

WATER PERMIT NO. 6749-3

Name of Applicant: **James D Daniels**

Address: **27160 470th Ave, Tea SD 57064** Phone: **605 728-1015**

Amount of Water Claimed: **0.55 cfs** Total Acres: **20 acres**

Source of Water Supply: **groundwater (2 wells)**

Water to be used for: **irrigation** County: **McCook**

Type of Waste Disposal System:

Location: **5 miles north of Bridgewater**

PRIORITY Date Received: **8-3-06**

Application/License Fee: **\$275**

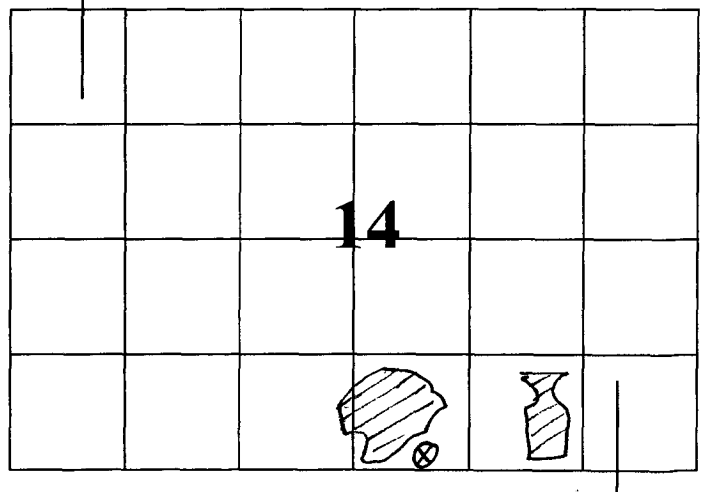
Corrected Application Received: **8-11-06**

Period of Annual Use: **April 1 – December 31**

Remarks: **Planting wetland seeds and needs to irrigate to establish and then will divert water to maintain the wetland.**

Diversion Point: **SW ¼ SE ¼ Sec 14-T102N-R56W**

Land to be Irrigated: **S ½ SE ¼, SW ¼ SW ¼ Sec 14-T102N-R56W**



Depth of Well: **166 feet deep**

Well Driller: : **Dave Putzke Well Drilling**

Remarks:

Type of Map: **aerial**

Prepared by: **Steven B Kor, PE**

Reviewed and the Number Assigned on: **8-14-06**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

RECEIVED

JUL - 3 2006

WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)	
	No. <u>6749-3</u>	Hydrologic Unit <u>10166011</u>
	Basin <u>James River</u>	
	Newspaper <u>Bridgewater Tribune</u> <u>Bridgewater</u> <u>582-6025</u> <u>57819</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 James P. Daniels Phone 605-728-1015
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 27160 470th Ave Tea State SD 57064
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 0.55*CFS or 250**GPM ***AF Total Acreage 22
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply 2 New Wells
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County McCook
2 new wells in SW1/4 SE1/4 Sec 14 Township 102 Range 56
- County or counties where water will be used McCook
- Annual period during which water is to be used April - December 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
<u>SE 1/4 SE 1/4 Sec 14-102-56</u>	<u>11</u>	<u>SSW 14 T102N R56W</u>	<u>2.0</u>
<u>SW 1/4 SE 1/4 Sec 14-102-56</u>	<u>40.8</u>		
<u>SE 1/4 SW 1/4 Sec 14-102-56</u>			

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

See Attached Sheet.

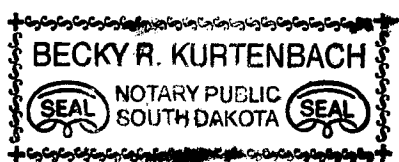
STATE OF SOUTH DAKOTA) SS
County of Lincoln

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, James P. Daniels, 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.

My Commission Expires May 12, 2011

Applicant's signature

Subscribed and sworn to before me this 24 day of July 2006

Becky R. Kurtenbach
Notary Public signature

SOUTH DAKOTA
WATER PERMIT NO. 6749-3 FOR IRRIGATION

Date of first receipt of application August 3, 2006.

Date of return to applicant for corrections, amendments or changes August 3, 2006.

Date of receipt of corrected application August 11, 2007.

The Water Management Board approved Water Permit No. 6749-3 on March 7, 2007 for James D Daniels, 27160 470th Ave, Tea SD 57064 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. 6749-3 appropriates 0.55 cubic feet of water per second (cfs) from two wells to be completed into the Pleistocene Unknown Aquifer (approximately 166 feet deep) located in the SW ¼ SE ¼ Section 14 to irrigate 22 acres located in the S ½ SE ¼, SE ¼ SW ¼ Section 14; all in T102N-R56W. The project will establish and maintain a wetland.
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 – December 31.
3. The date from which applicant may claim right is August 3, 2006.
4. One-fifth of the construction is to be completed on or before September 7, 2009.
5. All construction is to be completed on or before March 7, 2012.
6. Water is to be put to beneficial use on or before March 7, 2016.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The 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.
2. The wells authorized by Permit No. 6749-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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. 6749-3, authorizes a maximum diversion rate of 0.55 cfs for the irrigation of 22 acres with an annual volume not to exceed 2 acre-feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

APR 20 2007

date



1900

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

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 11 1/4 Depth 166'
- b) Casing Type Plastic Diameter 6" Thickness 200 lb
- c) Screen Type Plastic Diameter 6" Thickness SOR-17
- d) Gravel Pack BP 2" well pack Length of Gravel Pack 30'
- e) Depth to Top of Water Bearing Material 147'
- f) Depth to Water (ground surface to water level) 90'
- g) Distance to nearest existing domestic well:

On applicants property _____

On property owned by others 1/2 mile NE of Property**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

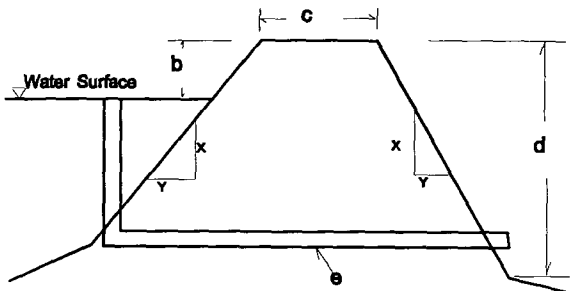
3. Dugout Information

- 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 August 11, 2006

RECEIVED OF Candle Development LLC, 27160 470th Ave, Tea SD 57064

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	225	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	275.00

No.

02546

By

Dorinda E. Eide

Chief Engineer

gm



Equipment options

RainBird sprinkler head

8005 radius 73' 60 PSI flow 26.7

GPM 115E radius 94 70 PSI Flow

51.1 GPM

65PJADJ-TNT (brass) radius 58' 60

PSi 14.2 GPM

Couplers 1" or 1 1/2" flow 50 to 125

GPM pressure loss 1.7 to 14 psi

Design options

200 GPM.

Head loss for 6" pipe is 0.13 psi / 100'

W 2400'. head loss 3.12 psi

E 2350' head loss 3.05 psi

225 GPM.

Head loss for 6" pipe is 0.16 psi / 100'

W 2400' head loss 3.84 psi

E 2350' head loss 3.76 psi

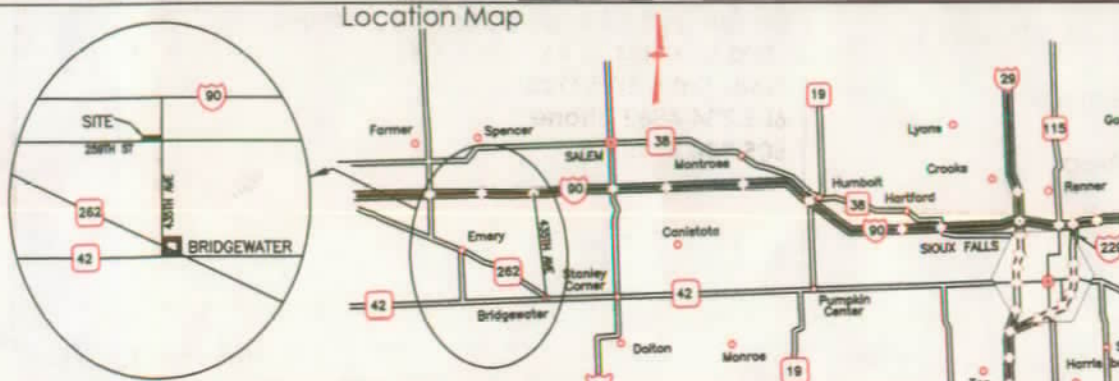
**West Irrigation
Line 2400'**

Well house

259th Street

**East Irrigation
Line 2350'**

435th Ave.



Bridgewater Mitigation Site
for Sunset Ridge Addition, Sioux Falls, SD
S1/2 Section 14 Township 102 North Range 56 West,
McCook County, South Dakota

Approximately 20 acres will be irrigated

Data Sources:
McCook County NRCS Office, Salem, SD
Air Photo 2003 South Dakota Geological Survey website
Survey Data: Schmitz, Kaldia & Associates, Sioux Falls, SD

Bridgewater Irrigation Plan

Existing wetlands

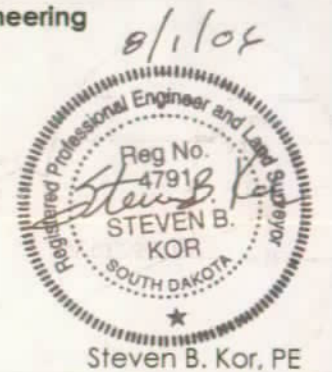
Irrigation Area

Property line



scale 1" = 400'

Dakota Land Surveying and Engineering
2000 W 42nd St. B6
Sioux Falls, SD 57105
605.334.4882 phone
605.334.5745 fax

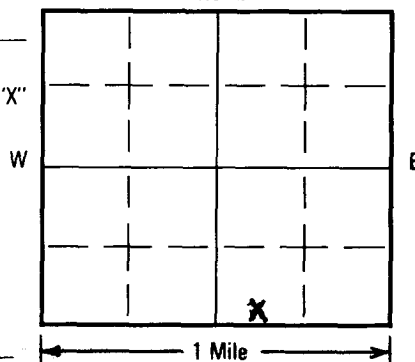


SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location S 1/4 S 1/4 Sec 14 Twp 102 Rg 56
 County McCook North

Please mark well location with an "X"



Well Completion Date

None

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well,

road, etc.) None ft. from None (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

- ☐ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
_____	_____	_____ lb./gal	_____ ft.	_____ ft.
_____	_____	_____ lb./gal	_____ ft.	_____ ft.

Describe grouting procedure _____

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☐ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

_____ YES, How: _____

_____ NO, Why Not? _____

Laboratory sent to for water
 quality analysis

Well Owner: _____

Business Name: _____

Address: _____

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
TOP Soil	0	2
Yellow clay	2	23
Brown "	23	31
Blue "	31	147
med Coarse Gravel	147	159
Coarse Gravel	159	165
Clay	165	166

STATIC WATER LEVEL _____ Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____

☐ Bailed _____

☐ Other _____

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

This well was drilled under license # 439

And this report is true and accurate.

Drilling firm Dave Putzke well Drilling & repair Inc

Signature of License Representative:

Dave Putzke

Signature of Well Owner or Equitable Property Holder:

James P. Daniels

7/25/06

D & L Wildlife Properties

27160 470th Ave.
Tea, SD 57064

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AUG - 3 2006
WATER RIGHTS
PROGRAM

July 31, 2006

Eric Gronlund
523 E. Capitol
Pierre, SD 57501-3181

Dear Mr. Gronlund:

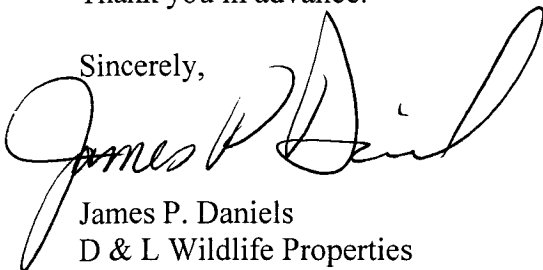
Enclosed please find an Irrigation Application for property we own in Sec 14 Township 102 Range 56.

The irrigation permit we are applying for is for wetland acreage that we have constructed pursuant to an Administrative Order of Consent filed against us by the Environmental Protection Agency (EPA). As part of our requirements, with an agreement worked out between myself and the EPA over the last three years, we were required to "Build" new wetlands on our 160 acres. In order to fulfill those requirements in light of the recent drought, it has become necessary to irrigate our constructed wetlands to ensure their establishment.

Our schedule, pursuant to our agreement with the EPA includes required seeding by September 15th 2006. Any help you can give us to try to meet those EPA requirements will be greatly appreciated.

Thank you in advance.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Daniels". The signature is fluid and cursive, with a large, stylized initial "J".

James P. Daniels
D & L Wildlife Properties

RECEIVED

AUG - 4 2006

WATER RIGHTS
PROGRAM

D & L Wildlife Properties

27160 470th Ave.

Tea, SD 57064

August 2, 2006

Eric Gronlund

523 E. Capitol

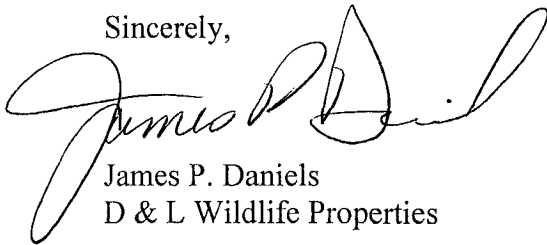
Pierre, SD 57501-3181

Dear Mr. Gronlund:

On July 31st an Irrigation Application was mailed to you. In error a map was not included. Please find enclosed a map to be included with the Irrigation Application that you have probably already received.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "James P. Daniels".

James P. Daniels

D & L Wildlife Properties



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 3, 2006

James P Daniels
D & L Wildlife Properties
27160 470th Ave
Tea SD 57064

RECEIVED
AUG 11 2006
WATER RIGHTS
PROGRAM

Dear Mr. Daniels:

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

- A map showing the location of the wells in relation to a government section corner or quarter corner by direction and distance is required. Please outline the 80 acres to be irrigated.
- The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. aerial photo maps from local NRCS office).
- The application/license filing fee will be \$275.00.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 15, 2006

James P. Daniels
D & L Wildlife Properties
27160 470th Avenue
Tea SD 57064

Dear Mr. Daniels:

I am writing in regards to your water right permit application to irrigate within a constructed wetland. The application states 80 acres are to be irrigated. However, the recently submitted map states approximately 20 acres are to be irrigated.

I reviewed the acreage outlined on the submitted map and using the computer arrived at the following acres to be irrigated.

SE ¼ SE ¼ Section 14, T102N, R56W	11 acres
SW ¼ SE ¼ Section 14, T102N, R56W	8 acres
SE ¼ SW ¼ Section 14, T102N, R56W	3 acres
TOTAL	22 acres

I will amend the application accordingly unless you contact me with corrections. It is ultimately your application and the permit needs to reflect what is occurring in the field. Please call me if you have any questions.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352

Justin E. Tusha
26193 432nd Ave.
Emery, SD 57332
605-449-4277

Water Rights Program
Attn: Chief Engineer
Foss Building
523 E. Capitol
Pierre, SD 57501

RECEIVED

SEP 21 2006

WATER RIGHTS
PROGRAM

September 18, 2006

To whom it may concern,

I am writing today in opposition to the Public Notice application No. 6749-3 to appropriate water that was posted in the September 14, 2006 Bridgewater Tribune.

I am a fourth generation farmer in the Bridgewater area. My father and I have working wells in the following locations within Jefferson Township: one in the NW 1/4 Section 13; one in the SE 1/4 Section 22; and one in the SE 1/4 Section 32. We also have a working well in the NE 1/4 Section 18 in Emery Township.

The primary well that is used by our farm operation is located in the NW quarter section 13 in Jefferson Township, which lies one-half mile from the proposed water project. This well has a depth of approximately 150 feet and I am concerned about the water table level dropping with the proposed water project well depth of 166 feet.

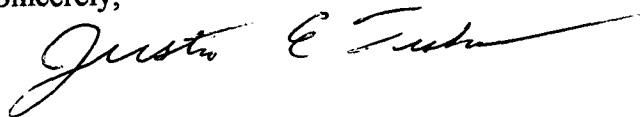
Our wells are used primarily to water our livestock throughout the year. In three out of the last four years, water had to be pumped from our wells to be hauled to pastures due to the ongoing drought conditions. These drought conditions have caused the pasture's stock dams to be completely dry or have left such small amounts of water in them, it is unsafe for the livestock to drink. This watering effort affects approximately 220 cow / calf pairs, making the water from this aquifer essential to our livestock operation and the livestock operations of other people in the area.

I do not wish to infringe on Mr. Daniel's rights as a property owner. However, I am concerned about the costs of either drilling deeper wells or the availability and associated costs to have a Rural Water connection replace our current well system.

I believe that the proposed water project is a waste of a precious natural resource. If this natural resource is foolishly used, it will affect my generation and generations to come.

I am not concerned about the wildlife needs for water in this area. Even after some of the most severe drought conditions in recent history, there is still an ample amount of water in Lions Lake which is located in the SW 1/4 Section 13 and an ample amount of water in other surrounding lakes and wetlands.

Sincerely,



Justin E. Tusha



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 27, 2006

NOTICE OF HEARING

TO: James P. Daniels
27160 470th Avenue
Tea SD 57064

Justin Tusha
26193 432nd Avenue
Emery SD 57332

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 6749-3, James P. Daniels

Justin Tusha submitted a petition opposing Water Permit Application No. 6749-3 filed by James P. Daniels. A copy of the letter is enclosed to the applicant. A hearing is being scheduled before the Water Management Board to allow parties to present testimony. The Board will make its decision based on the evidence presented at the hearing.

As specified in the publication notice, Application No. 6749-3 proposes to appropriate 0.55 cubic feet of water per second (cfs) from two wells to be completed into the Pleistocene Unknown Aquifer (approximately 166 feet deep) located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14 to irrigate 22 acres located in the S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14; all in T102N-R56W. The proposed project is to establish and maintain a wetland. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

The Water Management Board will conduct a hearing to consider Application No. 2591-2 at 10:00 AM (Central Time), on December 6, 2006, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The hearing time is an estimate and may be delayed due to prior agenda items. Notice will be provided to all parties of record of any change in the hearing time or date.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6749-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the evidence presented at the public hearing.

CERTIFICATION

I hereby certify that on September 27, 2006, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 27, 2006, regarding scheduling of hearing for Water Right Permit Application No. 6749-3, James P. Daniels, addressed as stated below :

James P. Daniels
27160 470th Avenue
Tea SD 57064

Justin Tusha
26193 432nd Avenue
Emery SD 57332

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

Diane Best, Assistant Attorney General, Capitol Building



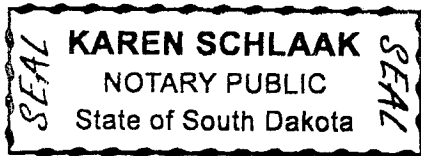
Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 28th day of September, 2006.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



I disagree of applicant No - 6749-3.

We have 3 wells in the area that
could lose there water if these
wells are approved. I felt we
don't have water in this area for
making wetlands

Lloyd Schallenberg

Box 322

Bridgewater S.D. 57319

Lloyd Schallenberg

43520-257th St.

Bridgewater S.D. 57319

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 3, 2006

NOTICE OF HEARING

TO: James P. Daniels
27160 470th Avenue
Tea SD 57064

Justin Tusha
26193 432nd Avenue
Emery SD 57332

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

Gary Schallenkamp
43520 257th Street
Bridgewater SD 57319

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 6749-3, James P. Daniels

Petitions have been submitted opposing Water Permit Application No. 6749-3 filed by James P. Daniels. A copy of the petitions are enclosed to the applicant. A hearing is being scheduled before the Water Management Board to allow parties to present testimony. The Board will make its decision based on the evidence presented at the hearing.

As specified in the publication notice, Application No. 6749-3 proposes to appropriate 0.55 cubic feet of water per second (cfs) from two wells to be completed into the Pleistocene Unknown Aquifer (approximately 166 feet deep) located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14 to irrigate 22 acres located in the S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14; all in T102N-R56W. The proposed project is to establish and maintain a wetland. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6749-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with

qualifications, 3) defer, or 4) deny this application based on the evidence presented at the public hearing.

The December 6, 2006, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 24, 2006.

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

Notice is further given to persons with disabilities that this hearing is being held in a physically accessible place and that interpreter services will be provided, upon request, during the hearing. Please notify Eric Gronlund at (605) 773-3352 by November 24, 2006, if you have any questions about the hearing process or have special needs for which the department will make arrangements.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-23; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

c: Diane Best, Assistant Attorney General

enclosure

NOTE: Since this matter does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by November 24, 2006.

CERTIFICATION

I hereby certify that on October 3, 2006, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 3, 2006, regarding scheduling of hearing for Water Right Permit Application No. 6749-3, James P. Daniels, addressed as stated below :

James P. Daniels
27160 470th Avenue
Tea SD 57064

Justin Tusha
26193 432nd Avenue
Emery SD 57332

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

Gary Schallenkamp
43520 257th Street
Bridgewater SD 57319

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

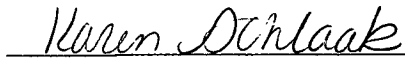
Diane Best, Assistant Attorney General



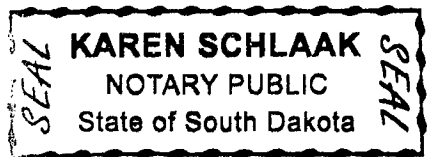
Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 4th day of October, 2006.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 17, 2006

NOTICE OF HEARING

TO: James P. Daniels
27160 470th Avenue
Tea SD 57064

Justin Tusha
26193 432nd Avenue
Emery SD 57332

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

Gary Schallenkamp
43520 257th Street
Bridgewater SD 57319

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application No. 6749-3, James P. Daniels

The Water Management Board changed the date of their next meeting to November 29 – 30, 2006. Therefore, the Board will not consider Application No. 6749-3 as set forth in the October 3rd notice sent to parties of record.

The Water Management Board will consider Application No. 6749-3 filed by James Daniels on November 29, 2006, at 2:30 PM (CDT), in the Pierre Chamber of Commerce meeting room, 800 West Dakota Avenue, Pierre SD. The Chamber of Commerce building is located by turning right immediately upon crossing the Missouri River coming into Pierre. The agenda time is an estimate and may be delayed due to prior agenda items. Notice will be provided to parties if there is a change in the hearing time or date.

The November 29, 2006, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 17, 2006.

Applicable provisions of the public notice published September 14 and 21, 2006 in the Salem Special and the notice dated October 3, 2006 still apply. This hearing may be an adversarial proceeding. Any party of record has the right to be present and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

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

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on October 17, 2006, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 17, 2006, regarding scheduling of hearing for Water Right Permit Application No. 6749-3, James P. Daniels, addressed as stated below :

James P. Daniels
27160 470th Avenue
Tea SD 57064

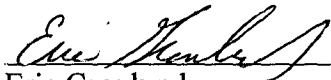
Justin Tusha
26193 432nd Avenue
Emery SD 57332

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

Gary Schallenkamp
43520 257th Street
Bridgewater SD 57319

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

Diane Best, Assistant Attorney General



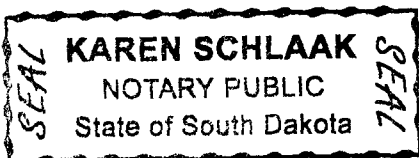
Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of October, 2006.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 20, 2006

TO: James P. Daniels
27160 470th Avenue
Tea SD 57064

Justin Tusha
26193 432nd Avenue
Emery SD 57332

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

Gary Schallenkamp
43520 257th Street
Bridgewater SD 57319

FROM:

Eric Gronlund *Eric Gronlund*
Water Rights Program, DENR

SUBJECT: Hearing on Water Permit Application No. 6749-3, James P. Daniels

The Water Management Board will consider Water Permit Application No. 6749-3 at 2:30 PM, November 29, 2006 at the Pierre Chamber of Commerce Building, 800 W. Dakota Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior agenda items.

I am enclosing a copy of the report, recommendation and petition in the matter of Water Permit Application No. 6749-3 filed by James Daniels. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The enclosed material is the same information being sent to the Board members in advance of the hearing.

If you have any questions, please feel free to contact me at (605) 773-3352 or email eric.gronlund@state.sd.us.

c: Diane Best, Assistant Attorney General

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 5, 2006

NOTICE

TO: James P. Daniels
27160 470th Avenue
Tea SD 57064

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

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

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

The Water Management Board directed Diane Best, Assistant Attorney General, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the approval of Water Permit Application No. 6749-3 filed by James Daniels. The Board will consider adoption of Findings, Conclusions and Final Decision at 1:00 PM (CDT) on Wednesday, March 7, 2007, in the meeting room of the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD 57501. Notice will be provided to parties if there is a change in the hearing time.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and parties by January 25, 2007. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney (mailing list enclosed) by February 23, 2007.

At the Board's discretion, oral arguments by parties who timely filed written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on March 7, 2007. The public hearing was completed on November 29, 2006. No additional testimony will be received on March 7, 2007.

If either party has questions about the findings process, please contact Eric Gronlund at (605) 773-3352.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on December 5, 2006, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 5, 2006, regarding preparation of Findings of Fact, Conclusions of Law and Final Decision in the matter of Water Right Permit Application No. 6749-3 filed by James P. Daniels addressed as stated below:

James P. Daniels
27160 470th Avenue
Tea SD 57064

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

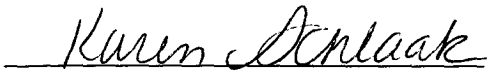
A copy of the above described Notice was sent Inter-office to:

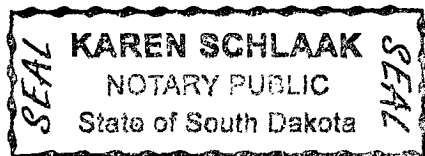
Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501
Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501


Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of December 2006.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
www.state.sd.us/atg

LARRY LONG
ATTORNEY GENERAL

MARK BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

MEMORANDUM

January 25, 2007

TO: South Dakota Water Management Board and Interested Parties

FROM: Diane Best, Assistant Attorney General **DB**

RE: In the Matter of Water Permit Application No. 6749-3, James P. Daniels

At the close of hearing on the above-referenced water permit application, the Board directed that proposed Findings of Fact and Conclusions of Law be prepared and mailed to each Board member and to the parties by January 25, 2007. Enclosed are those proposed Findings of Fact and Conclusions of Law.

It is my understanding that any written objections or comments are to be mailed to each Board member, Board counsel Hallem, and to all parties in this proceeding by February 23, 2007.

DB/jmm

Enclosures

STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	FINDINGS OF FACT,
APPLICATION NO. 6749-3,)	CONCLUSIONS OF LAW
JAMES P. DANIELS.)	AND FINAL DECISION

FINDINGS OF FACT

1. This is an application to appropriate 0.55 cubic feet of water per second from two wells located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14 to irrigate 22.0 acres located in the S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14, all in T102N-R56W in McCook County.

2. The Applicant proposes to use the project to establish and maintain a wetland. Historically a natural wetland was located in the area of this site. In the recent dry years, the wetland has been dry. The proposed project would pump water from two wells in order to establish wetland vegetation as habitat for waterfowl and wildlife.

3. According to the filed application in this matter, the wetland will be constructed pursuant to an administrative Order of Consent between the Environmental Protection Agency and James P. Daniels. This project to build or reestablish wetlands is part of a settlement condition reached in a dispute over drained wetlands in Sioux Falls.

4. There are or will be open water bodies near this proposed wetland. The 22-acre wetland involved here is designed

to complement open water bodies to provide for diversity for wildlife. The area will be natural, with no hunting allowed.

5. Pumping under this permit would provide for irrigation to establish vegetation and wetland habitat and may be necessary only for the next five years.

6. Appropriating water for seeding and maintenance of wetland vegetation constitutes irrigation. Irrigation for maintenance of such vegetation is a beneficial use and in the public interest. Intervenor Lloyd Schallenkamp asserted that such use of water is a waste of water. The Board finds, however, that use of water for irrigation for vegetation for wildlife habitat is a beneficial use, so long as the water is not used in such a way that it will not cause run off on other property. Based on the testimony of the Applicant, such waste is not expected to occur.

7. The source of ground water for this application is the Pleistocene Unknown aquifer. The Pleistocene Unknown aquifer is composed of alluvium and glacial deposits ranging from medium to coarse gravel. The aquifer is under a confined condition with artesian characteristics in the area of this application. The Applicant has drilled a test hole at a depth of approximately 166 feet. The test hole shows that the static water level is 90 feet below the land surface.

8. Despite the fact that the aquifer has not been named, the aquifer has been studied sufficiently to determine whether water is available.

9. Information available from the test hole completion report and at neighboring wells indicates similar well depths as those shown in the test hole completion report. There is a geologic correlation between the neighboring wells and the water involved here. Based on the expert testimony of Aaron Tieman, a Natural Resources Engineer for the DENR, this aquifer is a viable ground water source and water is available for the appropriation.

10. DENR witness Tieman also testified concerning his opinion as to whether the proposed diversion can be developed without unlawful impairment of existing water rights. The nearest water right/permit from the Pleistocene Unknown aquifer is a municipality approximately five and one half miles to the southwest. Expert Tieman testified that interference with this appropriative water right is not expected to be a problem. The municipality did not intervene in this proceeding.

11. In addition to the appropriative water right listed above, there are domestic water rights in this area that are used for livestock watering. Lloyd Schallenkamp testified that there are nine wells used for domestic use, including stock watering, within two miles of the well involved in this permit.

These domestic uses are undertaken by Schallenkamp and other nearby landowners.

12. Justin Tusha and Gary Schallenkamp also intervened. They did not appear at hearing.

13. The Pleistocene Unknown aquifer contains water under pressure. Accordingly, water conditions do not require domestic water users to install pumps as low in the aquifer as might otherwise be required. They are able to use water pressure as a means of delivering water to pumps nearer the surface. If such domestic water users experienced interference as a result of additional pumping in the aquifer, they would still have the ability to obtain sufficient water by means of lowering a pump. Given this circumstance, adverse impact to domestic wells is not probable for this application.

14. Prior rights for appropriative water use and any right for domestic use would take priority over the appropriative water right granted in this proceeding. Such prior rights would be enforceable as against this right. The priority of rights in this ground water situation applies when the priority wells have the ability to produce water independent of artesian head pressure and the priority wells are otherwise adequately constructed. Simply put, the pump placement in a prior appropriative well may not be protected if the pump could be lowered and still produce a sufficient water supply. This Board

has concluded in the past that because South Dakota's water resources are to be put to beneficial use to the fullest extent of which they are capable, it will not protect prior water users who seek to rely on artesian head pressure or who seek to pump water from upper levels within a well when the source aquifer could sustain pumping at lower pump placements and thereby allow for increased beneficial use of water.

15. The Board finds that the proposed diversion will not adversely impair existing domestic or appropriative water rights as described in the foregoing Findings of Fact.

16. In addition to the foregoing, Intervenor Tusha asserted that the proposed water project is a waste of a natural resource because there is otherwise an ample amount of water elsewhere in the area for wildlife needs. Tusha did not appear or present evidence at hearing regarding this matter and has waived the claim.

17. Because the water use involves restoration of wetland habitat, the Applicant seeks a greater diversion rate than that ordinarily authorized under SDCL 46-5-6 which provides for a maximum diversion rate of 1 cfs for each 70 acres. This application would authorize a diversion rate of 0.55 cfs for 22 acres. Due to the method and type of irrigation involved in this matter the Board finds that the greater diversion rate should be allowed. Although an increase in diversion rate is

allowed, the total annual volume for this water right may not exceed 2 acre feet of water per acre per year.

18. The Board finds that (a) there is reasonable probability that there is unappropriated water available for the Applicant's proposed use, (b) the proposed diversion can be developed without unlawful impairment of existing rights, (c) the proposed use is a beneficial use and (d) the proposed use is in the public interest.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.

2. There is a reasonable probability that there is unappropriated water available for the Applicant's proposed use from the Pleistocene Unknown aquifer.

3. The proposed use for irrigation use for wetland habitat is a beneficial use in that it is reasonable and useful and beneficial to the appropriator in that it meets his requirement to provide for wetland habitat as required in his agreement with the Environmental Protection Agency. At the same time the use is consistent with the interests of the public of this state and the best utilization of water supplies since it provides for vegetation for wildlife habitat. See Dekay v. FWS, 524 N.W.2d 855 (1994). This water permit application meets the beneficial use criteria set forth in SDCL 46-1-6(3).

4. The proposed diversion can be developed without unlawful impairment of existing rights. The Board concludes that any effect on either appropriative or domestic wells will not cause adverse impairment to properly constructed wells that have the ability to produce water independent of artesian pressure.

5. The proposed use for irrigation use for wildlife habitat is in the public interest.

6. This Board has carefully considered the positions of the various parties in this matter. SDCL 46-1-4 requires that South Dakota's water resources be put to beneficial use to the fullest extent of which they are capable. Further, the "beneficial use" criteria for consideration of the water permit in this case requires consideration of the best utilization of the water supply. Ultimately, this Board finds that these legal requirements are best met by approval of the water permit at issue in this proceeding.

7. The claims that there is otherwise an ample amount of water in the McCook County area for wildlife needs other than this project have been waived.

8. This Board concludes that a greater diversion rate than that otherwise allowed under SDCL 46-5-6 is warranted in this proceeding because of the method of irrigation. This increased diversion rate is specifically contemplated by SDCL 46-5-6,

provided that this Board finds that the method of irrigation warrants such increased diversion rate. This Board concludes, however, that no annual volume may be greater than 2 acre feet per acre delivered to the land at issue.

FINAL DECISION

Application No. 6749-3 is hereby granted and a permit shall be issued forthwith containing the following qualifications as recommended by the Chief Engineer:

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 withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The well authorized by Permit No. 6749-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. 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. 6749-3, authorizes a maximum diversion rate of 0.55 cfs for the irrigation of 22.0

acres with an annual volume not to exceed 2 acre feet of water per acre per year.

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

Dated this _____ day of January, 2007.

BY THE BOARD:

James Hutmacher, Chairman

pld_db Findings of Fact...(jmm)

STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6749-3,) CERTIFICATE OF SERVICE
JAMES P. DANIELS)

The undersigned hereby certifies that true and correct copies of proposed Findings of Fact, Conclusions of Law and Final Decision In the Matter of Water Permit Application No. 6749-3, James P. Daniels, were served upon each of the following by enclosing the same in envelopes with first class postage, prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 25th day of January, 2007:

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

Everett Hoyt
4422 Carriage Hills Drive
Rapid City, SD 57702-6874

Leo Holzbauer
29416 395th Avenue
Wagner, SD 57380

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

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

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

James Hutmacher, Chairman
802 East 7th Street
Oacoma, SD 57365

Gary Schallenkamp
43520 257th Street
Bridgewater, SD 57319

Justin Tusha
26193 432nd Avenue
Emery, SD 57332

Lloyd Schallenkamp
Box 322
Bridgewater, SD 57319

James P. Daniels
27160 470th Avenue
Tea, SD 57064

1
By interoffice to:

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

By hand delivery to:

Jeffrey P. Hallem
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501



Diane Best
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Telephone: (605) 773-3215

pld.db(Certificate of Service James P Daniels) (jmm)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 9, 2007

NOTICE

TO: James P. Daniels ✓
27160 470th Avenue
Tea SD 57064

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

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

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

This is to notify you that the Final Decision, including Findings of Fact and Conclusions of Law, were adopted March 7, 2007, by the Water Management Board approving Water Right Permit No. 6749-3 filed by James D. Daniels. A copy of the signed Findings of Fact, Conclusions of Law and Final Decision is enclosed.

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

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

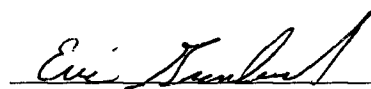
I hereby certify that on March 9, 2007, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 9, 2007, regarding adoption of Findings of Fact, Conclusions of Law and Final Decision in the matter of Water Right Permit No. 6749-3 filed by James P. Daniels addressed as stated below:

James P. Daniels
27160 470th Avenue
Tea SD 57064

Lloyd Schallenkamp
Box 322
Bridgewater SD 57319

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

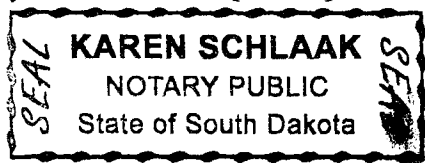
Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501
Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501


Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of March, 2007.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6749-3,)
JAMES P. DANIELS.)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND FINAL DECISION

FINDINGS OF FACT

1. This is an application to appropriate 0.55 cubic feet of water per second from two wells located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14 to irrigate 22.0 acres located in the S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14, all in T102N-R56W in McCook County.

2. The Applicant proposes to use the project to establish and maintain a wetland. Historically a natural wetland was located in the area of this site. In the recent dry years, the wetland has been dry. The proposed project would pump water from two wells in order to establish wetland vegetation as habitat for waterfowl and wildlife.

3. According to the filed application in this matter, the wetland will be constructed pursuant to an administrative Order of Consent between the Environmental Protection Agency and James P. Daniels. This project to build or reestablish wetlands is part of a settlement condition reached in a dispute over drained wetlands in Sioux Falls.

4. There are or will be open water bodies near this proposed wetland. The 22-acre wetland involved here is designed

to complement open water bodies to provide for diversity for wildlife. The area will be natural, with no hunting allowed.

5. Pumping under this permit would provide for irrigation to establish vegetation and wetland habitat and may be necessary only for the next five years.

6. Appropriating water for seeding and maintenance of wetland vegetation constitutes irrigation. Irrigation for maintenance of such vegetation is a beneficial use and in the public interest. Intervenor Lloyd Schallenkamp asserted that such use of water is a waste of water. The Board finds, however, that use of water for irrigation for vegetation for wildlife habitat is a beneficial use, so long as the water is not used in such a way that it will not cause run off on other property. Based on the testimony of the Applicant, such waste is not expected to occur.

7. The source of ground water for this application is the Pleistocene Unknown aquifer. The Pleistocene Unknown aquifer is composed of alluvium and glacial deposits ranging from medium to course gravel. The aquifer is under a confined condition with artesian characteristics in the area of this application. The Applicant has drilled a test hole at a depth of approximately 166 feet. The test hole shows that the static water level is 90 feet below the land surface.

8. Despite the fact that the aquifer has not been named, the aquifer has been studied sufficiently to determine whether water is available.

9. Information available from the test hole completion report and at neighboring wells indicates similar well depths as those shown in the test hole completion report. There is a geologic correlation between the neighboring wells and the water involved here. Based on the expert testimony of Aaron Tieman, a Natural Resources Engineer for the DENR, this aquifer is a viable ground water source and water is available for the appropriation.

10. DENR witness Tieman also testified concerning his opinion as to whether the proposed diversion can be developed without unlawful impairment of existing water rights. The nearest water right/permit from the Pleistocene Unknown aquifer is a municipality approximately five and one half miles to the southwest. Expert Tieman testified that interference with this appropriative water right is not expected to be a problem. The municipality did not intervene in this proceeding.

11. In addition to the appropriative water right listed above, there are domestic water rights in this area that are used for livestock watering. Lloyd Schallenkamp testified that there are nine wells used for domestic use, including stock watering, within two miles of the well involved in this permit.

These domestic uses are undertaken by Schallenkamp and other nearby landowners.

12. Justin Tusha and Gary Schallenkamp also intervened. They did not appear at hearing.

13. The Pleistocene Unknown aquifer contains water under pressure. Accordingly, water conditions do not require domestic water users to install pumps as low in the aquifer as might otherwise be required. They are able to use water pressure as a means of delivering water to pumps nearer the surface. If such domestic water users experienced interference as a result of additional pumping in the aquifer, they would still have the ability to obtain sufficient water by means of lowering a pump. Given this circumstance, adverse impact to domestic wells is not probable for this application.

14. Prior rights for appropriative water use and any right for domestic use would take priority over the appropriative water right granted in this proceeding. Such prior rights would be enforceable as against this right. The priority of rights in this ground water situation applies when the priority wells have the ability to produce water independent of artesian head pressure and the priority wells are otherwise adequately constructed. Simply put, the pump placement in a prior appropriative well may not be protected if the pump could be lowered and still produce a sufficient water supply. This Board

has concluded in the past that because South Dakota's water resources are to be put to beneficial use to the fullest extent of which they are capable, it will not protect prior water users who seek to rely on artesian head pressure or who seek to pump water from upper levels within a well when the source aquifer could sustain pumping at lower pump placements and thereby allow for increased beneficial use of water.

15. The Board finds that the proposed diversion will not adversely impair existing domestic or appropriative water rights as described in the foregoing Findings of Fact.

16. In addition to the foregoing, Intervenor Tusha asserted that the proposed water project is a waste of a natural resource because there is otherwise an ample amount of water elsewhere in the area for wildlife needs. Tusha did not appear or present evidence at hearing regarding this matter and has waived the claim.

17. Because the water use involves restoration of wetland habitat, the Applicant seeks a greater diversion rate than that ordinarily authorized under SDCL 46-5-6 which provides for a maximum diversion rate of 1 cfs for each 70 acres. This application would authorize a diversion rate of 0.55 cfs for 22 acres. Due to the method and type of irrigation involved in this matter the Board finds that the greater diversion rate should be allowed. Although an increase in diversion rate is

allowed, the total annual volume for this water right may not exceed 2 acre feet of water per acre per year.

18. The Board finds that (a) there is reasonable probability that there is unappropriated water available for the Applicant's proposed use, (b) the proposed diversion can be developed without unlawful impairment of existing rights, (c) the proposed use is a beneficial use and (d) the proposed use is in the public interest.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.

2. There is a reasonable probability that there is unappropriated water available for the Applicant's proposed use from the Pleistocene Unknown aquifer.

3. The proposed use for irrigation use for wetland habitat is a beneficial use in that it is reasonable and useful and beneficial to the appropriator in that it meets his requirement to provide for wetland habitat as required in his agreement with the Environmental Protection Agency. At the same time the use is consistent with the interests of the public of this state and the best utilization of water supplies since it provides for vegetation for wildlife habitat. See Dekay v. FWS, 524 N.W.2d 855 (1994). This water permit application meets the beneficial use criteria set forth in SDCL 46-1-6(3).

4. The proposed diversion can be developed without unlawful impairment of existing rights. The Board concludes that any effect on either appropriative or domestic wells will not cause adverse impairment to properly constructed wells that have the ability to produce water independent of artesian pressure.

5. The proposed use for irrigation use for wildlife habitat is in the public interest.

6. This Board has carefully considered the positions of the various parties in this matter. SDCL 46-1-4 requires that South Dakota's water resources be put to beneficial use to the fullest extent of which they are capable. Further, the "beneficial use" criteria for consideration of the water permit in this case requires consideration of the best utilization of the water supply. Ultimately, this Board finds that these legal requirements are best met by approval of the water permit at issue in this proceeding.

7. The claims that there is otherwise an ample amount of water in the McCook County area for wildlife needs other than this project have been waived.

8. This Board concludes that a greater diversion rate than that otherwise allowed under SDCL 46-5-6 is warranted in this proceeding because of the method of irrigation. This increased diversion rate is specifically contemplated by SDCL 46-5-6,

provided that this Board finds that the method of irrigation warrants such increased diversion rate. This Board concludes, however, that no annual volume may be greater than 2 acre feet per acre delivered to the land at issue.

FINAL DECISION

Application No. 6749-3 is hereby granted and a permit shall be issued forthwith containing the following qualifications as recommended by the Chief Engineer:

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 withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The well authorized by Permit No. 6749-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

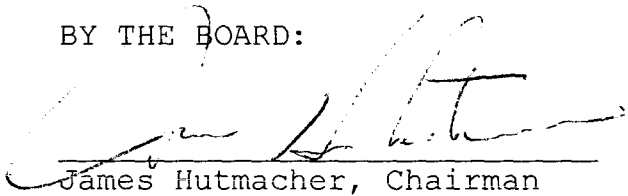
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 6749-3, authorizes a maximum diversion rate of 0.55 cfs for the irrigation of 22.0

acres with an annual volume not to exceed 2 acre feet of water per acre per year.

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

Dated this 6th day of ^{March}~~January~~, 2007.

BY THE BOARD:


James Hutmacher, Chairman

pld_db Findings of Fact...(jmm)



**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. 6749-3, James D. Daniels**

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. 6749-3, James D. Daniels, 27160 470th Avenue, Tea SD 57064.

The Chief Engineer is recommending APPROVAL of Application No. 6749-3 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 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.
2. The wells authorized by Permit No. 6749-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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. 6749-3, authorizes a maximum diversion rate of 0.55 cfs for the irrigation of 22.0 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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
September 6, 2006

REPORT ON APPLICATION NO. 6749-3

For James P. Daniels

August 30, 2006

Application 6749-3 proposes to appropriate 0.55 cubic feet of water per second (cfs) from two wells to be completed into the Pleistocene Unknown Aquifer (approximately 166 feet deep) located in the SW ¼ SE ¼ Section 14 to irrigate 22 acres located in the S ½ SE ¼, SE ¼ SW ¼ Section 14; all in T102N-R56W in McCook County. The proposed project is to establish and maintain a wetland. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

AQUIFER – PLEISTOCENE UNKNOWN (PS: U)

The Pleistocene unknown aquifer is composed of alluvium and glacial deposits ranging from medium to coarse gravel. The aquifer is apparently under confined condition with artesian characteristics in the area of this application. Information available from the test hole completion report, neighboring wells and observation wells indicates similar well depths and geologic correlation. According to supplemental information submitted with the application the test hole has a static water level of 90 feet below land surface.

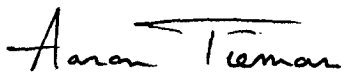
The Water Rights Program does not monitor an observation well completed into the Pleistocene unknown aquifer located within proximity of this application.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no existing Water Rights appropriating ground water within a two mile radius of this application. The nearest water right/permit from the Pleistocene unknown aquifer is approximately 5½ miles to the southwest. This well is for Water Rights No. 1963-3 (0.57 cfs for municipal). Interference is not expected to be a problem.

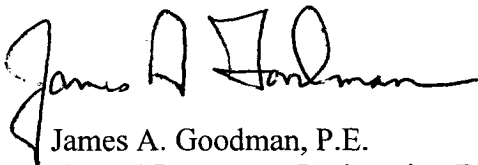
CONCLUSIONS

1. The Pleistocene aquifer is a viable groundwater source and water is available for this appropriation.
2. The aquifer is under confined conditions at this site. The test hole report filed with this application indicates a static water level of 90 feet. Interference should not be a concern.
3. The wells authorized for this application must 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

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

Public Notice

Notice of application
No. 6749-3 to
appropriate water

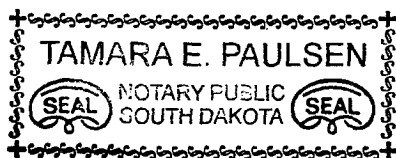
Notice is given that James P. Daniels, 27460 470th Ave. Tea, SD 57064 has filed an application for a water permit to appropriate 0.55 cubic feet of water per second (CFS) from two wells to be completed into the Pleistocene Unknown Aquifer (approximately 166 feet deep) located in the SW 1/4 SE 1/4 Section 14 to irrigate 22 acres located in the S 1/2 SE 1/4, SE 1/4 SW 1/4 Section 14; all in T102N-R56W. The proposed project is to establish and maintain a wetland. 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 Applicant No. 6749-3 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 contestant 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 October 2, 2006.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reason 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
9-14,21c



Printer's Affidavit of Publication

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)

)SS

COUNTY OF McCOOK)

TROY SCHWANS of said County and State, being first duly sworn on his oath, says THE SALEM SPECIAL is a weekly newspaper of general circulation, printed and published in Salem, McCook County and State of South Dakota, and has been such newspaper during the times hereinafter mentioned; that the said newspaper is a legal newspaper, that it has a bonafide circulation of more than 200 copies weekly, that it has been published within said County of McCook for more than fifty-two successive weeks prior to the publication of the notice hereinafter mentioned and has been printed during said period and at the present time, in whole in an office maintained at said place of publication; and that I, the undersigned, am publisher or employee of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all facts in this affidavit;

that the advertisement headed

No. 6749-3

a printed copy of which is hereto attached, was printed and published in the newspaper for 2 weeks; that said notice was published in the issues of said paper on the dates as follows, to wit:

The first publication being made on

Sept. 14, 2006

the second publication on

Sept. 21, 2006

the third publication on

,20

the fourth publication on

,20

the fifth publication on

,20

the sixth publication on

,20

and the last publication on

,20

that \$47.28 being the full amount of the fees for publication of the annexed notice, insures solely to the benefit of the publisher of the said newspaper; that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any person whomsoever.

Subscribed and sworn to before me this

29th

day of

September

,2006

RECEIVED

OCT - 4 2006

WATER RIGHTS
PROGRAM

Notary Public,

McCook

County

My commission expires

08-09-08



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 7, 2006

Bridgewater Tribune
PO Box 250
Bridgewater SD 57319-0250

ATTENTION: Legal Public Notice

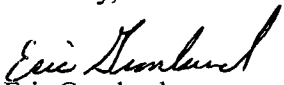
Enclosed is a Notice on Application No. 6749-3 to Appropriate Water to be published twice. Please publish the first notice on September 13, 2006 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

Please BILL the APPLICANT for the cost of publication. The APPLICANT is James D Daniels, 27160 470th Ave, Tea SD (Ph # 605-728-1015).

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. 6749-3

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

Date _____

We are in receipt of your letter of September 7, 2006 enclosing Notice to Appropriate Water by Application No. 6749-3 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.

September 7, 2006

James D Daniels
27160 470th Ave
Tea SD 57064

Dear Mr. Daniels:

Water Permit Application No. 6749-3 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 Bridgewater Tribune printed at Bridgewater, SD (Ph # 605-582-6025). 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.

Instruction to Newspaper - Publish first Notice on September 13, 2006 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6749-3 to Appropriate Water

Notice is given that James D Daniels, 27160 470th Ave, Tea SD 57064 has filed an application for a water permit to appropriate 0.55 cubic feet of water per second (cfs) from two wells to be completed into the Pleistocene Unknown Aquifer (approximately 166 feet deep) located in the SW ¼ SE ¼ Section 14 to irrigate 22 acres located in the S ½ SE ¼, SE ¼ SW ¼ Section 14; all in T102N-R56W. The proposed project is to establish and maintain a wetland. 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. 6749-3 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 October 2, 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. Pirner, Secretary, Department of Environment and Natural Resources.



APR 20 2007

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JAMES D DANIELS
27160 470TH AVE
TEA SD 57064

Dear Mr. Daniels:

Enclosed is Water Permit No. 6749-3 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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 3, 2007

6749-3

James D Daniels
27160 470th Ave
Tea SD 57064

Dear Mr. Daniels:

I am writing in regard to Water Permit No. 6749-3 which you submitted to establish and maintain a wetland. The application was submitted last August along with a \$275.00 application/license filing fee. The correct fee to irrigate 22 acres is \$200.00. Therefore, \$75.00 will be refunded to you. The refund check should be received within the next couple of weeks.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

PAYMENT REQUEST FORM

PAYEE: JAMES DANIELS
27160 470TH AVE
TEA SD 57064

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

REFUND -OVERPAYMENT OF WATER PERMIT # 6749-3

AMOUNT: \$-75.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

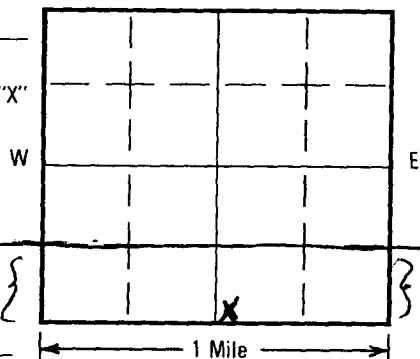
Darland Erbe 5/10/07

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

SOUTH DAKOTA WATER WELL COMPLETION REPORT

6749-3
07-92Location S 1/4 S 1/4 Sec 14 Twp 102N Rg 56W
County McCook North

Please mark well location with an "X"



Well Completion Date

1-4-08

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? _____ ft. from None (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
250 LB/FT	6 1/8 IN	0 FT	166 FT	11 IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type Bentonite Slur No. of Sacks 10 Grout Weight _____ lb./gal From 0 ft. To 132 ft.
 _____ lb./gal _____ ft.

Describe grouting procedure run tremie line Pumped w/ Drilling Rig

SCREEN: ☒ Perforated pipe ☐ ManufacturedDiameter 6 1/8 IN Length 24 FEETMaterial Plastic SOR 17Slot Size 45 Set From 142 Feet to 166 FeetOther information Pack w/ #2 PackWAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

YES, How: 5 gallons of chlorine
 NO, Why Not? Pumped

Laboratory sent to for water quality analysis

Well Owner: Jim Daniels
 Business Name: D & L Wildlife Properties
 Address: 27160 470th Ave
TEA SD 57064

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
top Soil	0	2
yellow clay	2	23
Brown clay	23	31
Blue clay	31	142
Sand & Gravel	142	147
Gravel	147	166

STATIC WATER LEVEL 69 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: AIR
☐ Bailed
☐ Other

Pumping Level Below Land Surface

140 ft. After 24 Hrs. pumped 170 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

RECEIVED

FEB - 7 2008

WATER RIGHTS PROGRAM

This well was drilled under license # 439

And this report is true and accurate.

Drilling firm Dave Putzke well Drilling & repair Inc

Signature of License Representative:

Dave Putzke

Signature of Well Owner or Equitable Property Holder:

James DanielsDate: 1/24/08



6749-3
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 25, 2019

NOTICE

TO: JAMES D DANIELS, 27160 470TH AVE STE A, TEA, SD 57064

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

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6749-3. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 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) 6749-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2019 at 10:30 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) 6749-3 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 6, 2019** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 29, 2019

6749-3

James D Daniels
27160 470th Ave Ste A
Tea SD 57064

Dear Mr. Daniels:

I am writing to acknowledge receipt of your 2018 irrigation questionnaire.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Permit No. 6749-3. 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



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

January 19, 2024

NOTICE

TO: JAMES D DANIELS, 27160 470TH AVE STE A, TEA, SD 57064

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

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6749-3. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 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) 6749-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 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) 6749-3 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 6, 2024** 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 Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: YETQGT**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 8, 2024

6749-3

James D Daniels
27160 470th Ave, Ste A
Tea SD 57064

Dear Mr. Daniels:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 6749-3. The information was received prior to the March 6, 2024, Water Management Board meeting and this permit number has been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 6749-3

I have this day, July 8, 2024, made a thorough examination of the water use system constructed by James D. Daniels, 27160 470th Ave, Tea, SD 57064 of Permit No. 6749-3, bearing the priority of August 3, 2006 authorizing the diversion of 0.55 cu. ft. per second of the waters of the Pleistocene Unknown Aquifer for the irrigation of a wetland for maintenance, purposes in McCook County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Putzke Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 166 feet
- 4) Well log is available Y

Casing:

- 1) Diameter 6 inches
- 2) Length 142 feet
- 3) Type Plastic

Screen:

- 1) Type Plastic SDR 17
- 2) Length 24 feet
- 3) Static water level 69 feet

Pump:

- 1) Make submersible
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 80 GPM

Motor:

- 1) Make Unknown
- 2) Model No. Unknown
- 3) Horsepower rating Unknown hp

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

- 1) Type PVC
- 2) Size 4 inches
- 3) Length 1200 feet

Comments: A 4-inch pipe delivers water to the edge of the wetland where the water is then diverted into two (2) 3-inch pipes that terminate at two discharge points on the edge of the wetland. The grass was too tall to find the locations of the terminal discharge points during the field visit.

C. Works used to apply water to beneficial use: (FLOOD IRRIGATION)

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

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

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: **WELL LOCATION**
From the SE corner Sec 14 T102N R56W, 30 ft N & 1875 ft W, Lat 43.63024 Long -97.51511 (SW1/4 SE 1/4)

2. The works are capable of diverting and conveying to the place of use 0.178 cu. ft. per second of water which is to be used for irrigation use. Water has been put to beneficial use to the maximum extent as follows:

legal description/acreage

IRRIGATED AREA

Sec 14 T102N R56W

SE 1/4 SE 1/4 - 20 acres

comprising a total of 20 acres of land and the license should be issued for 0.178 cfs.

3. All structures, wells and lands on map Y

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

Used FSA maps and ArcGIS to estimate irrigated acres.

The pump rate reported in a recent Irrigation Questionnaire was used to establish the system flow capacity for the new well.

The telephone number and mailing address on the permit application materials are current with "Ste A" being added to the address.

It is my impression that the flooding of the area in the fall is for the maintenance of a viable wetland which is used to compensate for the loss of a wetland in another location.

I talked to Mr. James Daniels on the phone during the field visit.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: July 10, 2024



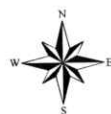
PHOTO #1. Looking west along the southern part of the wetland area showing the berm used to control the flood irrigation water.



PHOTO #2. Looking north along the eastern part of the wetland area showing the berm used to control the flood irrigation water.



PHOTO #3. Looking northwest across the wetland area. Note the water-loving plants in the center of the photo.



0 385 770 1,540 2,310 3,080 Feet



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 22 2024

6749-3

James D Daniels
27160 470th Ave, Ste A
Tea SD 57064

Dear Mr. Daniels:

Enclosed is Water License No. 6749-3. 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 in the future, the owner of an existing well, 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.

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

NOTE: The irrigation project authorized by Water Right No. 6749-3 will be used to maintain a wetland.

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 6749-3**

(1) James D Daniels, 27160 470th Ave Ste A, Tea SD 57064, made Application No. 6749-3, August 3, 2006, for a water permit to divert 0.55 cubic feet of water per second from groundwater, two wells (Pleistocene Unknown Aquifer), McCook County, South Dakota for irrigation purposes. Permit No. 6749-3, with a priority date of August 3, 2006, was approved by the Water Management Board March 7, 2007, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 7, 2012, and for the application to beneficial use of water on or before March 7, 2016.

(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 0.178 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 30 ft N & 1,875 ft W of the SE corner Section 14, T102N, R56W (SW $\frac{1}{4}$ SE $\frac{1}{4}$)
(Latitude 43.63024 & Longitude -97.51511)

(3) The amount of 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 – December 31.

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

Section 14, T102N, R56W - SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 20 acres

(5) Pursuant to South Dakota Water Law 46-5-30.1 James D Daniels, the holder and/or owner of Water Right No. 6749-3 is issued a license to appropriate water, the right to use 0.178 cubic feet of water per second from groundwater, one well (Pleistocene Unknown Aquifer), with a priority date of August 3, 2006, from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6749-3 and subject to the following qualifications:

1. 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. *(Only one well was developed.)*
2. The wells authorized by Permit No. 6749-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouter (bottom to top) pursuant to Section 74:02:04:28. *(The well was drilled in 2008 by Dave Putzke Well Drilling & Repair Inc. A copy of the well completion report is on file with the Water Rights Program.)*
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate is the method of irrigation, time constraints, of type of soils so requires, Permit No. 6749-3, authorizes a maximum diversion rate of 0.55 cfs for the irrigation of 22 acres with an annual volume not to exceed 2 acre-feet of water per acre per year. *(Water Right No. 6749-3 authorizes a maximum diversion rate of 0.178 cfs for the irrigation of 20 acres, based on the system as developed.)*
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

JUL 22 2024
date

