

WATER PERMIT NO. 6843-3

Name of Applicant: BallaCostain LLP

Address: c/o Douglas Flygt, 1626 Capital Ave, Madison WI 53705

Phone: 605 238-9949

Amount of Water Claimed: 1.04 cfs

Total Acres: 73

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Turner

Type of Waste Disposal System:

Location: 2 miles southeast of Parker

PRIORITY Date Received: 3-26-07

Application/License Fee: \$275

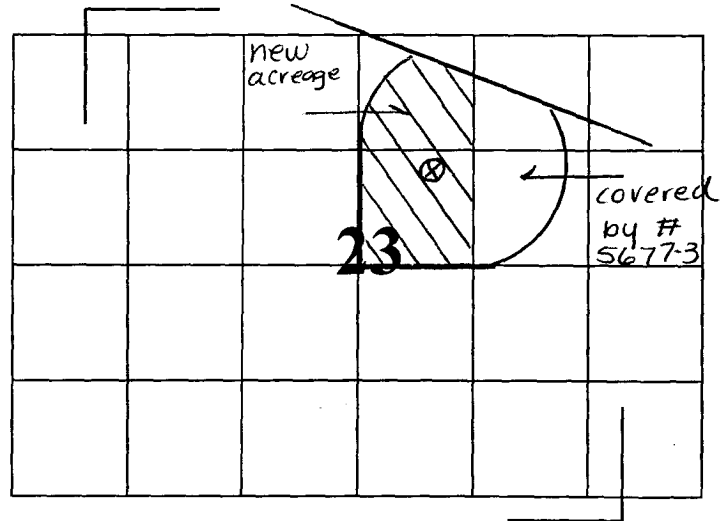
Corrected Application Received:

Period of Annual Use: April 1 – October 31

Remarks: Changes location of well authorized by Water Right No. 5677-3. Also additional acres and water.

Diversion Point: SW ¼ NE ¼ Sec 23-T99N-R53W

Land to be Irrigated: E ½ NE ¼ Sec 23-T99N-R53W



Depth of Well: 38 feet deep

Well Driller: : Reiners Well Drilling

Remarks:

Type of Map: aerial

Prepared by: Merris Miller, NRCS

Reviewed and the Number Assigned on: 3-26-07

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6843-5</u> (office use only) Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion River</u>
	Newspaper <u>New Era</u> P.O. Box <u>579</u> <u>Parkburg</u>
	<u>605-297-4419</u> <u>57053</u>

RECEIVED
MAR 26 2007
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

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

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
Change location of well for Water License #5677-3. Add new acres by breaking ground and using
a center pivot.

1. Name of Applicant BallaCostain LLP Phone (608) 238-9949
(check one) ☒ Owner ☐ Tenant/lessee
- Mailing Address c/o Doug Flygt, 1626 Capital Avenue, Madison State WI 53705
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed 0.62 *CFS or 1.04 **GPM ***AF Total Acreage 73
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply well
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
SW ~~NE~~ 1/4 NE 1/4 Section 23-99-53. One new well located approximately 1,640 feet south and 990
feet east of the NW corner of the NE 1/4, Section 23, Tn 99N Rg 53W County Turner
5. County or counties where water will be used Turner County, South Dakota
6. Annual period during which water is to be used April 1 - October 31
7. 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>NW NE 1/4 NE 1/4</u>	<u>33</u>	<u>Sec 23 T99N R53W</u>	
<u>SW NE 1/4 NE 1/4</u>	<u>40</u>		
<u>SE 1/4 NE 1/4</u>	<u>32</u>		
<u>NE 1/4 NE 1/4</u>	<u>15</u>		

8. Give a description of the project. (Attach sheet if more space is needed)
Currently under vested right 5677-3 we have irrigated acres in the NE 1/4 of Sec. 23, Tn 99N
Rg 53W. We wish to break 73 additional acres in the NE 1/4 and irrigate all of the farmland in the
NE 1/4 with a center pivot and corner system. For this we need a new well. If possible, we do not
wish to jeopardize our vested right, but wish to enlarge and improve the farm.

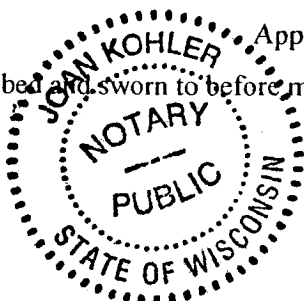
STATE OF ~~SOUTH DAKOTA~~ WISCONSIN SS
County of Dane

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, Douglas Flygt, 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.

BALLACOSTAIN LLP

Applicant's signature By: Douglas Flygt
Subscribed and sworn to before me this 22nd day of March 20 07



Joan Kohler
Notary Public signature
State of Wisconsin

MY COMMISSION EXPIRES JUNE 6, 2010

**SOUTH DAKOTA
WATER PERMIT NO. 6843-3**

Date of first receipt of application March 26, 2007.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6843-3 to BallaCostain LLP, c/o Doug Flygt, 1626 Capital Ave, Madison WI 53705 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. 6843-3 authorizes an additional 0.62 cubic feet of water per second (cfs), irrigates an additional 73 acres and changes the location of the well for Vested Water Right No. 5677-3. Vested Water Right No. 5677-3 authorizes 1.11 cfs from one well located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23 to irrigate 48 acres located in the E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 23; all in T99N-R53W. This permit appropriates an additional 0.62 cfs from a replacement well to be completed into the Parker Centerville Aquifer (38 feet deep) located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23 to irrigate 73 additional acres located in the W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 23; all in T99N-R53W. This permit and Vested Water Right No. 5677-3 authorize a total diversion rate of 1.73 cfs for irrigation of 121 acres.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 23.
3. The date from which applicant may claim right is March 26, 2007.
4. The date of approval of Permit No. 6843-3 is July 2, 2007.
5. One-fifth of the construction is to be completed on or before January 2, 2010.
6. All construction is to be completed on or before July 2, 2012.
7. Water is to be put to beneficial use on or before July 2, 2016.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under Vested Water Right No. 5677-3 and 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 new well authorized by Permit No. 6843-3 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. Vested Water Right No. 5677-3 and Water Permit No. 6843-3, combined, are limited to maximum diversion rate of 1.73 cubic feet of water per second (775 gallons per minute) based on the statutory limit for irrigation of 121 acres.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

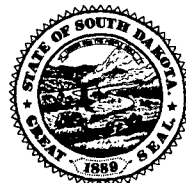
WATER MANAGEMENT BOARD

By: Garland Erbe

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

AUG 01 2007

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

See attached test hole log

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:

On applicants property 1,530 feetOn property owned by others 2,850 feet

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 _____

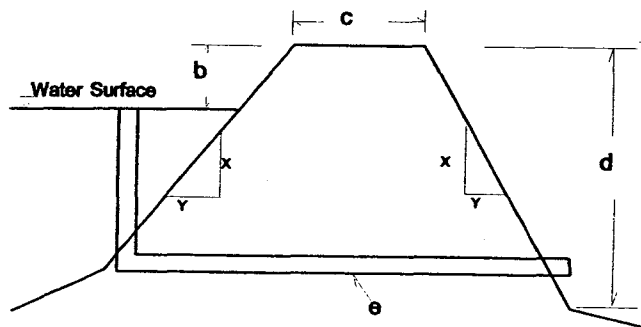
3. Dugout Information

- 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.

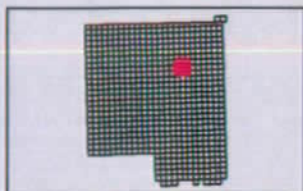
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- 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



USDA U.S. Dept. of Agriculture
Farm Service Agency



South Dakota
Turner County
23-99N-53W

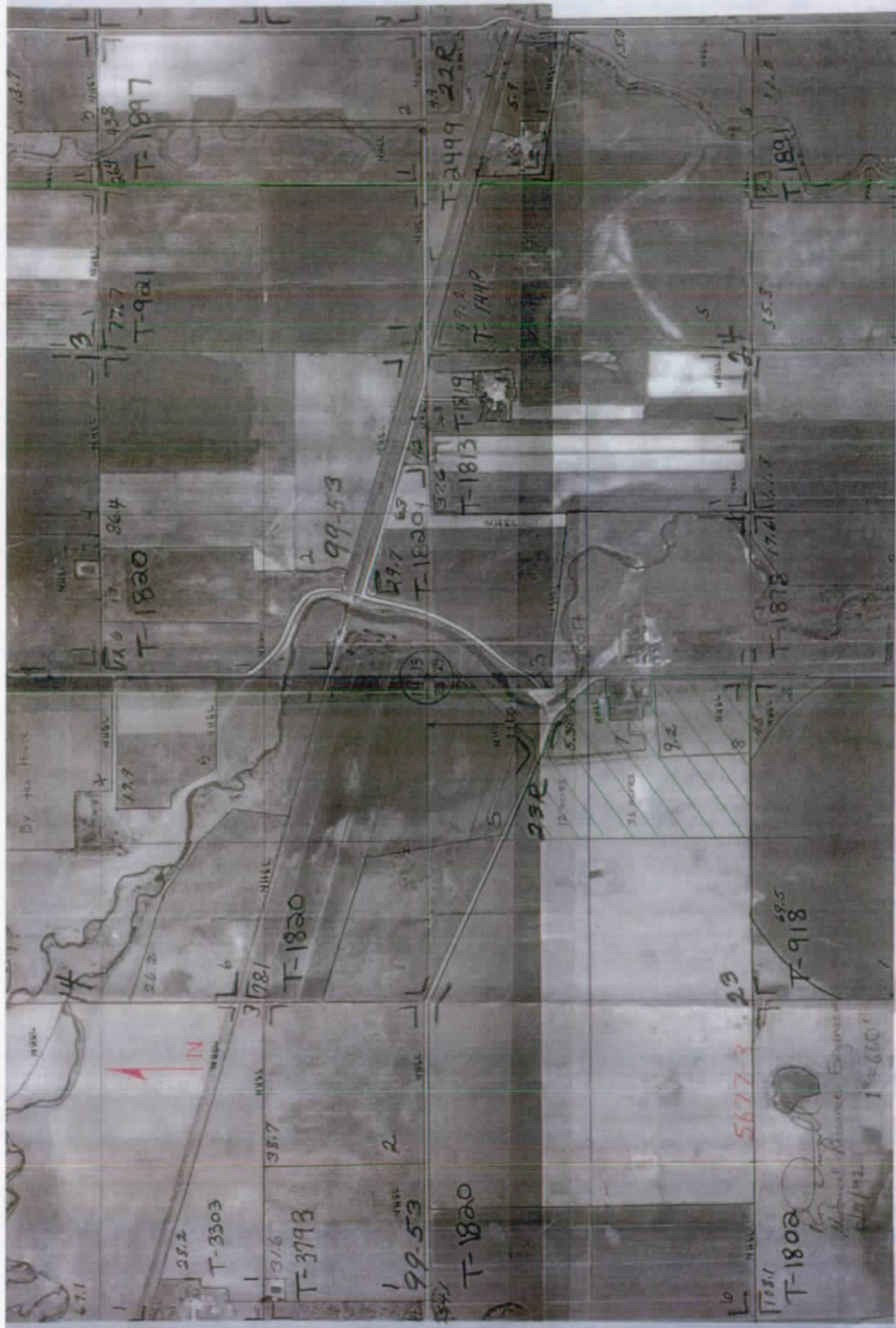
Morris Miller, DC NRCS

Legend

- Wetlands
- Tract Boundaries
- Section-Township-Range
- Easements
- CRP
- Common Land Units
- Rangeland

USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or the 2004 ortho rectified imagery for South Dakota. The producer accepts the data 'as is' and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs.

April 19, 2006



SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

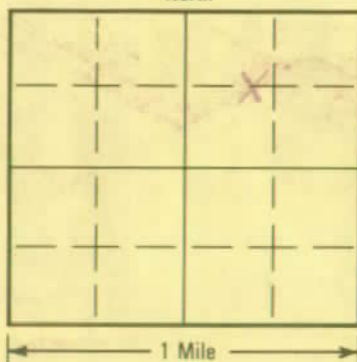
Location SW 1/4 NE 1/4 Sec 23 Twp 99 Rg 53County Turner North

Please mark well location with an "X"

W

E

Well Completion Date

3/20/07

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 1000 ft. from SEPTIC TANK (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

4" augerCASING DATA: ☐ Steel ☐ Plastic ☐ OtherIf other describe not cased

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 ☐ ManufacturedDiameter IN Length FEETMaterial Slot Size Set From Feet to FeetOther information WAS A PACKER OR SEAL USED? ☐ YES ☐ NOIf 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: Doug FlattBusiness Name: Balla Costain LLPAddress: 1626 Capital Ave
Madison WI 53705

WELL LOG:

DEPTH

FORMATION

FROM

TO

Top soil	0'	2'
Sand + gravel	2'	8'
Water bearing gravel	8'	35'
blue clay	35'	38'

STATIC WATER LEVEL

8'

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:

☐ PumpedDescribe: not pumped☐ Bailed☐ Other

Pumping Level Below Land Surface

 ft. After Hrs. pumped GPM ft. After Hrs. pumped GPMIf pump installed, pump rate GPM

REMARKS

log for irrigation permitThis well was drilled under license # 478

And this report is true and accurate.

Drilling firm

Reiners Well Drilling

Signature of License Representative:

Don Reiner

Signature of Well Owner or Equitable Property Holder:

Doug Flatt

Date:

3/21/2007

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/26/, 20 07

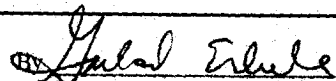
RECEIVED OF DEWITT ROSS & STEVENS 2 E MIFFIN ST MADISON WI 53703 (FLYGT)

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

Fee for Application for Permit No. <u>10843-3</u> 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. <u>10843-3</u>	50	00
Fee for Filing Transfer Form <u>8</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	275 00

No.

03011


Chief Engineer



**DEWITT
ROSS & STEVENS**
LAW FIRM

www.dewittross.com

Capitol Square Office
Two East Mifflin Street
Suite 600
Madison, WI 53703-2865
Tel 608-255-8891
Fax 608-252-9243

West Office
8000 Excelsior Drive
Suite 401
Madison, WI 53717-1914
Tel 608-831-2100
Fax 608-831-2106

Metro Milwaukee Office
13935 Bishop's Drive
Suite 300
Brookfield, WI 53005-6605
Tel 262-754-2840
Fax 262-754-2845

Please respond to: Capitol Square Office
Direct line: 608-252-9355

March 23, 2007

Department of Environment and Natural Resources
Attn: Ron Duvall
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED
MAR 26 2007
WATER RIGHTS
PROGRAM

RE: New Water Rights

Dear Ron:

Thank you for taking the time to speak with me regarding the new irrigation system we would like to put on the farm. My Mom always spoke highly of you, and it was nice to talk with you about Mom and the farm.

I sent the application form to the Hagenas (they are the tenants on the farm—we are very lucky to have only had two tenants on the farm since my grandfather died in 1957) because they had the originals of the driller's log and map, and felt it was best to include those that way rather than with faxes. They will be forwarding the completed documents to you.

Please note that one point arose as I was sending this out the door yesterday. The current vested water rights in License Number 5677-3 are for 12 and 36 acres, for a total of 48. The path of the center pivot and corner system will cover slightly different acres in each of the eastern quarter sections of said NE 1/4. Does that make a difference? Anyway, to flag this issue I referenced the actual expected acres in the eastern 1/2 of said NE 1/4 even though in total we already have enough acres vested there.

If there are any questions, please contact me. Thank you.

Sincerely,

DEWITT ROSS & STEVENS s.c.

Douglas L. Flygt

DLF:jtk



**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. 6843-3, BallaCostain LLP**

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. 6843-3, BallaCostain LLP, c/o Douglas Flygt, 1626 Capital Avenue, Madison WI 53705.

The Chief Engineer is recommending APPROVAL of Application No. 6843-3 for 0.62 cfs because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under Water Right No. 5677-3 and 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 new well authorized by Permit No. 6843-3 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. Water Right No. 5677-3 and Water Permit No. 6843-3, combined, is limited to maximum diversion rate of 1.73 cubic feet of water per second (775 gallons per minute) based on the statutory limit for irrigation of 121 acres.
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
June 1, 2007

REPORT ON WATER PERMIT APPLICATION NO. 6843-3
For BallaCostain, LLP
May 21, 2007

Application No. 6843-3 proposes to appropriate an additional 1.04 cfs and irrigate an additional 73 acres and change the location of the well for Water Right No. 5677-3. Water Right No. 5677-3 authorizes 1.11 cfs from one well located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 23 to irrigate 48 acres located in the E $\frac{1}{2}$ NE $\frac{1}{4}$ of section 23; all in T99N R53W. This application proposes to appropriate an additional 1.04 cfs from a replacement well approximately 38 feet deep located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of section 23 to irrigate 73 additional acres located in the W $\frac{1}{2}$ NE $\frac{1}{4}$ of section 23; all in T99N R53W in Turner County. This application if approved and Water Right No. 5677-3 would authorize a total diversion rate of 2.15 cfs for irrigation of 121 acres.

AQUIFER - PARKER CENTERVILLE (PAC)

The Parker Centerville is a mostly surficial outwash (sand and gravel) that is under water table conditions in this area. The aquifer underlies 74 square miles and contains an estimated 322,000 acre-feet of water in storage in Turner County (Lindgren, 1990). Ground water movement is from northwest to southeast and locally probably toward the Vermillion River (Lindgren, 1990). The aquifer is hydraulically connected to the Vermillion River and both the East and West Fork Vermillion aquifers. Also, in the area to the south (in T99N and T98N and in R52W) the Parker Centerville aquifer appears to be directly connected to the underlying Upper Vermillion Missouri aquifer.

Recharge to the aquifer has been estimated to approach about 4.9 inches per year (Hedges, 1983). This would equate to about 19,340 acre-feet per year for just the Parker Centerville aquifer in Turner County. The average water use from the aquifer has been about 13,300 acre-feet per year (2000 – 2005) with a peak single year of 14,580 acre-feet in 2004.

Test well information provided by the applicant indicates sand and gravel from 2 to 35 feet below land surface with a static water level of 8 feet below land surface. This information fits reasonably well with other data for the area.

The Water Rights Program monitors an observation well TU-77A located with one-half mile of this application. Water levels for this well show good response to climatic conditions that is rising water levels during wet periods (recharge) and gradually declining water levels during dry years. A hydrograph for this observation well is included with this report.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are four existing irrigation wells in this same section as this application. All the wells will be about one-half mile from this proposed new well. One of the old wells used to irrigate a portion of the land included with this application. That existing well under

Water Right No. 5677-3 will be abandoned and replaced by this new well. Interference is not expected to be a concern. Drawdown does occur but apparently is not significant. This is shown by the observation well hydrograph.

CONCLUSIONS

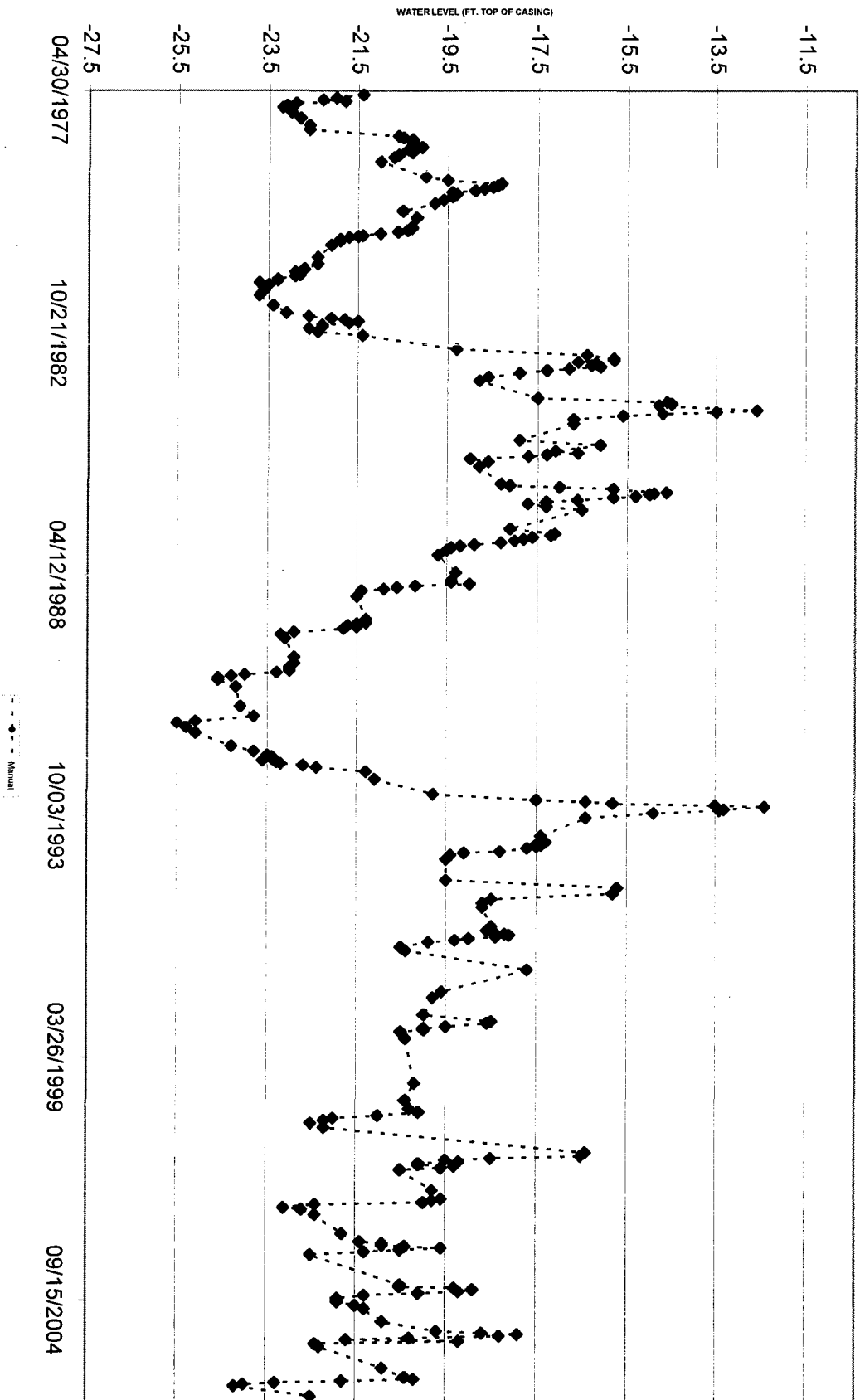
1. Water is available from the Parker Centerville aquifer.
2. The aquifer is under water table conditions in this area. Drawdown created by pumping is not expected to be significant. Interference should not be a concern.
3. The well authorized by this application must be constructed in accordance with SD Well Construction Standards.
4. Any well abandoned must be plugged in accordance with SD Well Construction Standards.
5. The original Water Right No. 5677-3 authorizes 1.11 cfs and this permit should retain this rate and priority because this rate was vested. This new permit should allow a total of 1.73 cfs for irrigation of 121 acres not the 2.15 cfs as requested. There is no justification for the increased rate above the statutory limit.


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hedges, L.S., and others, 1983, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River South Dakota and Iowa, Task 7 Ground Water Recharge, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Lindgren, R.J., D.S. Hansen, 1990, Water Resources of Hutchinson and Turner Counties, Water Resources Investigations Report 90-4093, USGS, Huron, SD, 57350.
- Water Rights, 2007, Unpublished Observation Well Data for Turner County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL
TU-77A



Affidavit of Publication

STATE OF SOUTH DAKOTA } :SS
COUNTY OF TURNER }

I, **Donna Rumbaugh** of the City of Parker, County of Turner, State of South Dakota, being first duly sworn on oath, deposes and says:

The New Era is a weekly legal newspaper of general circulation, printed and published in the City of Parker, in said County of Turner, by The New Era, Lyon Sioux Press, publishers, and has been such legal newspaper during the times hereinafter mentioned; that the said newspaper has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said publication of the notice hereunto attached, and has during all of said time had, and now has, more than 200 bona fide subscribers; that the undersigned, The affiant, is the **Office Manager** of the said newspaper, in charge of the advertisement department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed:

#4265 Balla Costain LLP Notice of application 6843-3 to Appropriate Water

printed copy of hereto attached, is printed and published in the said newspaper for two successive weeks, once each week and on the same day of the week, on the following dates, to-wit:

On Thursday, the 7 day of June, 2007

On Thursday, the 14 day of June, 2007

That \$54.70 being the full amount of the fees for publication

of the attached notice insures solely for the benefits of the publishers of the

said newspaper, that no arrangement or understanding for a division thereof

has been made with any other person and that no part thereof has been agreed

to be paid to any other person whomsoever.

Donna Rumbaugh

Subscribed and sworn to before me this 3rd

Day of July, 2007

Paul R. Ham

My Commission

Expires:

02/10

2012

Notary Public, Turner County, South Dakota

RECEIVED

JUL - 5 2007

WATER RIGHTS
PROGRAM

PAUL R. HAM



Notice of application no. 6843-3 to Appropriate Water

Notice is given that BallaCostain LLP, c/o Douglas Flygt, 1626 Capital Ave, Madison WI 53705 has filed an application for a water permit to appropriate an additional 1.04 cubic feet of water per second (cfs), irrigate an additional 73 acres and change the location of the well for Water Right No. 5677-3. Water Right No. 5677-3 authorizes 1.11 cfs from one well located in the NE 1/4 NE 1/4 Section 23 to irrigate 48 acres located in the E 1/2 NE 1/4 Section 23; all in T99N-R53W. This application proposes to appropriate an additional 1.04 cfs from a replacement well to be completed into the Parker Centerville Aquifer (38 feet deep) located in the SW 1/4 NE 1/4 Section 23 to irrigate 73 additional acres located in the W 1/2 NE 1/4 Section 23; all in T99N-R53W. This application, if approved, and Water Right No. 5677-3, proposes to authorize a total diversion rate of 2.15 cfs for irrigation of 121 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6843-3 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 these applications, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this 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 recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss

Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 2, 2007.

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.

(#4265, 6/14, 6/21, The New Era)





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 4, 2007

The New Era
PO Box 579
Parker SD 57053

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 6843-3 to Appropriate Water to be published twice. Please publish the first notice on June 14, 2007 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is BallaCostain LLP, Douglas Flygt, 1626 Capital Ave, Madison WI 53705 (Ph # 608-238-9949).

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. 6843-3

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

Date _____

We are in receipt of your letter of June 4, 2007 enclosing Notice to Appropriate Water by Application No. 6843-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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

June 4, 2007

BallaCostain LLP
Douglas Flygt
1626 Capital Ave
Madison WI 53705

Dear Mr. Flygt:

Water Permit Application No. 6843-3 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 The New Era printed at Parker SD (Ph # 605-297-4419). 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 report on the application is 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 applications.

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 June 14, 2007 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6843-3 to Appropriate Water

Notice is given that BallaCostain LLP, c/o Douglas Flygt, 1626 Capital Ave, Madison WI 53705 has filed an application for a water permit to appropriate an additional 1.04 cubic feet of water per second (cfs), irrigate an additional 73 acres and change the location of the well for Water Right No. 5677-3. Water Right No. 5677-3 authorizes 1.11 cfs from one well located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23 to irrigate 48 acres located in the E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 23; all in T99N-R53W. This application proposes to appropriate an additional 1.04 cfs from a replacement well to be completed into the Parker Centerville Aquifer (38 feet deep) located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23 to irrigate 73 additional acres located in the W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 23; all in T99N-R53W. This application, if approved, and Water Right No. 5677-3, proposes to authorize a total diversion rate of 2.15 cfs for irrigation of 121 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6843-3 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 these applications, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this 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 recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 2, 2007.

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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 01 2007

BallaCostain LLP
Doug Flygt
1626 Capital Ave
Madison WI 53705

Dear Mr. Flygt:

Enclosed is Water Permit No. 6843-3 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

6843-3
RECEIVED

AUG 10 2007

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 8/7/07TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

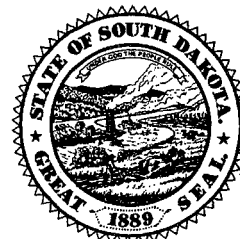
FROM:

Balla Costain LLP
(name)c/o Doug Flygt 1626 Capital Ave.
(address)Madison WI 53705 (608) 238-9949
(city, state, zip) (phone)

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

Water Permit No. 6843-3 states that the water use system is to be constructed byJuly 2, 2012, and water is to be put to beneficial use by July 2, 2016.
(date) (date)The water use system was completed on July 3, 2007.
(date)Applying the water to beneficial use was completed on July 3, 2007.
(date)

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

Doug Flygt
(signature)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: BALLACOSTAIN LLP, DOUGLAS FLYGT, PARTNER, 1626 CAPITAL AVE, MADISON, WI 53705

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

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaire(s)

Our records indicate that the 2008 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5677-3, 5679-3, 5680-3, 6126-3, 6127-3 & 6843-3. The request for the Questionnaire was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 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) 5677-3, 5679-3, 5680-3, 6126-3, 6127-3 & 6843-3 qualification:

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

The hearing will be held at **10:00 am, March 11, 2009** 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:

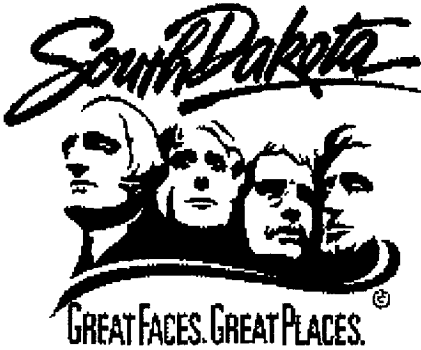
1. Suspend or cancel Permit No(s) 5677-3, 5679-3, 5680-3, 6126-3, 6127-3 & 6843-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 6, 2009**, you will no longer be in violation of your permit and your name will be deleted 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. If you prefer, you can complete the questionnaire on-line at the following link:
<https://www.state.sd.us/eforms/secure/eforms/E0455V7-IQ.pdf>

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.

6843-3



**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 28, 2009

Douglas Flygt
Ballacostain LLP
1626 Capital Ave
Madison WI 53705

RE: Water Permit/Right Nos. 5677-3, 5679-3, 5680-3, 6126-3, 6127-3 & 6843-3

Dear Mr. Flygt:

I am writing to acknowledge receipt of your 2008 irrigation questionnaires. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for Water Permit/Right Nos. 5677-3, 5679-3, 5680-3, 6126-3, 6127-3 & 6843-3.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

Permit No. 6843-3
Vermillion River - Water District

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

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

I have this day, **July 31, 2007**, made a thorough examination of the water use system constructed by **Ballacostain, LLP** of **1626 Capitol Ave., Madison, WI 53705** holder of Permit No. **6843-3**, bearing the priority of **March 26, 2007** authorizing the diversion of **0.62** cu. ft. per second of the waters of the **Parker-Centerville Aquifer** for **Irrigation** purposes, in **Turner** County.

Inspection contact & relationship **Douglas Flygt (partner)**
to permit holder, if applicable:

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: **Reiners Well Drilling**
- 2) No. of Wells **1**
- 3) Depth(s) **38** feet
- 4) Well log is available **N**

Casing:

- 1) Diameter **16** inches
- 2) Length **Unknown**
- 3) Type **Plastic**

Screen:

- 1) Type **Plastic**
- 2) Length **Unknown**
- 3) Static water level **8** feet

Pump:

- 1) Make **Goulds**
- 2) Model **GL11CLO**
- 3) Capacity **700** GPM

Motor:

- 1) Make US Motor
- 2) Model No. BF48A
- 3) Horsepower rating 40 hp

B. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Valley
- 2) Number of towers 6
- 3) End gun Y
- 4) High or low pressure Low
- 5) Capacity 700 GPM

Chemigation Equipment:

- 1) Does chemigate N

C. Compliance with Permit Requirements:

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

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

Approximately 1550 feet south and 1630 west of the NE corner of Section 23-T99N-R53W

(N 43.38312, W -97.06867) (SW ¼ NE ¼)

The works are capable of diverting and conveying to the place of use 1.56 cu. ft. per second of water which is to be used for Irrigation. Water has been put to beneficial use to the maximum extent as follows:

Section 23-T99N-R53W

NW ¼ NE ¼ - 26 acres

SW ¼ NE ¼ - 40 acres

NE ¼ NE ¼ - 11 acres

SE ¼ NE ¼ - 28 acres

comprising a total of 105 acres of land and the license should be issued for 1.56 cfs.

All structures, wells and lands on map Y

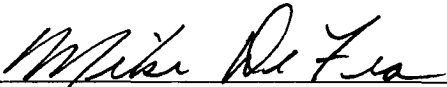
Comments or other permit(s) associated with the project:

Water Permit No. 6843-3 authorizes the diversion of an additional 0.62 cfs of water from a replacement well completed into the Parker-Centerville aquifer to irrigate an additional 73 acres in the W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 23-T99N-R53W.

Vested Water Right No. 5677-3 appropriates 1.11 cfs from one well located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23 to irrigate 48 acres located in the E $\frac{1}{2}$ NE $\frac{1}{4}$.

Water Permit No. 6843-3 and Vested Water Right No. 5677-3 should be incorporated to reflect the system as developed while each retaining their priority dates of March 26, 2007 and June 22, 1951.

Also, Water Right No. 5677-3 needs to be amended to reflect the actual irrigated acres which are 11 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 28 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ all in Section 23-T99N-R53W.



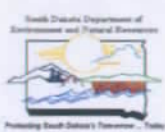
Mike DeFea
Natural Resources Project Engineer
DENR, Water Rights Program

Date report completed: **April 14, 2010**



Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
April 13, 2010



0 300 600 1,200 1,800 2,400 Feet



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 14 2010

5677-3
6843-3

Doug Flygt
BallaCostain LLP
1626 Capital Ave
Madison WI 53705

Dear Mr. Flygt:

Enclosed is your Water License No. 6843-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6843-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

enclosures

Note: The applicable portions of Vested Water Right No. 5677-3 were incorporated into Water License No. 6843-3.

STATE OF SOUTH DAKOTA
PARTIAL VESTED RIGHT WATER LICENSE NO. 6843-3

(1) BallaCostain LLP, % Doug Flygt, 1626 Capital Ave, Madison WI 53705 made Application No. 6843-3, March 26, 2007 for a water permit to divert an additional 0.62 cubic feet of water per second (cfs), to irrigate an additional 73 acres and to change the location of the well authorized by Vested Water Right No. 5677-3. Permit No. 6843-3, with a priority date of March 26, 2007 was approved July 2, 2007 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 2, 2012 and for the application to beneficial use of said water on or before July 2, 2016.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on October 10, 2007. The "*Notice*" stated the water use system was completed and water placed to beneficial use on July 3, 2007.

The applicable portions of Vested Water Right No. 5677-3 have been incorporated into No. 6843-3. A priority date of June 22, 1951 is retained for the original 1.11 cfs with the remaining developed diversion rate of 0.45 cfs retaining a priority date of March 26, 1977 as established by Permit No. 6843-3.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.56 cubic feet of water per second for beneficial use. The location of the diversion point is approximately 1,550 feet south and 1,630 feet west of the NE corner of Section 23, T99N, R53W (SW ¼ NE ¼).

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

Section 23, T99N, R53W	NW ¼ NE ¼	26 acres	March 26, 2007 Priority date
	SW ¼ NE ¼	40 acres	March 26, 2007 Priority date
	NE ¼ NE ¼	11 acres	June 22, 1951 Priority date
	SE ¼ NE ¼	28 acres	June 22, 1951 Priority date
	Total	105 acres	

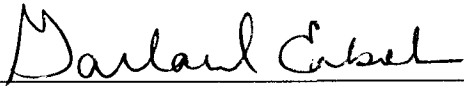
(4) Pursuant to South Dakota Water Law 46-5-30.1 BallaCostain LLP, % Doug Flygt, 1626 Capital Ave, Madison WI 53705 the holder and/or owner of Partial Vested Water Right No. 6843-3 is issued a license to appropriate water, the right to use 1.56 cubic feet of water per second from ground water (one well – Parker Centerville Aquifer) with priority dates of June 22, 1951 (1.11 cfs) and March 26, 2007 (0.45 cfs) from the location specified in (2) of this license. The water is to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Partial Water Right No. 6843-3 and subject to the following qualifications:

- The well approved under Nos. 5677-3 and 6843-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner 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.

Partial Vested Water Right No. 6843-3

- The well authorized by No. 6843-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the 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.
- Vested Water Right No. 5677-3 and Water Permit No. 6843-3, combined, were limited to a maximum diversion rate of 1.73 cfs (775 gallons per minute) based on the statutory limit for irrigation of 121 acres. ***Based on the amount developed, the diversion rate is reduced to a maximum of 1.56 cfs (700 gallons per minute) for irrigation of 105 acres.***
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

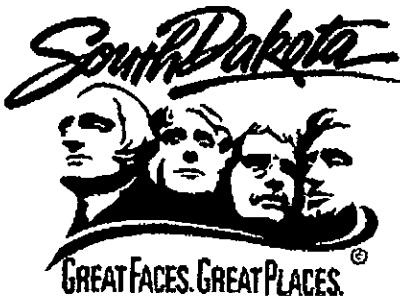


Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 14 2010

date





6843-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: BALLACOSTAIN LLP, DOUGLAS FLYGT, PARTNER, 1626 CAPITAL AVE, MADISON, WI 53705

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: XFCQTJ**

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.

6843-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 2020

Douglas Flygt
BallaCostain LLP
1626 Capital Ave
Madison WI 53705

RE: Water Permit or Right Nos. 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3

Dear Mr. Flygt:

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

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Permit or Right Nos. 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

6843-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

TO: BALLACOSTAIN LLP, DOUGLAS FLYGT, PARTNER, 1626 CAPITAL AVE, MADISON, WI 53705

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

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaire(s)

Our records indicate your 2020 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3. The request for the Questionnaire was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3 qualification:

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

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

1. Suspend or cancel Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

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

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.

6843-3



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

February 3, 2021

Douglas Flygt
Ballacostain LLP
1626 Capital Ave
Madison WI 53705

RE: Water Right/Permit Nos. 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3

Dear Mr. Flygt:

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

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for Water Right or Permit Nos. 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Genny McMath".

Genny McMath
Water Rights Program
605 773-3352
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

Permit No. 6843-3

June 25, 2021

Douglas Flygt
Ballacostain LLP
1626 Capital Ave
Madison WI 53705

Dear Mr. Flygt:

On June 16, 2021, a staff member from the Department of Agriculture and Natural Resources (DANR) observed overspray from the irrigation system located in the NE 1/4 Section 23-T99N-R53W onto the adjacent northwest/southeast road (see attached). This irrigation system is covered by Water Right No. 6843-3.

It is common for center pivots to have stops which are used to shut off the end gun when the pivot nears a road. Please take steps to ensure end gun stops are functioning properly so there is not direct overspray on to the road.

A water right holder is not allowed to waste water or operate an irrigation system in violation of state water law, which includes end gun overspray upon lands, including roadways, not covered by the water right. Application of water to a roadway or unauthorized lands is a waste and unreasonable use of water pursuant to SDCL 46-1-4.

If you don't believe this irrigation system is causing the overspray, or if you have any questions, please contact me at (605) 773-3352 or by email at ron.duvall@state.sd.us.

Thank you for your cooperation,

Ron Duvall
Water Rights Program, DANR

enclosures

On June 16, 2021 at about 2:32pm DANR Water Rights Seasonal Staff documented overspray occurring from a center pivot authorized by Water Right No. 6843-3. Additional documentation is shown below.

Documentation Sheet

Date: June 16th 2021 Time: 2:32 pm

Take a picture with your tablet; try to show road and end of pivot.

Direction facing in picture: N E W S NW SW NE (SE)

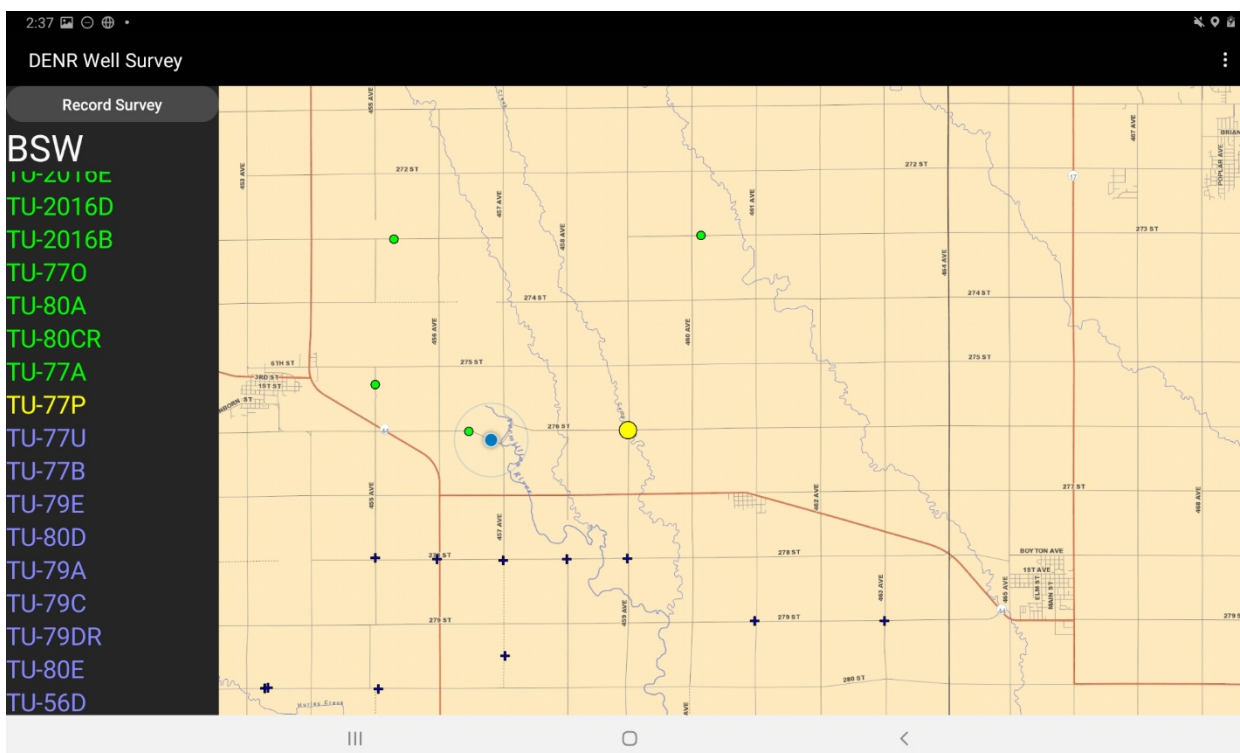
Location (gps from tablet): 43.385, -97.066

Location (nearest intersection & direction and distance): _____

Can also take a screenshot of your map by pressing (at the same time) power and volume up and can then attach screenshot to e-mail of picture (make sure your blue dot shows up in the correct location)

Windy: (Yes) No

Picture location



Picture of Overspray Occurring



Map of picture/report location and area water rights/permits



On June 16, 2021 at about 2:32pm DANR Water Rights Seasonal Staff documented overspray occurring from a center pivot authorized by Water Right No. 6843-3. Additional documentation is shown below.

Documentation Sheet

Date: June 16th 2021 Time: 2:32 pm

Take a picture with your tablet; try to show road and end of pivot.

Direction facing in picture: N E W S NW SW NE (SE)

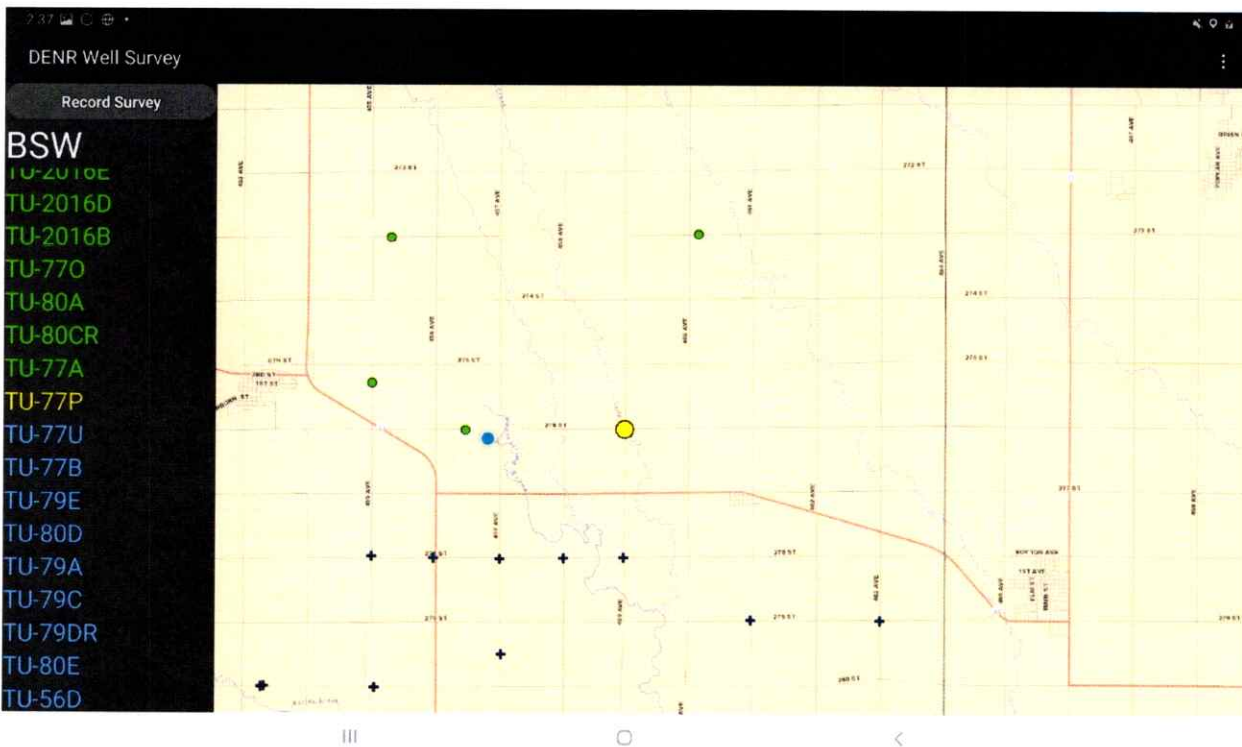
Location (gps from tablet): 43.385, -97.066

Location (nearest intersection & direction and distance): _____

Can also take a screenshot of your map by pressing (at the same time) power and volume up and can then attach screenshot to e-mail of picture (make sure your blue dot shows up in the correct location)

Windy: (Yes) No

Picture location





6843-3

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

January 20, 2022

NOTICE

TO: BALLACOSTAIN LLP, DOUGLAS FLYGT, PARTNER, 1626 CAPITAL AVE, MADISON, WI 53705

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3 qualification:

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

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

1. Suspend or cancel Permit No(s) 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

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

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.

6843-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 26, 2022

Douglas Flygt
Ballacostain LLP
1626 Capital Ave
Madison WI 53705

RE: Water Permit Nos. 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3

Dear Mr. Flygt:

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

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Permit Nos. 5679-3, 5680-3, 6126-3, 6127-3, 6843-3 & 7173-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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