

WATER PERMIT NO. 6384-3

Name of Applicant: Gary & Dianne Foster

Address: 19758 466th Ave, Bruce SD 57220

Phone: 605 873-2694

Amount of Water Claimed: 1.45 cfs

Total Acres: 27 additional acres

Source of Water Supply: groundwater (1 existing well)

Water to be used for: irrigation

County: Brookings

Type of Waste Disposal System:

Location: 6 miles north of Bruce

PRIORITY Date Received: 1-17-2003

Application/License Fee: \$200

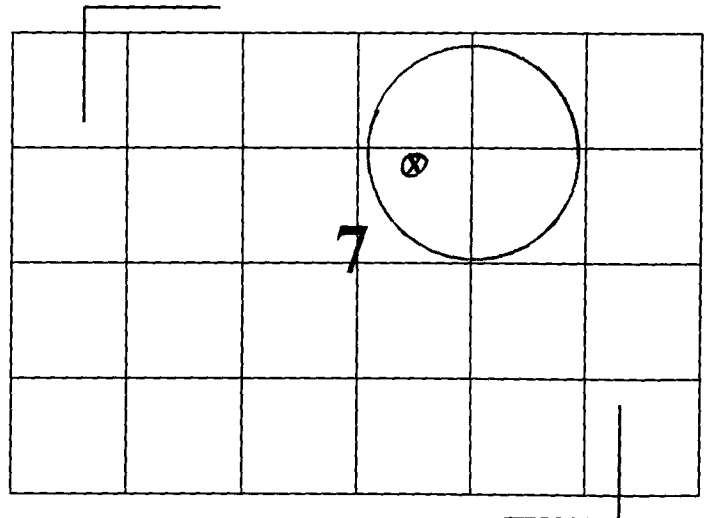
Corrected Application Received: 1-22-2003

Period of Annual Use: April 1 – October 31

Remarks: proposes to move center pivot and irrigate 27 additional acres to that authorized by Water Right No. 2527-3

Diversion Point: SW ¼ NE ¼ Sec 7-T112N-R50W

Land to be Irrigated: NE ¼ Sec 7-T112N-R50W



Depth of Well: 39 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 1-22-2003

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 6384-3**

Date of first receipt of application January 17, 2003.

Date of return to applicant for corrections, amendments or changes January 17, 2003.

Date of receipt of corrected application January 22, 2003.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6384-3 to Gary & Dianne Foster, 19758 466th Ave, Bruce SD 57220 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. 6384-3 authorizes irrigation of 27 additional acres. Water Right No. 2527-3 appropriates 1.45 cubic feet of water per second from one well (Big Sioux:Brookings Aquifer) 39 feet deep located in the SW ¼ NE ¼ Section 7 to irrigate 113 acres located in the E ½ NW ¼, NE ¼ Section 7; all in T112N-R50W. This permit authorizes irrigation of 27 additional acres located in the NE ¼ Section 7-T112N-R50W from the existing well. This permit also involves shifting the pivot so it will be entirely in the NE ¼ of Section 7. This permit does not authorize any increase in the developed diversion rate.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is January 17, 2003.
4. The date of approval of Permit No. 6384-3 is March 24, 2003.
5. One-fifth of the construction is to be completed on or before September 24, 2005.
6. All construction is to be completed on or before March 24, 2008.
7. Water is to be put to beneficial use on or before March 24, 2012.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele

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

APR 21 2003

date



Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6384-3</u> (office use only)	Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Brookings Register</u>	

RECEIVED
JAN 17 2003
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

- Type of Application: New Vested Right Amendment/Correction to Permit No. 2527-3
(Use predates Mar 2, 1955)
- Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Move Center
Pivot To New Pad in Field - change amount of acres of
Land & Description +Dianne
1. Name of Applicant River View Farms Inc. to Gary Foster Phone 605-873-2694
(check one) Owner Tenant/lessee
Mailing Address 19758 466th Ave Bruce SD State SD (Zip Code) 57220
(Street, RR, or Box and City) (7 add'l)
2. Amount of water claimed 7.45 *CFS or **GPM ***AF Total Acreage 140
(*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) 2075' W + 1475' S
of the NE corner of Sec 7, T112N, R50W - SW1/4 NE1/4
(SW1/4 NE1/4) County Brookings
5. County or counties where water will be used Brookings
6. Annual period during which water is to be used April - Oct 31
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
NE 1/4 of NE 1/4 Sec 7-T112-N R-50W	40	35	
NW 1/4 of NE 1/4 Sec 7-T112-N R-50W	40	35	
SW 1/4 of NE 1/4 Sec 7-T112-N R-50W	40	35	
SE 1/4 of NE 1/4 Sec 7-T112-N R-50W	40	35	

8. Give a description of the project. (Attach sheet if more space is needed) this changes the
existing Center Pivot To New location in the same
section

STATE OF SOUTH DAKOTA) SS
County of Brookings

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 V Foster, 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 Foster

Subscribed and sworn to before me this 14th day of January 2003

TRACEY ZMUDA



NOTARY PUBLIC
SOUTH DAKOTA



Tracey Zmuda

Notary Public signature

Supplemental Information

(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 _____

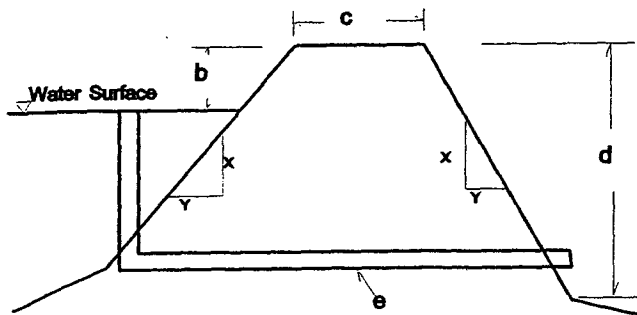
3. Dugout Information

- 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

MAP NOT TO SCALE
THIS IS NOT AN OFFICIAL WETLAND MAP



Water Rights Program - File Documentation

NAME: Tom Pierce, Farmers Implement

ADDRESS: Brookings

DATE: 1-17-03 **COUNTY:** BK **TELEPHONE:** 605 692-6153

RE: Application for Riverview Farms

COMMENTS:

Water Right No. 2527-3 authorizes irrigation 113 acres. Tom Pierce with Farmers Implement indicated the new center pivot was capable of irrigating a maximum 140 acres. Since this is 27 additional acres, Tom stated he concurred with my making that change on the application. Tom further stated the diversion rate of 1.45 cfs would remain the same. That was all the well was capable of. He understood if they required an additional well they would have to make application.

I told Tom that I would be writing Mr. Foster for the additional fee. Tom said he would call Gary Foster and tell him what I explained also.

Karen Schlaak
Karen Schlaak
Environmental Scientist



January 17, 2003

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

Riverview Farms, Inc.
c/o Gary Foster
19758 466th Ave
Bruce SD 57220

Dear Mr. Foster:

Thank you for submitting the *Application for a Permit to Appropriate Water* to change the location of the pivot authorized by Water Right No. 2527-3.

Water Right No. 2527-3 authorizes 1.45 cubic feet of water per second (650 gallons per minute) from one well to irrigate 113 acres. The lands outlined on the aerial photo appeared to be more than 113 acres. I called Tom Pierce with Farmers Implement and he indicated the new pivot will be capable of irrigating a maximum of 140 acres. This is 27 additional acres to that authorized by Water Right No. 2527-3. I have changed the application accordingly.

The application/license filing fee will be \$200. We have received your check for \$102.50. \$100 will be applied towards this application and \$2.50 applied towards the transfer. Therefore, an additional \$100 will be required.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 17, 20 03

RECEIVED OF River View Farm Inc., 19758 466th Ave, Bruce SD 57220-5124

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

Fee for Application for Permit No. <u>13743</u> to Appropriate Water, to construct and to put water to beneficial use	100	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	100.00

No.

00555

By

Darland Eide

Chief Engineer

gm

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 22, 20 03

RECEIVED OF Postor's River View Farm Inc., 19758 466th Ave., Bruce SD 57220

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

Fee for Application for Permit No. <u>24-3</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>24-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	100.00

No.

000537

By

Darlene White
Chief Engineer
gm

Monday, January 20, 2003

Gary & Dianne Foster
19758 466th Avenue
Bruce, SD 57220

Department of Environment
And Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3182
Attn: Karen Schlaak

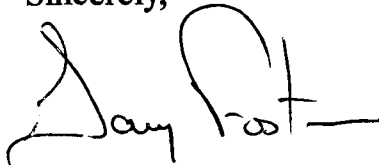
Dear Karen,

Enclosed is our check for the additional \$100 towards our application to change the location of the pivot on our Water Rights Application.

Also, I don't know how Tom Pierce had our name listed on the paperwork he sent you, but we need to have the permit in our names - Gary and Dianne Foster - not the farm name.

Thank you, and if you need anything else, just let us know.

Sincerely,

A handwritten signature in black ink that reads "Gary Foster". The signature is stylized with a large, looping "G" and a long horizontal line extending from the end of the name.

Gary Foster

RECEIVED

JAN 22 2003

WATER RIGHTS
PROGRAM



January 23, 2003

Gary & Dianne Foster
19758 466th Ave
Bruce SD 57220

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Dear Mr. Foster:

Enclosed is the aerial photo map submitted with your application. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local NRCS or FSA office). I do not know if Tom Pierce qualifies as one of the above. I missed this detail when reviewing your application last week.

Also, your letter stated you would like the application listed in the names of Gary & Dianne Foster. I have made this change on the application. Enclosed is a copy of the Notice of Transfer of Ownership on Water Right No. 2527-3 which indicates that permit should be transferred to Riverview Farms, Inc. I am assuming that you probably want this listed in your names also. Enclosed is another partially completed form. Please complete the form where indicated, sign and return. We no longer require this form to be notarized. If I misunderstood and you want Water Right No. 2527-3 listed as Riverview Farms, Inc. then please just disregard the form.

Enclosed is a postage prepaid envelope for returning the above. In the meantime, we will proceed with processing the new application. If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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. 6384-3, Gary and Dianne Foster**

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. 6384-3, Gary and Dianne Foster, 19758 466th Avenue, Bruce SD 57220.

The Chief Engineer is recommending APPROVAL of Application No. 6384-3 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. 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
February 24, 2003

REPORT ON WATER PERMIT APPLICATION NO. 6384-3
For Gary and Diane Foster
February 13, 2003

Water Right No. 2527-3 appropriates 1.45 cfs from one well approximately 39 feet deep located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of section 7 to irrigate 113 acres located in the E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ of section 7; all in T112N R50W in Brookings County. This application is to irrigate 27 additional acres located in the NE $\frac{1}{4}$ of section 7, T112N R50W from the existing well. This application also involves moving the center pivot so that it will be entirely in the NE $\frac{1}{4}$ of section 7. This application, if approved, does not authorize any increase in the developed diversion rate.

AQUIFER – BIG SIOUX – BROOKINGS

The Big Sioux Brookings is a surficial outwash (sand and gravel) which is under water table conditions in this area. The aquifer underlies 74,500 acres and contains an estimated 245,850 acre-feet of recoverable water in storage in Brookings County (Hedges, 1982). The aquifer extends into Hamlin County to the north and is hydraulically connected to the Big Sioux River. The entire Big Sioux aquifer underlies 540 square miles and contains an estimated 2.0 million acre-feet of water in storage in Brookings and Kingsbury Counties (Hamilton, 1989). Ground water movement is from north to south and towards the Big Sioux River in the vicinity of this application (Hamilton, 1989).

The Water Rights Program monitors four observation wells within a two mile radius of this application. Water levels for these wells show good correlation with climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2003).

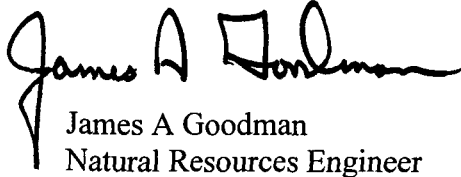
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are four existing water rights within one mile of this application. Interference is not a concern. These wells have all been in use for many years with no problems. Drawdown is not significant. The pumping by area irrigation wells does not extend very far from the individual production well. This is also shown by the observation well water levels in the area.

CONCLUSIONS

1. Water is available from the Big Sioux Brookings aquifer.
2. The aquifer is under water table conditions in this area. Drawdown created by pumping is not significant.
3. This application is simply a request to move a center pivot. Acreage will change and some new acreage will be irrigated but the actual diversion rate will not

- change. The new acreage will receive a new priority date and the old area will retain the old priority established by Water Right No. 2527-3.
4. No well log is available for the existing irrigation well.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

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

Hedges, L.S., 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.

Water Rights, 2003, Unpublished Observation Well Data for Brookings County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

Affidavit of Publication

State of South Dakota

Exhibit "A"

SS

County of Brookings

Jessica Johnson of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed in the office maintained at said place of publication; and that the

Legal # 793: "Application # 6384-3"

Brookings and State of South Dakota, for more than one a printed copy of which, taken from the paper in which the same was published, is hereto attached marked Exhibit "A," and is made a part of this affidavit, was published in said newspaper for _____ 2 times, to-wit:

March 5, 2003

March 12, 2003

said Exhibit "A" inures to the sole benefit to the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Forty four dollars and sixty-six cents \$ 44.66

Legal 793, 2x, 3/5, 12
NOTICE OF APPLICA-
TION NO. 6384-3 to
Appropriate Water
Notice is given that
Gary & Dianne Foster,
19758 466th Ave, Bruce
SD 57220 have filed an
application for a water per-
mit to irrigate 27 additional
acres. Water Right No.
2527-3 appropriates 1.45
cubic feet of water per sec-
ond from one well (Big
Sioux:Brookings Aquifer)
39 feet deep located in the
SW 1/4 NE 1/4 Section 7
to irrigate 113 acres locat-
ed in the E1/2 NW 1/4,
NE1/4 Section 7; all in
T112N-R50W. This applica-
tion is to irrigate 27 addi-
tional acres located in the
NE 1/4 Section 7-T112N-
R50W from the existing
well. The application also
involves shifting the pivot
so it will be entirely in the
NE 1/4 of Section 7. This
application, if approved,
does not authorize any
increase in the developed
diversion rate.
Pursuant to SDCL 46-
2A-2, the Chief Engineer
recommends APPROVAL
of Application No. 6384-3
because 1) unappropriat-
ed 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 recom-
mended, unless a petition
is filed opposing the appli-
cation or the applicant files
a petition contesting the
Chief Engineer's recom-
mendation. If a petition
opposing the application
or contesting the recom-
mendation 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 recom-
mendation must file a writ-
ten petition with BOTH the
applicant and Chief
Engineer. The applicant
must file a petition if con-
testing the Chief
Engineer's recommenda-
tion. 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
March 24, 2003.

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 petition-
er's legal counsel, if legal
counsel is obtained.
Contact Eric Gronlund at
the above Water Rights
Program address to
request copies of informa-
tion pertaining to this
application. Steven M.
Pirner, Secretary,
Department of
Environment and Natural
Resources.

Subscribed and sworn to before me this

17th

day of

March

2003.

Jessica Johnson

Christina Nelson

Notary Public in and for the County of Brookings, South Dakota.
My Commission expires April 27, 2006

RECEIVED
MAR 17 2003
WATER RIGHTS
PROGRAM

Instruction to Newspaper - Publish first Notice on March 5, 2003 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6384-3 to Appropriate Water

Notice is given that Gary & Dianne Foster, 19758 466th Ave, Bruce SD 57220 have filed an application for a water permit to irrigate 27 additional acres. Water Right No. 2527-3 appropriates 1.45 cubic feet of water per second from one well (Big Sioux:Brookings Aquifer) 39 feet deep located in the SW ¼ NE ¼ Section 7 to irrigate 113 acres located in the E ½ NW ¼, NE ¼ Section 7; all in T112N-R50W. This application is to irrigate 27 additional acres located in the NE ¼ Section 7-T112N-R50W from the existing well. The application also involves shifting the pivot so it will be entirely in the NE ¼ of Section 7. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6384-3 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 March 24, 2003.

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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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 24, 2003

Gary & Dianne Foster
19758 466th Ave
Bruce SD 57220

Dear Mr. & Ms. Foster:

Water Permit Application No. 6384-3 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 Brookings Register printed at Brookings, SD (Ph # 605-692-6271). You will need to contact the newspaper 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 newspaper 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 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 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

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

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

February 24, 2003

Brookings Register
PO Box 177
Brookings SD 57006-0177

ATTENTION: Legal Public Notice

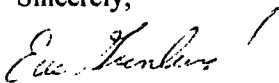
Enclosed is a Notice of Hearing on Application No. 6384-3 to Appropriate Water to be published twice. Please publish the first notice on March 5, 2003 with the second publication 7 days later.

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 & Diane Foster, 19758 466th Ave, Bruce, SD 57220 (Ph # 605-873-2694).

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. 6384-3

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

Date _____

We are in receipt of your letter of February 24, 2003 enclosing Notice of Hearing to Appropriate Water by Application No. 6384-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 21 2003

Gary & Diane Foster
19758 466th Ave
Bruce SD 57220

Dear Mr. & Ms. Foster:

Enclosed is Water Permit No. 6384-3 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

NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date 7/28/2003

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

RECEIVED
JUL 30 2003
WATER RIGHTS
PROGRAM

FROM: Gary & Dianne Foster

(name)

19758 466th Ave.

(address)

Bruce, SD 57220

(city, state, zip)

605-873-2694

(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 6384-3 states that the water use system is to be constructed by

3/24/2008

(date)

, and water is to be put to beneficial use by 3/24/2012

(date)

The water use system was completed on 6/1/2003

(date)

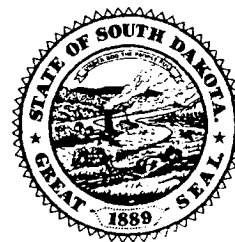
Applying the water to beneficial use was completed on 6/1/2003

(date)

You may schedule an investigation so that the water license may be issued.

Dianne Foster

(signature)





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 30, 2003

6384-3

Gary Foster
19758 466th Ave
Bruce SD 57220

Dear Mr. Foster:

Enclosed, as we discussed, is a copy of your new water permit and the map. I included two pages printed from our database showing how the legal descriptions are printed.

Water Right No. 2527-3 authorizes irrigation of 113 acres. When you applied for the new water permit, I believe your intent was to shift the existing pivot to the east and irrigate the NE $\frac{1}{4}$ of Section 7. You indicated the pivot will cover 140 acres. Since the original water right authorized 113, the new permit only needed to make up the difference which would be 27 acres.

The legal descriptions contained on the irrigation questionnaires are taken from Water Right No. 2527-3 and Water Permit No. 6384-3 as they exist now. When an investigation of your water use system is conducted and the license issued for what you have developed, No. 2527-3 will be incorporated into No. 6384-3 and reflect irrigation only in the NE $\frac{1}{4}$ Section 7. As soon as that is done, you will receive only one questionnaire with the appropriate legal descriptions.

I hope I have answered your questions and eliminated some of the confusion between the two irrigation questionnaires. I highlighted the area on the map showing what the end result will be when the two permits are combined. If you feel the area should be different and the permits are inaccurate, please get in touch with us.

Sincerely,

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

enclosures

Permit No. 6384-3
Sioux River - Water District

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

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

I have this day, **August 22, 2006**, made a thorough examination of the water use system constructed by **Gary and Dianne Foster** of **19758 466th Ave., Bruce, SD 57220** holder of Permit No. **6384-3**, bearing the priority of **January 17 2003**, authorizing the diversion of **No additional water with 27 additional acres** for **Irrigation** purposes, in **Brookings** County.

Inspection contact & relationship **Gary and Dianne Foster (873-2694)**
to permit holder, if applicable:

A. Works used to divert water (taken from inspection report done by Tom Brandner during licensing of Water Right No. 2527-3)

One well – 39 feet deep with 14"-16" aluminum casing and 15' galvanized steel screen

National Pump – model # N260-6, serial # 577-910; pump capacity 650 gallons per minute

Powered by a 50 hp GE motor, 1760 rpm (see original inspection report for model and serial numbers)

B. Works used to apply water to beneficial use:

Center pivot:

- 1) Make **Zimmatic**
- 2) Number of towers **8**
- 3) End gun **Y**
- 4) High or low pressure **High**
- 5) Capacity **650** GPM

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 and water has been put to beneficial use to the maximum extent as follows:

Well location (taken from original inspection report done by Tom Brandner in 1987): **2,075 feet west and 1,475 feet south of the NE corner of Section 7, T112N, R50W.**

Lands irrigated:

All in Section 7-T112N-R50W

N ½ SE ¼ - 6 acres

NE ¼ NE ¼ - 32 acres

NW ¼ NE ¼ - 32 acres

SE ¼ NE ¼ - 36 acres

SW ¼ - NE ¼ - 34 acres

comprising a total of **140** acres of land and the license should be issued for **1.45-cfs.**

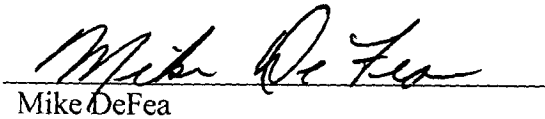
Report of Examination of Works

Permit No. 6384-3

All structures, wells and lands on map Y

Water Permit No. 6384-3 authorizes the additional 27-acres to be irrigated with no increase in diversion rate in Section 7 from a well authorized by Water Right No. 2527-3. Water Right No. 2527-3 is authorized to irrigate 113-acres at a rate of 1.45-cfs in Section 7: all in T112N-R50W. Water Right No. 2527-3 should be incorporated into Water Permit No. 6384-3 to reflect the system that has been developed while each retaining their original priority dates of February 6, 1976 and January 17, 2006.

Note: At the time of inspection, the pivot was shifted to the east and although the number of acres being irrigated remained the same, some of the acreage was in a different legal description. SDCL 46-5-30.5 states that acreage developed for irrigation outside of the acreage described on the permit may be licensed pursuant to § 46-5-30.1, if no increase occurs in either permitted acreage or water appropriated. See report ***"Licensing of Acreage outside of Permitted Area"*** dated June 11, 2007 for details.



Mike DeFea

Natural Resources Project Engineer
DENR, Water Rights Program

Date report completed: **June 11, 2007**

Licensing of Acreage Outside of Permitted Area

NAME: Gary and Diane Foster

ADDRESS: 19758 466th Ave., Bruce, SD 57220

DATE: June 11, 2007

COUNTY: Brookings

TELEPHONE: 873-2694

AUTHORITY

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

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The total acreage developed for irrigation is 140 acres as authorized by 2527-3 and 6384-3. Licensing of the permit will result in no increase in the amount of water appropriated.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**

Water Right No. 2527-3 authorizes the diversion of 1.45-cfs to irrigate 113 acres in the E ½ NW ¼ and NE ¼ of Section 7-T112N-R50W. Water Permit No. 6384-3 authorizes an additional 27 acres to be irrigated in Section 7-T112N-R50W to accommodate a full circle pivot system totaling 140 acres. Water Right No. 2527-3 should be incorporated into Water Permit No. 6384-3 to reflect the system as developed. At the time of the inspection, the irrigation system had been shifted to the east and no longer irrigated the 21 acres in the E ½ NW ¼ but instead irrigated land in the NE ¼ and six acres in the N ½ SE ¼ of Section 7-T112N-R50W. The system is contiguous to the land that was originally permitted. The acres now being irrigated are as follows:

Priority date of February 6, 1976:

NW ¼ NE ¼ - 32 acres

NE ¼ NE ¼ - 32 acres

SE ¼ NE ¼ - 15 acres

SW ¼ NE ¼ - 34 acres

Priority date of January 17, 2003

SE ¼ NE ¼ - 21 acres

NE ¼ SE ¼ - 3 acres

NW ¼ SE ¼ - 3 acres

- **Owned by Same Property Owner**

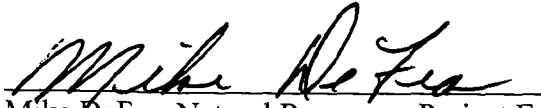
The property owners are the same, Gary and Diane Foster.

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

The system was developed before the March 24, 2008 construction period.

RECOMMENDED ACTION

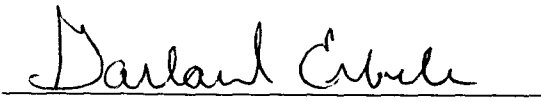
Based on the above criteria, it is recommended that the 6 acre area located in the N ½ SE ¼ Section 7-T112N-R50W be included in the water license.



Mike DeFea, Natural Resources Project Engineer
DENR, 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.



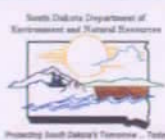
Garland Erbele, Chief Engineer
Water Rights Program

Gary and Diane Foster
19758 466th Ave
Bruce, SD 57220
873-2694

Water Permit No. 6384-3



Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
June 11, 2007



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6384-3

(1) Gary and Dianne Foster, 19758 466th Ave, Brookings SD 57220 made Application No. 6384-3, January 17, 2003 for a water permit to irrigate 27 additional acres from groundwater (one well), Brookings County, South Dakota for irrigation purposes. Permit No. 6384-3, with a priority date of January 17, 2003 was approved March 24, 2003 and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before March 24, 2008 and for the application to beneficial use of water on or before March 24, 2012.

Water Right No. 2527-3, with a priority date of February 6, 1976 authorized diversion of 1.45 cubic feet of water per second from one well to irrigate 113 acres. The applicable portions of No. 2527-3 are incorporated into Water License No. 6384-3.

An investigation conducted for licensing purposes found acreage developed for irrigation outside of the area described on the permits. 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, the holders and/or owners of Incorporated Water Right No. 6384-3 is issued a license, bearing priority dates of February 6, 1976 (113 acres) and January 17, 2003 (27 acres) to appropriate 1.45 cubic feet of water per second from groundwater (one well) to irrigate 140 acres.

The diversion point is located: 2,075 feet west and 1,475 feet south of the northeast corner of Section 7-T112N-R50W (SW ¼ NE ¼). The acres authorized for irrigation are as follows:

Section 7-T112N-R50W	NE ¼ NE ¼	32 acres
	NW ¼ NE ¼	32 acres
	SE ¼ NE ¼	36 acres
	SW ¼ NE ¼	34 acres
	N ½ SE ¼	6 acres
Total 140 acres		

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Permit No. 6384-3 including the following now applicable qualifications:

- 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.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Garland Erbele

Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

OCT 19 2007

date



6384-3



OCT 19 2007

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

6384-3
2527-3

Gary and Dianne Foster
19758 466th Ave
Brookings SD 57220

Dear Mr. & Mrs. Foster:

Enclosed is Water License No. 6384-3. This is the final water right document completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6384-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

Note: The applicable portions of No. 2527-3 are incorporated into Water License No. 6384-3.

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