

WATER PERMIT NO. 6414-3

Name of Applicant: Andy Weber

Address: RR 2 Box 145, Elkton SD 57062

Phone: 605 368-9431

Amount of Water Claimed: 2.0 cfs

Total Acres: 200

Source of Water Supply: groundwater

Water to be used for: irrigation

County: Brookings

Type of Waste Disposal System:

Location: 1 ½ miles northeast of Elkton

PRIORITY

Date Received: 4-1-03

Application/License Fee: \$325

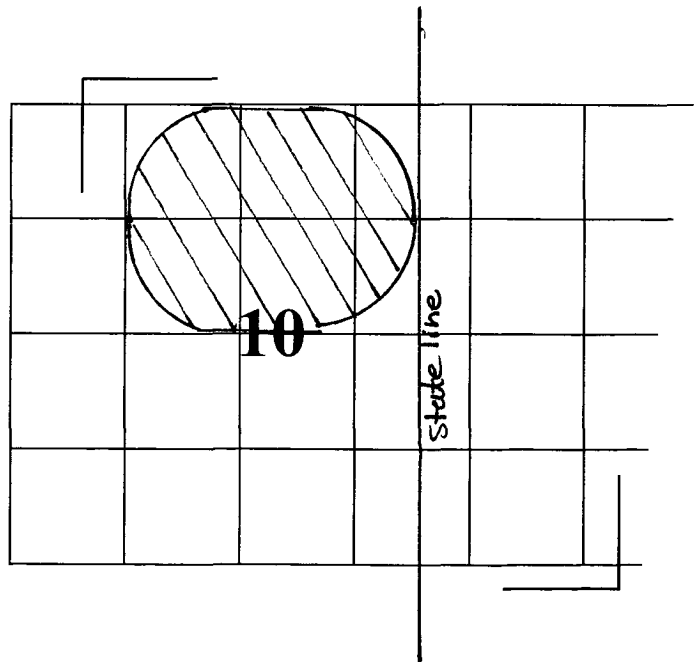
Corrected Application Received: 4-28-03

Period of Annual Use: May 1 – Oct 31

Remarks:

Diversion Point: SW ¼ NW ¼ Sec 10-T109N-R47W

Land to be Irrigated: N ½ Sec 10-T109N-R47W



Depth of Well: 160

Well Driller: : Pullman Well Drilling

Remarks:

Type of Map: aerial

Prepared by: Daniel D Grosz, Dist. Cons.

Reviewed and the Number Assigned on: 4-28-03

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

FORM 2: Application for irrigation in South Dakota
 (type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>64143</u> (office use only)
	Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u>
Newspaper <u>Brookings Register, Brookings</u>	

 RECEIVED
 APR - 1 2003
 WATER RIGHTS
 PROGRAM

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 Andy Weber Phone 507-368-9431
 (check one) ☒ Owner ☐ Tenant/lessee
 Mailing Address RR2 Box 145 Elkton State SD Dak 57062
 (Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 2.0 *CFS or 900 **GPM ***AF Total Acreage 200
 (*Cubic Feet per Second) (**Gallons per Minute) (***)Acro Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County BROOKINGS S.D.
on well NW 1/4 of the SW 1/4 about 1200ft from pivot center
to the west (SW 1/4 NW 1/4)
- County or counties where water will be used Brookings
- Annual period during which water is to be used May to Oct
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
 (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 of NW 1/4 of Section 10	109 - 47		50
NE 1/4 of NW 1/4 section 10	109 - 47		50
SW 1/4 of NW 1/4 section 10	109 - 47		50
SE 1/4 of NW 1/4 section 10	109 - 47		50

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

 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, Andy Weber, 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 Andy Weber
 Subscribed and sworn to before me this 31 day of March 20 03
KAREN VANDERWAL
 NOTARY PUBLIC
 SOUTH DAKOTA
 My commission expires
 July 20, 2007

SOUTH DAKOTA
WATER PERMIT NO. 6414-3 FOR IRRIGATION

Date of first receipt of application April 1, 2003.

Date of return to applicant for corrections, amendments or changes April 1, 2003.

Date of receipt of corrected application April 28, 2003.

The Water Management Board approved Water Permit No. 6414-3 on March 3, 2004 for Andy Weber, RR 2 Box 145, Elkton 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. 6414-3 appropriates 2.0 cubic feet of water per second from one well (Rutland Aquifer) 160 feet deep located in the SW ¼ NW ¼ Section 10 to irrigate 200 acres located in the N ½ Section 10; all in T109N-R47W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 31.
3. The date from which applicant may claim right is April 1, 2003.
4. One-fifth of the construction is to be completed on or before September 3, 2004.
5. All construction is to be completed on or before March 3, 2009.
6. Water is to be put to beneficial use on or before March 3, 2013.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

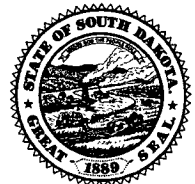
1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 6414-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

APR 30 2004

date



Form 2A **Supplemental Information**
(Complete applicable portions only)

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 24 in Depth 160ft
- b) Casing Type 16 pvc Diameter 16 in Thickness 1/2
- c) Screen Type 55 Screen Diameter 16 in Thickness 1/4
- d) Gravel Pack 3/16 by 1/4 Length of Gravel Pack 30ft
- e) Depth to Top of Water Bearing Material 140ft
- f) Depth to Water (ground surface to water level) 40ft
- g) Distance to nearest existing domestic well:

On applicants property _____

On property owned by others 1300ft

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 _____

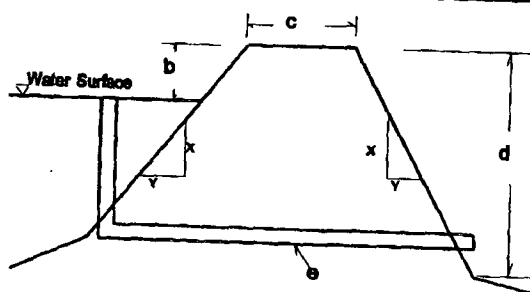
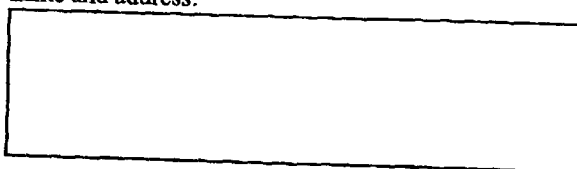
3. Dugout Information

- 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

RECEIPT
WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

Date April 1, 2083

RECEIVED OF Andrew Weber, RR 2 Box 145, Elkton SD 57062

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

Fee for Application for Permit No. <u>6414-3</u> to Appropriate Water, to construct and to put water to beneficial use	275	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>6414-3</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	325.00

No.

000706

By

Darland Ebele
Chief Engineer gpm

MAP NOT TO SCALE
THIS IS NOT AN OFFICIAL WETLAND MAP



PULLMAN DRILLING, INC. - DRILLER'S LOG(605) 883-4532
1-800-451-4884

JOB NAME		LOCATION		DATE	RIG NO	FOREMAN
Andy Weber		Elkton S.D.		3-26-03	11	Paul Hofer
Jl No	DEPTH	TIME	REMARKS			
1	20		0-15 Yellow gravel 15-20 Blue clay			
2	40		20-30 Yellow gravel 30-40 Blue clay			
3	60		40-60 Blue clay			
4	80		60-80 Blue clay w/ little sand streaks & rocks			
5	100		80-95 Sand & gravel washout 95-100 Blue clay			
6	120		100-120 Blue clay w/ rocks			
7	140		120-140 Blue clay w/ rocks			
8	160		140-145 Blue clay 145-160 Yellow gravel			
9	165		160-165 Blue clay			
10						
11			Stay at 160'			
12						
13						
14			3" Well			
15			T.D. 165'			
16			20' 1025 3" slotted			
17			145' 3" blank			
18			Pumped w/ air 45 G.P.M.			
19			Water head 40'			
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
32						
33						
34						
35						
36			Paul Hofer			
37						
38						
39						
40						

REMARKS:



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 1, 2003

Andy Weber
RR 2 Box 145
Elkton SD 57062

Dear Mr. Weber:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation. In order to complete the application the following is required.

Enclosed is the map submitted with the 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 office).

Upon receipt of the signed map, further processing of your application will continue. If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosure

REPORT ON WATER PERMIT APPLICATION NO. 6414-3

For Andy Weber

May 20, 2003

Application No. 6414-3 proposes to appropriate 2.0 cfs (898 gpm) from one well approximately 160 feet deep located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of section 10 to irrigate 200 acres located in the N $\frac{1}{2}$ of section 10; all in T109N R47W in Brookings County.

AQUIFER – RUTLAND (RUT)

The Rutland is a buried outwash (sand and gravel) which is under artesian conditions at this site. The aquifer underlies 240 square miles and contains an estimated 400,000 acre-feet of water in storage in Brookings County (Hamilton, 1989). The aquifer extends into Deuel County to the north, into Minnesota to the east and into Moody County to the south. Ground water movement is from east to west across the area where is permit application is located.

Test well information provided with the application indicates gravel from 145 feet to 160 feet below land surface. The test well had a static water level of about 40 feet below land surface and was capable of producing 45 gpm using air to develop. This information conforms with other data from irrigation wells, other test wells, domestic wells and observation wells in the general area. This test well indicates that it is likely that a high capacity well can be drilled at this site, however, the aquifer is relatively thin and testing will be needed to determine if a single well will be capable of producing the amount of water requested.

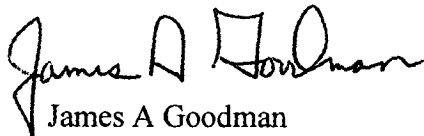
The Water Rights Program monitors observation wells BG-78E and BG-78 F completed into the Rutland aquifer and located about three miles northwest and about four and one-half miles west of this site, respectively. Water levels for these observation wells fluctuate considerably due to irrigation and commercial pumping in the area. Drawdown does occur at considerable distance from the production wells. Interference will occur but this is not expected to be adverse. During dry years when more water is needed it may become necessary to lower pumps in nearby wells in order to maintain pumping rates. Hydrographs for these two observation wells are included with this report (Water Rights, 2003).

REVIEW OF EXISTING WATER RIGHTS/PERMITS

There are two existing water rights in the immediate vicinity of this application. First, water right No. 3047-3 (1.88 cfs for irrigation of 132 acres) is located about one-half mile north of this site and second water right No. 4213-3 (2.00 cfs for irrigation of 200 acres) is located about one-half mile south of this application. Drawdown created by pumping will overlap and interference will occur. It is not expected that this will be adverse. The observation well water level record indicates that the amount of drawdown could be significant but the aquifer does appear to be able to sustain additional development.

CONCLUSIONS

1. Water is available from the Rutland aquifer.
2. The aquifer is under artesian conditions and water levels can be expected to fluctuate significantly due to pumping. The magnitude of the fluctuation is shown by the observation well hydrographs. This may require the necessity of lowering pumps in some wells in order to maintain the amount of water needed especially during drought years when more water is used.
3. The well authorized by this application must be constructed in accordance with SD Well Construction Standards.



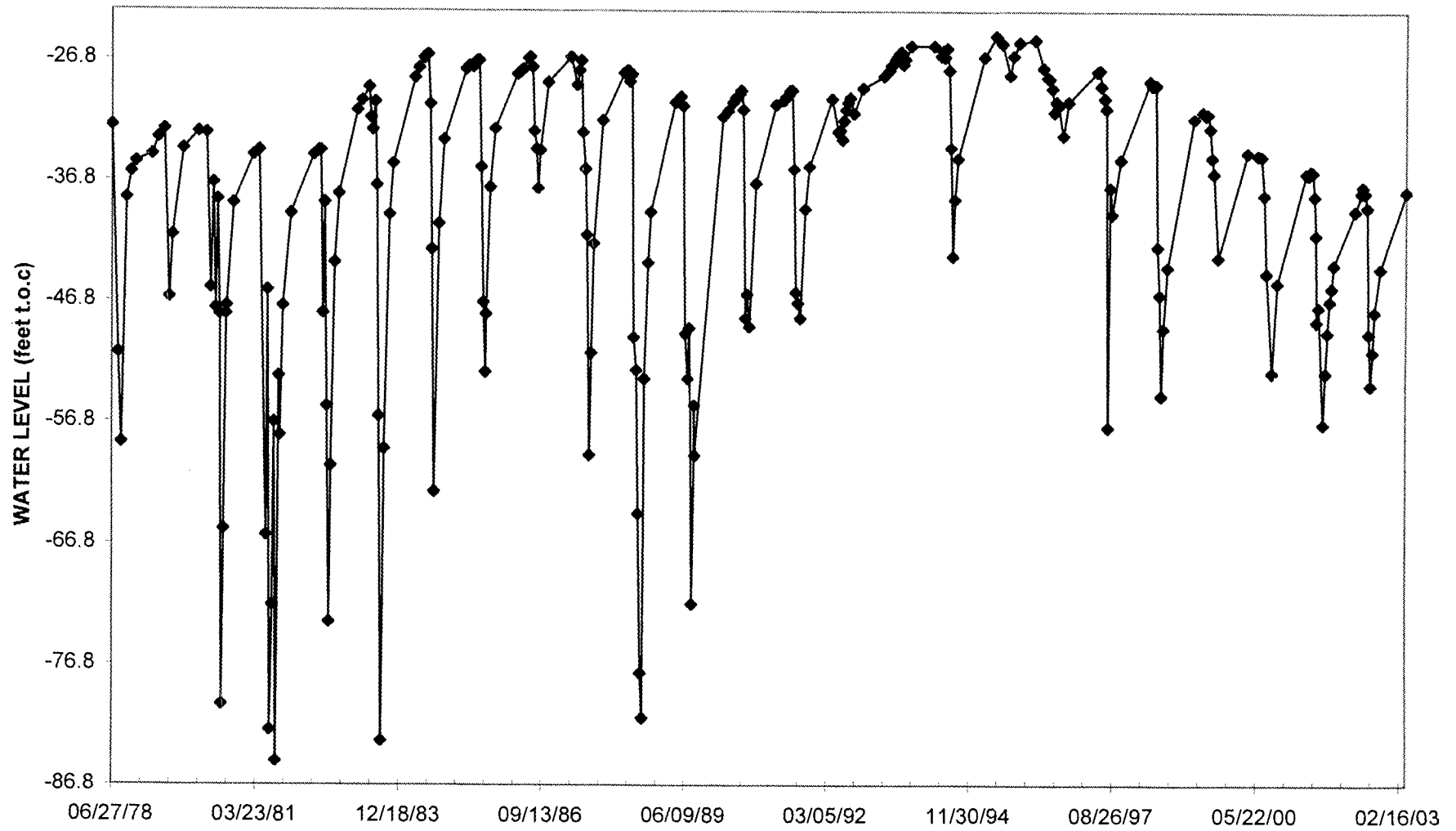
James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

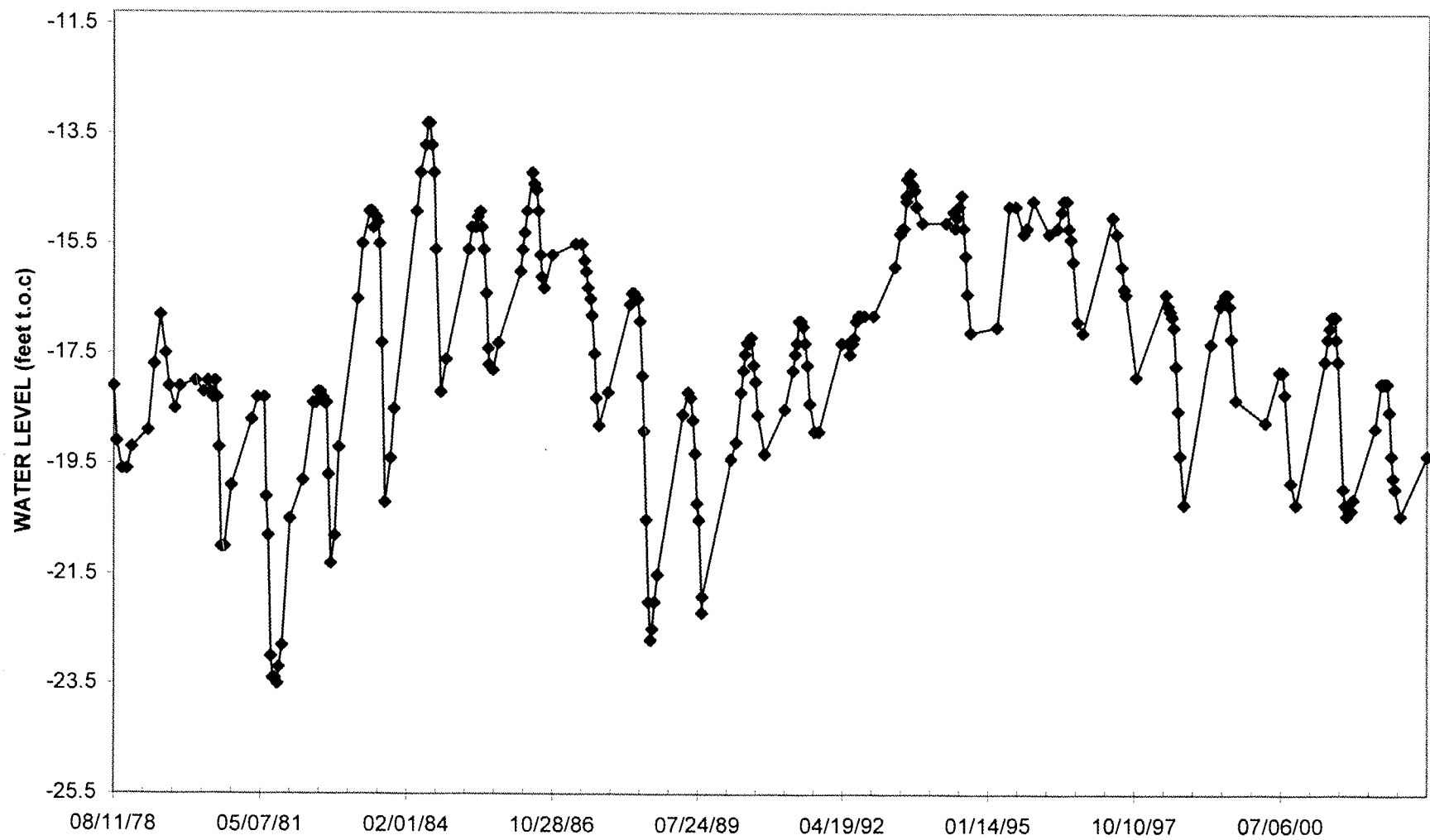
Hamilton, L.J., 1989, Water Resources of Brookings and Kingsbury Counties, South Dakota, Water-Resources Investigations Report 88-4185, USGS, Huron, SD, 57350.

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

**WATER RIGHTS' OBSERVATION WELL
BG-78E**



**WATER RIGHTS' OBSERVATION WELL
BG-78F**





**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. 6414-3, Andy Weber**

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. 6414-3, Andy Weber, RR 2, Box 145, Elkton SD 57062.

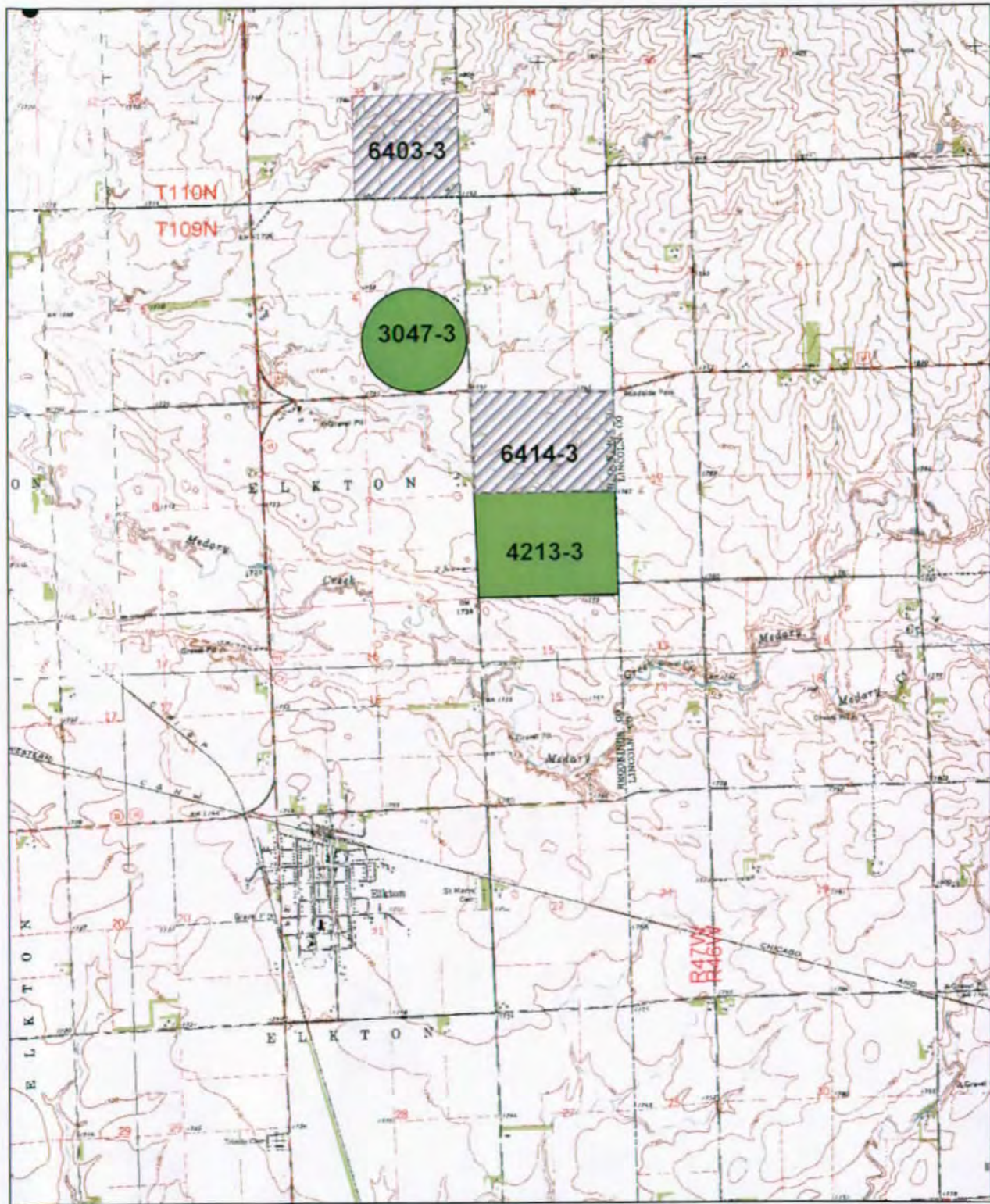
The Chief Engineer is recommending APPROVAL of Application No. 6414-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 6414-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

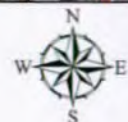
See report on application for additional information.

Garland Erbele, Chief Engineer
June 16, 2003

Water Permit Application No.s 6403-3 & 6414-3



0 0.25 0.5 1 1.5 2 Miles





**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.**

June 18, 2003

Andy Weber
RR 2 Box 145
Elkton SD 57062

Dear Mr. Weber:

Water Permit Application No. 6414-3 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

June 18, 2003

Brookings Register
PO Box 177
Brookings SD 57006-0177

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 6414-3 to Appropriate Water to be published twice. Please publish the first notice on June 25, 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 Andy Weber, RR 2 Box 145, Elkton SD (Ph # 507-368-9431).

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. 6414-3

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

Date _____

We are in receipt of your letter of June 18, 2003 enclosing Notice of Hearing to Appropriate Water by Application No. 6414-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Instruction to Newspaper - Publish first Notice on June 25, 2003 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6414-3 to Appropriate Water

Notice is given that Andy Weber, RR 2 Box 145, Elkton SD 57062 has filed an application for a water permit to appropriate 2.0 cubic feet of water per second from one well (Rutland Aquifer) 160 feet deep located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 10 to irrigate 200 acres located in the N $\frac{1}{2}$ Section 10; all in T109N-R47W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6414-3 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 July 14, 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

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 # 678: "Application for Water Permit"

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:

June 25, 2003

July 2, 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:

Thirty six dollars and fourteen cents \$ 36.14

Subscribed and sworn to before me this

14th

day of

July

2003.

Christina Nelson

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

Legal 678, 2x; 6/25, 7/2

NOTICE OF

APPLICATION NO. 6414-

3 to Appropriate Water

Notice is given that

Andy Weber, RR 2, Box

145, Elkton SD 57062 has

filed an application for a

water permit to appropriate

2.0 cubic feet of water

per second from one well

(Rutland Aquifer) 160 feet

deep located in the SW1/4

NW 1/4 Section 10 to irrigate

200 acres located in the

N 1/2 Section 10; all in

T109N-R47W.

Pursuant to SDCL 46-

2A-2, the Chief Engineer

recommends APPROVAL

of Application No. 6414-3

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 July 14, 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.

RECEIVED

JUL 15 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

June 26, 2003

Maureen Hoogeveen
1403 Main Street
Rock Valley Iowa 51247

Dear Mrs. Hoogeveen:

Please find enclosed the information you requested on the South Dakota water permit applications filed by Rick Even and Andy Weber.

Sincerely,

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

enclosure

RECEIVED

JUL 11 2003

WATER RIGHTS
PROGRAM

**PETITION OPPOSING APPLICATION NOS. 6414-3
AND 6403-3 TO APPROPRIATE WATER AND
CONTESTING CHIEF ENGINEER'S RECOMMENDATION**

TO WHOM IT MAY CONCERN:

Please be advised that this constitutes our Petition opposing both Application No. 6414-3 filed by Andy Weber and Application No. 6403-3 filed by Rick Even to appropriate water and our Petition contesting the Chief Engineer's Recommendations regarding both applications.

The undersigned is the daughter of the Petitioner and legal counsel for Mary Ellen McGill and the Mary Ellen McGill Trust. Said Trust is the owner of the following described property:

That part of the E1/2 NE1/4 and the E1/2 NE1/4 North of Railway in Section 24 and part of the E1/2 of Section 24 South of Railway, ALL in Township 109 North, Range 47 West of the 5th P.M., Lincoln County, MN, and in Brookings Co., SD the East 1275.6 feet of Section 22 North of Railway and the W1/2 NW1/4 and SW1/4 EXCEPT building site and Lots 3 and 4 in Section 27, Township 109 North, Range 47 and the SW1/4 of Section 30, Township 109 North, Range 47 all West of the 5th P.M. for a total of 770 acres.

The undersigned further is filing this Petition on behalf of the said owner's tenant Harold Asmus as his rights will be impaired.

The Petitioner's farmland consisting of approximately 770 acres is located on the South Dakota/Minnesota border and contains a total of 4 wells. Two of the wells are located in South Dakota. It appears that these wells are located in the Big Sioux Aquifer and the well usage will likely not be adversely impacted by the proposed wells. However, in regard to the north well located on the Minnesota ground and after researching the same and contacting both the water rights divisions of the South Dakota Department of Natural Resources and the Minnesota Department of Natural Resources, it may be concluded that there is a reasonable probability that unappropriated water is not

available and the well usage of the Petitioner may be adversely impacted by the additional two wells in the Rutland Aquifer.

The Petitioner with the assistance of a ground water specialist in the water rights division of the Minnesota Department of Natural Resources has determined that the proposed wells are in a channel formation and therefore the draw downs of those wells located in the same aquifer will be exaggerated. The hydrographs included with James Goodman's recommendations reflect that there is potential for a draw down of at least 50 to 60 feet as it exists today. It is our understanding that the draw down of a well in an aquifer such as the Rutland has a cumulative effect so the potential for very significant draw downs will exist with the addition of the proposed wells. Due to the size of our system and the depth of our pump, it is arguable the pump cannot be lowered to accommodate the additional draw down. Additional wells will divert the currently appropriated water. Therefore, unappropriated water is not available due to the prior rights of the current well users. Consequently, this will adversely impact the well usage of the Petitioner.

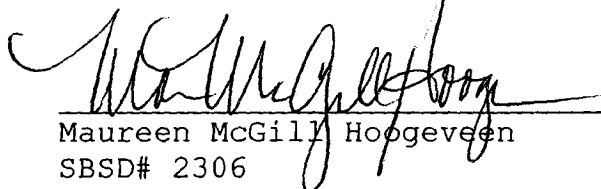
The exaggerated effect of draw downs caused in a formation such as the Rutland would extend well beyond the one mile radius utilized by the Engineer and into Minnesota. It does not appear that any information regarding the Minnesota wells located within three miles of the proposed wells were analyzed or considered in the Engineer's recommendations. It is the Petitioner's opinion that a review of the Minnesota wells and the effect the proposed wells may have on them would give rise to sufficient evidence to deny both Applications. The effect of the neighboring wells outside the radius of the observation wells regardless of whether they lie in South Dakota or Minnesota must be analyzed to properly determine whether the Petitioner's well usage will be adversely impacted and whether unappropriated water does exit.

For the above reasons, the undersigned requests that a Hearing be scheduled in the future which will allow the Petitioner sufficient time to obtain additional information and data regarding the Minnesota wells located near the proposed sites

which may be adversely impacted by the granting of the applications by both Andy Weber and Rick Even.

The undersigned further requests that at the Hearing the Board deny the Applications filed by both Andy Weber and Rick Even based on the evidence provided.

Respectfully submitted on
this 10th day of July, 2003



Maureen McGill Hooegeveen
SBSD# 2306
McGILL & McGILL
1403 Main Street
Rock Valley, IA 51247
Phone (712)476-5411
Fax (712)476-5958

Attorney for Petitioner
Mary Ellen McGill and
Mary Ellen McGill Trust

cc. Andy Weber
Rick Even
Chief Engineer



**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 15, 2003

NOTICE

TO: Andy Weber
RR 2 Box 145
Elkton SD 57062

Maureen McGill Hooegeveen
McGill & McGill
1403 Main Street
Rock Valley IA 51247

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

SUBJECT: Notice of Hearing on Water Permit Application No. 6414-3, Andy Weber

A petition has been submitted regarding Water Permit Application No. 6414-3 filed by Andy Weber. The petition was filed in response to the Notice of Application to appropriate water published June 25 and July 2, 2003 in the Brookings Register. The petition opposing the application was submitted by Maureen McGill Hooegeveen, attorney representing Mary Ellen McGill and the Mary Ellen McGill Trust.

As specified in the publication notice, the application proposes to appropriate 2.0 cubic feet of water per second from one well (Rutland Aquifer) 160 feet deep located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 10 to irrigate 200 acres located in the N $\frac{1}{2}$ Section 10; all in T109N-R47W.

Ms. Hooegeveen also filed a petition opposing the Application No. 6403-3 filed by Rick Even. The hearings on Application Nos. 6403-3 and 6414-3 will be held concurrently.

The Water Management Board will conduct a hearing to consider Application No. 6414-3 at 11:00 AM, on Wednesday, October 1, 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. Future notice will be provided to all parties if there is a change in the hearing date or time.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6414-3 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. 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 October 1, 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 September 19, 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 September 19, 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, 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26, 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 July 15, 2003 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 15, 2003 regarding Notice of Hearing on Water Permit Application No., 6414-3 addressed as stated below:

Andy Weber
RR 2 Box 145
Elkton SD 57062

Maureen McGill Hoogeveen
McGill & McGill
1403 Main Street
Rock Valley IA 51247

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

Diane Best, Assistant Attorney General, Capitol Building



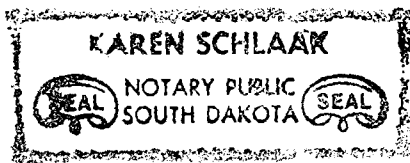
Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of July, 2003.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



TO: Garland Erbele, Chief Engineer
Water Rights Program
523 East Capitol
Pierre, SD 57501-3182

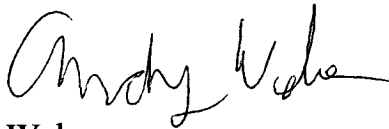
RECEIVED
SEP 10 2003
WATER RIGHTS
PROGRAM

FROM: Andy Weber
1159 County Road 131
Elkton, SD 57026

SUBJECT: October 1, 2003 Hearing

I am writing to inform you that I will not be able to attend the hearing set for Application No. 6414-3 on October 1, 2003. Please reschedule this hearing for a later date preferably in December.

Thank you,

A handwritten signature in cursive script, appearing to read "Andy Weber".

Andy Weber



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 17, 2003

NOTICE

TO: Andy Weber
RR 2 Box 145
Elkton SD 57062

Rick Even
48504 210th Street
Elkton SD 57026

Maureen McGill Hooegeveen
McGill & McGill
1403 Main Street
Rock Valley IA 51247

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

SUBJECT: Automatic Delay of Hearing on Water Permit Application No. 6414-3, Andy Weber and
Continuance of Hearing on Water Permit Application No. 6403-3, Rick Even

A petition was filed in response to the public notice for Water Permit Application Nos. 6414-3 and 6403-3. Subsequently, notice was sent to parties scheduling a October 1, 2003 hearing before the Water Management Board. In response to this notice, Mr. Weber made a formal request for postponement of the October 1st hearing date on his application. Therefore, the hearing on Weber's Application No. 6414-3 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on October 1, 2003.

Ms. Hooegeveen submitted one petition in response to the public notices opposing both of the Weber and Even applications. The Chief Engineer is postponing Mr. Even's application so that testimony on both applications will be heard concurrently. This decision is based on the fact that the Weber application was filed prior to the Even application and a Board decision must first be made on the earliest filed application. In addition, the testimony for the applications is anticipated to be the same. Therefore, the hearing on Even's Application No. 6403-3 is continued and will not be held on October 1, 2003.

The hearings to consider Application Nos. 6414-3 and 6403-3 will now be scheduled for the December 3 - 4, 2003, Water Management Board meeting in Pierre. Future notice of the exact date, time and place of the hearings for Application Nos. 6414-3 and 6403-3 will be provided to all parties of record.

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 September 17, 2003, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 17, 2003 regarding Automatic Delay of Hearing on Water Permit Application # 6414-3 and Continuance of Hearing on Water Permit Application #6403-3 addressed as stated below:

Andy Weber
RR 2 Box 145
Elkton SD 57062

Maureen McGill Hoogeveen
McGill & McGill
1403 Main Street
Rock Valley IA 51247

Rick Even
48504 210th Street
Elkton SD 57026

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

Diane Best, Assistant Attorney General, Capitol Building



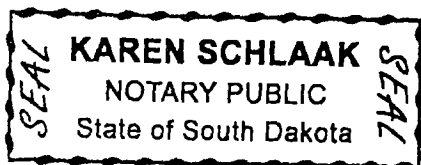
Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of September, 2003.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





PATRICIA A. CARLSON

Attorney at Law
1801 E. Wells Ave., Suite #1
PO Box 1235
Pierre, South Dakota 57501-1235



Phone: 605-224-5853

Fax: 605-224-5872

October 8, 2003

RECEIVED

OCT - 9 2003

WATER RIGHTS
PROGRAM

Garland Erbele, Chief Engineer
Dept. Of Environment and Natural Resources
Water Rights Program
Foss Building
523 E. Capitol Avenue
Pierre, SD 57501

Re: In the matter of Water Permit Application 6414-3 & 6403-3 to
Appropriate Water

Dear Mr. Erbele:

Enclosed for filing in the above referenced case is my original Notice of Appearance. I will be substituting as counsel for Maureen Hooegeveen who filed the Petition in opposition to these water permit applications. I will also be acting with a Power of Attorney on behalf of Mary Ellen McGill and the Mary Ellen McGill Trust in the above referenced matter. Please forward any notices regarding this matter to my attention.

Cordially,

Patricia Carlson

PC/jm

Enclosure - Notice of Appearance

cc: Mary Ellen McGill
Maureen Hooegeveen
Andy Weber
Rick Even
Diane Best

RECEIVED

OCT - 9 2003

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE WATER)
PERMIT APPLICATION #6414-3 & 6403-3) NOTICE OF APPEARANCE
TO APPROPRIATE WATER)

TO: ANDY WEBER, RICK EVEN, DIANE BEST, AND GARLAND ERBELE:

Please take notice that I will appear with a Power of Attorney for and on behalf of Mary Ellen McGill and the Mary Ellen McGill Trust the above-referenced matter who has filed a Petition Opposing the Applications and Contesting the Chief Engineer's Recommendations and do hereby appear for the above named Petitioners.

Dated this 8th day of October, 2003.


Patricia A. Carlson
Attorney for Petitioners
P.O. Box 1235
Pierre, SD 57501
(605) 224-5853

CERTIFICATE OF SERVICE

Patricia A. Carlson, Attorney at Law, Carlson Law Office, PO Box 1235, Pierre, South Dakota, certifies that on the 8th day of October, 2003, she mailed a true and correct copy of this Notice of Appearance to the following:

Andy Weber
RR 2, Box 145
Elkton, SD 57062

Rick Even
48504 210th St.
Elkton, SD 57026

In the Matter of the Water Permit Application 6403-3 and 6414-3 to Appropriate Water
NOTICE OF APPEARANCE

Diane Best
Asst. Attorney General
500 E. Capitol
Pierre, SD 57501

Garland Erbele, Chief Engineer
Dept. Of Environment and Natural Resources
Water Rights Program
Foss Bldg.,
523 E. Capitol Ave.
Pierre, SD 57501


Patricia A. Carlson
Patricia A. Carlson

In the Matter of the Water Permit Application 6403-3 and 6414-3 to Appropriate Water
NOTICE OF APPEARANCE



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 16, 2003

NOTICE

TO: Andy Weber Rick Even
RR 2, Box 145 48504 210th Street
Elkton SD 57062 Elkton SD 57026

Patricia A. Carlson
Attorney for Petitioner
PO Box 1235
Pierre SD 57501-1235

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of the Hearing on Water Right Permit Application Nos. 6403-3 and 6414-3, Rick Even and Andy Weber

Water Permit Application Nos. 6403-3 and 6414-3 were separately filed by Rick Even and Andy Weber. Each application proposes an appropriation of water from the Rutland Aquifer to irrigate lands north of Elkton in Brookings County. Maureen McGill Hooegeveen petitioned in opposition to both applications and requested a hearing before the Water Management Board. A hearing before the Board was scheduled for October 1, 2003. This October 1, 2003 hearing was automatically delayed at the request of Andy Weber. The hearing on Mr. Even's application was subsequently postponed so that testimony on both applications may be heard concurrently.

The Water Management Board will consider Application Nos. 6403-3 and 6414-3 at 11:00 AM on December 3, 2003, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre SD. The hearing time is an estimate and may be delayed due to prior agenda items.

Applicable provisions of the public notices published June 25 and July 2, 2003, in the Brookings Register and the notice sent to parties on July 15, 2003 will still apply at the December 3, 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
Maureen McGill Hooegeveen, 1403 Main Street, Rock Valley IA 51247

CERTIFICATION

I hereby certify that on October 16, 2003, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 16, 2003, regarding scheduling of the Hearing on Water Right Permit Application Nos. 6403-3 and 6414-3, Andy Weber and Rick Even, addressed as stated below:

Andy Weber
RR 2, Box 145
Elkton SD 57062

Rick Even
48504 210th Street
Elkton SD 57026

Patricia A. Carlson
Attorney for Petitioner
PO Box 1235
Pierre SD 57501-1235

Maureen McGill Hoogeveen
1403 Main Street
Rock Valley IA 51247

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

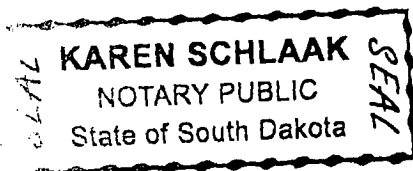
Diane Best, Assistant Attorney General, Capitol Building


Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 20th day of October, 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

December 9, 2003

NOTICE

TO: Andy Weber
RR 2, Box 145
Elkton SD 57062

Rick Even
48504 210th Street
Elkton SD 57026

Patricia A. Carlson
Attorney for Petitioner
PO Box 1235
Pierre SD 57501-1235

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed John Guhin, the Board's Attorney, to prepare proposed Findings of Fact, Conclusions of Law and Final Decisions in the approval of Water Permit Application No. 6403-3 filed by Rick Even and Water Permit Application No. 6414-3 filed by Andy Weber. The Board will consider adoption of Findings, Conclusions and Final Decisions at 1:00 PM, on March 3, 2004, in the 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.

The Board requested that copies of the proposed Findings, Conclusions and Final Decisions be mailed to each Board member and parties by February 12, 2004. Written objections or comments in support of the proposed Findings, Conclusions and Final Decisions, or alternative Findings, Conclusions and Final Decisions are to be mailed to each Board member, the Board attorney (mailing list enclosed) by February 23, 2004.

Oral arguments by parties who timely filed written comments in opposition or support of the proposed Findings, Conclusions and Final Decisions, or alternative Findings, Conclusions and Final Decisions may be made on March 3, 2004. The public hearing was completed on December 3, 2003. No additional testimony will be received on March 3, 2004.

Enclosure

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General
Maureen McGill Hooegeveen, 1403 Main Street, Rock Valley IA 51247

2003/2004 WATER MANAGEMENT BOARD MEMBERS

Francis E. Brink
1214 South Wells Street
Aberdeen, SD 57401-7351

Leo Holzbauer, Chairman
RR 1, Box 170
Wagner, SD 57380-9681

Rodney Freeman, Jr., Vice-Chairman
P.O. Box 176
Huron, SD 57350-0176

Bernita Loucks
219 42nd Street
Rapid City, SD 57702-0240

Marian Gunderson
811 West 3rd
Yankton, SD 57078-3702

Dwayne Rollag
320 Lincoln Lane S
Brookings SD 57006-2741

BOARD ATTORNEY

John Guhin, Deputy Attorney General
Office of Attorney General
Natural Resources Section
State Capitol Building
Pierre, SD 57501

WATER RIGHTS PROGRAM

Department of Environment and
Natural Resources

Garland Erbele, Chief Engineer
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

STAFF ATTORNEY

Diane Best
Assistant Attorney General
Office of Attorney General
Natural Resources Section
State Capitol Building
Pierre, SD 57501

CERTIFICATION

I hereby certify that on December 9, 2003, I personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 9, 2003, regarding preparation of findings of fact, conclusions of law and final decisions in the matter of Water Permit Application No. 6403-3 filed by Rick Even and Water Permit Application No. 6414-3 filed by Andy Weber, addressed as stated below.

Andy Weber
RR 2, Box 145
Elkton SD 57062

Rick Even
48504 210th Street
Elkton SD 57026

Patricia A. Carlson
Attorney for Petitioner
PO Box 1235
Pierre SD 57501-1235

Maureen McGill Hoogeveen
1403 Main Street
Rock Valley IA 51247

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

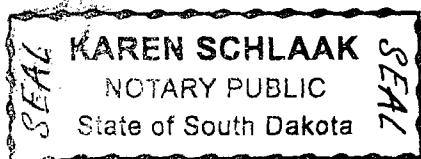
John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General


Eric Gronlund
Natural Resource Engineer
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 10th day of December, 2003.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE	)	OBJECTIONS TO PROPOSED
APPLICATION FOR WATER PERMIT	)	FINDINGS OF FACT, CONCLUSIONS
NO. 6414-4, ANDY WEBER	)	OF LAW AND FINAL DECISION

COMES NOW Patricia A. Carlson, Attorney at Law and with Power of Attorney for and on behalf of Mary Ellen McGill and Mary Ellen McGill Trust and files the following objections to the proposed Finding of Fact, Conclusions of Law and Final Decision in the above-referenced case:

1. Petitioner objects to Finding of Fact No. 1, 3, and 4 on the grounds that while the test results may support a finding that adequate water may be available in the Rutland aquifer to support the proposed 160' well of the applicant in addition to those existing at present, there is insufficient water available to allow this petitioner to draw from existing 110' wells on the Minnesota side of the same aquifer. This petitioner understands that the proposed wells are in a channel formation, and that therefore the draw down to those wells located in the same aquifer will be exaggerated. While the proposed well is 160' , the McGill wells and pumps are at 110' which is the maximum depth accessible as testified to during the hearing. Petitioner further bases her objections upon the fact that while the flow of the ground water is from east to west as set forth in Finding of Fact 4, this flow is a feeder into the Red River basin which flows from south to north and pulls an exaggerated amount from the Rutland Aquifer at times.

2. Petitioner further objects to finding 4 that there is strong evidence of a reasonable probability of available water for this application, inasmuch as no consideration or testing has been done on the wells on the Minnesota side of the aquifer to determine whether they would be adversely affected. If this is not a concern because the current applicants are from South Dakota, Minnesota could take the same position in future applications to aquifers which cross state lines.
3. Petitioner objects to Finding of Fact 6. Current test results indicate that a significant fluctuation in water level occurs due to pumping, but that artesian head pressure has not been eliminated in the observation well during such pumping. No testing has been done to wells on the Minnesota side of the aquifer, nor have Minnesota testing results been obtained, to determine whether pressure in a similarly situated artesian observation well would maintain the requisite pressure on that side of the aquifer.
4. Petitioner objects to Finding of Fact 8 in that this Petitioner cannot lower pumps any deeper in its wells on the Minnesota side of the South Dakota/Minnesota land owned by Petitioner.
5. Petitioner objects to Finding of Fact 13. Petitioner clearly established in its original Petitioner that it had four wells, two of which were situated on the Big Sioux Aquifer and permitted in the State of South Dakota, and two which were located on the Minnesota side of the Rutland aquifer. This evidence was reiterated at the time of the hearing, and the Assistant Attorney General, Diane Best, challenged the right of the Petitioner to even irrigate on the South Dakota side of the border without an additional permit. She went so far as to have the matter

investigated during the recess, implying that the Petitioner was operating illegally. Later, this Petitioner received a letter from DENR indicating that the irrigation over the South Dakota border was so *de minimis* as to not require such a permit. Petitioner introduced exhibits of the platted areas showing the locations of the affected land/water masses.

6. Petitioner objects to Finding of Fact 15 and 16. Inasmuch as the state of South Dakota chooses to base its permitting process solely upon test results obtained from test sites within South Dakota borders for aquifers that not only cross state lines, but also from which Minnesota is issuing permits for other irrigation wells, it would seem incumbent upon the state engineer to submit findings from both states' to give the board a complete picture. Further, since public employees of the state of Minnesota need not honor a civil subpoena to appear before a South Dakota Administrative tribunal, it places an untenable burden on one private landowner to obtain engineering results from both sides of the border to justify a further investigation. Petitioner requested additional time to obtain such information, but the cost is prohibitive to one landowner.

CONCLUSIONS OF LAW

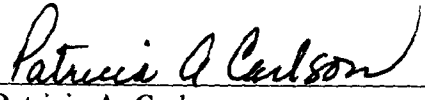
1. Petitioner objects to Conclusion of Law 2. Insufficient testing of the full aquifer has been done to determine the detrimental impact on existing licensed wells. Even though the Petitioner has Minnesota permits on these wells, and according to correspondence from DENR is not required to have a South Dakota permit after all, availability of water cannot be accurately determined from the limited testing conducted.

2. Petitioner objects to Conclusion of Law 6. The administrative board cannot recognize a responsibility to extend protection to the use of water in the state of Minnesota absent and findings from that state. If the responsibility is recognized and accepted, the facts must be obtained to justify the action taken.

FINAL DECISION

Petitioner objects to the issuance of Water Permit No. 6414-3 without further factual finding by the state engineer.

Dated this 23rd day of February, 2004.



Patricia A. Carlson
Attorney for Mary Ellen McGill and the
Mary Ellen McGill Trust
PO Box 1235
Pierre, South Dakota 57501
(605) 224-5853

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE)
APPLICATION FOR WATER PERMIT) CERTIFICATE OF SERVICE
NO. 6403-3, RICK EVEN)

The undersigned hereby certifies that true and correct copies of the Objections To Findings, In the Matter of the Application for Water Permit No. 6403-3, Rick Even were served upon each of the following by enclosing the same in envelopes with first class postage, prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 23rd Day of February, 2004:

Francis E. Brink
1214 South Wells Street
Aberdeen, SD 57401-7351

Marian Gunderson
811 West 3rd Street
Yannkton, SD 57078-3702

Leo Holzbauer, Chairman
RR 1, Box 170
Wagner, Sd 57380-9681

Bernita Loucks
219 42nd Street
Rapid City, Sd 57702-2040

Rodney Feeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Dwayne Rollag
320 Lincoln Lane, South
Brookings, SD 57006-2741

Andy Weber
RR 2, Box 145
Elkton, SD 57062

Rick Even
48504 210th Street
Elkton, SD 57026

Maureen McGill Hoogeveen
1403 Main Street
Rock Valley, IA 51247

By hand delivery to:

John P. Guhin
Deputy Attorney General
500 East Capitol Ave
Pierre, SD 57501-5070

Garland Erbele, Chief Engineer Water Rights Program
Dept of Environment & Natural Resources
Foss Building, 523 East Capitol
Pierre, SD 57501

Diane Best
Assistant Attorney General
500 East Capitol Ave
Pierre, SD 57501



Patricia A. Carlson
Attorney at Law
1802 E. Wells, Suite 1
P.O. Box 1235
Pierre, South Dakota 57501-1235
605-224-5853



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 18, 2004

NOTICE

TO: Andy Weber
RR 2 Box 145
Elkton SD 57062

Patricia A. Carlson
Attorney for Petitioner
PO Box 1235
Pierre SD 57501-1235

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

SUBJECT: Adoption of Findings of Fact, Conclusions of Law and Final Decision

This is to notify you that the Final Decision, including Findings of Fact and Conclusions of Law, were adopted March 3, 2004, by the Water Management Board approving Water Permit No. 6414-3. A copy of the signed Findings of Fact, Conclusions of Law and Final Decision is enclosed.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosure

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General
Maureen McGill Hoogeveen, 1403 Main Street, Rock Valley IA 51247

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE	)	
APPLICATION FOR WATER PERMIT	)	FINDINGS OF FACT, CONCLUSIONS
NO. 6414-3, ANDY WEBER	)	OF LAW AND FINAL DECISION

FINDINGS OF FACT

1. This is an application to appropriate 2.0 cfs (approximately 898 gpm) from one well approximately 160 feet deep to irrigate two hundred acres in Brookings County.

2. The proposed source of the water is the Rutland aquifer, which is a buried outwash (sand and gravel) aquifer under confined or artesian conditions at the proposed well site. The aquifer underlies 240 square miles and contains an estimated 400,000 acre-feet of water in storage in Brookings County.

3. The ground water in this area moves from the east to the west. The aquifer averages about fifteen feet in thickness.

4. The evidence strongly supports a finding that there is a reasonable probability that there is water available for this application. First, a test well log submitted with the application indicates that there is clay from the surface to the depth of 145 feet. From 145 feet to 160 feet is a sand and gravel layer producing water. A well into the sand and gravel layer had a static water level of about forty feet below land surface and was capable of producing about forty-five gallons per minute using air to develop. Thus, the water in the well rises over one hundred feet from the confined aquifer.

5. Furthermore, analysis of two nearby observation wells supports the thesis that there is water available for this application. One observation well, BG-78E, is monitored by the Water Rights Program and is completed into the Rutland aquifer. It is located about three miles northwest of the proposed well site. The Board's analysis of the hydrograph for BG-78E indicates good response to pumping and to climatic conditions. In other words, rising levels occur during wet years (indicating recharge into the well) and declining water levels occur during dry years. The similar hydrograph for BG-27F, which is about four and one-half miles from the proposed well, further confirms the Board's analysis.

6. The hydrographs do indicate significant fluctuation in water levels due to pumping. Pumping, however, has never eliminated the artesian head pressure in the observation wells.

7. It is uncontested that the use of water for irrigation in this area is a beneficial use.

8. The Board finds that the proposed irrigation well is likely to cause draw down in nearby irrigation and domestic wells; the extent of draw down will be such that pumps may need to be lowered into the well so that the owner of the well may still obtain all of the water to which he is entitled. There is no credible evidence in the record that any domestic or irrigation well owner would be unreasonably affected.

9. The opponent to the grant of the water permit did not testify directly but offered testimony by way of a "power of attorney" granted to a lawyer.

10. The lawyer testified, in the name of her client, that her client owned certain property which extended into Minnesota and which could be affected by the grant of the permit.

11. The lawyer testified that the client was already having problems with two wells and was experiencing a water shortage. The lawyer explained the theory that, although the client was located to the east of the proposed well and although the flow of ground water is from the east to the west, the client would nonetheless be affected; this is because, in the client's theory, the client's wells were more shallow than the proposed well to the west. There was no expert evidence to sustain this counter-intuitive theory and the Board rejects it.

12. The lawyer who testified in the name of her client was unable to testify as to how deep her client's wells were, the age of her client's wells, the pumping capacity of her client's wells, or whether the wells had been used for irrigation before 1955.

13. The lawyer was also uncertain as to which sections of land were affected. At one point, the lawyer testified that the issue involved Section 24. The lawyer at that time testified that her client had not identified Section 30 as a problem area. Later in the hearing, after a phone call had apparently been made, the lawyer testified that the problem was Section 27 which extends to Section 30.

14. The opponents to the permit did not offer credible evidence to undermine the testimony of the State's expert, Mr. Goodman.

15. The Board has also considered the opponent's request for an extension of time. The Board notes that the lawyer for the opponent to the permit attempted to subpoena an employee of the state of Minnesota who, the opponent believes, may have knowledge relevant to this matter. About three weeks before the hearing, Minnesota officials informed the opponents that the subpoena would not be honored. The lawyer for the opponent candidly informed the Board that she had no plans to attempt to procure an alternate expert. The lawyer informed the Board of her request that (1) the matter be delayed so that (2) employees of the South Dakota Water Rights Program could contact Minnesota officials in an attempt to (3) procure information held by Minnesota related to the present applications.

16. The Board appreciates the sincerity and clarity of the request by the lawyer for the opponent. Nonetheless, the Board finds that an extension of time would not be appropriate. First, it is unknown whether the Minnesota employee actually has relevant information. Second, there is no testimony as to whether all avenues were explored with regard to obtaining the testimony of the Minnesota employee. It may have been possible, as it is in South Dakota, to privately contract with the Minnesota employee. It is also possible that the subpoena could have been enforced had appropriate judicial relief been sought. Third, even if the Minnesota employee could not have been utilized, the Board takes judicial notice that there are water rights experts available in South Dakota with appropriate expertise who could be hired by the opponent to conduct an

investigation, and testify, if appropriate. Fourth, the Board takes notice that it is true in virtually all cases that more research and more investigation could be done; if delays were granted in all such cases, the Board would be unable to dispose of matters in the time periods contemplated in statute.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. There is a reasonable probability that there is unappropriated water available for the Applicant's proposed use, as set out more fully by the Findings above.
3. The proposed diversion can be developed without unlawful impairment of existing rights, as set forth more in detail in the Findings above.
4. The proposed use for irrigation is a beneficial use.
5. The proposed use is in the public interest. In coming to this conclusion, the Board has carefully considered the evidence to determine whether there is likely to be an affect on surrounding landowners' wells, whether adequate or not. It has weighed this evidence against the benefits which can be obtained from allowing irrigation. As a likelihood a benefit is great, and because the evidence of harm is minimal, the grant of this permit would be in the public interest.
6. In coming to the foregoing conclusions, the Board has fully recognized its right and responsibility to extend protection to the use of water in the state of Minnesota. The Board specifically recognizes its responsibility to weigh the evidence of the effect of the proposed use in South Dakota on

Minnesota uses to the same extent as it would weigh the effect on South Dakota uses. As noted, however, the Board has found no credible evidence of any effect on any use of water in Minnesota.

7. The Board allowed a lawyer to testify as to what her client would have testified as a "attorney in fact." Such evidence cannot be regarded as any more persuasive, however, than evidence given by affidavit. In either case, the person who has actual knowledge of the evidence is not before the Board nor is he or she available for cross-examination. The Board did not have an occasion to determine whether it would have allowed the "attorney in fact" testimony if an objection had been made because no objection was made. The Board leaves this issue for another day.

8. It would be contrary to the public interest to grant an extension of time in this case.

FINAL DECISION

The Application for Water Permit No. 6414-3 is GRANTED with the following qualifications:

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

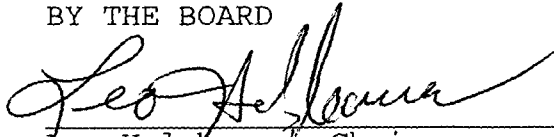
2. The well authorized by Permit No. 6414-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water

Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.

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

Dated this 16 day of March, 2004.

BY THE BOARD


Leo Holzbauer, Chairman

p1d.jpg (Findings of Fact Permit No. 6414-3...) (jmm)

CERTIFICATION

I hereby certify that on March 18, 2004, I personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 18, 2004, regarding adoption of findings of fact, conclusions of law and final decision in the matter of Water Permit Application No. 6414-3, Andy Weber, addressed as stated below.

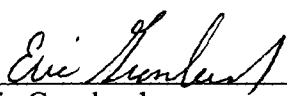
Andy Weber
RR 2 Box 145
Elkton SD 57062

Patricia A. Carlson
Attorney for Petitioner
PO Box 1235
Pierre SD 57501-1235

Maureen McGill Hoogeveen
1403 Main Street
Rock Valley IA 51247

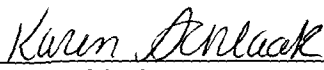
A copy of the Notice was sent Inter-office to:

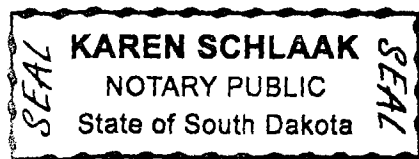
John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General


Eric Gronlund
Natural Resource Engineer
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of March, 2004.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007





APR 30 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

Andy Weber
RR 2 Box 145
Elkton SD 57062

Dear Mr. Weber:

Enclosed is Water Permit No. 6414-3 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



6414-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 28, 2004

6414-3

Andy Weber
1159 Co Rd 131
Elkton SD 57026-8822

Dear Mr. Weber

Enclosed is a "Notice" dated October 22, 2004 concerning the 2004 irrigation questionnaire. The notice was originally mailed to RR 2 Box 145, Elkton, SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures



6414-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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www.state.sd.us/denr

January 24, 2006

NOTICE

TO: ANDY WEBER, 1159 CO RD 131, ELKTON, SD 57026 8822

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

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaire(s)

Our records indicate that the 2005 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6414-3. The request for the Questionnaire was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6414-3 qualification:

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

The hearing will be held at 10:30 am, March 2, 2006 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6414-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **February 24, 2006**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



Track & Confirm

Current Status

You entered 2303 2160 0000 0799 5531

Your item was delivered at 2:34 pm on January 25, 2006 in ELKTON, SD 57026. The item was signed for by A WEBER.

[Shipment Details >](#)

Notification Options

▶ Track & Confirm by email [What is this?](#)

[Go >](#)

▶ Request Proof of Delivery [What is this?](#)

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Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0799 5531

ANDY WEBER
1159 CO RD 131
ELKTON SD 57026 8822

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:
Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

☐ Priority Mail[®] Service
☐ First-Class Mail[®] parcel
☐ Package Services parcel



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www.state.sd.us/denr

January 31, 2006

6414-3

Andy Weber
1159 Co Rd 131
Elkton SD 57026 8822

Dear Mr. Weber:

I am writing to acknowledge receipt of your 2005 irrigation questionnaire. I completed a questionnaire for you based on our January 31st telephone conversation. Enclosed is a copy of the form I filled out. You may keep this for your records.

You may disregard the January 24, 2006, "Notice" concerning reporting requirements for Water Permit No. 6414-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

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

SOUTH DAKOTA WATER WELL COMPLETION REPORT

6414-3

07-92

Location NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 10 Twp 109N Rg 47W
County Brookings

Please mark well location with an "X"

Well-Completion Date 2/12/07

Well Owner: Andy Weber

Business Name: _____

Address: 1159 Cty Rd 13

Elkton SD 57026

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Gravel	0	12
Sandy clay	12	15
Sand	15	31
Blue clay	31	79
Sand	79	86
Blue clay	86	145
Sand	145	158
Blue Clay	158	170

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 200' ft. from unused well (identify source).

PROPOSED USE:

- ☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Mud rotary

CASING DATA: ☒ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
_____ LB/FT	<u>12</u> IN	<u>0</u> FT	<u>148</u> FT	<u>17 1/2</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type High Solid No. of Sacks 35 Grout Weight _____ lb./gal From 0 ft. To 140 ft.

Describe grouting procedure Pressure grouted

SCREEN: ☐ Perforated pipe ☒ Manufactured

Diameter 12 IN Length 15 FEET

Material Stainless steel

Slot Size 3' @ .050 From 148 Feet to 163 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: Back wash chlorine

Laboratory sent to for water quality analysis _____

_____ NO, Why Not? _____

STATIC WATER LEVEL 45' 7" Feet

If flowing: closed in pressure _____ PSI

GPM flow 600 through 6" inch pipe

Controlled by ☒ Valve ☒ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: _____

☐ Bailed _____

☐ Other _____

Pumping Level Below Land Surface

134 ft. After 9.5 Hrs. pumped 600 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate 600 GPM

REMARKS

This well was drilled under license # 475

And this report is true and accurate.

Drilling firm Thein Well Co.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

RECEIVED
 MAR 15 2007
 WATER RIGHTS
 PROGRAM

File No. 6414-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Andy Weber, 1159 County Rd 131, Elkton SD

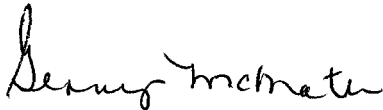
DATE: June 20, 2007

TELEPHONE:

RE: completion of system

COMMENTS:

Mr. Weber called to say that he had finished construction of the irrigation system and would be trying it out today to make sure everything was going to work. They anticipate irrigating this summer yet.



Genny McMath
Environmental Scientist

Permit No. 6414-3
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, April 23, 2008, made a thorough examination of the water use system constructed by Andy Weber of 1159 County Rd 131, Elkton, SD 57062 holder of Permit No. 6414-3, bearing the priority of April 1, 2003 authorizing the diversion of 2.0 cu. ft. per second of the waters of Rutland Aquifer for Irrigation purposes, in Brookings County.

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

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Thein Well Co.
- 2) No. of Wells 1
- 3) Depth(s) 170 feet
- 4) Well log is available Y

Casing:

- 1) Diameter 12 inches
- 2) Length 148 feet
- 3) Type Steel

Screen:

- 1) Type Stainless Steel
- 2) Length 15 feet
- 3) Static water level 45 feet

Pump:

- 1) Make American Marsh submersible
- 2) Capacity 600 GPM

Motor:

- 1) Make Hitachi
- 2) Horsepower rating 75 hp

B. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Valley
- 2) Number of towers 7
- 3) End gun Y
- 4) High or low pressure Low

Chemigation Equipment:

- 1) Does chemigate N

C. Compliance with Permit Requirements:

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

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

Approximately 1385 feet south and 1040 feet east of the NW corner of Section 10-T109N-R47W
(N 44.26512, W -96.43691) (SW ¼ NW ¼)

The works are capable of diverting and conveying to the place of use 1.34 cu. ft. per second of water which is to be used for irrigation use. Water has been put to beneficial use to the maximum extent as follows:

Section 10-T109N-R47W

NW ¼ NW ¼ - 33 acres

NE ¼ NW ¼ - 33 acres

SW ¼ NW ¼ - 33 acres

SE ¼ NW ¼ - 33 acres

comprising a total of 132 acres of land and the license should be issued for 1.34 cfs.

All structures, wells and lands on map Y



Mike DeFea

Natural Resources Project Engineer
DENR, Water Rights Program

Date report completed: June 8, 2009

Water Permit No. 6414-3

Andy Weber
1159 County Rd 131
Elkton, SD 57062



Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
June 8, 2009

0 440 880 1,760 2,640 3,520 Feet



South Dakota
Department of Environment
& Natural Resources
Protecting SD's Tomorrow... Today



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 15 2009

6414-3

Andy Weber
1159 County Rd 131
Elkton SD 57026

Dear Mr. Weber:

Enclosed is Water License No. 6414-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a copy of the map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6414-3, 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

Enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6414-3

(1) Andy Weber, 1159 County Rd 131, Elkton SD 57026 made Application No. 6414-3, April 1, 2003 for a water permit to divert 2.00 cubic feet of water per second from ground water (one well – Rutland Aquifer), Brookings County, South Dakota for irrigation purposes. Permit No. 6414-3, with a priority date of April 1, 2003 was approved March 3, 2004 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 3, 2009 and for the application to beneficial use of said water on or before March 3, 2013.

(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 1.34 cubic feet of water per second for beneficial use. The location of the diversion point is approximately 1,385 feet south and 1,040 feet east of the NW corner of Section 10, T109N, R47W (SW ¼ NW ¼).

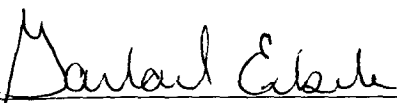
(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 10, T109N, R47W	NW ¼ NW ¼	33 acres
	NE ¼ NW ¼	33 acres
	SW ¼ NW ¼	33 acres
	SE ¼ NW ¼	33 acres
	Total	132 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Andy Weber, 1159 County Rd 131, Elkton SD 57026 the holder and/or owner of Water Right No. 6414-3 is issued a license to appropriate water, the right to use 1.34 cubic feet of water per second from ground water (one well – Rutland Aquifer) with a priority date of April 1, 2003 from the location specified in (2) of this license. The water is to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6414-3 and subject to the following qualifications:

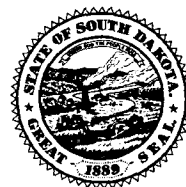
- The well approved under this Water Right will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Water Right shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- The well authorized by No. 6414-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28. *The well was drilled in 2007 by Thein Well Company and a copy of the log is on file with the Water Rights Program.*
- 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

JUN 15 2009

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

October 22, 2013

6414-3

Andy Weber
48752 217th St
Elkton SD 57026 7320

Dear Mr. Weber:

Enclosed is a "Notice" dated October 18, 2013 concerning the 2013 irrigation questionnaire.

The notice was originally mailed to 1159 County Rd 131, Elkton SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures



6414-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2014

NOTICE

TO: ANDY WEBER, 48752 217th ST, ELKTON, SD 57026 7320

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

SUBJECT: Reporting Requirement for 2013 Irrigation Questionnaire(s)

Our records indicate that the 2013 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6414-3. The request for the Questionnaire was dated October 18, 2013. The Water Management Board has directed that owners of water permits who have not submitted the 2013 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6414-3 qualification:

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

The hearing will be held at **9:00 am, March 6, 2014** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6414-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 3, 2014**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 30, 2014

6414-3

Andy Weber
48752 217th St
Elkton SD 57026 7320

Dear Mr. Weber:

I am writing to acknowledge receipt of the 2013 irrigation questionnaire for Water Right No. 6414-3.

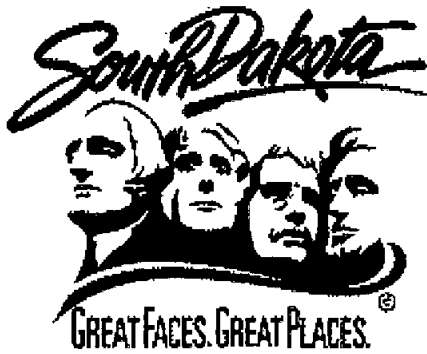
You may disregard the January 24, 2014, "Notice" concerning reporting requirements for Water Right No. 6414-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for the notation concerning new ownership of the land. I will contact the new owner for the transfer of ownership.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 30, 2014

6414-3

Galen Bomgaars
3803 S Quince St
Denver CO 80237

Dear Mr. Bomgaars:

I am contacting you in regard to Water Right No. 6414-3 (copy enclosed). The water right is currently listed in the name of Andy Weber. Mr. Weber has contacted us indicating he sold the land to you on January 2, 2014.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change with the water right. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions concerning the water right or completion of the ownership change, please contact me.

Sincerely,

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

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 6414-3
Date: 2/4/14

I/We request that Water Right No. 6414-3

formerly owned by: Andy Weber

be transferred to: (name & address) Galen Dean Bomgaars
3803 South Quince Street Denver, Colorado
80237 Telephone No. (303) 771-4146

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

132 acres – NW ¼ Section 10, T109N, R47W

I/We understand that the validity of Water Right No. 6414-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Galen D. Bomgaars, the new owner, certify that the above information is true and correct.

Galen Dean Bomgaars
(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 2/10, 20 14

RECEIVED OF Galen D Bomgaars 3803 S Quince Denver CO 80237

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>6414-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **06734**

By James Goodman
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 10, 2014

6414-3

Galen Bomgaars
3803 S Quince St
Denver CO 80237

Dear Mr. Bomgaars:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for transferring ownership of Water Right No. 6414-3.

The ownership change has been completed. Water Right No. 6414-3 formerly held by Andy Weber is now listed in your name. Enclosed for your records is Receipt No. 06734 in the amount of \$50.

For informational purposes, each year in October, we mail out an irrigation questionnaire to irrigators to report how much water they pumped during the season. Submission of the form is a qualification on your water right. The completed forms are typically due back to us by the first week in December. Enclosed is a copy of one of the past questionnaires that Mr. Weber submitted. This will give you an idea of what type of information you will need to keep track of during the irrigation season.

If you have any questions, please contact me.

Sincerely,

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

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

enclosures



6414-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2015

NOTICE

TO: GALEN DEAN BOMGAARS, 3803 S QUINCE ST, DENVER, CO 80237
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaire(s)

Our records indicate your 2014 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6414-3. The request for the Questionnaire was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6414-3 qualification:

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

The hearing will be held at **10:00 am, March 4, 2015** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6414-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182

February 12, 2015

6414-3

Galen Dean Bomgaars
3803 S Quince St
Denver CO 80237

Dear Mr. Bomgaars:

I am writing to acknowledge receipt of your 2014 irrigation questionnaire.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for Water Right No. 6414-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



6414-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: GALEN DEAN BOMGAARS, 3803 S QUINCE ST, DENVER, CO 80237
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6414-3. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6414-3 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6414-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 9, 2016

6414-3

Galen Dean Bomgaars
3803 S Quince St
Denver CO 80237

Dear Mr. Bomgaars:

I am writing to acknowledge receipt of your 2015 irrigation questionnaire.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right No. 6414-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



6414-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2018

NOTICE

TO: GALEN DEAN BOMGAARS, 3803 S QUINCE ST, DENVER, CO 80237
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6414-3. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6414-3 qualification:

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

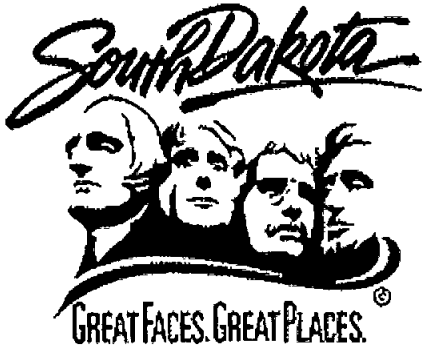
The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6414-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 7, 2018** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 28, 2018

6414-3

Galen Dean Bomgaars
3803 S Quince St
Denver CO 80237

Dear Mr. Bomgaars:

I am writing to acknowledge receipt of your 2017 irrigation questionnaire.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Right No. 6414-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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

6414-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

TO: GALEN DEAN BOMGAARS, 3803 S QUINCE ST, DENVER, CO 80237

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaire(s)

Our records indicate your 2020 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6414-3. The request for the Questionnaire was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6414-3 qualification:

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

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6414-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: YUUMYK**

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

64/4-3

Attention
Ron Duvall or Jeanne Goodman.

I'm sorry for the delay on the information
for the irrigation dues. The mail hasn't been
dependable in our area + it was returned with
an envelope with the information removed.

Please accept my delay + I'm sending
this Certified mail + will call you
to be sure it has been received.

Thank you.
Lalen Dean Bonghaus,
ph # 303-356-5336
Date 2/18/21

RECEIVED

MAR 01 2021

WATER RIGHTS
PROGRAM

6414-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 2, 2021

6414-3

Galen Dean Bomgaars
3803 S Quince St
Denver CO 80237

Dear Mr. Bomgaars:

I am writing to acknowledge receipt of your 2020 irrigation questionnaire.

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for Water Right No. 6414-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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

6414-3



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

January 20, 2022

NOTICE

TO: GALEN DEAN BOMGAARS, 3803 S QUINCE ST, DENVER, CO 80237

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6414-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6414-3 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6414-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: BBZTSV**

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



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

February 1, 2022

6414-3

Galen Dean Bomgaars
3803 S Quince St
Denver CO 80237

Dear Mr. Bomgaars:

I am writing to acknowledge receipt of your 2021 irrigation questionnaire.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right No. 6414-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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