

22

WATER PERMIT NO. 6519-3

Name of Applicant: D V Schmitz

Address: 1404 Cedar Lane, Sioux Falls SD 57101 Phone: 605 332-5323

Amount of Water Claimed: 3.08 cfs Total Acres: no add'l

Source of Water Supply: groundwater

Water to be used for: irrigation County: Union

Type of Waste Disposal System:

Location: 2 miles northeast of Elk Point

PRIORITY Date Received: 6-28-04 Application/License Fee: \$200

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

Remarks: An additional well (which has existed for a number of years) and increases the diversion rate authorized by Water Right No. 592-3

Diversion Point: center of NE ¼ Sec 8 – T91N-
R49W

Land to be Irrigated: NW ¼ NE ¼, E ½ NE ¼,
Sec 8 and W ½ NW ¼, SE ¼ NW ¼, Lot 5, Sec 9;
all in T91N-R49W

Depth of Well: 104 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Larry D Wilcox, Union Co FSA

Reviewed and the Number Assigned on: XX

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

888 5/25/04

SD EForm - 0499 V1

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	(office use only)	
	No. <u>6519-3</u>	Hydrologic Unit <u>10170203</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Leader Courier, Elk Point SD</u>	

RECEIVED
JUN 28 2004
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.)

This application proposes to add an additional well (which has existed for a number of years) and increase the diversion rate authorized by Water Right No. 592-3 to accurately reflect the present system

- Name of Applicant D V Schmitz Phone (605) 332-5323
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 1404 Cedar Lane, Sioux Falls State SD 57101
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 3.080 *CFS or **GPM ***AF Total Acreage no add'l
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply two wells (one existing authorized by WR No. 592-3 and one additional well)
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Union
existing well NW 1/4 NW 1/4 Section 9, T91N, R49W (already authorized by WR No. 592-3)
additional well NE 1/4 Section 8, T91N, R49W (been in existence since 1980)
- County or counties where water will be used Union
- Annual period during which water is to be used April 1 through October 31
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 NE 1/4 Section 8, T91N, R49W	✓ 40	NW 1/4 NW 1/4 Section 9, T91N, R49W	40
NE1/4 NE 1/4 Section 8, T91N, R49W	✓ 40	Lot 5, T91N, R49W	55
SE 1/4 NE 1/4 Section 8, T91N, R49W	✓ 40	SE 1/4 NW 1/4 Section 9, T91N, R49W	40
NW 1/4 NW 1/4 Section 9, T91N, R49W	40		

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

see attached sheet

STATE OF SOUTH DAKOTA) SS
County of MINNEHAHA

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

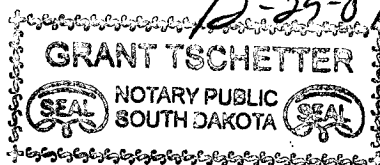
I, D.V. SCHMITZ, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature D.V. Schmitz

Subscribed and sworn to before me this 24th day of June 2004

Grant Tschetter

Notary Public signature



Attachment to D V Schmitz application

This is an existing system that has been in place for a number of wells. I became aware that one of the wells was not authorized by Water Right No. 592-3 and the diversion rate on this water right does not reflect the actual diversion capability. WR No. 592-3 authorizes 3.6 cfs while each well is capable of approx. 1500 gpm for a total of 3000 gpm (6.68 cfs). This application is to request an increase in the diversion rate of 3.08 cfs and authorize an additional well.

The system currently uses an gated pipe system. The amount requested is greater than the statutory limit of 1 cfs per 70 acres irrigated. Justification for the greater amount is that this they type of system that currently operates on the property.

The 120 acres located in Section 8 have been sold. A transfer of ownership will be filed after this application process is completed.

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 30" Depth 104'
- b) Casing Type PLASTIC Diameter 16" Thickness 3/4"
- c) Screen Type PLASTIC, 26' Diameter 16" Thickness 3/4"
- d) Gravel Pack 7" Length of Gravel Pack 95'±
- e) Depth to Top of Water Bearing Material 41' THRU 164'
- f) Depth to Water (ground surface to water level) 12'
- g) Distance to nearest existing domestic well:
On applicants property NONE On property owned by others 3/4 MILE ±

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) NONE
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

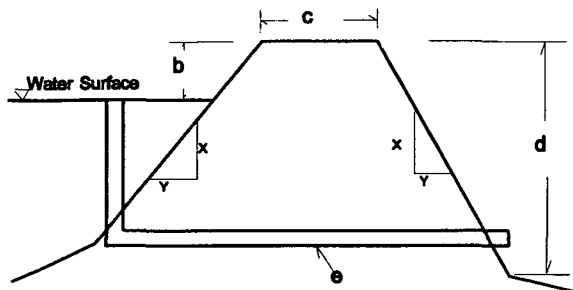
3. Dugout Information

- a) Surface Dimensions NONE Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams NONE

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

**SOUTH DAKOTA
WATER PERMIT NO. 6519-3**

Date of first receipt of application June 28, 2004.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6519-3 to D V Schmitz, 1404 Cedar Lane, Sioux Falls SD 57101 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. 6519-3 appropriates an additional 3.08 cubic feet of water per second (cfs) from an additional well to irrigate acres authorized by Water Right No. 592-3. Water Right No. 592-3 authorizes 3.6 cfs from one well located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9 to irrigate 295 acres located in NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 8 and W $\frac{1}{2}$ NW $\frac{1}{4}$, Lot 5 and SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9; all in T91N-R49W. This permit authorizes 3.08 cfs from an additional existing well (Missouri:Elk Point Aquifer) 104 feet deep located in the center of the NE $\frac{1}{4}$ Section 8-T91N-R49W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is June 28, 2004.
4. The date of approval of Permit No. 6519-3 is September 6, 2004.
5. One-fifth of the construction is to be completed on or before March 6, 2007.
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 6519-3 authorizes a maximum diversion rate of 3.08 cfs for the irrigation of 120 acres with an annual volume not to exceed 2 acre feet of water per acre per year.

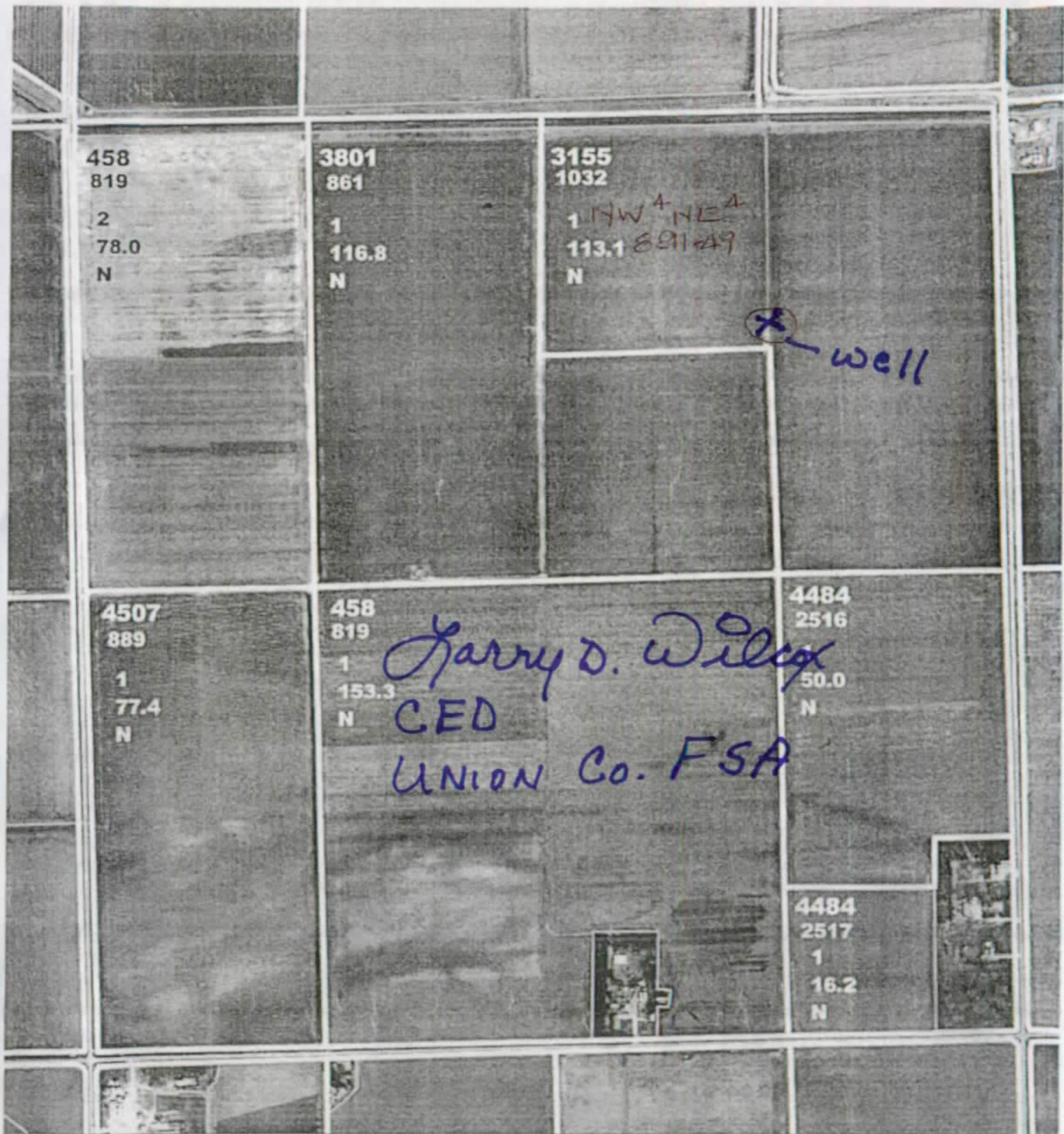
WATER MANAGEMENT BOARD

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

MAR 09 2005

date





United States Department of Agriculture
Farm Service Agency

08-91-49

April 6, 2004

Union County



1997 Digital Orthophotography - Not To Scale

6519-3

SW 1/4 NE 1/4
SEC 8-91-49

WELL
E 1/2 NE 1/4 OF
SEC 8-91-49

Harry D. Wilcox
CED
UNION Co. FSA

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 28, 20 04

RECEIVED OF Donald Schmitz, 1404 E Cedar Ln, Sicux Falls SD 57103-4515

1

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

Fee for Application for Permit No. <u>6519-3</u> to Appropriate Water, to construct and to put water to beneficial use	150	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>6519-3</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	200.00

No.

001075

By

Harold Erbe

Chief Engineer

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 26, 2004

D V Schmitz
1404 Cedar Lane
Sioux Falls SD 57101

Dear Mr. Schmitz:

Please find a partially completed application to authorize the additional well and increase the diversion rate authorized by Water Right No. 592-3. Review this information including the attachment carefully to ensure that it reflects what is occurring in the field. I completed the application based on each well producing 1500 gallons per minute (gpm) total appropriation of 3000 gpm. It is my thought that this may be an over estimation of the actual diversion rate but that can be ironed out during licensing to reflect actual development. This will give the new owner in Section 8 the ability to set up a pivot system if he so desires.

The following is necessary to complete the application:

- Under Item No. 4 – indicate the year the well in Section 8 was drilled.
- Sign the application in the presence of a notary public.
- Complete the well construction information (to your knowledge) on Form 2A Supplemental Information form for the well in Section 8.

- Submit a map showing the additional well in reference to a section corner. This map needs to be signed by a registered professional engineer, registered land surveyor or government employee who prepares maps as a normal part of his duties. An FSA or NRCS aerial photo with the well marked will be sufficient.
- The application filing fee and licensing fee for the application is \$200. This amount must be submitted with the application.

Once the application is processed, it will be public noticed. As we discussed, if approved the water right/permit can then be split to represent the separate ownership.

Mr. Schmitz, if you have any questions do not hesitate to contact me.

Sincerely,



Eric Gronlund

Water Rights Program, DENR
(605) 773-3352

enclosures

JUNE 24, 2004

D.V. SCHMITZ
1404 E. CEDAR LANE
SIOUX FALLS, S.D. 57103

ERIC GROHLUND
WATER RIGHTS PROGRAM, DE MR
DEPT. OF ENV. & NAT. RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, S.D. 57501-3182

DEAR MR. GROHLUND:

ENCLOSED IS THE APPLICATION TO APPROPRIATE
WATER FOR IRRIGATION WITH THE INFORMATION THAT
YOU REQUESTED IN YOUR LETTER OF MAY 26, 2004.
ALSO ENCLOSED IS A COPY OF THE WELL INFORMATION,
ATTACHMENT TO APPLICATION, COPY OF AERIAL MAP
SHOWING LOCATION OF WELL, AND PERSONAL CHECK
OF \$200 FOR FILING AND LICENSING FEE.

YOUR HELP AND GUIDANCE IN THE PREPARATION
OF THESE DOCUMENTS IS GREATLY APPRECIATED.

THANK YOU,

Don Schmitz

RECEIVED
JUN 28 2004
WATER RIGHTS
PROGRAM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 6, 2004

Kenneth Mouw
594 East Sawgrass Trail
Dakota Dunes SD 57049

Dear Mr. Mouw:

Please find enclosed a copy of the staff report, recommendation and public notice on the water permit application filed by D V Schmitz. This application was filed in order to authorize the additional well and increased appropriation of water so the water right reflects what is in the field.

You have filed a notice of transfer of ownership to transfer the portion of the water right authorizing the irrigation of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 8. This transfer will occur once we get through the permitting process on Mr. Schmitz's application.

If you have any questions, please give me a call.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6519-3, DV Schmitz**

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. 6519-3, D V Schmitz, 1404 Cedar Lane, Sioux Falls SD 57101.

The Chief Engineer is recommending APPROVAL of Application No. 6519-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 6519-3-3 authorizes a maximum diversion rate of 3.08 cfs for the irrigation of 120 acres with an annual volume not to exceed 2 acre feet of water per acre per year.

See report on application for additional information.

Garland Erbele, Chief Engineer
August 3, 2004

NOTE: If approved, the transfer of ownership filed by Kenneth Mouw for a portion of the land authorized by Water Right No. 592-3 will be processed.

REPORT ON WATER PERMIT APPLICATION NO. 6519-3
For D.V. Schmitz
July 23, 2004

Application No. 6519-3 proposes to appropriate an additional 3.08 cfs (1,382 gpm) from one additional well to irrigate acres authorized by Water Right No. 592-3. Water Right No. 592-3 authorizes 3.6 cfs from one well located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of section 9 to irrigate 295 acres located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ of section 8 and W $\frac{1}{2}$ NW $\frac{1}{4}$, Lot 5 and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of section 9; all in T91N R49W in Union County. This application proposes to appropriate 3.08 cfs from an additional existing well approximately 104 feet deep located in the center of the NE $\frac{1}{4}$ of section 8, T91N R49W. The applicant is requesting a diversion rate greater than the statutory limit of one cfs per 70 acres.

AQUIFER – MISSOURI ELK POINT (M-EP)

The Missouri Elk Point is a surficial outwash (sand and gravel) that is under water table conditions in this area. The Missouri Elk Point aquifer as described by Hedges (Hedges, 1982) is roughly the equivalent of the Missouri aquifer as described by Niehus. The aquifer underlies 180 square miles and contains an estimated 1.5 million acre-feet of water in storage in Union County (Niehus, 1994). The aquifer extends into Clay County to the west, blends into the Lower Vermillion Missouri aquifer to the northwest, blends into the Big Sioux South aquifer to the north, and is hydraulically connected to both the Big Sioux and Missouri Rivers. The aquifer also directly overlies the Dakota Formation which is also considered an aquifer in the southern portion of Union County (Niehus, 1994) and probably receives leakage from the Dakota Formation.

This is an existing well with no well completion report on file. A nearby irrigation well log indicates a layer of clay from 3 to 17 feet overlying the aquifer sand from 17 to 55 feet followed by coarse sand and gravel from 55 to 130 feet all below land surface. The purported well depth of 104 feet would be reasonable and still be in the Missouri Elk Point aquifer.

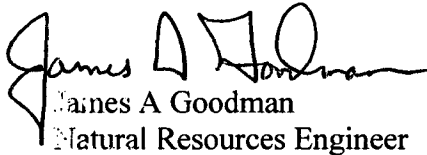
The Water Rights Program monitors two observation wells completed into the Missouri Elk Point aquifer and located within a one mile radius of this application. The nearest of these observation wells is UN-87I and is located about one-quarter mile east of this application. Water levels for UN-87I and UN-87H and the others from the Missouri Elk Point aquifer show good response to climatic conditions that is rising water levels during wet years (recharge) and gradually declining water levels during dry years. Hydrographs for UN-87I and UN-87H are included with this report (Water Rights, 2004). In general, the water level records indicate that the aquifer is capable of sustaining additional withdrawals.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are seven existing irrigation wells within a one mile radius of this application. Interference is not expected to be a concern. The aquifer is under water table conditions and is very prolific in this area. Drawdown created by pumping is not significant. This area is intensively irrigated with the water source from the Missouri Elk Point aquifer. The water level record from the observation wells indicate that pumping does not cause significant drawdown to occur. Interference is not expected to be a concern.

CONCLUSIONS

1. Water is available from the Missouri Elk Point aquifer.
2. The aquifer is under water table conditions in this area. Drawdown created by pumping is not expected to be significant. Interference should not be a concern.
3. This well if approved must be constructed in accordance with SD Well Construction Standards.
4. The additional water this application requests does not make much sense. It appears a portion of land under Water Right No. 592-3 that is to be sold is about 120 acres and the water required to irrigate that land would be about 1.71 cfs not the 3.08 cfs requested. Even with flood irrigation this request seems extreme. The applicant simply does not justify the additional water needs above 1.71 cfs.


James A Goodman
Natural Resources Engineer

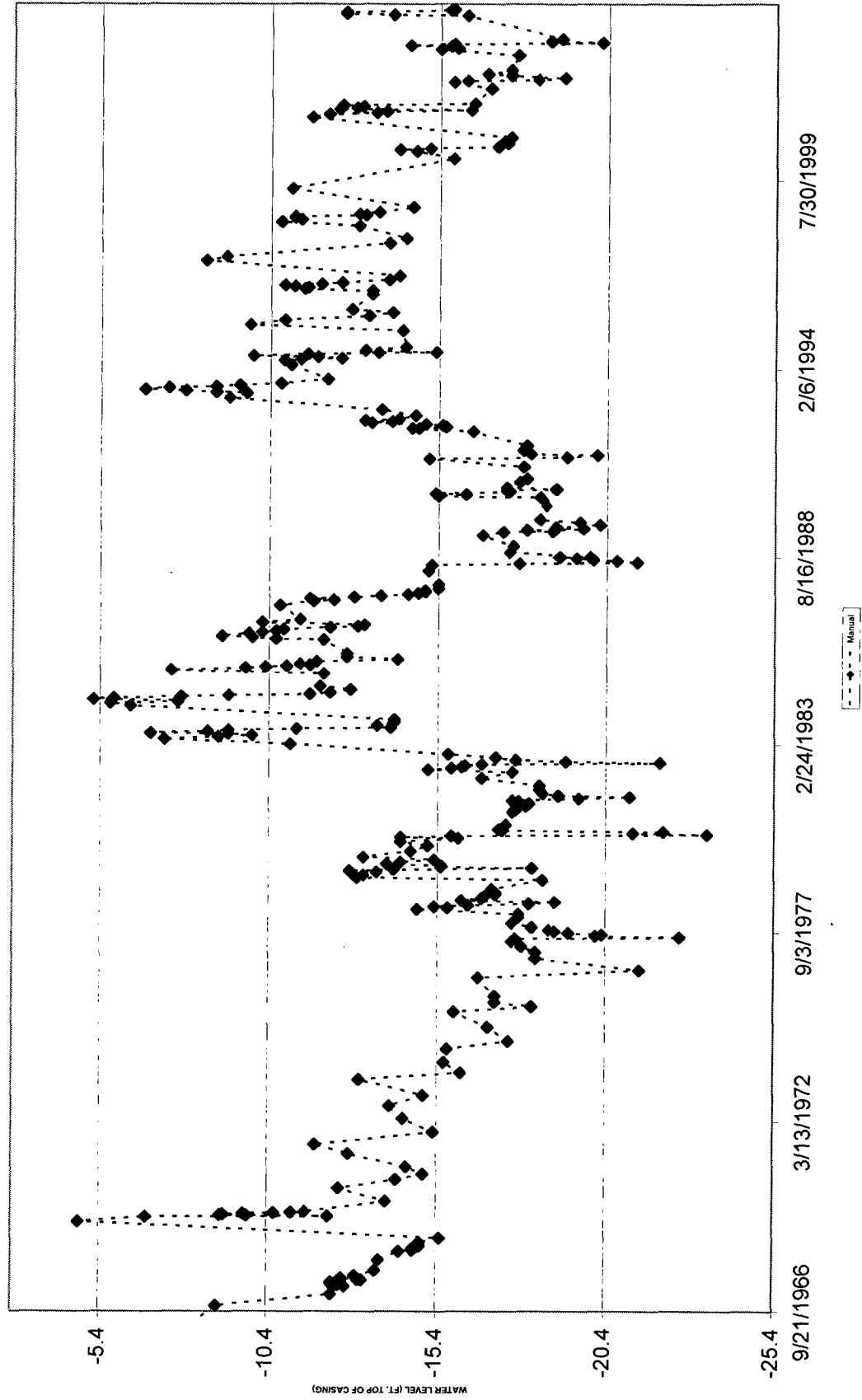
BIBLIOGRAPHY

Hedges, L.S., and others, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57609.

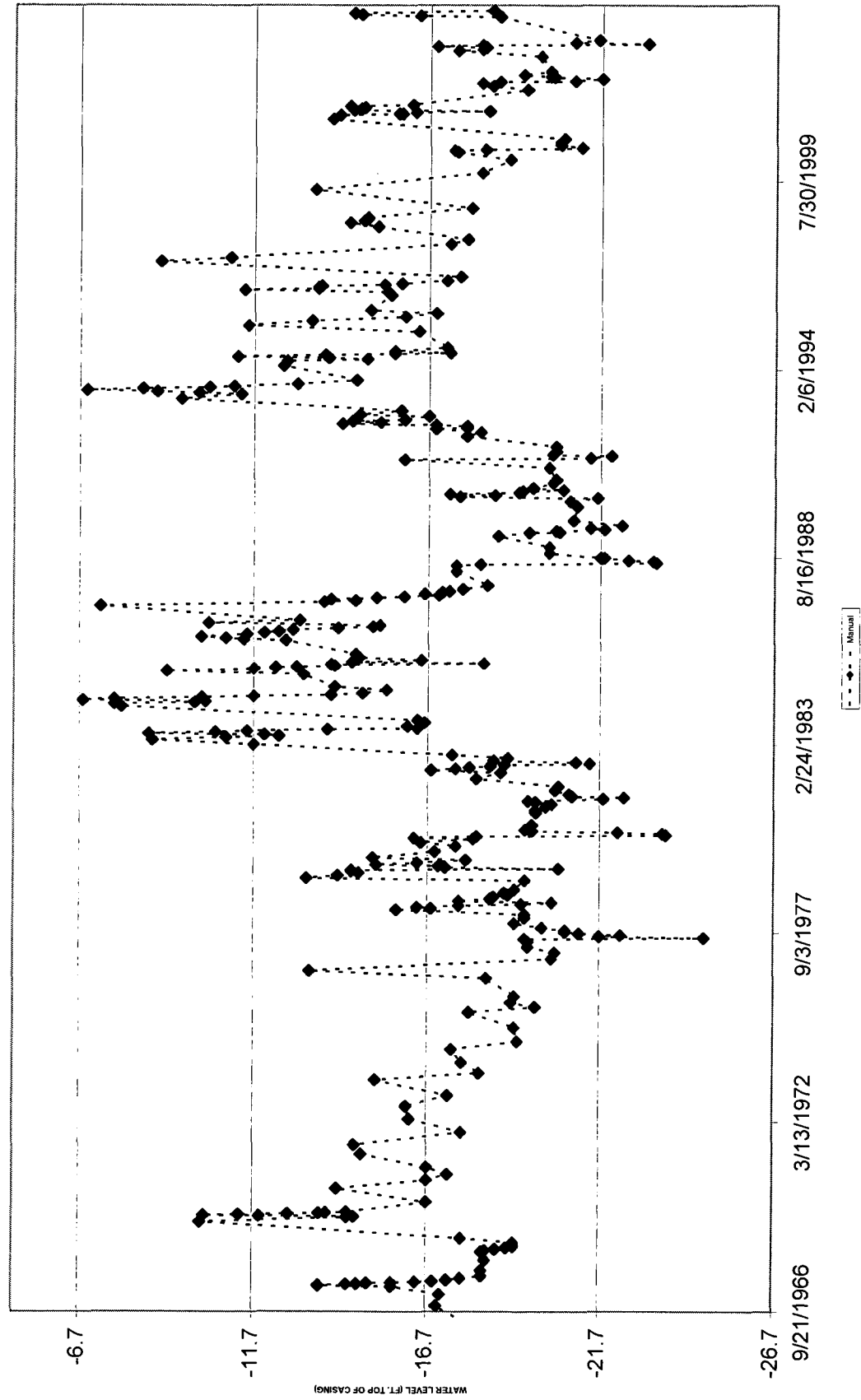
Niehus, C.A., 1994, Water Resources of Lincoln and Union Counties, South Dakota, Water-Resources Investigations Report 93-4195, USGS, Rapid City, SD, 57702.

Water Rights, 2004, Unpublished Observation Well Data for Union County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL
UN-87H



WATER RIGHTS' OBSERVATION WELL
UN-871





**DEPARTMENT of ENVIRONMENT
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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

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

August 6, 2004

D V Schmitz
1404 Cedar Lane
Sioux Falls SD 57101

Dear Mr. Schmitz:

Water Permit Application No. 6519-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Leader-Courier printed at Elk Point, SD (Ph # 605-356-2632). 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 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. 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

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

August 6, 2004

Leader-Courier
PO Box 310
Elk Point SD 57025-0310

ATTENTION: Legal Public Notice

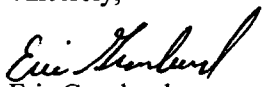
Enclosed is a Notice on Application No. 6519-3 to Appropriate Water to be published twice. Please publish the first notice on August 12, 2004 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 D V Schmitz, 1404 Cedar Lane, Sioux Falls SD (Ph # 605-332-5323).

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. 6519-3

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

Date _____

We are in receipt of your letter of August 5, 2004 enclosing Notice to Appropriate Water by Application No. 6519-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Instruction to Newspaper - Publish first Notice on August 12, 2004 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6519-3 to Appropriate Water

Notice is given that D V Schmitz, 1404 Cedar Lane, Sioux Falls SD 57101 has filed an application for a water permit to appropriate an additional 3.08 cubic feet of water per second (cfs) from an additional well to irrigate acres authorized by Water Right No. 592-3. Water Right No. 592-3 authorizes 3.6 cfs from one well located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9 to irrigate 295 acres located in NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 8 and W $\frac{1}{2}$ NW $\frac{1}{4}$, Lot 5 and SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9; all in T91N-R49W. This application proposes to appropriate 3.08 cfs from an additional existing well (Missouri:Elk Point Aquifer) 104 feet deep located in the center of the NE $\frac{1}{4}$ Section 8-T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6519-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 30, 2004.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Union) SSI, Susan Odson

certify that the attached printed Notice was taken

from the Leader-Courierprinted and published in Elk PointCounty of Union and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

August 12, 2004August 19, 2004Cost of Printing \$43.80Susan Odson
(Signature)Affidavits Coordinator
(Title)August 19, 2004
(Date Signed)RECEIVED
AUG 20 2004
WATER RIGHTS
PROGRAM**NOTICE OF APPLICATION
NO. 6519-3 TO
APPROPRIATE WATER**

Notice is given that D V Schmitz, 1404 Cedar Lane, Sioux Falls SD 57101 has filed an application for a water permit to appropriate 3.08 cubic feet of water per second (cfs) from an additional well to irrigate acres authorized by Water Right No. 592-3. Water Right No. 592-3 authorizes 3.6 cfs from one well located in the NW 1/4 NW 1/4 Section 9 to irrigate 295 acres located in NW 1/4 NE 1/4 E 1/2 NE 1/4 Section 8 and W 1/2 NW 1/4, Lot 5 and SE 1/4 NW 1/4 Section 9; all in T91N-R49W. This application proposes to appropriate 3.08 cfs from an additional existing well (Missouri: Elk Point Aquifer) 104 feet deep located in the center of the NE 1/4 Section 8-T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6519-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 30, 2004.

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.
Publish August 12 and 19, 2004
33-11-78

Water Rights Program - File Documentation

NAME: Leader-Courier

ADDRESS: Elk Point SD

DATE: 8-25-04 **COUNTY:** UN **TELEPHONE:**

RE: Publication notice for No. 6519-3

COMMENTS:

Susan Odson with the Leader-Courier called and stated that the correction was not made on the second publication August 19th. She indicated they published the notice again on August 26th with the correction and changed the date to interview to September 6th.



Karen Schlaak
Environmental Scientist

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Union) SSI, Susan Olsoncertify that the attached printed Notice was
takenfrom the Leader-Courierprinted and published in Elk PointCounty of Union and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

August 19, 2004August 26, 2004Cost of Printing \$43.80Susan Olson
(Signature)Affidavits Coordinator
(Title)Aug. 26, 2004
(Date Signed)

RECEIVED

AUG 30 2004

WATER RIGHTS
PROGRAM

NOTICE OF APPLICATION

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6519-3 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.

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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.

Publish August 12, 19 and 26, 2004
33-11-78

592-3

6519-3

Water Right No. 592-3 authorizes 3.6 cfs from one well to irrigate 295 acres located in portions of NE $\frac{1}{4}$ Section 8 and NW $\frac{1}{4}$ Section 9; all in T91N-R49W. **The applicable portions of No. 592-3 are incorporated into No. 6519-3.** Due to ownership changes, the water permit is being divided to reflect separate ownership.

- **No. 6519A-3 – D V Schmitz:** authorizing diversion of 2.5 cfs to irrigate 175 acres located in the W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Lot 5 Section 9-T91N-R49W with a priority date of March 30, 1959.
- **No. 6519B-3 – Kenneth B Mouw:** authorizing diversion of 3.08 cfs to irrigate 120 acres located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 8-T91N-R49W with a priority date of June 28, 2004.