

WATER PERMIT NO. 6405-3

Name of Applicant: Robert & Richard Kreber

Address: 14956 310th St, Springfield SD Phone: 605 589-3050

Amount of Water Claimed: 2.0 cfs Total Acres: 120

Source of Water Supply: Missouri River

Water to be used for: irrigation County: Bon Homme

Type of Waste Disposal System:

Location: 4 miles northeast of Springfield

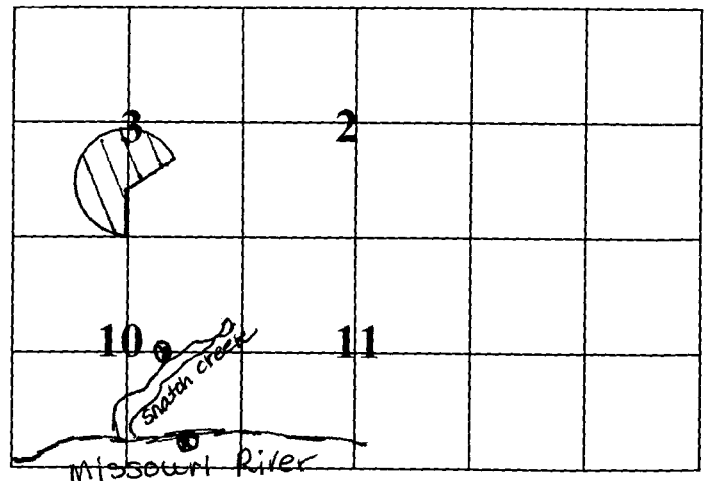
PRIORITY Date Received: 4-9-2003 Application/License Fee: \$275

Corrected Application Received: Period of Annual Use: April 1 – October 31

Remarks: plans to use existing diversion point for No. 239-3

Diversion Point: NW ¼ SE ¼ Sec 10 (Snatch Creek – Missouri R. backwater) and near the center of S ½ SE ¼ Sec 10; all in T93N-R59W (Missouri R.)

Land to be Irrigated: E ½ SW ¼ and W ½ SE ¼ Sec 3-T93N-R59W



Depth of Well: NA

Well Driller: : NA

Remarks:

Type of Map: aerial

Prepared by: Gary LaCompton

Reviewed and the Number Assigned on: 4-9-03

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

FORM 2: Application for irrigation in South Dakota

(type or print)

RECEIVED

APR - 9 2003

WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6405-3</u> (office use only) Hydrologic Unit <u>10170101</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Tyndall Tribune & Register</u>

Application For Permit To Appropriate Water For Irrigation

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

(Use predates Mar 2, 1955)

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

- Name of Applicant Robert and Richard Kreber Phone (605) 589-3050
 (check one) ☒ Owner ☐ Tenant/lessee
 Mailing Address 41 44956 310th Street Springfield State SD 57062
 (Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 2.000 *CFS or **GPM ***AF Total Acreage 120
 (*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Missouri River backwater (Snatch Creek) & Missouri River
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Bon Homme
NW1/4 SE1/4 section 10-93N-59W (Snatch Creek)
Near center of S1/2 SE1/4 sec 10 - 93N-59W (Missouri River)
- County or counties where water will be used Bon Homme
- Annual period during which water is to be used Apr 1 - Oct 31
- 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
E1/2 SW1/4 sec 3-93N-59W			
W1/2 SE1/4 sec 3-93N-59W			
120 acres total			

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

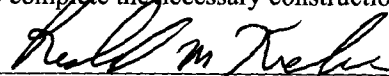
Plan to use an existing diversion for No. 239-3 and extend pipeline to section 3 and install a pivot.
 Requesting in excess of 1cfs/70 acres to accommodate a pivot that does not swing a full circle.

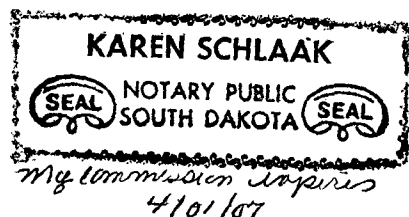
 STATE OF SOUTH DAKOTA) SS
 County of Hughes

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, Richard M Kreber, 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



 Subscribed and sworn to before me this 9th day of April 20 03

 Karen Schlaak
 Notary Public signature

SOUTH DAKOTA
WATER PERMIT NO. 6405-3 FOR IRRIGATION

Date of first receipt of application April 9, 2003.

The Water Management Board approved Water Permit No. 6405-3 on October 1, 2003 for Robert and Richard Kreber, 41956 310th St, Springfield SD 57062 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. 6405-3 appropriates 2.0 cubic feet of water per second from an existing Missouri River diversion point (authorized by Water Right Nos. 239-3 and 3586-3) located near the center of the S ½ SE ¼ Section 10 and Snatch Creek (Missouri River backwater) located in the NW ¼ SE ¼ Section 10; to irrigate 120 acres located in the E ½ SW ¼ and W ½ SE ¼ Section 3; all in T93N-R59W.
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 April 9, 2003.
4. One-fifth of the construction is to be completed on or before April 1, 2006.
5. All construction is to be completed on or before October 1, 2008.
6. Water is to be put to beneficial use on or before October 1, 2012.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Pursuant to SDCL 46-5-6 which allows for a greater diversion rate if the method of irrigation, time constraints or type of soils so requires, Permit No. 6405-3 authorizes a maximum diversion rate of 2.0 cfs for the irrigation of 120 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

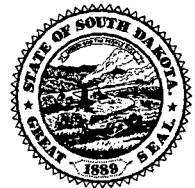
WATER MANAGEMENT BOARD

By: Garland Erbele

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

DEC 10 2003

date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 9, 20 03

RECEIVED OF Rick Kreber, 41904 310th St., Springfield SD 57062

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	225	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	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	275.00	

No.

000718

By

Darlene Erbe

Chief Engineer

gm

REPORT ON WATER PERMIT APPLICATION NO. 6405-3

Robert & Richard Kreber

April 16, 2003

Application No. 6405-3, proposes to appropriate 2.0 cubic feet of water per second (cfs) from an existing Missouri River diversion point (authorized by Water Right No. 3586-3) located near the center of the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10 and Snatch Creek (Missouri River backwater) located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10 T93N-R59W. This water will be used to irrigate 120 acres located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 3 T93N-R59W.

The proposed project is located approximately five miles northeast of Springfield.

Water Source – Missouri River

The source of water is the Missouri River. The Missouri River is known to have ample supplies of unappropriated water available. The applicant is requesting a diversion rate greater than 1 cfs per 70 acres. 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.

Review of Proposed Project and Existing Water Rights

Water Right No. 3586-3 authorizes the diversion of 2.67 cfs from the Missouri River to irrigate 257 acres of lands covered under Water Right Nos. 239-3 and 251-3.

Water will be diverted from the Missouri River by using an existing diversion point of Water Right No. 3586-3. The water will then be transported to the irrigated lands via a pipeline.

There are seven water rights within a one mile radius of the project. These water rights appropriate 13.77 cfs of water from the Missouri River for irrigation purposes. Because there is ample water in the Missouri River, Application No. 6405-3 is unlikely to cause adverse effects to downstream water rights. There have been no water use complaints reported on the Missouri River.

Conclusions

1. Application No. 6405-3, proposes to divert 2.0 cfs from the Missouri River to be used to irrigate 120 acres.
2. The source of water is the Missouri River. Because there is ample water in the Missouri River, Application No. 6405-3 is unlikely to cause adverse effects to downstream water rights/permits.
3. The source of water is the Missouri River. The Missouri River is known to have ample supplies of unappropriated water available. The applicant is requesting a diversion rate greater than 1 cfs per 70 acres. 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.



Stacy J. Johnson

Natural Resources Project Engineer

Reviewed by:



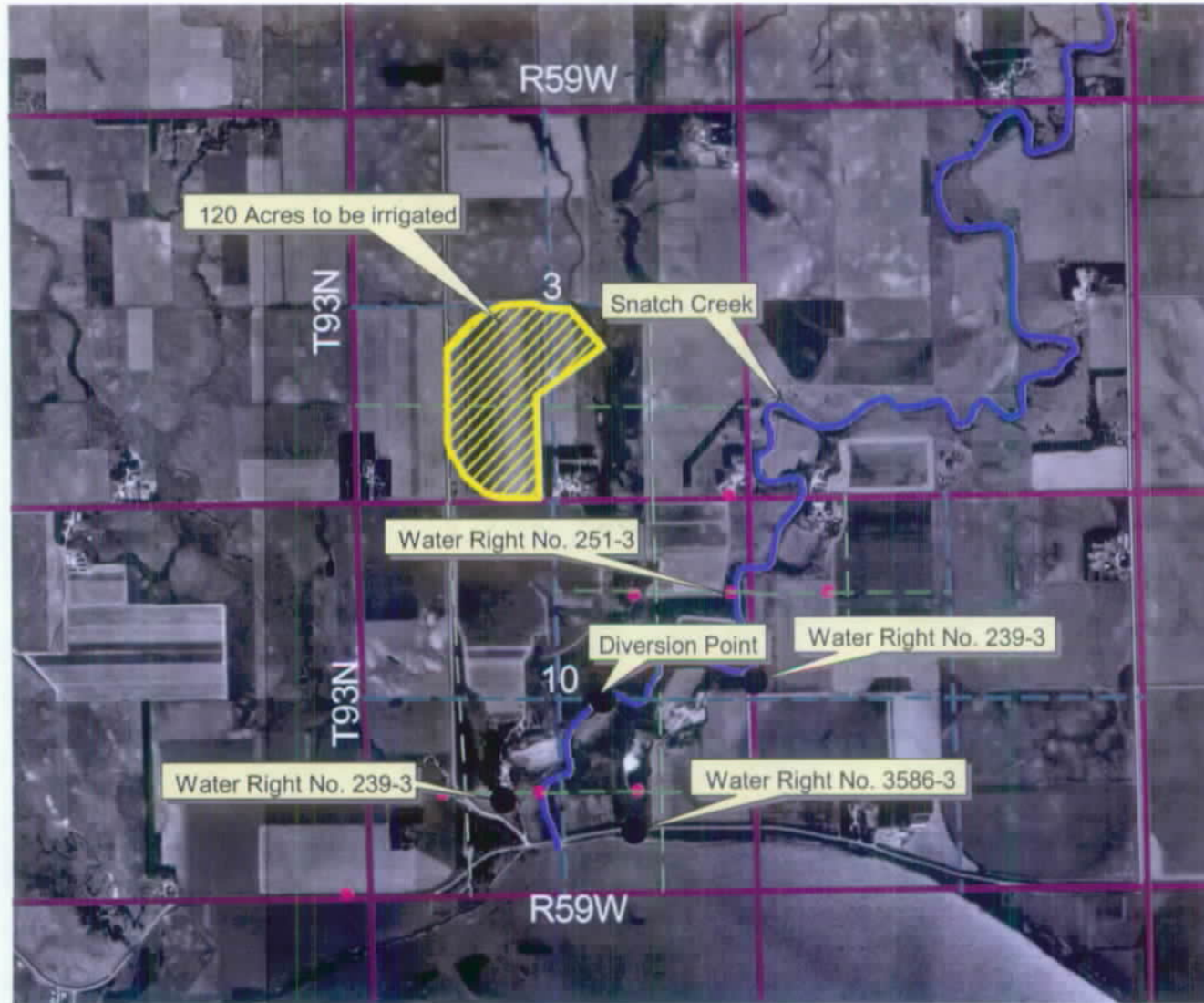
Mark D. Rath

Natural Resources Engineering Specialist

Reference

Water Rights Program files 2002, DENR-Water Rights Program, Joe Foss Building, 523 East Capitol, Pierre, SD 57501.

Water Permit Application No. 6405-3



0.8 0 0.8 1.6 Miles



Stacy J. Johnson
Natural Resources Project Engineer
SD DENR Water Rights Program
Date





**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. 6405-3, Robert and Richard Kreber**

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. 6405-3, Robert and Richard Kreber, 14956 310th Street, Springfield SD 57062.

The Chief Engineer is recommending APPROVAL of Application No. 6405-3 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. Pursuant to SDCL 46-5-6 which allows for a greater diversion rate if the method of irrigation, time constraints or type of soils so requires, Permit No. 6405-3 authorizes a maximum diversion rate of 2.0 cfs for the irrigation of 120 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
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
April 23, 2003



**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.**

April 23, 2003

Robert & Richard Kreber
14956 310th Street
Springfield SD 57062

Dear Mr. Kreber:

Water Permit Application No. 6405-3 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 Tyndall Tribune & Register printed at Tyndall, SD (Ph # 605-589-3242). 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

April 23, 2003

Tyndall Tribune & Register
PO Box 520
Tyndall SD 57066-0520

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 6405-3 to Appropriate Water to be published twice. Please publish the first notice on April 30, 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 Robert & Richard Kreber, 14956 310th Street, Springfield SD 57062 (Ph # 605-589-3050).

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. 6405-3

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

Date _____

We are in receipt of your letter of April 23, 2003 enclosing Notice of Hearing to Appropriate Water by Application No. 6405-3 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 April 30, 2003 with the second publication 7 days later. The applicant is responsible for payment.

Mr. Kreber will call this with H. change
NOTICE OF APPLICATION NO. 6405-3 to Appropriate Water

Notice is given that Robert and Richard Kreber, 14956 310th St, Springfield SD 57062 have filed an application for a water permit to appropriate 2.0 cubic feet of water per second from an existing Missouri River diversion point (authorized by Water Right Nos. 239-3 and 3586-3) located near the center of the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10 and Snatch Creek (Missouri River backwater) located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10; to irrigate 120 acres located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 3; all in T93N-R59W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6405-3 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 May 19, 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.

Affidavit of Publication

State of South Dakota }
County of Bon Homme } SS

Rebecca Tydz Being first duly sworn
says that the **Tyndall Tribune & Register** is a legal
weekly newspaper for publication of legal and other official
notices as required by Chapter 298 of the Session
Laws of South Dakota, 1939; that it has bona fide paid
circulation of more than two hundred copies weekly;
that it is published in English language in the City of
Tyndall, Bon Homme County, South Dakota, and has
been admitted to the United States mail under second
class mailing privilege for more than one year prior to
the first publication of the notice herein mentioned, and
that it is printed in an office maintained at the place of
publication at Tyndall, South Dakota, and that dep-
onent is the publisher in charge of the advertising depart-
ment of said newspaper; that the advertisement headed

Notice of Application No. 6405-3
640345 + 802 x 1

a printed copy of which is hereto attached, was printed
and published in said newspaper for two successive
weeks, upon the following dates:

<u>April 30</u> 20 <u>03</u>	20.....
<u>May 7</u> 20 <u>03</u>	20.....
.....20.....	20.....
.....20.....	20.....

That the full amount of the fee charged for the publica-
tion of said notice, \$39.74, inures to the benefit
of the publisher of said newspaper, that no agreement or
understanding for the division thereof has been made
with any other person, and that no part has been agreed
to be paid to any person whomsoever.

Rebecca Tydz, publisher

Subscribed and sworn to before me this

DEBBY SCHELSKE
day of May 2003

Debbie Schelske
Notary Public, South Dakota

My commission expires Oct. 24, 2003

RECEIVED

MAY 07 2003

WATER RIGHTS
PROGRAM

NOTICE OF APPLICATION

NO. 6405-3 to Appropriate Water

Notice is given that Robert and Rich-
ard Kreber, 14956 310th St, Springfield
SD 57062 have filed an application for a
water permit to appropriate 2.0 cubic
feet of water per second from an exist-
ing Missouri River diversion point
(authorized by Water Right Nos. 239-3
and 3586-3) located near the center of
the S1/2SE1/4 Section 10 and Snatch
Creek (Missouri River backwater) lo-
cated in the NW1/4SE 1/4 Section 10; to
irrigate 120 acres located in the
E1/2SW1/4 and W1/2SE1/4 Section 3;
all in T93N-R59W.

Pursuant to SDCL 46-2A-2, the Chief
Engineer recommends APPROVAL of
Application No. 6405-3 because 1) un-
appropriated water is available, 2) ex-
isting rights will not be unlawfully im-
paired, 3) it is a beneficial use of water,
and 4) it is in the public interest. In ac-
cordance 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 appli-
cant files a petition contesting the Chief
Engineer's recommendation. If a peti-
tion opposing the application or con-
testing the recommendation is filed,
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person filing a petition.

Any person interested in opposing or
supporting this application or recom-
mendation must file a written petition
with BOTH the applicant and Chief En-
gineer. The applicant must file a petition
if contesting the Chief Engineer's rec-
ommendation. The Chief Engineer's ad-
dress 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 peti-
tion filed by either an interested person
or the applicant must be filed by May
19, 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 sig-
nature and mailing address of the peti-
tioner 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 in-
formation pertaining to this application.
Steven M. Pimer, Secretary,
Department of Environment
and Natural Resources

(April 30 & May 7)

THE LAW OFFICE OF
THOMAS E. ALBERTS
ATTORNEY AND COUNSELOR AT LAW
P.O. BOX 347
AVON, SOUTH DAKOTA 57315

THOMAS E. ALBERTS

May 8, 2003

TELEPHONE (605) 286-3218
FAX (605) 286-3219

Robert Kreber
14956 310th St.
Springfield, SD 57062

Richard Kreber
14956 310th St.
Springfield, SD 57062

Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

RECEIVED

MAY - 9 2003

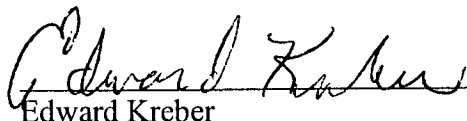
WATER RIGHTS
PROGRAM

Re: Application No. 6405-3 to Appropriate Water

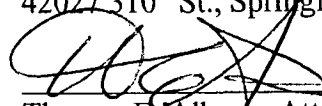
Gentlemen:

Please be advised that the undersigned, Edward Kreber, 42027 310th St., Springfield, South Dakota 57062, does hereby object to the approval of Application No. 6405-3 to appropriate water and recommendation of the Chief Engineer to the appropriation of water by Robert Kreber and Richard Kreber as shown in Application No. 6405-3. The following is the undersigned's petition in opposition to the Chief Engineer's recommendation and to Application No. 6405-3. The undersigned, as petitioner, is interested in Application No. 6405-3 as a present holder of Water Permit No. 251-3 and Water License No. 3586-3, as shown by the attached documents, and as a user of the present diversion system for use of the aforesaid permits owned by the undersigned. The undersigned, as petitioner, is opposing the application for the reasons that an award of Application No. 6405-3 would impair the undersigned's present use of the undersigned's Water Permit No. 251-3 and Water License No. 3586-3 by making it impossible or very difficult to have sufficient water with which to use the undersigned's water rights as previously granted to the undersigned by the State of South Dakota. The undersigned requests a hearing on this matter. This correspondence has been mailed to each of the abovesaid.

Sincerely,



Edward Kreber
42027 310th St., Springfield, SD 57062



Thomas E. Alberts, Attorney for Ed Kreber
P.O. Box 347, 133 N. Main
Avon, SD 57315
Telephone (605) 286-3218
Fax (605) 286-3219



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 20, 2003

NOTICE

TO: Robert and Richard Kreber
14956 310th Street
Springfield SD 57062
Thomas E. Alberts, Attorney
PO Box 347
Avon SD 57315
Edward Kreber
42027 310th Street
Springfield SD 57062

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

SUBJECT: Notice of Hearing on Water Permit Application No. 6405-3, Robert and Richard Kreber

A petition has been submitted opposing approval of Water Permit Application No. 6405-3 filed by Robert and Richard Kreber. The petition was filed by Thomas Alberts, attorney for Edward Kreber, in response to the Notice of Application to appropriate water published April 30 and May 7, 2003 in the Tyndall Tribune & Register.

As specified in the publication notice, the application proposes to appropriate 2.0 cubic feet of water per second from an existing Missouri River diversion point (authorized by Water Right Nos. 239-3 and 3586-3) located near the center of the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10 and Snatch Creek (Missouri River backwater) located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10; to irrigate 120 acres located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 3; all in T93N-R59W.

The Water Management Board will conduct a hearing to consider Application No. 6405-3 at 10:00 AM, on Thursday, July 10, 2003, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD 57501. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The hearing time is an estimate and may be delayed due to prior agenda items.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6405-3 because 1) there is a reasonable probability that there is unappropriated water 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. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the evidence presented at the public hearing.

The July 10, 2003, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by June 27, 2003.

This hearing may be an adversarial proceeding. Any party of record and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Notice is further given to persons with disabilities that this hearing is being held in a physically accessible place and that interpreter services will be provided, upon request, during the hearing. Please notify Eric Gronlund at (605) 773-3352 by June 27, 2003, if you have any questions about the hearing process or have special needs for which the department will make arrangements.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-23; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

c: Diane Best, Assistant Attorney General

NOTE: Based on South Dakota Codified Law 1-26-17, 1-26- 18.3 and 1-26D-10, parties to all administrative contested cases must receive notice that if the amount in controversy exceeds two thousand five hundred dollars or if a property right may be terminated, any party may require the use of the Office of Hearing Examiners by giving notice of the request to the agency, no later than ten days after service of this notice of hearing. The matter at issue in this case does not, however, meet the criteria and the applicant and parties do not have the automatic right to a hearing examiner.

CERTIFICATION

I hereby certify that on May 20, 2003 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 20, 2003 regarding Notice of Hearing on Water Permit Application No. 6405-3 addressed as stated below:

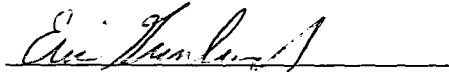
Robert & Richard Kreber
14956 310th Street
Springfield SD 57062

Thomas E Alberts Attorney
PO Box 347
Avon SD 57315

Edward Kreber
42027 310th Street
Springfield SD 57062

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building



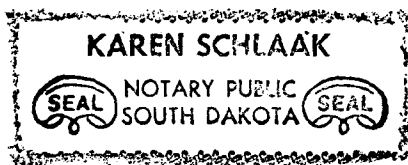
Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 20th day of May, 2003.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



THE LAW OFFICE OF
THOMAS E. ALBERTS
ATTORNEY AND COUNSELOR AT LAW
P.O. BOX 347
AVON, SOUTH DAKOTA 57315

THOMAS E. ALBERTS

July 9, 2003

TELEPHONE (605) 286-3218
FAX (605) 286-3219

Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

Via Facsimile Transmission
(605) 773-4068

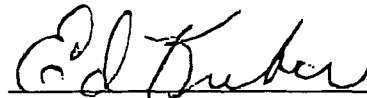
Attention: Eric Gronlund

Re: Application No. 6405-3 to Appropriate Water

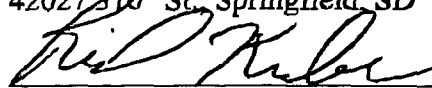
Dear Eric:

Please be advised that the undersigned, Rick Kreber and Ed Kreber, do hereby request that the hearing set for July 10, 2003, be continued for the above-referenced matter. This request is based upon the fact that each of the undersigned, as the applicant and the individual filing an objection to the application, are in the process of discussing a settlement of the issues and said settlement will be reduced to written form and submitted to the Water Rights Board. Both of the undersigned understand and agree that the continuance would be until the September Board meeting in the event the parties are unable to amicably resolve the pending issues. Please respond to indicate that a continuance has been granted.

Sincerely,



Ed Kreber
42027 310th St., Springfield, SD 57062



Rick Kreber
41904 310th St., Springfield, SD 57062

RECEIVED

JUL - 9 2003

WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 11, 2003

NOTICE

TO: Robert and Richard Kreber
14956 310th Street
Springfield SD 57062

Thomas E. Alberts, Attorney
PO Box 347
Avon SD 57315

Edward Kreber
42027 310th Street
Springfield SD 57062

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Continuance of Hearing on Water Permit Application No. 6405-3, Robert and Richard Kreber

On July 10, 2003, the Water Management Board continued Water Permit Application No. 6405-3 as requested by parties. The application will be scheduled for the October 1st Board meeting to be held in Pierre. Future notice of the time, date and place of the hearing will be provided to all parties.

If you have any questions on the scheduling of this application before the Board, please contact Eric Gronlund at (605) 773-3352

c: Diane Best, Assistant Attorney General

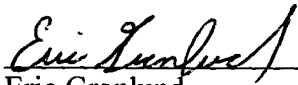
CERTIFICATION

I hereby certify that on July 11, 2003 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 11, 2003 regarding Continuance of Hearing on Water Permit Application No. 6405-3 addressed as stated below:

Robert and Richard Kreber
14956 310th Street
Springfield SD 57062

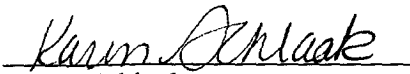
Thomas E Alberts Attorney
PO Box 347
Avon SD 57315

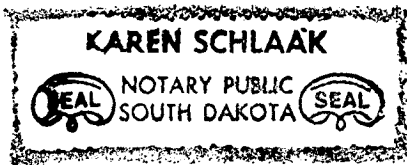
Edward Kreber
42027 310th Street
Springfield SD 57062


Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of July, 2003.


Karen Schlaak
Notary Public
My Commission expires April 1, 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

August 25, 2003

NOTICE

TO: Robert and Richard Kreber
14956 310th Street
Springfield SD 57062

Thomas E. Alberts, Attorney
PO Box 347
Avon SD 57315

Edward Kreber
42027 310th Street
Springfield SD 57062

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of the Hearing on Water Permit Application No. 6405-3, Robert and Richard Kreber

Water Permit Application No. 6405-3 proposes to appropriate 2.0 cubic feet of water per second from an existing Missouri River diversion point (authorized by Water Right Nos. 239-3 and 3586-3) located near the center of the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10 and Snatch Creek (Missouri River backwater) located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10; to irrigate 120 acres located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 3; all in T93N-R59W. The July 10, 2003 hearing before the Water Management Board was continued at the request of parties.

The Water Management Board will now consider Application No. 6405-3 on October 1, 2001, at 10:30 AM, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre, SD. The agenda time is an estimate and may be delayed due to prior agenda items.

Applicable provisions of the Notice published April 30 and May 7, 2003, in the Tyndall Tribune & Register and the Chief Engineer's Notice of Hearing dated May 20, 2003 will still apply at the October 1, 2003 hearing before the Water Management Board. This hearing may be an adversarial proceeding. Any party of record has the right to be present and 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 State Supreme Court as provided by law.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on August 25, 2003, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 25, 2003 regarding Scheduling of the Hearing on Water Permit Application No. 6405-3 addressed as stated below:

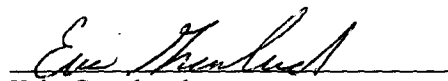
Robert & Richard Kreber
14956 310th Street
Springfield SD 57062

Thomas E Alberts Attorney
PO Box 347
Avon SD 57315

Edward Kreber
42027 310th Street
Springfield SD 57062

A copy of the above described Notice was sent Inter-office to:

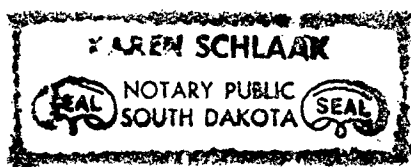
Diane Best, Assistant Attorney General, Capitol Building


Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of August, 2003.


Karen Schlaak
Notary Public
My Commission expires April 1, 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

September 9, 2003

TO: Robert Kreber
14956 310th Street
Springfield SD 57062

Thomas E. Alberts, Attorney
PO Box 347
Avon SD 57315

Edward Kreber
42027 310th Street
Springfield SD 57062

Richard Kreber
41904 310th Street
Springfield SD 57062

FROM: Eric Gronlund *Eric Gronlund*
Water Rights Program, DENR
(605) 773-3352

SUBJECT: Clarification of Hearing Date for Water Permit Application No. 6405-3, Robert
and Richard Kreber

Notice was sent to all parties on August 25th scheduling an October 1st hearing before the Water Management Board on Water Permit Application No. 6405-3 filed by Robert and Richard Kreber. The notice (copy enclosed) inadvertently cited the year as being 2001 instead of 2003.

The hearing to consider Application No. 6405-3 is set for 10:30 AM, October 1, 2003, in the Conference Room Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior agenda items.

Applicable provisions of the previous notice still apply. Please contact me if you have any questions.

c: Diane Best, Assistant Attorney General

enclosure

CERTIFICATION

I hereby certify that on September 9, 2003 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a letter dated September 9, 2003 regarding Notice of Clarification of Hearing Date for Water Permit Application No. 6405-3 addressed as stated below:

Robert Kreber
14956 310th Street
Springfield SD 57062

Thomas E Alberts Attorney
PO Box 347
Avon SD 57315

Edward Kreber
42027 310th Street
Springfield SD 57062

Richard Kreber
41904 310th Street
Springfield SD 57062

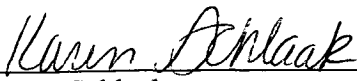
A copy of the above described Notice was sent Inter-office to:

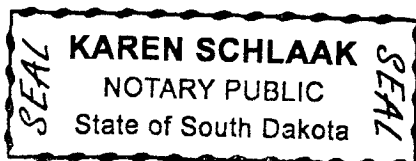
Diane Best, Assistant Attorney General, Capitol Building


Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of September, 2003.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



THE LAW OFFICE OF
THOMAS E. ALBERTS
ATTORNEY AND COUNSELOR AT LAW
P.O. BOX 347
AVON, SOUTH DAKOTA 57315

THOMAS E. ALBERTS

September 30, 2003

TELEPHONE (605) 286-3218
FAX (605) 286-3219

Eric Gronlund
Water Rights Program, DENR

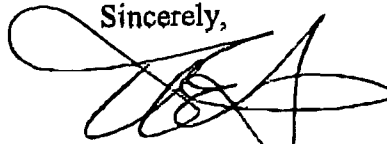
Via Facsimile Transmission
(605) 773-4068

Re: Water Permit Application No. 6405-3, Robert and Richard Kreber

Dear Eric:

Find attached copy of the Memorandum Agreement which should resolve all of the issues regarding Water Permit Application No. 6405-3. It is my understanding that all parties are in agreement and no one will be appearing at the hearing tomorrow and the permit will be granted to the applicant.

Sincerely,



Thomas E. Alberts
Attorney At Law

TEA:ce

Attachment

MEMORANDUM AGREEMENT

This Agreement, made and executed this 30th day of September, 2003, by and between Richard Kreber and Robert Kreber and Edward Kreber, all of rural Springfield, Bon Homme County, South Dakota; and

WHEREAS, Robert Kreber and Richard Kreber are processing a Water Permit Application No. 6405-3 with the Department of Environment and Natural Resources, Pierre, South Dakota, as shown by Exhibit "A" attached hereto and incorporated herein by this reference and which said Application has been set for hearing on October 1, 2003, before the Water Rights Commission with its office at Pierre, South Dakota; and

WHEREAS, Edward Kreber has filed an objection to the approval of Application No. 6405-3; and

WHEREAS, it is the intention of the parties hereto by this Memorandum Agreement to resolve all of the issues regarding the Application and objection as hereinabove stated and to memorialize the rights of the parties to this Agreement as it relates to existing Water License No. 239-3 owned by Richard Kreber and existing Water License No. 251-3 owned by Edward Kreber and the inter-relationship between the aforesaid existing water licenses hereinabove referred to and the pending Application No. 6405-3 and the future implementation of any water license issued pursuant to Application No. 6405-3.

NOW THEREFORE, IT IS HEREBY AGREED as follows:

For and in consideration of the present and future mutual benefits and obligations received and to be received and incurred by each of the undersigned persons to this Agreement, Richard Kreber, Robert Kreber and Edward Kreber agree that Edward Kreber will withdraw his objection to the pending Water Permit Application No. 6405-3 and Richard Kreber and Robert Kreber agree that the operation and effect of any water license issued pursuant to the pending Application No. 6405-3 will in no way interfere with Water License No. 251-3 as it exists on the date of this Agreement owned by Edward Kreber and any water usage pursuant to any water license issued as a result of the pending Application No. 6405-3 will be discontinued by Richard Kreber and Robert Kreber if the continuation of its usage affects Edward Kreber's Water License No. 251-3; and

Thomas E. Alberts
Attorney At Law
P.O. Box 347
Avon, SD 57315
Telephone (605) 286-3218
FAX (605) 286-3219

<u>RTK</u>	<u>9/30/03</u>
Initial	Date
<u>RTK</u>	<u>9-30-03</u>
Initial	Date
<u>RTK</u>	<u>9-30-03</u>
Initial	Date

Edward Kreber agrees that his usage of Water License No. 251-3 will not affect Richard Kreber's Water License No. 239-3, both as same exist on the date of this Agreement; and

All the parties to this Agreement agree that their respective water license usage will not exceed the amount shown in each license and be restricted to the land shown in each license; and

Richard Kreber and Robert Kreber understand and agree to assume any economic risk that each of them may incur as a result of any investment either of them may make for any improvements as the result of a water license issued pursuant to the pending Application No. 6405-3; and

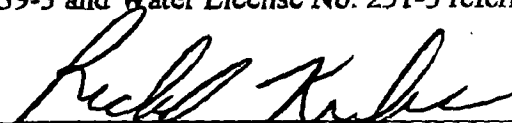
Each of the parties to this Agreement agree this Memorandum Agreement shall be binding upon their grantees, heirs, assigns, devisees and legatees and shall constitute a covenant running with the land; and

This Agreement shall be in full force and effect for and during the term and period of any and all licenses hereinabove referred to; and

Each of the parties to this Agreement understand that Thomas E. Alberts, Attorney At Law, represents Edward Kreber, and Richard Kreber and Robert Kreber each for themselves acknowledge and agree that they have reviewed this Memorandum Agreement with their own independent legal counsel or in the alternative, they specifically waive the right to do so; and

Each of the parties agree that the terms and provisions of this Memorandum Agreement may be enforced in a court of equity without the necessity of showing any damages.

Attached hereto are Water License No. 239-3 and Water License No. 251-3 referred to hereinabove.



Richard Kreber

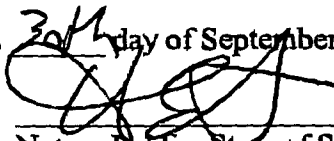


Robert Kreber



Edward Kreber

Subscribed and sworn to before me this 30th day of September, 2003.



Notary Public, State of South Dakota

(SEAL)

My Commission Expires: 5/24/2004



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 10 2003

Robert and Richard Kreber
41956 310th St
Springfield SD 57062

Dear Mr. Kreber:

Enclosed is Water Permit No. 6405-3 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

6405-3

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

Date 11-20-04

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

FROM: Robert & Richard Kreber
(name)

41956 310th St
(address)

Springfield S.D. 57062 (city, state, zip) (605) 589-3654 or 589-3050 (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. 6405-3 states that the water use system is to be constructed by

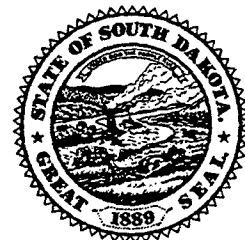
4-10-04 (date), and water is to be put to beneficial use by 6-1-04 (date).

The water use system was completed on 4-10-04 (date).

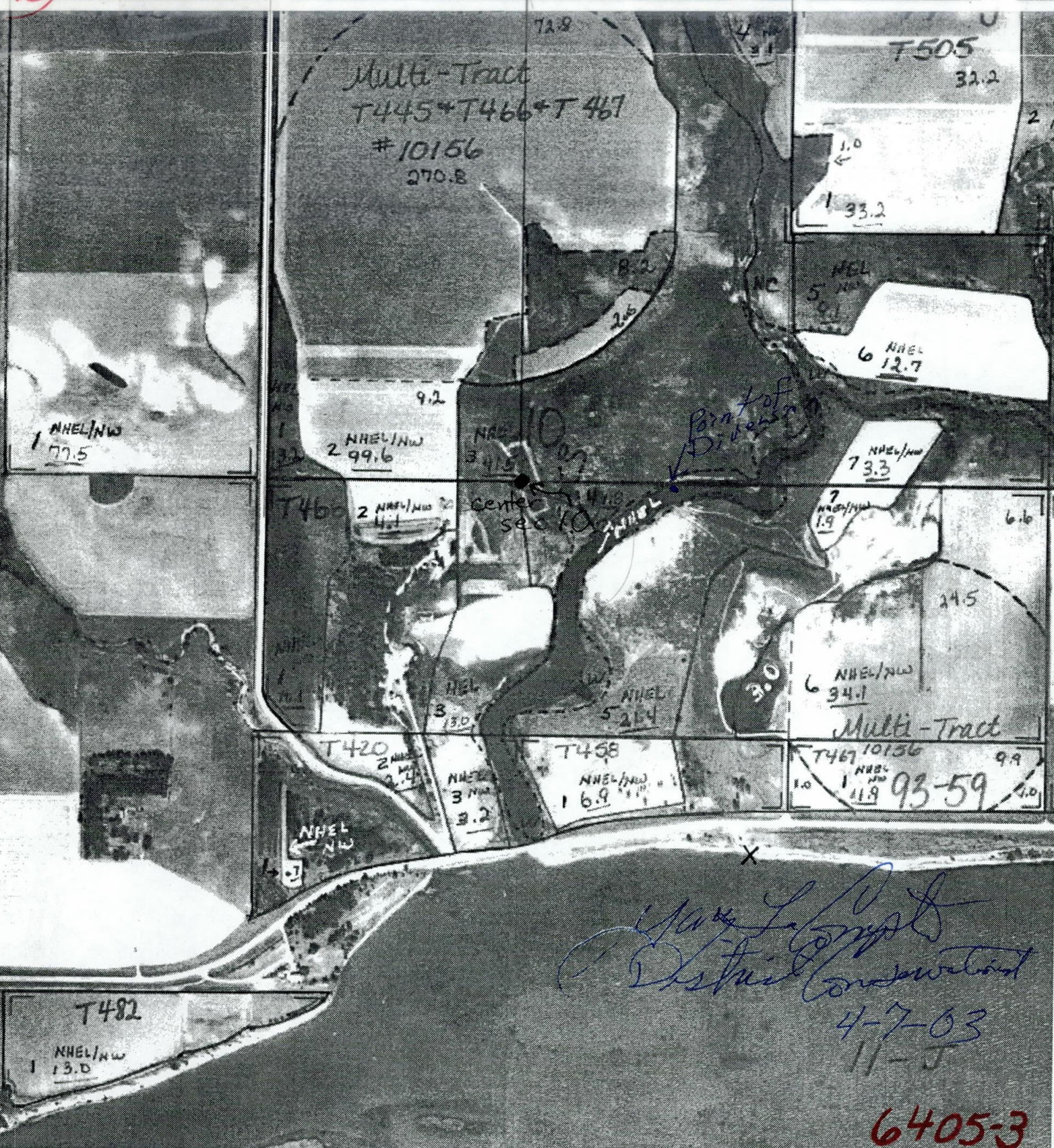
Applying the water to beneficial use was completed on 6-1-04 (date).

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

Richard Kreber
(signature)



MAP NOT TO SCALE



6405-3

SD EForm - 0495 V1 NOTICE OF TRANSFER OF OWNERSHIP

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

Water Right/Permit No. 6405-3

Date: 10-16-06

I/We request that Water Right/Permit No. 6405-3 formerly owned by:
Robert and Richard Kreber be transferred to:

New Owner Name: Richard Kreber
Address: ~~41956-310th St~~ 41904 310th St
City, State, Zip Springfield SD 57062 Telephone No. _____

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

E1/2SW1/4, W1/2SE1/4, section 3-T93N-R59W

RECEIVED
NOV 15 2006
WATER RIGHTS
PROGRAM

☒ I understand that the validity of Water Right/Permit No. 6405-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

I, Richard Kreber, the new owner, certify that the above information is true and correct.



(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date November 15, 20 06

RECEIVED OF Rick Kreber, 41904 310th St., Springfield SD 57062

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2 50	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>6405-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

02627

By Darland White
Chief Engineer gm



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 19, 2006

6405-3

Rick Kreber
41904 310th St
Springfield SD 57062

Dear Mr. Kreber:

I am writing to acknowledge receipt of the ownership change you submitted for Water Permit No. 6405-3. The transfer has been completed. The water permit formerly listed in the names of Robert and Richard Kreber is now listed solely in your name.

Enclosed is your Receipt No. 02627 in the amount of \$2.50. You may keep this for your records. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure

Permit No. 6405-3
Missouri River - Water District

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

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

I have this day, July 20, 2010, made a thorough examination of the water use system constructed by Robert and Richard Kreber of 41956 310th Street, Springfield, SD 57062 holders of Permit No. 6405-3, bearing the priority of April 9, 2003 authorizing the diversion of 2.0 cu. ft. per second of the waters of Snatch Creek (Missouri River backwater) for irrigation purposes, in Bon Homme County.

Inspection contact & relationship to permit holder, if applicable: **Richard Kreber, Permit Holder**

A. Works used to divert the water:

Pump:

- 1) Make Berkeley
- 2) Model 34JOZH
- 3) Size 100 hp
- 4) Capacity 800 GPM

Motor:

- 1) Make Isuzu
- 2) Model No. A-4BG1 PW
- 3) Horsepower rating 70 hp

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

- 1) Type PVC
- 2) Size 8 inches
- 3) Length 1,500 feet

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Lindsay - Zimmatic
- 2) Overall length 1300 feet
- 3) Number of towers 8
- 4) Distance between towers 165 feet
- 5) End gun Yes
- 6) Low pressure

7) Capacity 800 GPM

Chemigation Equipment:

1) Does chemigate NO

D. Compliance with Permit Requirements:

1) Permit qualifications being abided by Yes

2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes

3) Exceptions to compliance are: NONE

The system is in good condition with the point of diversion located as follows: 2,641 feet south and 1,950 feet west of the northeast corner, Section 10, Township 93N, Range 59W, lat/long N 42.88666 W -97.80045. The works are capable of diverting and conveying to the place of use 1.78 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

legal description/acreage

E ½ SW ¼ ---75ac

W ½ SE ¼ ---45ac

Section 3, T93N- R59W.

comprising a total of 120 acres of land and the license should be issued for 1.78 cfs.

All structures, wells and lands on map No—buried pipeline from diversion point to center pivot is not shown.

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

Permittee pumps water from the Missouri River (Snatch Creek at lat/long N 42.88666 W -97.80045) in Section 10 via approximately 1,500 feet of 8" PVC pipe to the center pivot irrigation system located in Section 3, all in T93N-R59W. This permit uses existing diversion point for No. 239-3.

9

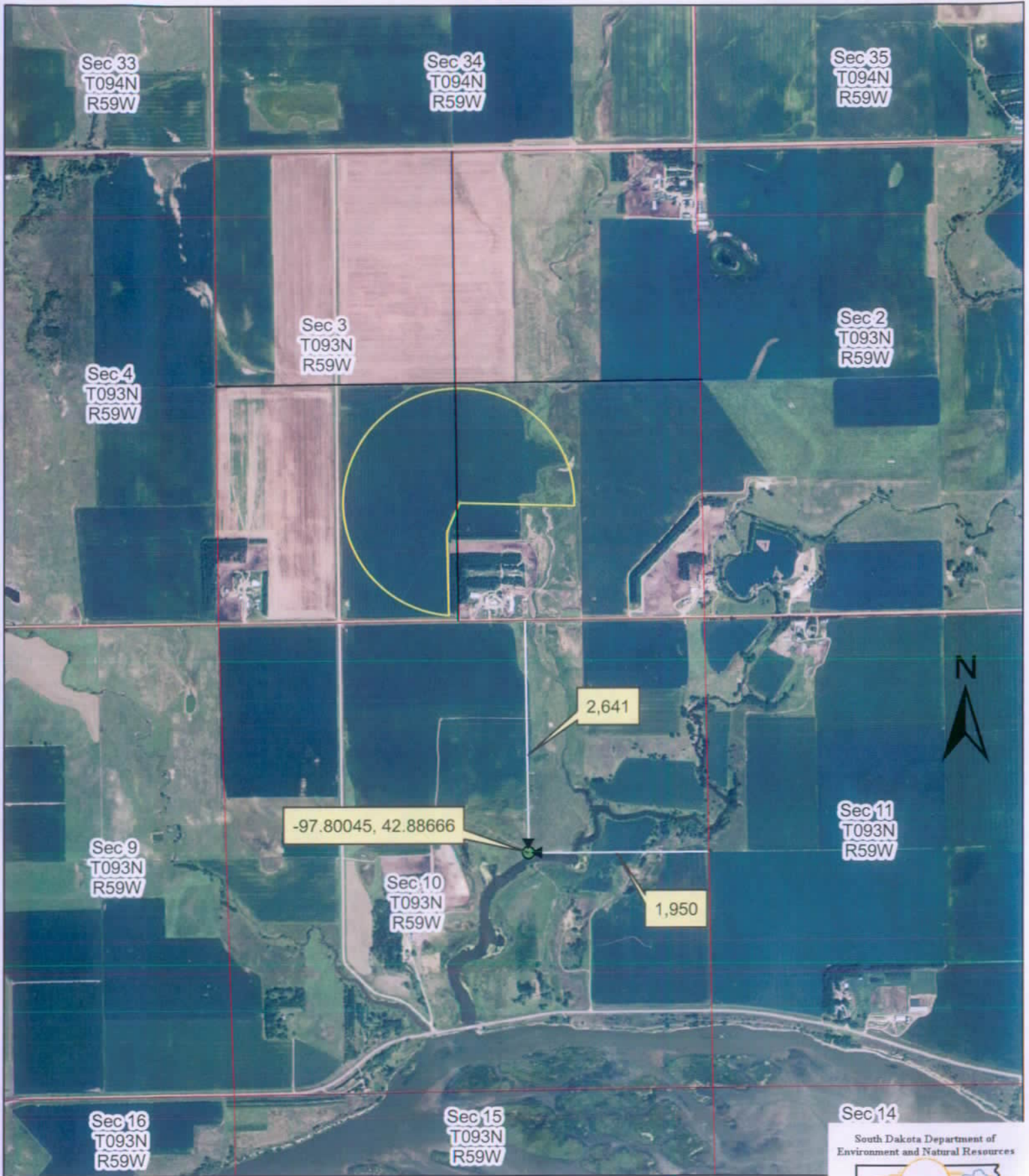


Hayes Haas

Natural Resources Engineer
DENR, Water Rights Program

Date report completed: 3/29/2011

6405-3
KREBER



July 2010
Hayes Haas
Natural Resources Project Engineer
Water Rights Program

Hayes Haas





**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 27 2011

6405-3

Richard Kreber
41904 310th St
Springfield SD 57062

Dear Mr. Kreber:

Enclosed is your Water License No. 6405-3. The license is the final document which completes the process of obtaining a water right. Included with the 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,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 6405-3**

(1) Robert & Richard Kreber, Springfield SD made Application No. 6405-3, April 9, 2003 for a water permit to divert 2.00 cubic feet of water per second (cfs) from Snatch Creek (backwater of the Missouri River), Bon Homme County, South Dakota for irrigation purposes. Permit No. 6405-3, with a priority date of April 9, 2003 was approved October 1, 2003 and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before October 1, 2008 and for the application to beneficial use of said water on or before October 1, 2012.

Water Permit No. 6405-3 was transferred November 15, 2006 from Robert & Richard Kreber to Richard Kreber.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.78 cubic feet of water per second for beneficial use.

The location of the diversion point is 2,641 feet south and 1,950 feet west of the NE corner of Section 10, T93N, R59W (NW ¼ SE ¼).

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

Section 3, T93N, R59W	
E ½ SW ¼	75 acres
W ½ SE ¼	45 acres
Total	120 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Richard Kreber, 41904 310th St, Springfield SD 57062 the holder and/or owner of Water Right No. 6405-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from Snatch Creek (backwater of the Missouri River) with a priority date of April 9, 2003 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6405-3 and subject to the following qualification:

- Pursuant to SDCL 46-5-6 which allows for a greater diversion rate if the method of irrigation, time constraints or type of soils so require, Permit No. 6405-3 authorizes a maximum diversion rate of 1.78 cfs (*developed diversion rate*) for the irrigation of 120 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



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

APR 27 2011

date

