needs to be defined in the application. I have estimated the capacity at 12 acre feet of water. This is based on information submitted with the application (3 surface acres x 8 feet x 0.5 conversion factor = 12 acre-feet of water). Do you agree with this amount?

A couple of other questions need to be addressed. Is it the applicant's intention to abandon the other irrigated acres originally covered under the existing water rights? According to Mark Amundson, who stopped into our office after you talked with Eric, the only irrigation will be on the 83.9 acres plus the possibility of three practice greens and landscaping around the lodge. Can you confirm that this is correct? Also, the application will need to define the maximum diversion rate from the Missouri River and the diversion rate from the dugout to be applied to the golf course? I understand that the Missouri River diversion points will be used to maintain the dugout and water from the dugout will be diverted for the actual application to the land.

July 3, 2001
Jon K Lauck
Page 2

Just so there is no confusion, if the crop ground historically irrigated under these two water rights ceases, the new water right will ultimately be limited to the acres irrigated for the golf course and the diversion rates as defined from the Missouri River and from the dugout.

The application filing fee and licensing fee will be \$200.

If you have any questions, please contact Eric or me.

Sincerely,

A handwritten signature in cursive script that reads "Karen Schlaak".

Karen Schlaak
Water Rights Program
605 773-3352

enclosures

DAVENPORT, EVANS, HURWITZ & SMITH, L.L.P.
LAWYERS

513 SOUTH MAIN AVENUE

P.O. Box 1030

SIOUX FALLS, SOUTH DAKOTA 57101-1030

TELEPHONE (605) 336-2880

FAX (605) 335-3639

July 6, 2001

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1920-1996

Direct Dial: 605-357-1213
E-mail: jlauck@dehs.com

Karen Schlaak
Water Rights Program
Department of Environment & Natural Resources
523 E. Capitol
Pierre SD 57501

Dear Ms. Schlaak:

Thank you for your letter of July 3, 2001. Please find enclosed in this mailing the necessary Notice of Transfer of Ownership forms signed by an official from Sutton Bay Golf, L.L.C. and duly notarized. Please also find enclosed a check for \$205.00. \$200.00 will cover the cost of the application fee and licensing fee and \$5.00 will cover the cost of two transfer of ownership forms costing \$2.50 each.

The answers to your remaining questions are the following:

- The storage capacity of the dugout is 12 acre feet of water.
- It is the applicant's intention to not use the other irrigated acres originally covered by the existing water permits. We would, however, like to amend the total number of acres to be irrigated to read 100 acres. We had previously applied for the right to irrigate on 83.9 acres
- The diversion rate from Lake Oahe for both the north and south pumps will be 700 gallons per minute. The diversion rate out of the dugout will be 1,200 gallons per minute.

Please call me if you have further questions.

Sincerely,


JON K. LAUCK
For the Firm



JKL:rvb
Enclosures

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July 6, 2001

HOLTON DAVENPORT
1892-1966
ELLSWORTH E. EVANS
1903-1996
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1920-1996

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July 6, 2001

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E-mail: jlauck@dehs.com

Karen Schlaak
Water Rights Program
Department of Environment & Natural Resources
523 E. Capitol
Pierre SD 57501

Re: *Water Right Transfer of Ownership: John E. Sutton, Jr. to Sutton Bay Golf, LLC*

Dear Ms. Schlaak:

Please find enclosed an updated copy of the map which should accompany our application for a water rights permit. Please note, as discussed in my letter of July 6, that the land for which we are requesting water rights totals 100 acres.

Please call me if you have any additional questions regarding this matter.

Sincerely,



JON K. LAUCK
For the Firm

JKL:rvb

Enclosure



REPORT ON WATER PERMIT APPLICATION NO. 6269-3
Sutton Bay Golf, L.L.C.
July 23, 2001

Sutton Bay Golf, L.L.C., has filed an application for a water permit to develop a golf course. Water Right Nos. 1272A-3 and 3200-3 have been transferred from John Sutton Jr. to Sutton Bay Golf, L.L.C., for the purpose of irrigating the golf course and landscaping at the clubhouse/lodge. Water Right Nos. 1272A-3 and 3200-3, combined, appropriate 10.44 cubic feet of water per second (cfs) from the Missouri River at two locations in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, T117N, R79W and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4, T116N, R79W to irrigate 869.3 acres in portions of Sections 33, 34, and 35 of T117N, R79W and Sections 10 and 11 of T116N, R79W. The applicant is now requesting to: 1) change the location of acreage authorized for irrigation; 2) construct a dugout to act as a regulating pond; 3) authorize an annual volume of water delivered to the land from 2 acre feet of water per acre (ac-ft/acre) to 3 ac-ft/acre; and 4) expand the annual period of use from April 1 thru October 31 to March 15 thru November 15 of each year.

This application proposes to irrigate a total of 100 acres located in portions of Section 33, T117N, R79W and Sections 4 and 5, T116N, R79W. The other irrigated acres originally covered by the existing water rights will no longer be irrigated. Water will be diverted from the Missouri River diversion points at a maximum rate of 3.12 cfs directly for irrigation or to a dugout prior to application to the land. Water may be diverted from the dugout at a rate of 2.67 cfs to the land. The dugout will have a storage capacity of 12 ac-ft of water and will be located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, T117N, R79W.

This project is located approximately 15 miles northwest of the town of Agar and covers lands in both Sully and Potter Counties.

Review of the Proposed Project and Existing Water Rights

The applicant holds Water Right Nos. 1272A-3 and 3200-3. Water Right No. 1272A-3 is authorized to irrigate 361.3 acres of farmland by diverting 5.11 cfs of water from the Missouri River. Water Right No. 3200-3 is authorized to irrigate 508 acres of farmland by diverting 5.33 cfs of water from the Missouri River. If this project is approved the total amount of acres will be reduced by 769.3 acres which will no longer be irrigated.

The source of water for this project is the Missouri River. Water availability for this project should not be a problem. The applicant is requesting a diversion rate greater than 1 cfs per 70 acres and also an annual volume of 3 ac-ft/acre. South Dakota Codified Laws (SDCL) 46-5-6 and 46-5-6.1 allows water to be taken at a rate greater than 1 cfs per 70 acres specifically from the Missouri River for irrigation.

This project will use pumps to divert water from the Missouri River. Water from the Missouri River will be piped from the diversion point locations to the dugout. The water will be distributed from the river and the dugout to the golf course land through a sprinkler system. This project proposes to: 1) change the location of acreage authorized for irrigation; 2) construct a

dugout to act as a regulating pond; 3) authorize an annual volume of water delivered to the land from 2 acre feet of water per acre (ac-ft/acre) to 3 ac-ft/acre; and 4) expand the annual period of use from April 1 thru October 31 to March 15 thru November 15 of each year.

Conclusions

1. This application is to appropriate 3.12 cfs of water from the Missouri River to irrigate 100 acres of a golf course and landscaping at the clubhouse/lodge and to fill a dugout.
2. The applicant holds Water Right Nos. 1272A-3 and 3200-3. Water Right No. 1272A-3 is authorized to irrigate 361.3 acres of farmland by diverting 5.11 cfs of water from the Missouri River. Water Right No. 3200-3 is authorized to irrigate 508 acres of farmland by diverting 5.33 cfs of water from the Missouri River.
3. The source of water for this project is the Missouri River. Water availability for this project should not be a problem. The applicant is requesting a diversion rate greater than 1 cfs per 70 acres and also an annual volume of 3 ac-ft/acre. South Dakota Codified Laws (SDCL) 46-5-6 and 46-5-6.1 allows water to be taken at a rate greater than 1 cfs per 70 acres specifically from the Missouri River for irrigation.
4. If this project is approved, it would change the period of irrigation use from April 1 to October 31 of each year to March 15 to November 15 of each year.
5. This application proposes to irrigate a total of 100 acres located in portions of Section 33, T117N, R79W and Sections 4 and 5, T116N, R79W. The other irrigated acres originally covered by the existing water rights will no longer be irrigated.



Stacy J. Johnson

Natural Resources Project Engineer

Reviewed by:

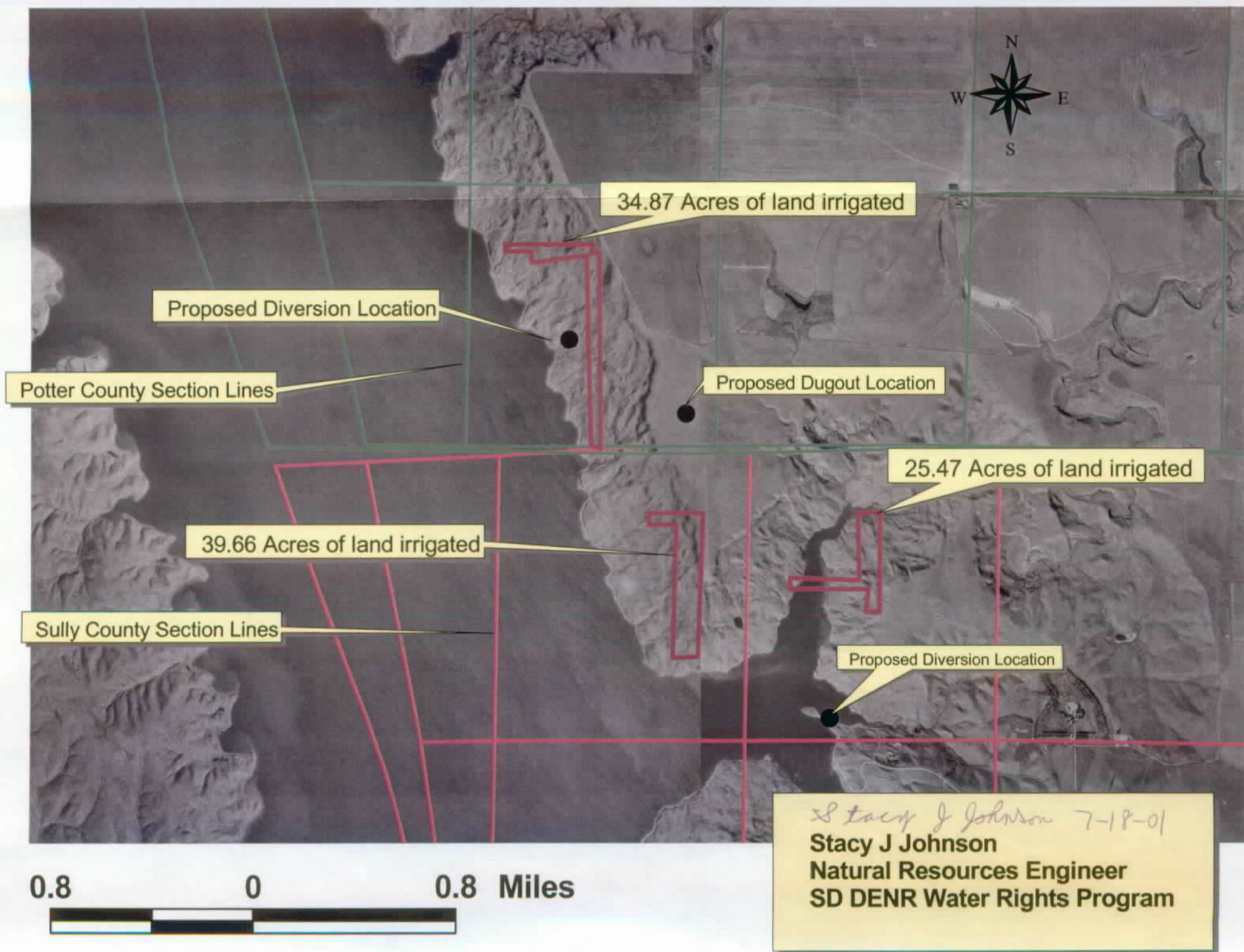


Mark D. Rath

Natural Resources Engineering Specialist

References

Water Rights Program files, "Water Permits Nos. 1272-3, 1272A-3, 1316-3, 1755A-3, 1973-3, 2321-3, 2865-3; 3200-3, 4921A-3, 5618-3, 5619-3, 5721-3, 5748-3, 5762-3, 5765-3, and 5969-3", DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501.





**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. 6269-3, Sutton Bay Golf, LLC**

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. 6269-3, Sutton Bay Golf, LLC, c/o Mark Amundson, 1601 Old Cheney Road, Lincoln, NE 68517.

The Chief Engineer is recommending APPROVAL of Application No. 6269-3 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. Water Permit No. 6269-3 incorporates the applicable portions of Water Right Nos. 1272A-3 and 3200-3 into this single permit. The abandoned diversion rate and acreage portions of Water Right Nos. 1272A-3 and 3200-3 are cancelled. The maximum Missouri River diversion rate authorized by this permit is 3.12 cfs.
2. Water Permit No. 6269-3 authorizes a dugout with an approximate storage capacity of 12 acre feet of water. The diversion of water from the Missouri River may be used for either direct application of water to the irrigated acreage or to maintain the dugout and then diverted from the dugout to the irrigated acres.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate and volume of water if the method of irrigation, time constraints, or type of soil so requires, Permit No. 6269-3 authorizes a maximum diversion rate applied to the land of 2.67 cfs for the irrigation of 100 acres with an annual volume not to exceed 3 acre-feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
August 1, 2001



**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.

August 1, 2001

Sutton Bay Golf, L.L.C.
% Mark L. Amundson
1601 Old Cheney Road
Lincoln, NE 68517

Dear Mr. Amundson:

Water Permit Application No. 6269-3 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 Potter Co. News printed at Gettysburg, SD (Ph # 605-765-2464) and the Onida Watchman printed at Onida, SD (Ph #605-258-2604). You will need to contact the newspapers and authorize publication of this notice. 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 newspapers to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publishers have 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 newspapers have also 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

c: Jon K. Lauck, Davenport, Evans, Hurwitz & Smith, LLP
Matt Sutton, 17304 Sutton Bay Rd., Onida, SD 57564

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

August 1, 2001

Potter Co. News
Box 190
Gettysburg, SD 57442-0190

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 6269-3 to Appropriate Water to be published twice. Please publish the first notice on August 9, 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 Sutton Bay Golf, L.L.C., % Mark Amundson, 1601 Old Cheney Road, Lincoln, NE 68517 (Ph # 402-423-6653).

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. 6269-3

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

Date _____

We are in receipt of your letter of August 1, 2001 enclosing Notice of Hearing to Appropriate Water by Application No. 6269-3 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

August 1, 2001

Onida Watchman
Box 245
Onida, SD 57564-0245

ATTENTION: Legal Public Notice

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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 Sutton Bay Golf, L.L.C., % Mark Amundson, 1601 Old Cheney Road, Lincoln, NE 68517 (Ph # 402-423-6653).

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. 6269-3

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

Date _____

We are in receipt of your letter of August 1, 2001 enclosing Notice of Hearing to Appropriate Water by Application No. 6269-3 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 August 9, 2001 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6269-3
to Amend Water Right Nos. 1272A-3 and 3200-3

Notice is given that Sutton Bay Golf, L.L.C., 1601 Old Cheney Road, Lincoln NE 68517 has filed an application for a water permit to develop a golf course. Water Right Nos. 1272A-3 and 3200-3 have been transferred from John Sutton Jr. to Sutton Bay Golf LLC for the purpose of irrigating the golf course and landscaping at the clubhouse/lodge. Water Right Nos. 1272A-3 and 3200-3, combined, appropriate 10.44 cubic feet of water per second (cfs) from the Missouri River at two locations in the NE ¼ SW ¼ Section 33, T117N, R79W and the SE ¼ SW ¼ Section 4, T116N, R79W to irrigate 869.3 acres in portions of Sections 33, 34 and 35 of T117N, R79W and Sections 10 and 11 of T116N, R79W.

This application proposes to: 1) change the location of acreage authorized for irrigation; 2) construct a dugout to act as a regulating pond; 3) authorize a annual volume of water delivered to the land from 2 acre feet of water per acre to 3 acre feet of water per acre; and 4) expand the annual period of use from April 1 thru October 31 to March 15 thru November 15 of each year.

This application proposes to irrigate a total of 100 acres located in portions of Section 33, T117N, R79W and Sections 4 and 5, T116N, R79W. The other acres irrigated acres originally covered by the existing water rights will no longer be irrigated. Water will be diverted from the Missouri River diversion points at a maximum rate of 3.12 cfs directly for irrigation or to a dugout prior to application to the land. Water may be diverted from the dugout at a rate of 2.67 cfs to the land. The dugout has a storage capacity of 12 acre feet of water and will be located in the SE 1/4 SE 1/4 Section 33, T117N, R79W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6269-3 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 August 27, 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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of POTTER) SSI, DAVID B. CLAUSEN

certify that the attached printed Notice was taken

from the POTTER COUNTY NEWSprinted and published in GETTYSBURGCounty of POTTER and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

AUGUST 9, 2001AUGUST 16, 2001Cost of Printing \$55.62

(Signature)

PUBLISHER

(Title)

AUGUST 23, 2001

(Date Signed)

Subscribed and sworn to before me this
23rd day of August, 2001
Carol D. Clausen, Notary Public
State of South Dakota
my Commission expires Oct 15, 2001

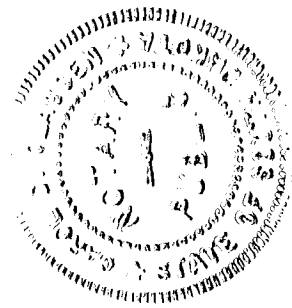
SW 1/4 Section 4, T116N, R79W to irrigate 869.3 acres in portions of Sections 33, 34 and 35 of T117N, R79W and Sections 10 and 11 of T116N, R79W.

This application proposes to: 1) change the location of acreage authorized for irrigation; 2) construct a dugout to act as a regulating pond; 3) authorized a annual volume of water delivered to the land from 2 acre feet of water per acre to 3 acre feet of water per acre; and 4) expand the annual period of use from April 1 thru October 31 to March 15 thru November 15 of each year.

This application proposes to irrigate a total of 100 acres located in portions of Section 33, T117N, R79W and Sections 4 and 5, T116N, R79W. The other acres irrigated acres originally covered by the existing water rights will no longer be irrigated. Water will be diverted from the Missouri River diversions points at a maximum rate of 3.12 cfs directly for irrigation or to a dugout prior application to the land. Water may be diverted from the dugout at a rate of 2.67 cfs to the land. The dugout has a storage capacity of 12 acre feet of water and will be located in the SE 1/4 Se 1/4 Section 33, T117N, R79W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6269-3 because 1) unappropriated water is available, 2) existing rights will not be lawfully 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 of the applicant files a petition contesting the Chief Engineer's recommendation. If the 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 August 27, 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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steve M. Pirner, Secretary, Department of Environment and Natural Resources.

(Published in the Potter County News, August 9 and 16, 2001).

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Sully) SS

I, Alice Olson

certify that the attached printed Notice was taken

from the Onida Watchman

printed and published in Onida

County of Sully and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

Thursday, Aug 9, 2001
Thursday, Aug 16, 2001

Cost of Printing

\$53.22

Alice Olson
 (Signature)

Periblisher
 (Title)

Aug 28, 2001
 (Date Signed)

**NOTICE OF APPLICATION
 NO. 6269-3
 TO AMEND WATER RIGHT
 Nos. 1272A-3 and 3200-3**

Notice is given that Sutton Bay Golf, L.L.C., 1601 Old Cheney Road, Lincoln NE 68517 has filed an application for a water permit to develop a golf course. Water Right Nos. 1272A-3 and 3200-3 have been transferred from John Sutton Jr. to Sutton Bay Golf LLC for the purpose of irrigating the golf course and landscaping at the clubhouse/lodge. Water Right Nos. 1272A-3 and 3200-3, combined, appropriate 10.44 cubic feet of water per second (cfs) from the Missouri River at two locations in the NE 1/4 SW 1/4 Section 33, T117N, R79W and the SE 1/4 SW 1/4 Section 4, T116N, R79W to irrigate 869.3 acres in portions of Sections 33, 34 and 35 of T117N, R79W and Sections 10 and 11 of T116N, R79W.

This application proposes to: 1) change the location of acreage authorized for irrigation; 2) construct a dugout to act as a regulating pond; 3) authorize a annual volume of water delivered to the land from 2 acre feet of water per acre to 3 acre feet of water per acre; and 4) expand the annual period of use from April 1 thru October 31 to March 15 thru November 15 of each year.

This application proposes to irrigate a total of 100 acres located in portions of Section 33, T117N, R79W and Sections 4 and 5, T116N, R79W. The other irrigated acres originally covered by the existing water rights will no longer be irrigated. Water will be diverted from the Missouri River diversion points at a maximum rate of 3.12 cfs directly for irrigation or to a dugout prior to application to the land. Water may be diverted from the dugout at a rate of 2.67 cfs to the land. The dugout has a storage capacity of 12 acre feet of water and will be located in the SE 1/4 SE 1/4 Section 33, T117N, R79W.

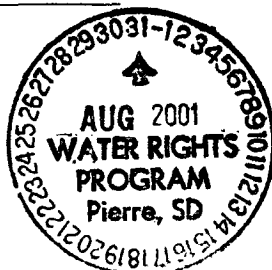
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Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief 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 August 27, 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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application.

Steven M. Pimer, Secretary,
 Department of Environment and Natural Resources.

Steven M. Pimer, 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

SEP 04 2001

Sutton Bay Golf, L.L.C.
% Mark L. Amundson
1601 Old Cheney Road
Lincoln, NE 68517

Dear Mr. Amundson:

Enclosed is Water Permit No. 6269-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

enclosures



6829 West Honeysuckle Court · Sioux Falls, SD 57106 · Phone 605 361-9412 · Fax 605 361-9415 · email mamundson@aol.com

Eric Gronlund
Water Rights Program
Dept. of Environment & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

3-6-02

RECEIVED

MAR 11 2002

WATER RIGHTS
PROGRAM

Dear Eric:

This letter is to request an amendment to the water permit for Sutton Bay Golf, L.L.C. The current Water Permit No. 6269-3 is the one we are interested in having amended. The reason for the request is that we have discovered it is not cost effective for us to deliver adequate power to the withdrawal point in Potter County. Currently the power company in Potter Co. has indicated that the line serving the pump station is inadequate and that they will not repair it. To ensure proper function of the above pump station we would have to pay for the installation of 7 miles of power. We have had discussions with Oahe Electric about providing us power and they are willing to do so.

Our request for amendment would not affect the following:

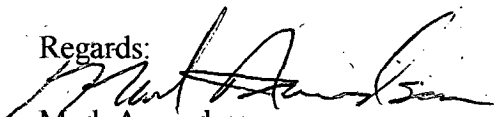
1. Acreage and location of land authorized to irrigate
2. Annual volume of water delivered to the land
3. Rate of diversion from dugout
4. Storage capacity of dugout
5. Annual period of use
6. Location of withdrawal point SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4, T116N, R79W

The things that we would like to have amended are as follows;

1. Eliminate the withdrawal point NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, T117N, R79W and replace it with a withdrawal point, noted on the plan, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4, T116N, R79W.
2. Change the location of the dugout from the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, T117N, R79W to the new location, noted on the plan, in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, T116N, R79W

Thank you for your consideration of this request and please contact me if you need any further information regarding this request.

Regards:


Mark Amundson
Sutton Bay Golf, LLC

Water Rights Program - File Documentation

NAME: Mark Amundson

ADDRESS: Sutton Bay Golf, LLC

DATE: 3-19-02 **COUNTY:** PT/SU **TELEPHONE:** 605 361-9412

RE: Amendment Request

COMMENTS:

I called Mark Amundson regarding his March 6th letter. Mr. Amundson stated they are requesting to change the location of the diversion point and dugout location in Section 33 (Potter County).

No change is requested for the diversion point located Section 4 (Sully County).

They are having problems with getting adequate power in Potter County; therefore, the request to move the diversion point to the Sully County location.



Karen Schlaak
Environmental Scientist

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS PROGRAM

March 19, 2002

RE: Change in Location of a Diversion Point and Dugout Authorized by Water Permit No. 6269-3, Sutton Bay Golf, LLC

Mark Amundson, Sutton Bay Golf, LLC has made the following request to amend Water Permit No. 6269-3 as follows:

- Change the location of the Missouri River diversion point in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33-T117N-R79W (Potter County) to the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4-T116N-R79W (Sully County)
- Change the dugout location from the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33-T117N-R79W (Potter County) to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5-T116N-R79W (Sully County)

SDCL 46-5-13.1 provides that a point of diversion may be changed or additional points of diversion may be approved without application or publication of a notice of hearing if the additional point of diversion is from the same source of water, no additional water is appropriated and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Water Permit No. 6269-3 authorizes irrigation of 100 acres located in portions of Section 33-T117N-R79W (Potter County) and Sections 4 and 5-T116N-R79W (Sully County). Water will be diverted from the Missouri River diversion points at a maximum rate of 3.12 cubic feet of water per second (cfs) directly or to a dugout prior to application to the land. Water may be diverted from the dugout at a rate of 2.67 cfs to the land.

Mr. Amundson makes this request based on problems with obtaining cost effective and adequate electrical power in Potter County.

This request is to change the location of the two diversion points described above. The Missouri River diversion point located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4-T116N-R79W will remain the same. The request states that the storage capacity and diversion rate from the dugout will remain unchanged. This request does not request any increase in the quantity of water appropriated or acres irrigated as authorized under Water Permit No. 6269-3.

A review of existing diversions from the Missouri River was not conducted. The Missouri River at this location is water impounded by Lake Oahe dam. The Missouri River has ample water to supply all permitted water users. There have been no water use complaints reported on the Missouri River. The conditions to Water Permit No. 6269-3, including the four qualifications, will still apply.

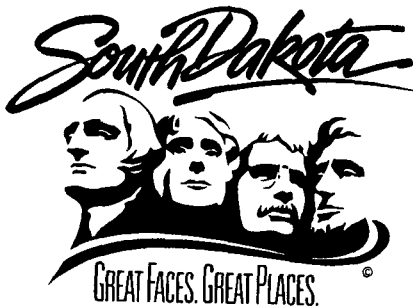


Karen Schlaak
Environmental Scientist
Water Rights Program

The Chief Engineer makes a finding that this change in location of diversion point and dugout does not increase the potential for interference with existing diversions. In making the finding, "does not increase the potential for interference" is interpreted to mean potential for adverse interference. The two diversion point locations authorized under Water Permit No. 6269-3 may be changed without requiring application or publication of a notice of hearing pursuant to SDCL 46-2A-4.



Garland Erbele, Chief Engineer
Water Rights Program
March 26, 2002



6269-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2005

NOTICE

TO: SUTTON BAY GOLF LLC, MARK L AMUNDSON, 28950 SUTTON BAY TRAIL, AGAR, SD 57520

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

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire(s)

Our records indicate that the 2004 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6269-3. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6269-3 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 2, 2005 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) 6269-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before February 25, 2005, 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 at (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.



6269-3

Track & Confirm

Current Status

You entered 2301 3460 0000 8516 0919

Your item was delivered at 11:03 am on January 21, 2005 in AGAR, SD 57520. The item was signed for by M AMUNDSON.

[Shipment Details >](#)

Track & Confirm

Enter label number:

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Notification Options

▶ Track & Confirm by email

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U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2301 3460 0000 8516 0919

SUTTON BAY GOLF LLC
MARK L AMUNDSON
28950 SUTTON BAY TRAIL
AGAR SD 57520

waiver of Signature ☐ YES ☐ NO

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PS Form 153, July 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 25, 2005

6269-3

Mark L Amundson
Sutton Bay Golf LLC
28950 Sutton Bay Trail
Agar SD 57520

Dear Mr. Amundson:

I am writing to acknowledge receipt of your 2004 irrigation questionnaire. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Permit No. 6269-3.

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

Water Permit No. 6269-3
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 made a thorough examination of the water use system constructed by Sutton Bay Golf, LLC of 28950 Sutton Bay Trail, Agar, SD 57520 holder of Permit No. 6269-3, bearing the priority of June 28, 2001 authorizing the diversion of 3.12 cu. ft. per second and/or the storage of 12 acre-feet of the waters of the Missouri River for Irrigation purposes, in Sully County.

Inspection contact & relationship **Don Smith**
to permit holder, if applicable:

A. Works used to divert the water:

Pump from Missouri River:

- 1) Make Goulds
- 2) Size 25 hp
- 3) Capacity 750 GPM

Booster Pump to Pond:

- 1) Make Cornell
- 2) Capacity 750 GPM

Motor:

- 1) Make US Motor
- 2) Horsepower rating 100 hp

Pumps from Storage Pond:

- 1) Make (3) Flowtronics
- 2) Size 30 hp
- 3) Capacity 1320 GPM

Storage Pond:

- 1) Surface area 3 acres
- 2) Depth 8 feet
- 3) Approx. storage 12 acre-feet

B. Works used to apply water to beneficial use:

- 1) Type Sprinkler systems

Chemigation Equipment:

- 1) Does chemigate N

C. Compliance with Permit Requirements:

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

The system is in Good condition with the point(s) of diversion located as follows:

Missouri River Diversion Point:

Approximately 2,080 feet north and 600 feet east of the SW Corner of Section 4-T116N-R79W

(N 44.88710, W -100.36405) (NW ¼ SW ¼)

Storage Pond Diversion Point:

Approximately 435 feet south and 905 feet west of the NE Corner of Section 5-T116N-R79W

(N 44.89660, W -100.36982) (NE ¼ NE ¼)

The works are capable of diverting and conveying to the place of use 1.7 cu. ft. per second of water and/or storing 12 acre-feet of water which is to be used for Irrigation of the Golf Course. Water has been put to beneficial use to the maximum extent as follows:

Section 4-T116N-R79W

NW ¼ NW ¼ - 4 acres

NW ¼ NE ¼ - 1.5 acres

SW ¼ NE ¼ - 5 acre

Section 5-T116N-R79W

NW ¼ NE ¼ - 2 acres

NE ¼ NE ¼ - 24 acres

SE ¼ NE ¼ - 1.5 acres

Section 33-T117N-R79W

NE ¼ NW ¼ - 1 acre

NW ¼ NE ¼ - 6 acres

SW ¼ NE ¼ - 9 acres

SE ¼ NE ¼ - 1 acre

NW ¼ SE ¼ - 1 acre

NE ¼ SE ¼ - 8 acres

SE ¼ SE ¼ - 20 acres

Section 34-T117N-R79W

NW ¼ SW ¼ - 2 acres

SW ¼ SW ¼ - 14 acres

comprising a total of 100 acres of land and the license should be issued for 1.7 cfs diverted from the Missouri River, 2.67 cfs from the dugout to the land and 12 acre-feet of storage.

All structures, wells and lands on map Y

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

Water Permit No. 6269-3 authorizes irrigation of 100 acres located in portions of Section 33-T117N-R79W (Potter County) and Sections 4 and 5-T116N-R79W (Sully County). Water from the Missouri River is authorized to be diverted at a maximum 3.12 cfs from two diversion points located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4-T116N-R79W. Water may be diverted directly for irrigation or to a dugout prior to application to the land. The dugout will have a maximum storage capacity of 12 acre-feet and will be located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5-T116N-R79W.

At the time of the inspection, one diversion point was in place, the storage pond was constructed; however, the entire originally constructed golf course had to be relocated to the east due to the golf course's slope instability.

The original course had been constructed on the downhill slope along the Missouri River. As a result of being constructed on the slope along with other factors, the course began moving downhill causing slumps and slides which then required extensive maintenance to keep the golf course operational. The new golf course was constructed on top of the bluff to prevent downhill movement.

The new golf course is still located in Sections 4, 5-T116N-R79W and Section 33-T117N-R79W; however approximately 17 acres of the new golf course are located in Section 34-T117N-R79W which were not permitted under the original permit. A "Change of Acreage" form is included with this report.

Also, water from the Missouri River is pumped from the river, to a "booster pump" then to a storage pond at a rate of 1.7 cfs (750 gpm). The storage pond has 3 pumps which have a maximum total pumping capacity of 2.93 cfs (1320 gpm) each. These pumps are rarely operated at the same time because of the systems construction and design. The storage pond is also permitted to divert water from the pond to fill and maintain a 100 acre-feet dam authorized under Water Permit No. 6366-3. There is no flow rate associated with the diversion from the pond to the dam.



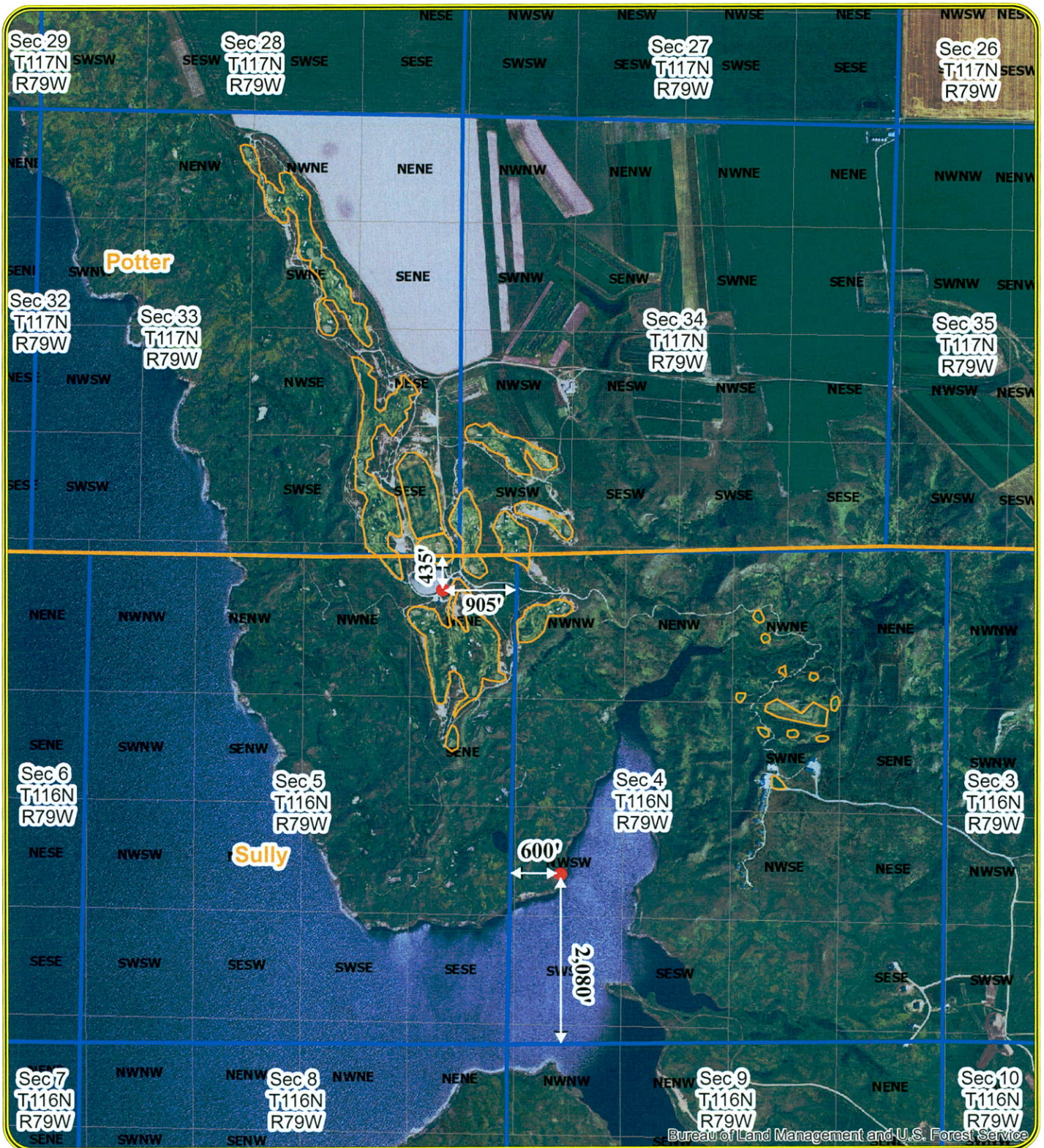
Mike DeFea

Natural Resources Engineer II
DENR, Water Rights Program

Date report completed: **June 2, 2015**

Sutton Bay Golf, LLC

Water Permit No. 6269-3



Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
May 21, 2015



Licensing of Acreage Outside of Permitted Area

NAME: Sutton Bay Golf, LLC

ADDRESS: Sutton Bay Trail, Agar, SD 57520

DATE: May 27, 2015 **COUNTY:** Sully/Potter **TELEPHONE:** 264-5530

AUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The acreage developed for irrigation is 100 acres as compared to 100 acres authorized by the permit. Licensing of the permit will be reduced in the amount of water appropriated. See Inspection report.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**

The 16 acres located in the SW ¼ Section 34 are contiguous to the other acres which were originally permitted in portions of Section 4 and 5-T116N-R79W and portions of Section 33-T117N-R79W.

- **Owned by Same Property Owner**

The acreage is owned by the same property owner.

- **Developed Prior to Expiration of Construction Period**

The original golf course had been constructed prior to expiration of the construction period. The entire originally constructed golf course had to be relocated to the east due to the golf course's slope instability. The original course had been constructed on the downhill slope along the Missouri River. As a result of being constructed on the slope along with other factors, the course began moving downhill causing slumps and slides which then required extensive maintenance to keep the golf course operational. The new golf course was constructed on top of the bluff to prevent downhill movement.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the 16 acre area be included in the water license.



Mike DeFea, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the non-permitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.



Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

AUG 27 2015

6269-3

Don Smith
Sutton Bay Golf LLC
28950 Sutton Bay Trail
Agar SD 57520

Dear Mr. Smith:

Enclosed is Water License No. 6269-3. 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.

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

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 6269-3

(1) Sutton Bay Golf LLC, 28950 Sutton Bay Trail, Agar SD 57520 made Application No. 6269-3, June 28, 2001 for a water permit to divert 3.12 cubic feet of water per second (cfs) from the Missouri River to be diverted into a storage pond (12 acre-feet storage capacity) located in Sully County, South Dakota for irrigation purposes. Permit No. 6269-3, with a priority date of June 28, 2001 was approved August 27, 2001 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before August 27, 2006 and for the application to beneficial use of water on or before August 27, 2010.

Water Permit No. 6269-3 authorized a change in location of acreage authorized for irrigation under Water Right Nos. 1272A-3 and 3200-3; construction of a 12 acre feet dugout to be used as part of the irrigation system for the golf course and included authorization to increase the annual period of use from March 15th through November 15th each year. The permit also cited ability to divert up to 3 acre feet of water per acre annually. The 3 acre feet per acre had been established under existing water rights. Upon approval of Permit No. 6269-3 for development of the golf course, the land authorized under Nos. 1272A-3 and 3200-3 would no longer be irrigated.

The applicable portions of Water Right Nos. 1272A-3 and 3200-3 were incorporated into Water Permit No. 6269-3 at the time the permit was approved. The entire diversion authority should have been given a priority date of April 7, 1966 (established under the originating Water Permit No. 1272-3). A priority date of June 28, 2001 was retained for the 12 acre feet dugout and the extension of the annual use period.

An investigation conducted for licensing purposes found acreage developed for irrigation outside of the area described on the permit. Pursuant to SDCL 46-5-30.5, the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, Sutton Bay Golf LLC, 28950 Sutton Bay Trail, Agar SD 57520 the holder and/or owner of Water Right No. 6269-3 is issued a license, bearing priority dates the following priority dates:

- April 7, 1966 for 1.7 cubic feet of water per second from the Missouri River;
- June 28, 2001 for the 12 acre feet dugout and pumping from March 15th – March 30th and from November 1st – November 15th each year.

Water License No. 6269-3 authorizes a total of 1.7 cfs from the Missouri River to a 12 acre feet dugout for irrigation of a golf course. Water is diverted from the dugout at a rate of 2.67 cfs to the irrigated acres.

The Missouri River diversion point is located: approximately 2,080 feet north and 600 feet east of the SW corner of Section 4-T116N-R79W (NW 1/4 SW 1/4).

The dugout is located: approximately 435 feet south and 905 feet west of the NE corner of Section 5-T116N-R79W (NE 1/4 NE 1/4).

continued

The acres authorized for irrigation are as follows:

Section 4, T116N, R79W		Section 33-T117N-R79W		Section 34-T117N-R79W	
NW ¼ NW ¼	4.0 acres	NE ¼ NW ¼	1.0 acre	NW ¼ SW ¼	2.0 acres
NW ¼ NE ¼	1.5 acres	NW ¼ NE ¼	6.0 acres	SW ¼ SW ¼	14.0 acres
SW ¼ NE ¼	5.0 acres	SW ¼ NE ¼	9.0 acres		
		SE ¼ NE ¼	1.0 acre		
Section 5, T116N, R79W		NW ¼ SE ¼	1.0 acre		
NW ¼ NE ¼	2.0 acres	NE ¼ SE ¼	8.0 acres		
NE ¼ NE ¼	24.0 acres	SE ¼ SE ¼	20.0 acres		
SE ¼ NE ¼	1.5 acres				
					Total 100 acres irrigated

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6269-3 including the following qualifications:

- Water Permit No. 6269-3 incorporates the applicable portions of Water right Nos. 1272A-3 and 3200-3 into a single permit. The abandoned diversion rate and acreage under Water Right Nos. 1272A-3 and 3200-3 are cancelled. The maximum Missouri River diversion rate authorized by this permit is 3.12 cfs
Upon licensing, the water right is now limited to the developed diversion rate of 1.7 cfs.
- Water Right No. 6269-3 authorizes a dugout with an approximate storage capacity of 12 acre-feet of water. The diversion of water from the Missouri River may be used for either direct application of water to the irrigated acreage or to maintain the dugout and then diverted from the dugout to the irrigated acres.
- Pursuant to SDCL 46-5-6 which allows a greater diversion rate and volume of water if the method of irrigation, time constraints, or type of soil so requires, Water Right No. 6269-3 authorizes a maximum diversion rate applied to the land of 2.67 cfs for the irrigation of 100 acres with an annual volume not to exceed 3 acre-feet of water per acre per year.
- This water right is subject to the irrigation water use questionnaire being submitted each year.


Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 27 2015
date

