

WATER PERMIT NO. 6708-3

Name of Applicant: David Huber

Address: 28419 431 Ave, Menno SD 57045

Phone: 605 660-0142

Amount of Water Claimed: 2.44 cfs

Total Acres: 280

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Hutchinson

Type of Waste Disposal System:

Location: 3 miles east of Menno

PRIORITY

Date Received: 4-3-06

Application/License Fee: \$350

Corrected Application Received:

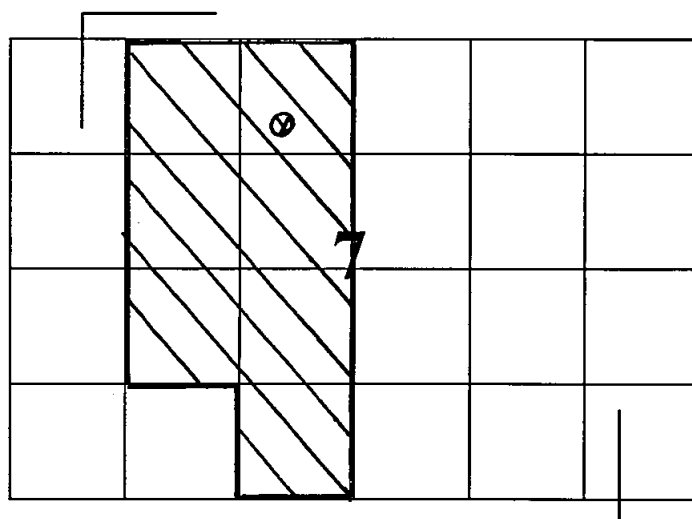
Period of Annual Use: April 1 – October 1

Remarks:

Diversion Point: NE ¼ NW ¼ Sec 7-T97N-R56W

Land to be Irrigated: NW ¼, NW ¼ SW ¼, E ½

SW ¼, Sec 7-T97N-R56W



Depth of Well: 80 feet dee

Well Driller: : Hammond-Wetmore Drilling

Remarks:

Type of Map: aerial

Prepared by: Robert A Kermolt, NRCS

Reviewed and the Number Assigned on: 4-3-06

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>6708-3</u> (office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>
	Newspaper <u>Freeman Courier, Freeman</u>

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
 (Use predates Mar 2, 1955)

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

- Name of Applicant David Huber Phone (605) 660-0142
 (check one) ☒ Owner ☐ Tenant/lessee
 Mailing Address 28419 - 431 Ave. Menno State SD 57045
 (Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 2.44 *CFS or 1,100 **GPM ***AF Total Acreage 280
 (*Cubic Feet per Second) (**Gallons per Minute) (***) Acre 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 Hutchinson
One Well Located 650' S. and 380' E. of the NW corner of the E 1/2 of the NW 1/4 of Section 7 T97N-R56W (NE1/4 NW1/4)
- County or counties where water will be used HUTCHINSON
- Annual period during which water is to be used APRIL 1 - OCTOBER 1
- 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 Section 7 T97N-R56W	160		
NW 1/4 of the SW 1/4 of Section 7 T97N-R56W	40		
E 1/2 of the SW 1/4 of Section 7 T97N-R56W	80		

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

Irrigate 280 acres from a well ag crops - corn, soybeans, wheat

RECEIVED

APR 03 2006

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA) SS
 County of Hutchinson

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, David W. Huber, 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 David W. Huber

Subscribed and sworn to before me this 1st day of April 20 06

Mary Mueller
 Notary Public signature

My Commission Expires:
December 16, 2010

**SOUTH DAKOTA
WATER PERMIT NO. 6708-3**

Date of first receipt of application April 3, 2006.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6708-3 to David Huber, 28419 431 Ave, Menno SD 57045 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. 6708-3 appropriates 2.44 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (approximately 80 feet deep) located in the NE ¼ NW ¼ Section 7 to irrigate 280 acres located in the NW ¼, E ½ SW ¼, NW ¼ SW ¼ Section 7; all in T97N-R56W.
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 1.
3. The date from which applicant may claim right is April 3, 2006.
4. The date of approval of Permit No. 6708-3 is June 26, 2006.
5. One-fifth of the construction is to be completed on or before December 26, 2008.
6. All construction is to be completed on or before June 26, 2011.
7. Water is to be put to beneficial use on or before June 26, 2015.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

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

WATER MANAGEMENT BOARD

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

JUL 24 2006
date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 22" Depth 80'
- b) Casing Type PVC Diameter 16" Thickness 1/2"
- c) Screen Type none Diameter n/a Thickness n/a
- d) Gravel Pack none Length of Gravel Pack n/a
- e) Depth to Top of Water Bearing Material 55'
- f) Depth to Water (ground surface to water level) 5'
- g) Distance to nearest existing domestic well:
- On applicants property 300' On property owned by others 1 mile

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

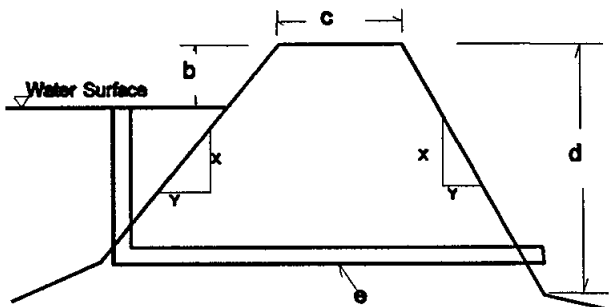
3. Dugout Information

- 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 3, 20 06

RECEIVED OF David Huber, 28419 431 Ave, Menno SD 57045

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

Fee for Application for Permit No. <u>6708-3</u> to Appropriate Water, to construct and to put water to beneficial use	300	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>6708-3</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	350.00

No.

02285

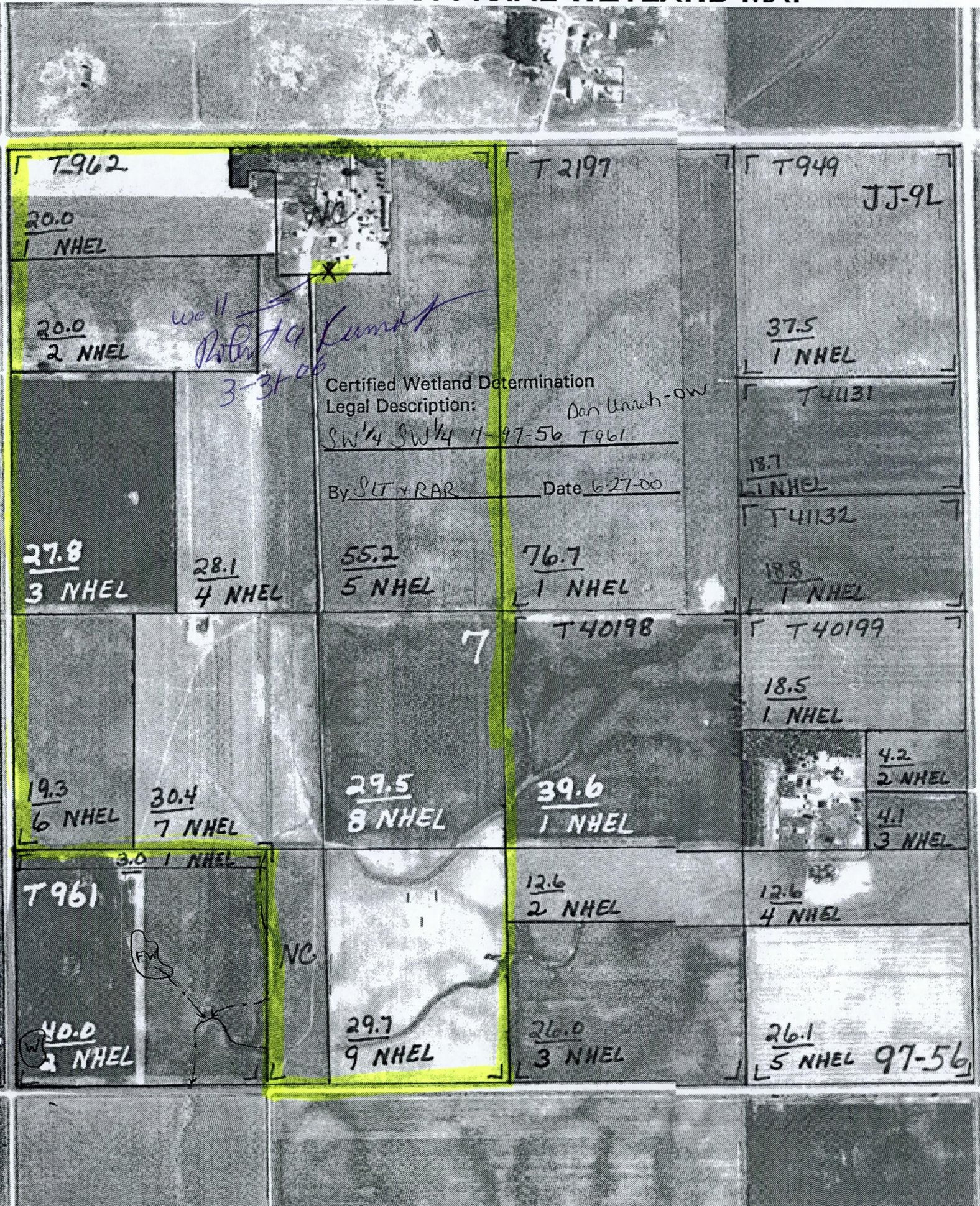
By

Garland Eckele

Chief Engineer

KS

**MAP NOT TO SCALE
THIS IS NOT AN OFFICIAL WETLAND MAP**



US Hwy 18

7.97N-56W.

Well → •

434 Ave

Richard H. H. H.
GPG 8272

287 ST.

ID EForm - 1621 V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

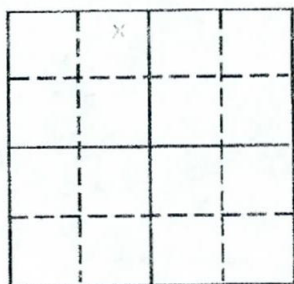
11-02

Location ne $\frac{1}{4}$ nw $\frac{1}{4}$ Sec 7 Twp 97N Rg 56W

County

Hutchinson

North



Please mark well location with an "X"

Well Completion Date

3/30/2006

Distance to nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

800.0 ft. from Septic system (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel
 ☒ Plastic
 ☐ Other
If other describe Sch 40 PVC

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	16.00 IN	0.0 FT	60.0 FT	24.00 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
ant Grt	21	9.6 Lb/gal	0.0 Ft	69.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

Perme method

SCREEN:

☐ Perforated pipe
 ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information Open completion, drilled out bottom with 12" bit

WAS A PACKER OR SEAL USED?

☒ Yes ☐ NoIf so, what material? Plastic

Describe packer(s) and location

Plastic external ring (shale trap) at 60 foot

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? HTH in water
☐ No, Why Not?

Lab sample sent to for water quality analysis
Well Owner: David Huber

Business Name: _____

Address: 28419 431st AveCity, State, Zip: Menno SD 57045

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Clay, yellow brown, silty, pebbly (till)	0	19
Clay, gray, silty, pebbly, (till)	19	55
Chalk, Yellow to lt gray, blocky (Kn)	55	80

STATIC WATER LEVEL 5.3 FEET

If flowing, closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: Pumped at 950 GPM for 1 hr☐ Bailed☐ Other

Pumping Level Below Land Surface

7.1 Ft. After 1.0 Hrs. pumped 950.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 666

And this report is true and accurate.

Drilling firm: Hammond-Wetmore Drilling

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder

Date: 4/1/06

REPORT ON WATER PERMIT APPLICATION NO. 6708-3

For David Huber

May 8, 2006

Application No. 6708-3 proposes to appropriate 2.44 cubic feet of water per second (cfs) from one well to be completed into the Niobrara aquifer (approximately 80 feet deep) located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7 to irrigate 280 acres located in the NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7; all in T97N-R56W in Hutchinson County.

AQUIFER – NIOBRARA (NBRR)

The Niobrara aquifer is composed of fractured, calcareous marl interbedded with calcareous claystone and is referred to as “chalkrock” by local drillers (Lindgren, 1990). The aquifer underlies 729 square miles and contains an estimated 6.99 million acre-feet of water in storage in Hutchinson and Turner Counties (Lindgren, 1990). The aquifer represents a confined condition with artesian characteristics in the area of this application.

The Water Rights Program monitors an observation well (HT-83F) which is completed into the Niobrara aquifer and located approximately $7\frac{1}{2}$ miles northeast of this application. Water levels for this well show good correlation with climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. Figure 1 illustrates the hydrograph for this observation well and is located below (Water Rights, 2006).

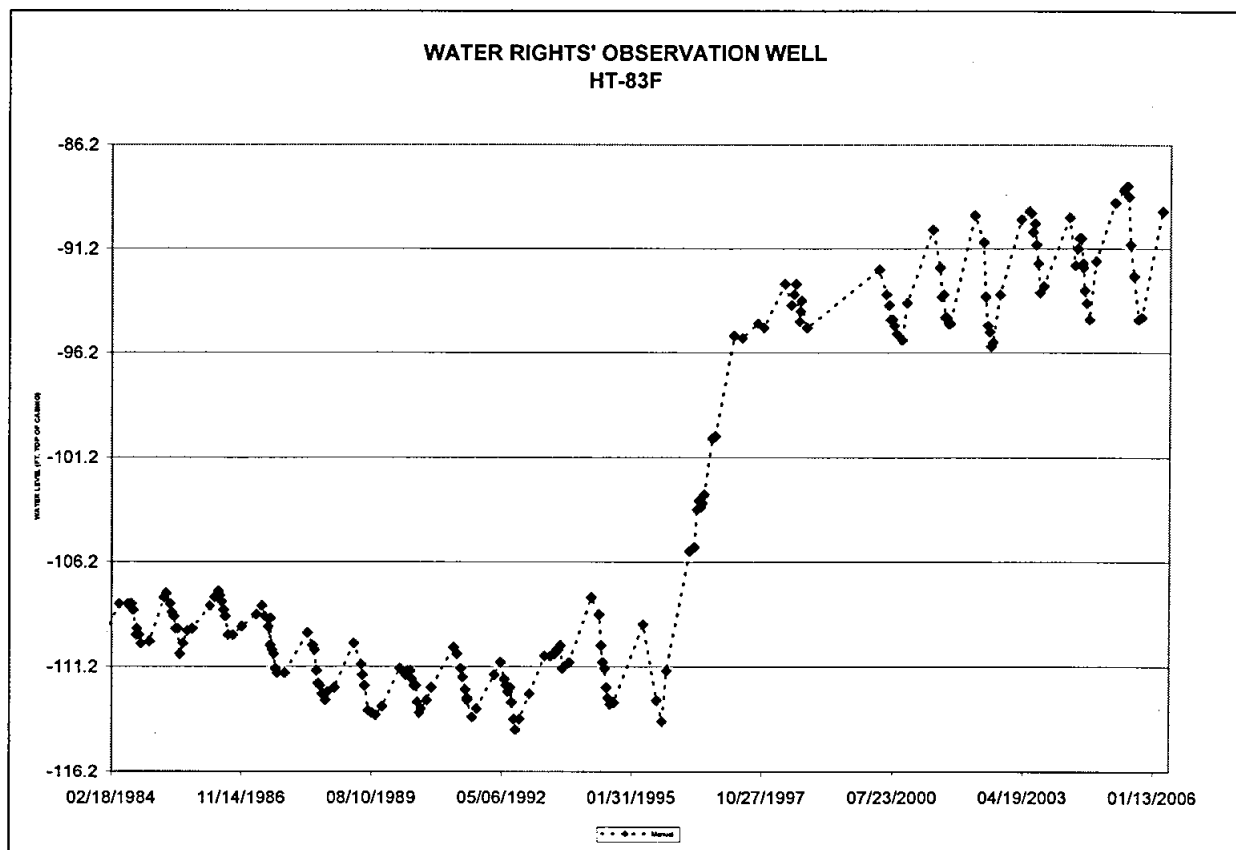


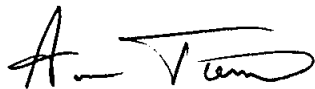
Figure 1. Hydrograph of observation well HT-83F.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There is one existing water right appropriating ground water located approximately 3½ miles to the west of this application. The nearest water right/permit from the Niobrara is located approximately 7½ miles northeast of this application. This well is for Water Right No. 5764-3 (0.24 cfs for irrigation). Interference is not expected to be a problem.

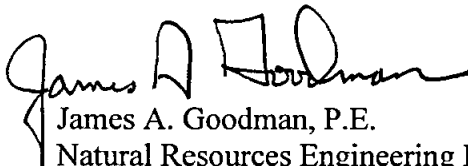
CONCLUSIONS

1. The Niobrara aquifer is a viable groundwater source and water is available for this appropriation.
2. The aquifer is confined and under artesian conditions.
3. The well authorized for this application is an existing well and appears to be completed in accordance with SD Well Construction Standards.



Aaron R. Tieman
Natural Resources Engineer

Approved by



James A. Goodman, P.E.
Natural Resources Engineering Director

BIBLIOGRAPHY

Lindgren, R.J., D.S. Hansen, 1990, Water Resources of Hutchinson and Turner Counties, South Dakota, Water-Resources Investigations Report 90-4093, USGS, Huron, SD, 57350.

Water Right, 2006, Unpublished Observation Well Data, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.



**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. 6708-3, David Huber**

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. 6708-3, David Huber 28419 431st Avenue, Menno SD 57045.

The Chief Engineer is recommending APPROVAL of Application No. 6708-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

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

See report on application for additional information.

Garland Erbele, Chief Engineer
June 1, 2006

AFFIDAVIT OF PUBLICATION

County of Hutchinson)
) ss.
State of South Dakota)

Tim L. Waltner, of said county and state, being duly sworn, on his oath, deposes and says: That the Freeman Courier is a weekly newspaper of general circulation and a legal newspaper as required by law, published in the town of Freeman in said county by Tim L. Waltner, and has been such during the time hereinafter mentioned: That Waltner, the undersigned, am publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all stated in this affidavit, and that the advertisement headed **Appropriate Water - David Huber**

a printed copy of which is hereto attached, was published in the said newspaper for two issues to-wit:

The first publication on:
June 7, 2006

the second publication on:
June 14, 2006

and the third publication on:

That the full amount of the fees charged for the same to-wit: The sum of \$39.64 insures benefit of the publisher of the Freeman Courier agreement or understanding for any division has been made with any other person whom the amount of \$39.64 is the rate for publication notices.

NOTICE OF APPLICATION NO. 6708-3 to Appropriate Water

Notice is given that David Huber, 28419 431 Ave., Menno SD 57045 has filed an application for a water permit to appropriate 2.44 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (approximately 80 feet deep) located in the NE 1/4 NW 1/4 Section 7 to irrigate 280 acres located in the NW 1/4, E 1/2 SW 1/4, NW 1/4 SW 1/4 Section 7; all in T97N-R56W.

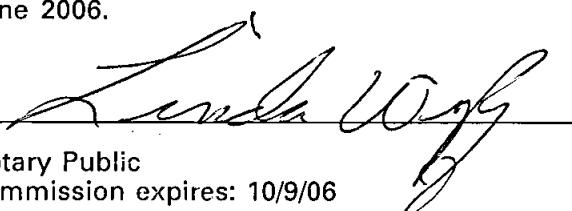
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6708-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the applications, 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 applications. 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 June 26, 2006.

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. Pirmer, Secretary, Department of Environment and Natural

Subscribed and sworn to before me this 14th day of June 2006.


Notary Public
Commission expires: 10/9/06

Publication fee: \$39.64
Notary fee:
Total: \$39.64

RECEIVED
JUN 16 2006
WATER RIGHTS
PROGRAM

Instruction to Newspaper - Publish first Notice on June 7, 2006 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6708-3 to Appropriate Water

Notice is given that David Huber, 28419 431 Ave, Menno SD 57045 has filed an application for a water permit to appropriate 2.44 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (approximately 80 feet deep) located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7 to irrigate 280 acres located in the NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7; all in T97N-R56W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6708-3 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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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 1, 2006

Freeman Courier
PO Box 950
Freeman SD 57029-0950

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 6708-3 to Appropriate Water to be published twice. Please publish the first notice on June 7, 2006 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 David Huber, 28419 431 Ave, Menno SD (Ph # 605-660-0142).

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
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 6708-3

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

Date _____

We are in receipt of your letter of June 1, 2006 enclosing Notice to Appropriate Water by Application No. 6708-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

June 1, 2006

David Huber
28419 431 Avenue
Menno SD 57045

Dear Mr. Huber:

Water Permit Application No. 6708-3 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 Freeman Courier printed at Freeman, SD (Ph # 605-925-7033). 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 / KS

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.



JUL 24 2008

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

David Huber
28419 431 Ave
Menno SD 57045

Dear Mr. Huber:

Enclosed is Water Permit No. 6708-3 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

6708-3

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

Date 7-25-06

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

FROM: David Huber
(name)
28419- 431 Ave
(address)
Menno SD 57045
(city, state, zip)

605-387-2324 office
605-660-0142 cell
(phone)

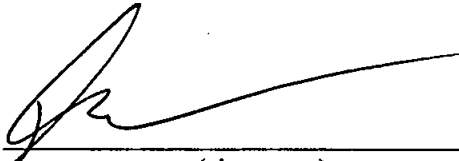
I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 6708-3 states that the water use system is to be constructed by
June 26- 2011 , and water is to be put to beneficial use by June 26- 2015 .
(date) (date)

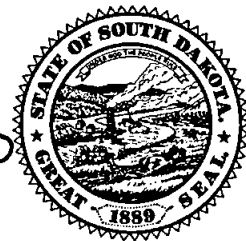
The water use system was completed on 7-8-06 .
(date)

Applying the water to beneficial use was completed on 7-8-06 .
(date)

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


(signature)

RECEIVED
JUL 26 2006
WATER RIGHTS
PROGRAM



6708-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No, 6708-3, Dave Huber

ADDRESS: 28419 431st Avenue, Menno SD 57046 COUNTY: Hutchinson County

DATE: August 1, 2012 TELEPHONE:

RE: replacement well

Weeks ago Mr. Huber and I had a discussion about him drilling a replacement well and I told him about SDCL 46-6-13.1 for the change of diversion point location or additional diversion points. At that time this was going to be solely a replacement well located within 50 – 100 feet of the existing well. I told him that if this was the case and the new well would be in the same quarter-quarter section, DENR's position was he could go ahead and drill the well as a replacement well.

Mr. Huber called to say that the driller had completed a replacement well for the well authorized by Water Permit No. 6708-3. He wanted to know if he could begin using it as long as the other well was not in use. The new well is within 300 feet of the original well. I said based on our previous conversation this is a replacement well within the same legally described area for the well under No. 6708-3 and he can begin using it under authority of No. 6708-3.

He then mentioned that at some point in the future he may make a request to authorize the original well to be an additional point of diversion under SDCL 46-5-13.1. He stated he will not use it until that is properly authorized.

NAME: Eric Huber



6708-3

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, 2013

NOTICE

TO: DAVID W HUBER, 28419 431 AVE, MENNO, SD 57045

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

SUBJECT: Reporting Requirement for 2012 Irrigation Questionnaire(s)

Our records indicate that the 2012 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6708-3. The request for the Questionnaire was dated October 12, 2012. The Water Management Board has directed that owners of water permits who have not submitted the 2012 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) 6708-3 qualification:

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

The hearing will be held at **8:30 am, March 7, 2013** 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) 6708-3 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 4, 2013**, 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**

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www.denr.sd.gov

January 24, 2013

6708-3

David W Huber
28419 431st Ave
Menno SD 57045

Dear Mr. Huber:

I am writing to acknowledge receipt of your 2012 irrigation questionnaire.

You may disregard the January 18, 2013, "Notice" concerning reporting requirements for Water Permit No. 6708-3. 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

**Permit No. 6708-3
Hutchinson County**

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, **May 22, 2014** made a thorough examination of the water system used by **David Huber, 28419 431st Ave, Menno, SD 57045, holder of Water Permit No. 6708-3**, bearing the priority date of **April 3, 2006** and authorizing the diversion of **2.44 cubic feet per second (cfs)** or 1,100 gallons per minute (gpm) from one well completed into the Niobrara aquifer at approximately 60 feet deep for the purposes of supplying water for **irrigation use in the W ½ of Section 7, T97N-R56W in Hutchinson County**. In addition to the single permitted well, Mr. Huber has also constructed an additional well located approximately 200 feet to the north of the permitted well.

I have the following conditions to report for the system in question:

- 1) Works used to divert water:
Two Flowserve pumps, one in each well.
- 2) Works used to transport water to a place of use:
Underground pipes with a diameter of six inches.
- 3) Works used to apply water to beneficial use:
Four pivots (two Valley and two Zimatic) and one Hydro Engineering travelling gun.

The system is in the following condition: well maintained. The wells associated with Water Permit No. 6708-3 are both located in the NE ¼ NW ¼ of Section 7, T97N-R56W. The exact location of each well is as follows:

- 1) **650 feet south and 1,840 feet east of the northwest corner of Section 7. Lat 43.23945N Lon 97.51184W.**
- 2) **430 feet south and 1,870 feet east of the northwest corner of Section 7. Lat 43.24000N Lon 97.51171W.**

The lands irrigated by the fore mentioned wells are as follows:

- 1) **37 acres in the NW ¼ NW ¼ of Section 7, T97N-R56W.**
- 2) **30 acres in the NE ¼ NW ¼ of Section 7, T97N-R56W.**
- 3) **40 acres in the SE ¼ NW ¼ of Section 7, T97N-R56W.**
- 4) **40 acres in the SW ¼ NW ¼ of Section 7, T97N-R56W.**
- 5) **40 acres in the NW ¼ SW ¼ of Section 7, T97N-R56W.**
- 6) **40 acres in the NE ¼ SW ¼ of Section 7, T97N-R56W.**
- 7) **40 acres in the SE ¼ SW ¼ of Section 7, T97N-R56W.**

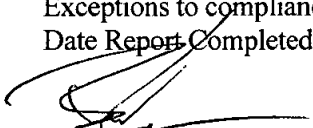
The sum of the acreages above is 267 acres.

License should be issued for the ~~permitted~~ diversion rate of **1.78 cfs** or **800 gpm**.

Applicable permit qualifications have been complied with: **Yes**

Exceptions to compliance are: **Additional well constructed.**

Date Report Completed: **May 28, 2014**


Bracken Capen
Natural Resources Engineer
DENR, Water Rights Program

PERMIT QUALIFICATIONS:

- 1) Special qualifications to permit being abided by: N/A
- 2) All structures, wells, and lands on map: **Yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period: **Yes, began irrigating in 2006**

COMMENTS:

- 1) Although this permit only allows one well, two wells have been constructed. Mr. Huber explained that at times the water level in the single well drops too low and that pumping is then switched to the second well. A request for an additional diversion point has been submitted in order to rectify this inconsistency. The electrical system supplying these two wells is incapable of running them both simultaneously, allowing for a maximum diversion rate of 800 gpm. This diversion rate allows of the simultaneous operation of the two smaller pivots or one of the larger pivots at any given time.
- 2) Mr. Huber operates four pivots and a travelling gun on the land irrigated under Water Permit No. 6708-3, allowing him to cultivate the land between the pivots and to irrigate the entire half section except the SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- 3) Photos of this area taken by from Farm Service Agency Aerial only show two pivots irrigating this area. Since this time, two additional pivots have been constructed and visually confirmed during the inspection. These additional pivots do not irrigate additional land as the land was irrigated using a travelling gun prior to their construction.

FIELD INVESTIGATION REPORT FOR WATER PERMIT NO. 6708-3

DATE OF INVESTIGATION:	May 22, 2014
NAME & ADDRESS OF PERMIT HOLDER	David Huber 28419 431st Ave Menno, SD 57045
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	David Huber
DIVERSION POINT LEGAL LOCATIONS	1) 650 feet south and 1,840 feet east of the northwest corner of Section 7, T97N- R56W. Lat 43.23945N Lon 97.51184W. 2) 430 feet south and 1,870 feet east of the northwest corner of Section 7, T97N- R56W. Lat 43.24000N Lon 97.51171W.

WELL INFORMATION:

- 1) Well Drilling Firm:
Hammond Wetmore, Quality Well
- 2) Number of Wells: **2**
- 3) Depth: **80 feet, 60 feet.**
- 4) Well Logs Available: **One available
(Hammond Wetmore)**
- 5) Comment:

Pumps

- 1) Make: **Flowserve**
- 2) Model:
- 3) Size:
- 4) Capacity: **Both 800 gpm**

Casing

- 1) Diameter: **16 inches**
- 2) Length: **60 feet**
- 3) Type: **PVC**

Screen

- 1) Type: **None**
- 2) Length:
- 3) Static Water Level: **5 feet**

Motor

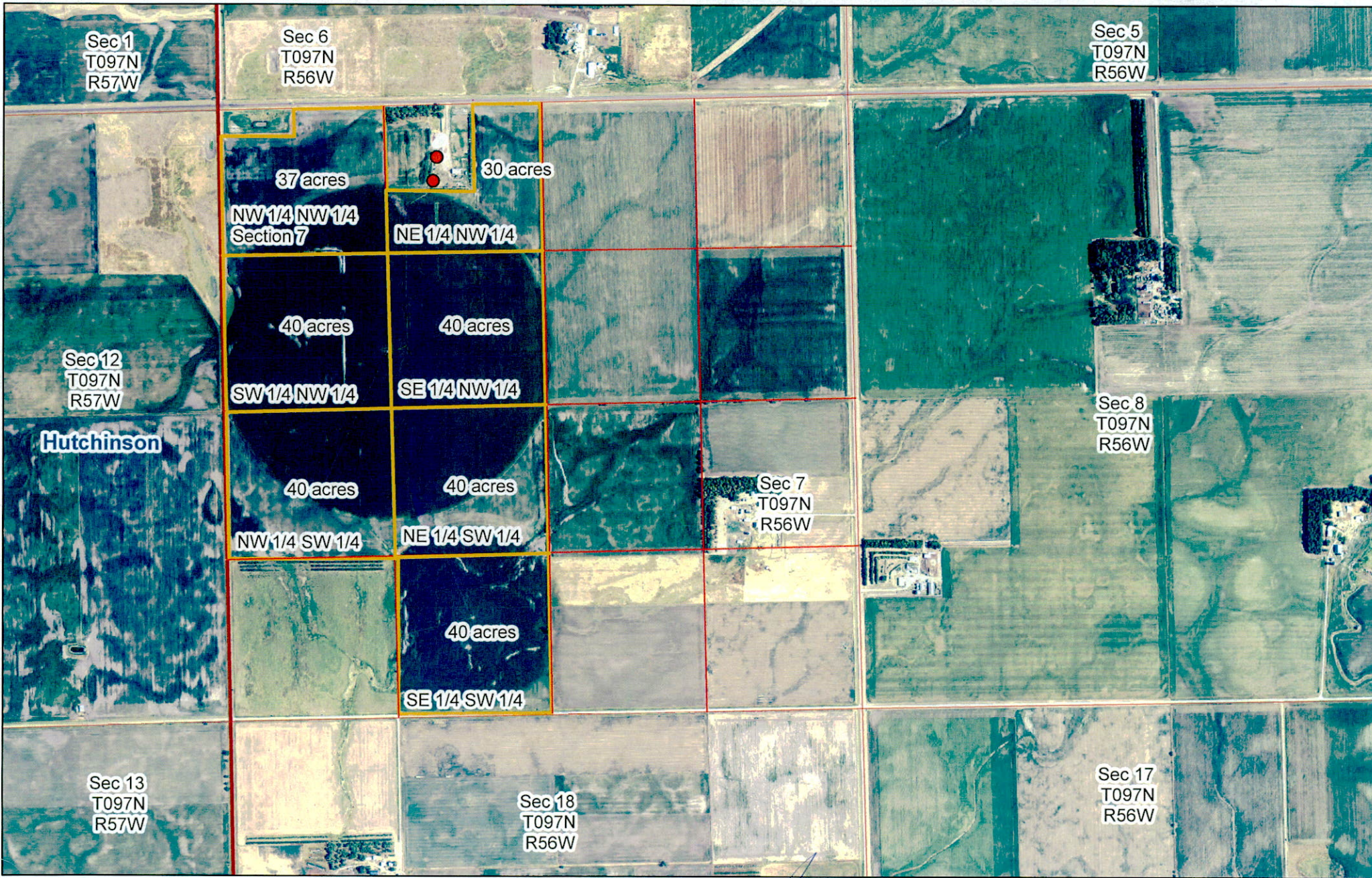
- 1) Make: **US Motors**
- 2) Model No: **BF42, BF48A**
- 3) Power: **30 hp, 40 hp**

System Type

- 1) Make: **Valley Pivots (x2), Zimmatic
Pivots (x2), Hydro Engineering
travelling gun**
- 2) Overall length:
- 3) Number of Towers: **5, 4, 7, 5**
- 4) Distance Between Towers:
- 5) End Gun: **Yes**
- 6) Pressure:
- 7) Capacity: **Two at 350 gpm, one at 700
gpm and one at 750 gpm.**

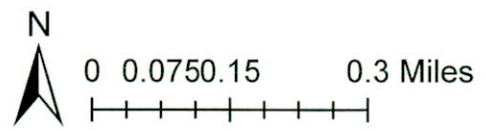
CHEMIGATION EQUIPMENT: **Yes**

- 1) Mainline Check Valve: **Yes**
- 2) Low Pressure Drain: **Yes**
- 3) Inspection Port/Air Relief: **Yes**
- 4) Discharge 20 Feet Away: **Yes**
- 5) Injection Line Check Valve or Positive
Displacement Pump: **Yes, Both**
- 6) Injection Check Valve: **Yes**
- 7) Properly Installed: **Yes**



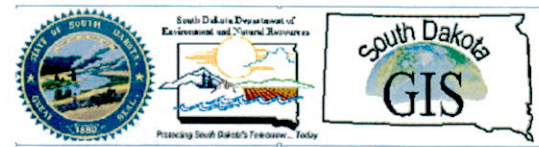
Legend

- Irrigated Land
- Section Boundaries - PLSS
- Township Boundaries
- Completed Wells



[Handwritten Signature]

Prepared by Bracken Capen
 Natural Resources Engineer
 DENR, Water Rights Program



File No. 6708-3

Approval of Additional Diversion Point

NAME: David Huber

ADDRESS: 28419 431st Ave, Menno, SD 57045

DATE: May 30, 2014

COUNTY: Hutchinson

TELEPHONE: (605) 660 0142

BACKGROUND:

Water Permit No. 6708-3 appropriates 2.44 cubic foot per second (cfs) from one well completed into the Niobrara aquifer at a depth of approximately 80 feet below ground surface. This well, located in the NE ¼ NW ¼ of Section 7, T97N-R56W is intended to supply water to irrigate 280 acres in the W ½ (excluding the SW ¼ SW ¼) of Section 7, T97N-R56W. The original permit was conditioned with standard well interference, well construction and irrigation questionnaire qualifications.

During an inspection of Water Permit No 6708-3, a second well was found to be completed approximately 200 feet to the north of the original well. Consequently, Mr. Huber requested the second well be added to Water Permit No. 6708-3. The basis behind this request (and the construction of the second well) is that the existing well is not always capable of providing the 2.44 cfs that has been permitted. The new well is completed to a similar depth as the existing well and diverts water from the same source, the Niobrara aquifer.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional points may be licensed provided the following conditions are met and the potential for interference with other existing diversion points is not increased.

- **Developed water source is the same as licensed source and no additional water is appropriated.**

The water source authorized by Water Permit No. 6708-3 is the Niobrara aquifer. Both diversion locations are drawing water from the Niobrara aquifer.

No additional appropriation of water is authorized. Water Right No. 6708-3 appropriates 2.44 cfs and no additional diversion rate authority is being requested.

Review of Existing Diversions

The well completion report and water rights databases were reviewed for the nearest domestic wells and water rights/permits on file. The nearest water permit (7617-3) to the additional well site is located approximately 1.2 miles to the southeast. Given that this distance is slightly greater than the distance between this water permit and the original well used for Water Permit No. 6708-3, and that no additional diversion rate authority is being requested, the potential for interference due to withdrawals from the additional well is not expected to increase. Therefore,

water rights/permits in the area are not expected to be impacted by this additional well. The nearest known domestic well is located approximately one mile to the west. Since the distance between the additional well and the domestic well is not appreciable smaller than the distance between the original well and the domestic well, interference is not expected to occur.

Observation Well Data

The Water Rights Program monitors a series of observation wells completed into the Niobrara aquifer. The closest observation well (HT-83F) is located approximately 7.5 miles to the northeast of the additional well in Section 7. This well has been in place since 1983 and shows static water level fluctuations of 80 to 115 feet below the top of the casing. Historic water levels in HT-83F show that aquifer levels are primarily controlled by pumping with some visible effects of climatic variation.

CONCLUSION:

- The additional diversion point does not propose to appropriate additional water.
- The additional diversion point will be pumping water out of the same source, the Niobrara aquifer.
- Unlawful impairment of existing water rights/permits and domestic wells is not expected to occur.

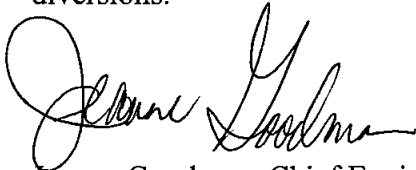
RECOMMENDED ACTION:

Based on the above criteria, it is recommended that the request for an additional diversion point in the NE ¼ NW ¼ of Section 7, T97N-R56W be approved.



Bracken Capen
Natural Resources Engineer

The Chief Engineer makes a finding pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14:01 that: The additional diversion point does not increase the potential for adverse effects to existing diversions.



Jeanne Goodman, Chief Engineer
Water Rights Program



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



OCT 03 2014

6708-3

David Huber
28419 431st Ave
Menno SD 57045

Dear Mr. Huber:

Enclosed is Water License No. 6708-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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. 6708-3, 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,

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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6708-3

(1) David Huber, 28419 431st Ave., Menno SD 57045 made Application No. 6708-3, April 3, 2006 for a water permit to divert 2.44 cubic feet of water per second from ground water (one well, Niobrara Aquifer), Hutchinson County, South Dakota for irrigation purposes. Permit No. 6708-3, with a priority date of April 3, 2006 was approved June 26, 2006 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before June 26, 2011 and for the application to beneficial use of said water on or before June 26, 2015.

Water Permit No. 6708-3 authorized diversion of 2.44 cfs from one well for irrigation purposes. An investigation of the water use system found an additional well had been drilled approximately 200 feet north of the original well. Pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.01, the Chief Engineer made a finding that the additional diversion point did not increase the potential for adverse effects to existing diversions.

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

The location of the diversion points are:

- 650 feet south & 1,840 feet east of the NW corner of Section 7, T97N, R56W (NE $\frac{1}{4}$ NW $\frac{1}{4}$);
- 430 feet south & 1,870 feet east of the NW corner of Section 7, T97N, R56W (NE $\frac{1}{4}$ NW $\frac{1}{4}$).

(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 7, T97N, R56W			
NW $\frac{1}{4}$ NW $\frac{1}{4}$	37 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$	30 acres	NE $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$	40 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres
SW $\frac{1}{4}$ NW $\frac{1}{4}$	40 acres		
Total			267 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 David Huber, 28419 431st Ave., Menno SD 57045 the holder and/or owner of Water Right No. 6708-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from ground water (two wells, Niobrara Aquifer) with a priority date of April 3, 2006 from the location specified in (2) of this license for irrigation purposes.

continued

Page 2

Water License No. 6708-3

David Huber

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6708-3 and subject to the following qualifications:

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



Jeanne Goodman, Chief Engineer
Water Rights Program

Department of Environment and Natural Resources

OCT 03 2014

date



Water Rights Program - File Documentation

NAME: David Huber

ADDRESS: 28419 431st Ave, Menno SD, 57045

DATE: January 5, 2015 **COUNTY:** Hutchinson **TELEPHONE:** (605) 222-5564

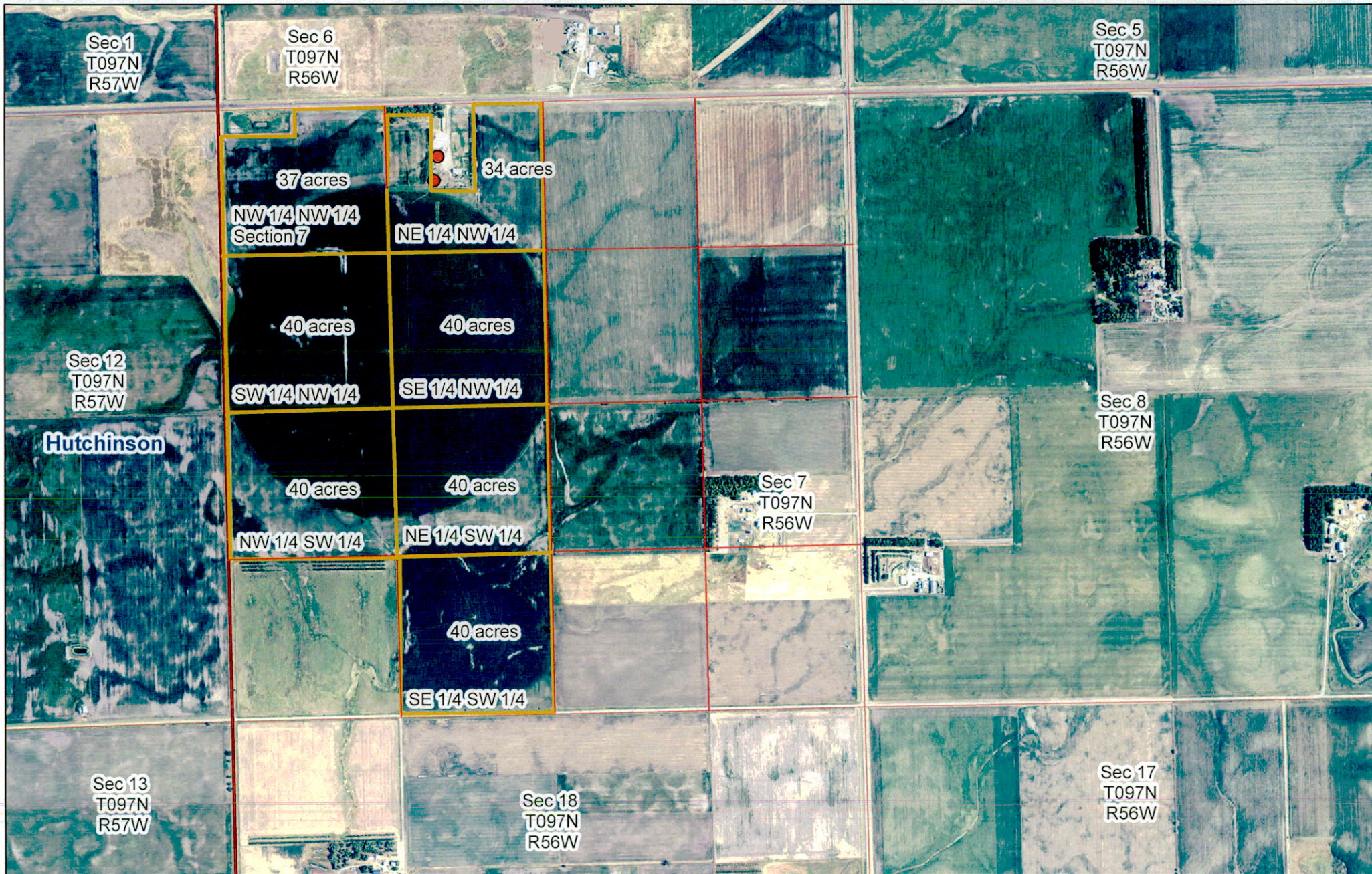
RE: Correction to licensing report

COMMENTS:

Upon receiving the licensing report summary for Water Right No. 6708-3, David Huber brought to the attention of the Water Rights Program an area in the NW ¼ NE ¼ NW ¼ of Section 7, T97N-R56W that was not included in the report under lands irrigated. After further review of aerial photos of the area, it became evident that this area (approximately four acres) is in fact being irrigated and that it was erroneously excluded in the original version of the report.



Bracken Capen
Water Rights Program



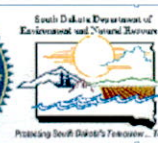
Legend

- Irrigated Land
- Section Boundaries - PLSS
- Township Boundaries
- Completed Wells



0 0.075 0.15 0.3 Miles

Prepared by Bracken Capen
Natural Resources Engineer
DENR, Water Rights Program





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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APR 24 2015

6708-3

David Huber
28419 431st Ave
Menno SD 57045

Dear Mr. Huber:

Enclosed is your Reissued Water License No. 6708-3. The license was reissued to correct the acreage in the NE ¼ NW ¼ Section 7, T97N, R56W from 30 acres to 34 acres. An updated map of the entire acreage irrigated is included with the reissued license.

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. 6708-3, 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,

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

enclosures

STATE OF SOUTH DAKOTA

REISSUED WATER LICENSE NO. 6708-3

(1) David Huber, 28419 431st Ave., Menno SD 57045 was issued Water License No. 6708-3, October 3, 2014 for a water right to divert 1.78 cubic feet of water per second from ground water (one well, Niobrara Aquifer), Hutchinson County, South Dakota for irrigation purposes. Water License No. 6708-3, with a priority date of April 3, 2006 was issued to the permit holder for diversion of water with construction of the described water supply system and the application to beneficial use water completed.

The original water license contained an error in the amount of acres irrigated. The acreage listed in the NE ¼ NW ¼ Section 7, T97N, R56W should have listed a total of 34 acres within the quarter-quarter instead of 30 acres. The addition of the four acre increment brings the total authorized for irrigation to 271 acres. The water license is being reissued to correct the error. The remaining portions of the original license remain unchanged.

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

The location of the diversion points are:

- 650 feet south & 1,840 feet east of the NW corner of Section 7, T97N, R56W (NE ¼ NW ¼);
- 430 feet south & 1,870 feet east of the NW corner of Section 7, T97N, R56W (NE 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 7, T97N, R56W			
NW ¼ NW ¼	37 acres	NW ¼ SW ¼	40 acres
NE ¼ NW ¼	34 acres*	NE ¼ SW ¼	40 acres
SE ¼ NW ¼	40 acres	SE ¼ SW ¼	40 acres
SW ¼ NW ¼	40 acres		
Total			271 acres

*The four acre correction was within the NE ¼ NW ¼ Section 7.

(4) Pursuant to South Dakota Water Law 46-5-30.1 David Huber, 28419 431st Ave., Menno SD 57045 the holder and/or owner of Water Right No. 6708-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from ground water (two wells, Niobrara Aquifer) with a priority date of April 3, 2006 from the locations specified in (2) of this license for irrigation purposes.

continued

Page 2

Reissued Water License No. 6708-3

David Huber

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6708-3 and subject to the following qualifications:

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



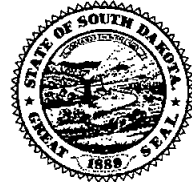
Jeanne Goodman, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

APR 24 2015

date





6708-3
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 20, 2017

NOTICE

TO: DAVID W HUBER, 28419 431 AVE, MENNO, SD 57045

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

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaire(s)

Our records indicate your 2016 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6708-3, 7699-3, 7700-3 & 7814-3. The request for the Questionnaire was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 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) 6708-3, 7699-3, 7700-3 & 7814-3 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 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) 6708-3, 7699-3, 7700-3 & 7814-3 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 1, 2017** 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.



6708-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 26, 2017

6708-3
7699-3
7700-3
7814-3

David W Huber
28419 431st Ave
Menno SD 57045

Dear Mr. Huber:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Permit Nos. 6708-3, 7699-3, 7700-3 and 7814-3. 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



6708-3
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 23, 2020

NOTICE

TO: DAVID W HUBER, 28419 431 AVE, MENNO, SD 57045

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6708-3, 7699-3, 7700-3 & 7814-3. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 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) 6708-3, 7699-3, 7700-3 & 7814-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 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) 6708-3, 7699-3, 7700-3 & 7814-3 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 **February 26, 2020** 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: GSQDQD**

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.

6708-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 13, 2020

Nos. 6708-3, 7700-3, 7699-3 and 7814-3

David W Huber
28419 431 Ave
Menno SD 57045

Dear Mr. Huber:

I am writing to acknowledge receipt of your 2019 irrigation questionnaires.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Permit Nos. Nos. 6708-3, 7700-3, 7699-3 and 7814-3. 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 cursive script, appearing to read "Genny McMath".

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

6708-3



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: DAVID W HUBER, 28419 431 AVE, MENNO, SD 57045
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) 6708-3, 7699-3, 7700-3 & 7814-3. 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) 6708-3, 7699-3, 7700-3 & 7814-3 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) 6708-3, 7699-3, 7700-3 & 7814-3 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: AVAZUL**

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.

6708-3



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

February 17, 2022

6708-3
7699-3
7700-3
7814-3

David W Huber
28419 431st Ave
Menno SD 57045

Dear Mr. Huber:

I am writing to acknowledge receipt of your 2021 irrigation questionnaires. All four questionnaires were submitted on-line by Kerry Hofer.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Permit or Right Nos. 6708-3, 7699-3, 7700-3 & 7814-3. 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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

July 20, 2022

NOTICE OF SHUTOFF ORDER

TO: David Huber
28419 431st AVE
Menno, SD 57045

FROM:  Eric Gronlund, Chief Engineer
SD DANR, Water Rights Program

SUBJECT: Niobrara Aquifer Shutoff Order for Water Right No. 6708-3

Pursuant to South Dakota Codified Law (SDCL) 46-1-5(1), use of water for domestic purposes is the highest use of water and takes precedence over all appropriative rights. Consequently, your appropriative permit to use groundwater for irrigation was issued with the following qualification.

The wells 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.

We were notified on July 20, 2022, that two domestic wells located southwest of Freeman in Hutchinson county are no longer able to produce water from the Niobrara aquifer. These wells meet the adequate well definition and are afforded protection as domestic water use wells.

As noted in a letter to you dated, February 8, 2022, observation wells have been put into place to monitor water levels in the Niobrara aquifer near these domestic wells. Measurements from these monitoring wells confirm a significant decline in water level in the aquifer since measuring began in late June.

To protect this domestic use of water, the department is issuing you, and other nearby irrigators, shutoff orders. Specifically, your shutoff order pertains to Water Right No. 6708-3 for irrigation of 271 acres located in the NW $\frac{1}{4}$ Section 7; NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7; all in T97N-R56W. Effective immediately, no diversions of water under this Permit will be allowed for the remainder of the 2022 irrigation season unless notified otherwise by the Chief Engineer. This Order is being issued pursuant to SDCL 46-2-18 to ensure compliance with the above permit qualification.

If you have any questions, please contact me at (605) 773-3352. Thank you for your cooperation in this matter.

c: Kerry Hofer, farm manager for Mr. Huber Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on July 20, 2022, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated July 20, 2022 regarding Notice of Shutoff Order addressed as stated below:

WR No. 7344-3
MICHAEL SCHULTZ
43721 281ST STREET
FREEMAN SD 57029

WR No. 7700-3
DAVID HUBER
28419 431ST AVE
MENNO SD 57045

WR No. 7448-3
ROBERT HECKENLAIBLE
43380 285TH ST
FREEMAN SD 57029

WR No. 7683-3
ROGER GUTHMILLER
28752 435th AVE
MENNO SD 57045

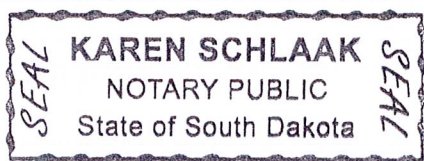
WR No. 7617-3
BRETT GUTHMILLER
28680 435TH AVE
MENNO SD 57045

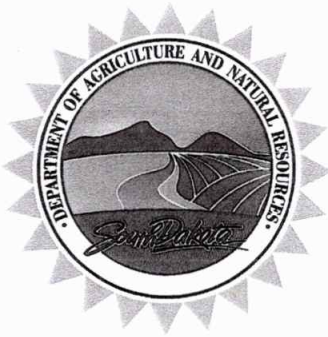

Vickie Maberry
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 20 day of July, 2022.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2025





6708-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

July 27, 2022

RESCISSION OF SHUTOFF ORDER

TO: David Huber
28419 431st Avenue
Menno SD 57045

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DANR, Water Rights Program

SUBJECT: Recission of Niobrara Aquifer Shutoff Order for Water Right No. 6708-3

On July 20, 2022, a shutoff order was issued for Water Right No. 6708-3 to protect two adequate domestic wells located southwest of Freeman in Hutchinson County that were no longer able to produce water from the Niobrara aquifer. The domestic well owners rescinded their complaint on July 27th since agreement was reached in which they will be supplied water for the remainder of the 2022 irrigation season or until they are connected to rural water.

Therefore, the shutoff order is rescinded and you may resume irrigation as authorized by Water Right No. 6708-3.

The Water Rights Program intends to continue monitoring the two observation wells installed this spring. If there are additional domestic well complaints, the Water Rights Program will investigate. Please be aware future shutoff orders may be issued, if warranted, to protect the use of water for domestic purposes.

If you have any questions, please contact me at (605) 773-3352. Thank you for your cooperation in this matter.

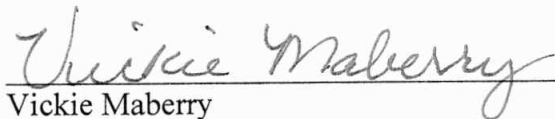
c: Kerry Hofer
Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice dated July 27, 2022, was served upon 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 on July 27, 2022.

Michael Schultz 43721 281 st Street Freeman SD 57029	David Huber 28419 431 st Avenue Menno SD 57045
Robert Heckenlaible 43380 285 th Street Freeman SD 57029	Roger Guthmiller 28752 435 th Avenue Menno SD 57045
Brett Guthmiller 28680 435 th Avenue Menno SD 57045	Kerry Hofer Email: khofer@hotmail.com

Above also Sent Inter-office to: Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



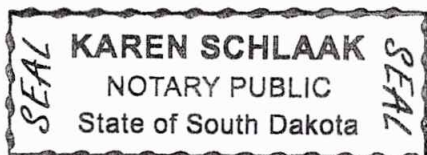
Vickie Maberry
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of July, 2022.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



7-26-22

RECEIVED

JUL 27 2022

OFFICE OF
WATER

I Dale Mehlhaf of 43465 283rd St. Freeman, SD 57029 and Twyla mehlhaf of 43543 284th. St. Freeman, SD 57029 are rescinding our complaints about the 2 domestic wells in question. Robert Heckenlaible is going to supply water for our needs for the rest of the 2022 irrigation season or until we have rural water hooked up, whichever comes first.

Dale Mehlhaf

7-26-22

Robert Heckenlaible

7-26-22

Twyla Mehlhaf

7-26-2022



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

October 28, 2022

Michael Schultz
43721 281st Street
Freeman SD 57029

Robert Heckenlaible
43380 285th Street
Freeman SD 57029

Roger Guthmiller
28752 435th Avenue
Menno SD 57045

Brett Guthmiller
28680 435th Avenue
Menno SD 57045

David Huber
28419 431st Avenue
Menno SD 57045

Gentlemen:

Hope you all are having a productive harvest! This letter is intended to discuss the past two irrigation seasons regarding drawdown from irrigation pumping adversely impacting two domestic wells in the area.

On July 20, 2022, shutoff orders were issued to water rights holders, including yourself, to protect two adequate domestic wells that were no longer able to produce water from the Niobrara aquifer in your area. The shutoff order was rescinded on July 27, 2022, upon agreement between the domestic well owners and local irrigators in which the domestic well owners were supplied water for the remainder of the 2022 irrigation season. Hauling water was viewed as a short term solution until a long term solution is in place.

The Water Rights Program monitored water levels in these two observation wells throughout the 2022 irrigation season. Attached is a hydrograph that shows water levels in the aquifer from June 22, 2022, through October 26, 2022. Also, attached is a map. Drawdown from irrigation pumping can be seen as well as water level recovery to the area once irrigation pumping ceased. Monitoring of water levels in these observation wells will continue.

A long term solution needs to be in place prior to the 2023 irrigation season or depending on weather and drawdown conditions of the aquifer shutoff orders may again need to be issued to protect the domestic wells. In addition, three pending water applications in the area seek to appropriate water from the Niobrara aquifer. One of the criteria to approve

an application is that the diversion can be developed without unlawful impairment of existing domestic water uses and water rights. Given the potential impact to these two domestic wells, this criteria can not currently be met in order to make a favorable recommendation until this situation is resolved.

The long term solution will take an effort on all your part to be successful. Please let the Water Rights Program know steps being taken and your progress to resolve this situation.

Sincerely,



Eric Gronlund, Chief Engineer

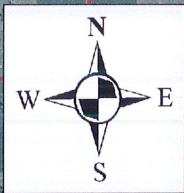
Water Rights Program, DANR

605 773-3352

eric.gronlund@state.sd.us

enclosure

c: Kerry Hofer, 27633 431st Avenue, Freeman SD 57029
Schultz Bros Dairy, c/o John Schultz, 28031 436th Avenue, Freeman SD 57029



98N 57W
Section: 01

98N 56W
Section: 06

7344-3
MICHAEL
SCHULTZ

7344-3
MICHAEL
SCHULTZ

7344-3
MICHAEL
SCHULTZ

HT-2022A

7700-3
DAVID
HUBER

7448-3
ROBERT
HECKENLAIBLE

HT-2022B

6708-3
DAVID
HUBER

6708-3
DAVID
HUBER

7617-3
BRETT
GUTHMILLER

7683-3
ROGER
GUTHMILLER

Menno

18

0 0.5 1 2 Miles



A.W. Mathiowetz
Oct. 27, 2022



7344-3, 7700-3, 7448-3, 6708-3, 7617-3, 7683-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 4, 2023

Michael Schultz
43721 281st Street
Freeman SD 57029

Robert Heckenlaible
43380 285th Street
Freeman SD 57029

Roger Guthmiller
28752 435th Avenue
Menno SD 57045

Brett Guthmiller
28680 435th Avenue
Menno SD 57045

David Huber
28419 431st Avenue
Menno SD 57045

Gentlemen:

The enclosed letter was sent to all of you on October 28, 2022, regarding the progress to resolve the situation that occurred in your area during the past two irrigation seasons when irrigation pumping adversely impacted two domestic wells. To date, I have not received a response.

The Water Rights Program desires to have a solution in place prior to the 2023 irrigation season. If there is not a solution in place it is likely that shut off orders will again need to be issued.

Please let the Water Rights Program know steps being taken to resolve this situation.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program, DANR
605 773-3352
eric.gronlund@state.sd.us

enclosure

c: Kerry Hofer, 27633 431st Avenue, Freeman SD 57029
Schultz Bros Dairy, c/o John Schultz, 28031 436th Avenue, Freeman SD 57029

DANR-Water Rights Program Niobrara Aquifer
Observation Wells Between Freeman and Menno

