

WATER PERMIT NO. 7039-3

Name of Applicant: **John Daly**

Address: **34662 236th St, Pukwana SD 57370**

Phone: **605 894-4192**

Amount of Water Claimed: **4.0**

Total Acres: **520 acres**

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

Water to be used for: **irrigation**

County: **Buffalo**

Type of Waste Disposal System:

Location: **12 miles north of Chamberlain**

PRIORITY

Date Received: **5-23-08**

Application/License Fee: **\$450**

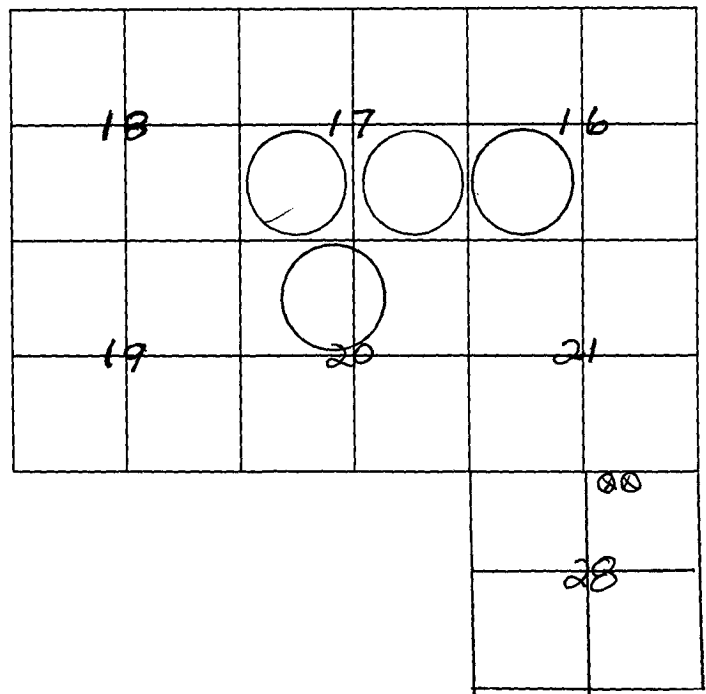
Corrected Application Received: **6-9-08**

Period of Annual Use: **May 1 – September 30**

Remarks:

Diversion Point: **NW ¼ NE ¼ Sec 28-T106N-R70W**

Land to be Irrigated: **S ½ Sec 17, N ½ Sec 20, SW ¼ Sec 16; all in T106N-R70W**



Depth of Well: **41 feet deep**

Well Driller: **Hutmacher Drilling Inc.**

Remarks:

Type of Map: **aerial**

Prepared by: **Loren w/Buffalo Co FSA**

Reviewed and the Number Assigned on: **6-9-08**

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>7039-3</u> (office use only) Hydrologic Unit <u>10140105</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Central Dakota Times POBox</u> <u>605-234-0266 0266 Chamberlain 125</u> <u>57325</u>

RECEIVED
MAY 23 2008
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.)

1. Name of Applicant John Daly Phone 605-894-4192
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 34662 236th ST Pukwana State SD 57370
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed 4.0*CFS or 1800**GPM ***AF Total Acreage 520 ac.
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply ground water
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Buffalo
2 wells in NW1/4 NE1/4 Sec 28 106-70
NW1/4
5. County or counties where water will be used Buffalo
6. Annual period during which water is to be used may 1 - Sept 30
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>SW 1/4 Sec 17 106-70</u>	<u>130</u>	<u>260</u>	
<u>N 1/2 Sec 20 106-70</u>	<u>130</u>	<u>130</u>	
<u>SW 1/4 Sec 16 106-70</u>	<u>130</u>		

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

STATE OF SOUTH DAKOTA) SS
County of Brule

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

Applicant's signature John Daly

Subscribed and sworn to before me this 22ND day of May 20 08

Gene K. Schaub

Notary Public signature

My Commission Expires 10-23-2009

**SOUTH DAKOTA
WATER PERMIT NO. 7039-3**

Date of first receipt of application May 23, 2008.

Date of return to applicant for corrections, amendments or changes May 27, 2008.

Date of receipt of corrected application June 9, 2008.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7039-3 to John Daly, 34662 236th St, Pukwana SD 57370 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. 7039-3 appropriates 4.0 cubic feet of water per second from two wells to be completed into the Crow Creek Aquifer (approximately 41 feet deep) located in NW ¼ NE ¼ Section 28 to irrigate 520 acres located in the S ½ Section 17, N ½ Section 20 and SW ¼ Section 16; all in T106N-R70W located within the boundaries of the Crow Creek Indian reservation.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is May 23, 2008.
4. The date of approval of Permit No. 7039-3 is August 25, 2008.
5. One-fifth of the construction is to be completed on or before February 25, 2010.
6. All construction is to be completed on or before August 25, 2013.
7. Water is to be put to beneficial use on or before August 25, 2017.
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 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. 7039-3 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.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele

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

SEP 17 2008

date



Supplemental Information

(Complete applicable portions only)

(type or print in ink)

will fax drillers log as soon as I get it.

1. Well Information - Proposed Construction

- a) Drill Hole Diameter Bore Sample Depth 41 to shale
- 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 16ft
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:

On applicants property _____

On property owned by others 1/4 mile**2. Wastewater Disposal System Information**

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

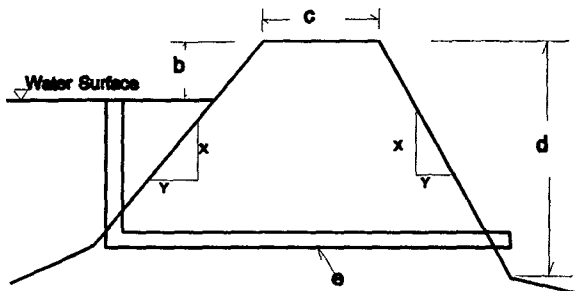
3. Dugout Information

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

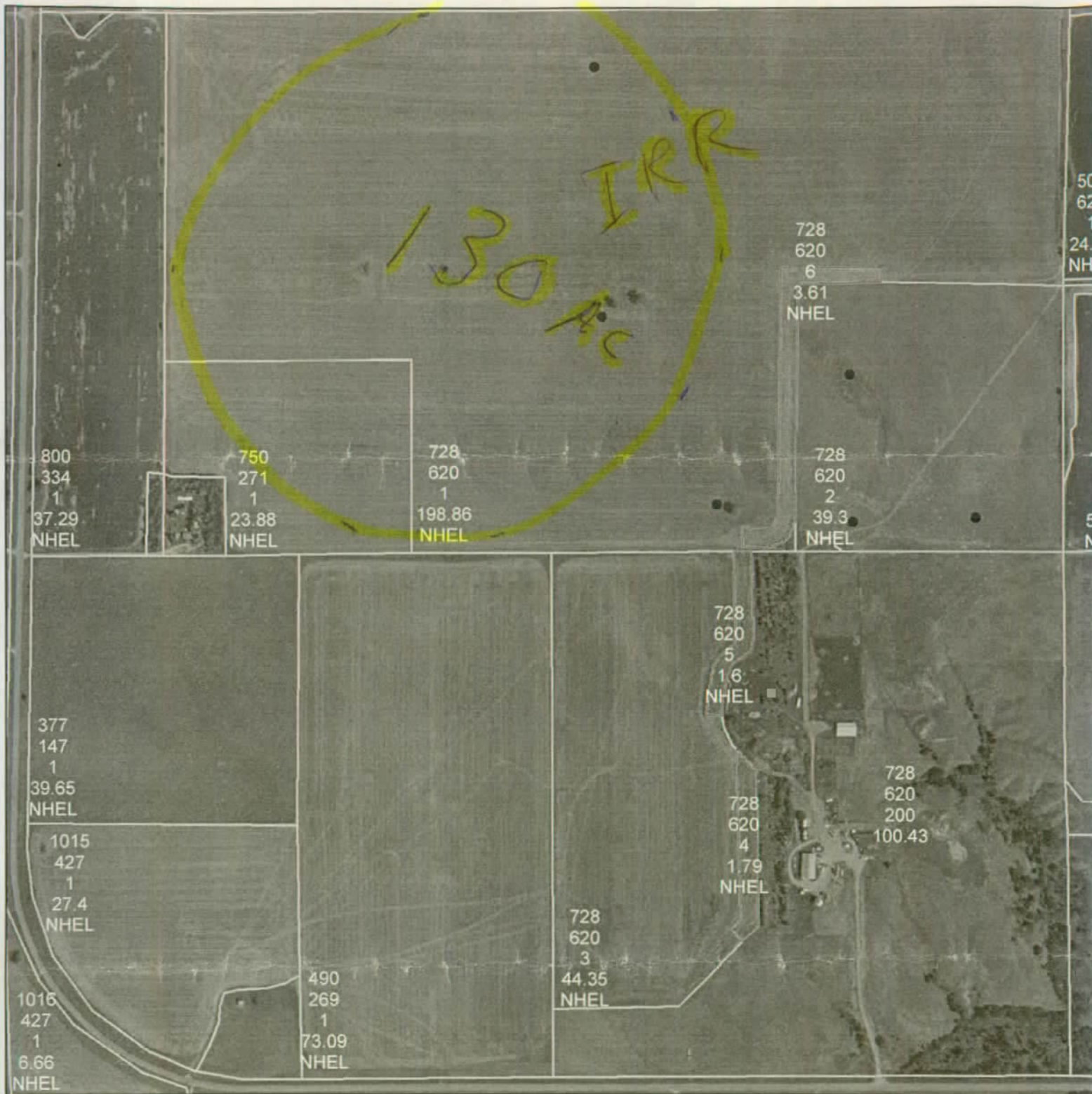
4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

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



- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres



USDA USDA - Farm Service Agency

Buffalo County, SD
20-106N-70W

Legend 1:0

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

Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions



May 15, 2008

MAY 23 2008

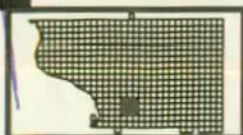
WATER RIGHTS PROGRAM

USDA FSA maps are for FSA Program administration only. There is no guarantee or representation to the user as to the accuracy, currency, suitability or reliability of the data. The user accepts the data 'as is' and assumes all risks associated with its use. Wetland points reflect records available with NRCS and may or may not constitute a full inventory of the property. 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.

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.



USDA - Farm Service Agency



Buffalo County, SD
16-106N-70W

May 15, 2008

FARM SERVICE AGENCY

200 S. Paul Gustafson Drive #110
 Chamberlain, SD 57325-1021

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MAY 23 2008

WATER RIGHTS PROGRAM

Legend 1:0

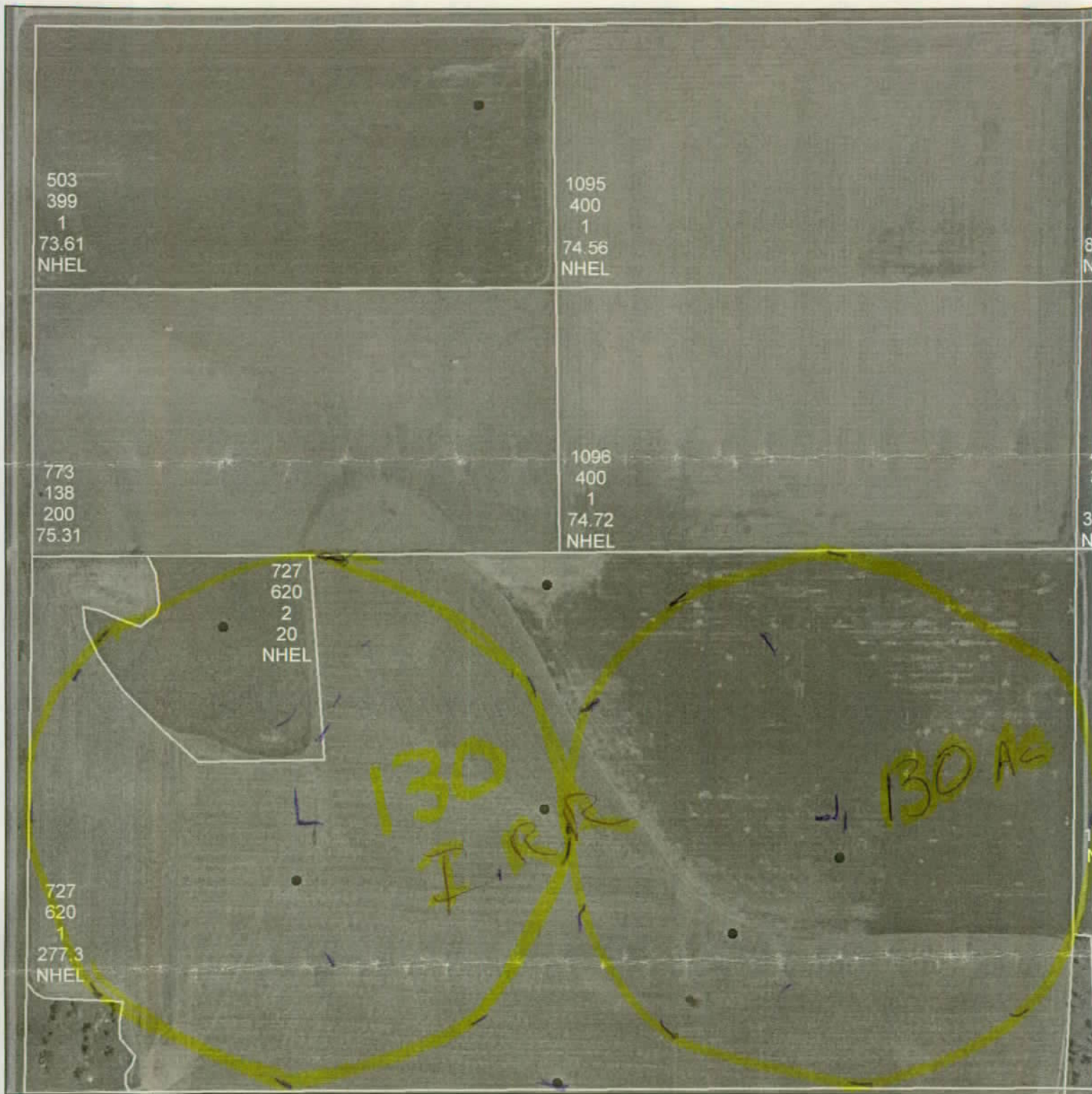
- Tract Boundaries
- Section Township Range
- Easements
- CRP
- Common Land Units
- Rangeland

Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions



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USDA - Farm Service Agency

Buffalo County, SD

17-106N-70W

Legend 1:0

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



Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions

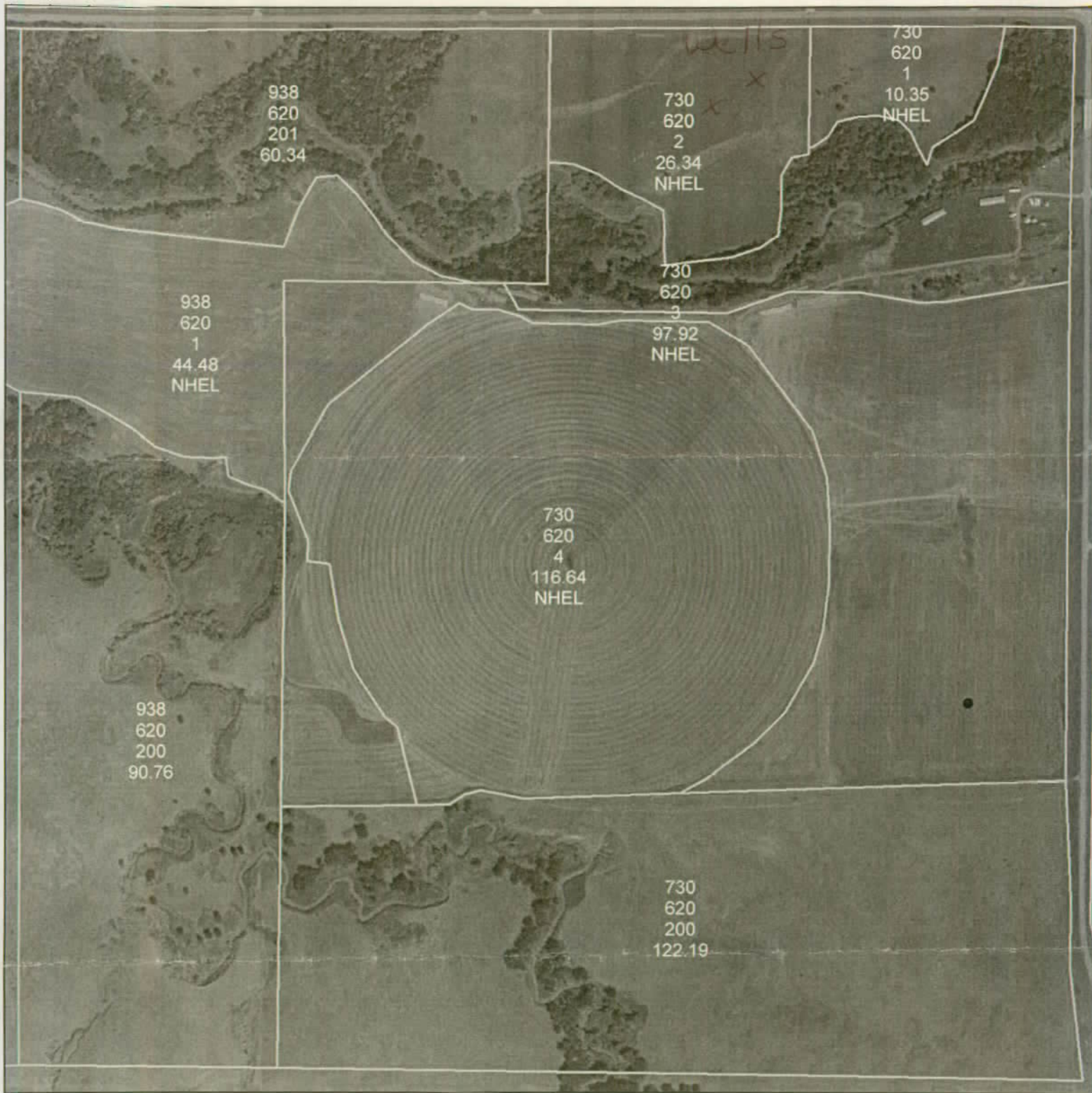
May 15, 2008

RECEIVED

MAY 23 2008

WATER RIGHTS PROGRAM

USDA Farm Service Agency (FSA) Program documents only. There is no warranty or representation to the user as to the accuracy, currency, suitability or reliability of the data. FSA MAPS DO NOT REPRESENT A LEGAL SURVEY. The user accepts the data as is and assumes all risks associated with its use. Wetland points reflect records available with NRCS and may or may not constitute a full inventory of the property. 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. Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.



USDA - Farm Service Agency

Buffalo County, SD
28-106N-70W

May 15, 2008

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MAY 23 2008

WATER RIGHTS PROGRAM

Legend 1:0

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

Wetland Determination Identifiers

- Restricted Use
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HUTMACHER DRILLING, INC.

**PO Box 294
Chamberlain, SD 57325
(605)734-6631**

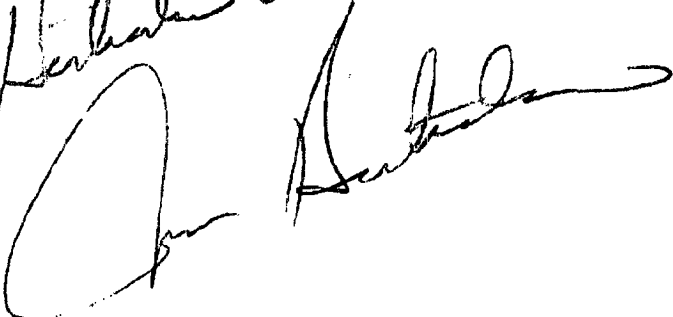
RECEIVED**MAY 23 2008****WATER RIGHTS
PROGRAM**

May 15, 2008

John Daly Test Hole

Test Hole #2
NE1/4, Sec 29, 160N, 70W
South Side of Road

0 - 16	Clay
16 - 41	Gravel, some big rocks 29' & 39' - 41'
41 - 55	Shale
55'	Total Depth

Herb's Drilling Inc #213


RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/27, 20 08

RECEIVED OF Daly Farm Partnership 34662 236th ST Pukwana SD 57370

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

Fee for Application for Permit No. <u>7039-3</u> to Appropriate Water, to construct and to put water to beneficial use	350	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>7039-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	400 00

No.

03668

By

[Signature]

Chief Engineer

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/9, 20 08

RECEIVED OF Daly Farm Partnership 34662 236th St Pukwana SD 57370

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

Fee for Application for Permit No. <u>7039-3</u> to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
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	50 00

No.

03677

By

Robert E. White
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 27, 2008

John Daly
34662 236th St
Pukwana SD 57370

Dear Mr. Daly:

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

- On the application, Item No. 2 states the total acreage to be irrigated as 400 acres. The total of acres listed in Item No. 7 is 520 acres. Which is correct? Please make the necessary correction. If the total acreage to be irrigated is 520 acres, an additional \$50 application fee will be required.
- Enclosed are the aerial photo maps submitted with the application. Please outline the acres to be irrigated in each section. The outlined acreage need to be the same as that listed in Item No. 7.

If you have any questions, please contact me.

Sincerely,

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

June 2, 2008

John Daly
34662 236th St
Pukwana SD 57370

Dear Mr. Daly:

We have received the completed aerial photo maps for your *Application for a Permit to Appropriate Water* for irrigation.

- As stated in my letter date May 27, 2008, an additional \$50 application fee will be required based on the total acreage of 520 acres.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 30, 2008

Lester Thompson Jr, Chairman
Crow Creek Sioux Tribe
PO Box 50
Ft. Thompson SD 57339-0050

Dear Chairman:

Please find attached the report, recommendation and public notice for a water right permit application filed by John Daly. The report indicates that land to be authorized for irrigation by Application No. 7039-3 is within the boundary of the Crow Creek Indian Reservation.

This information is being sent to keep the tribe informed of water permitting in the area.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7039-3, John Daly**

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. 7039-3, John Daly, 34662 235th Street, Pukwana SD 57370.

The Chief Engineer is recommending APPROVAL of Application No. 7039-3 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. 7039-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
July 30, 2008

NOTE: The Water Rights Program encourages you to test the quality of the water to determine suitability for irrigation on this land. Commonly, the producer can have a soil/water compatibility analysis conducted by the Water Resources Institute as SDSU in Brookings or by a soil scientist. A water sample and the proposed soil type is necessary to determine compatibility and provide advice on management plans to protect the soil structure and optimize crop yields.

REPORT ON WATER PERMIT APPLICATION NO. 7039-3

For John Daley

July 23, 2008

Application No. 7039-3 proposes to appropriate 4.00 cfs (1,795 gpm) from two wells approximately 41 feet deep located in the NW ¼ NE¼ of section 28 to irrigate 520 acres located in the S ½ of section 17, N ½ of section 20 and the SW ¼ of section 16; all in T106N R70W in Buffalo County and located within the boundaries of the Crow Creek Indian Reservation.

AQUIFER – CROW CREEK (CC)

The Crow Creek aquifer is a predominantly surficial outwash (sand and gravel) but can be buried under water table conditions or buried and under artesian conditions. The aquifer appears to be under water table conditions at this site. Water level data is not sufficient to determine the characteristics at the site however a nearby observation well responds more like a water table situation than an artesian site. The aquifer underlies 70 square miles and contains an estimated 270,000 acre feet of water in storage in Jerauld County (Hamilton, 1985). The aquifer extends into Brule and into Buffalo Counties to the west. There are no good estimates for the portion of the aquifer in Brule and Buffalo Counties. The direction of ground water movement is presumed to be from east to west in the area of this application. An aquifer test conducted in Buffalo County for Water Right No. 1684-3 (located about one-half mile southeast of this application) by the USGS (see letter and report from Lewis Howells, dated May 21, 1970 included in Water Right File for No. 1684-3) indicates a transmissivity value of 140,000 gpd/ft and a storage value between 0.02 and 0.08 (water table conditions). Howells also concluded domestic wells in the area would probably not be affected adversely and that pumping of 20 to 25 days over an irrigation season would not deplete the aquifer. He also estimated the size of the aquifer to be about 10,000 acre-feet in Buffalo County. He also concluded that additional high capacity wells probably could not be supported in this area. This statement only makes sense because apparently he was worried that extended pumping from the aquifer would draw water levels down in the production well to such an extent that pumping could not continue at that rate. In other words continuous pumping could not be sustained basically because of a lack of saturated thickness. Howells stated in the report the test should have run longer to get “less ambiguous results”.

The applicant has drilled a test hole in this area. The test well indicates gravel from 16 to 41 feet below land surface. No report for water levels or pumping information is provided with this log. This test does indicate a good possibility of developing irrigation water in this area. Two major concerns would be the water quality (determining if the soil and water are compatible) and the relatively thin nature of the aquifer. This lack of saturated thickness coupled with the volume of ground water requested (because of the potential irrigated acreage) may make it difficult to irrigate all the requested acres the same year. However, that is a management decision for the applicant.

The Water Rights Program does monitor an observation well BF-78C located about five miles to the southeast of this application. Water levels for this well show good response to climatic conditions. Water levels rise during wet years (recharge) and gradually decline during dry years. In general, the water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2008). A hydrograph for this observation well is included with this report.

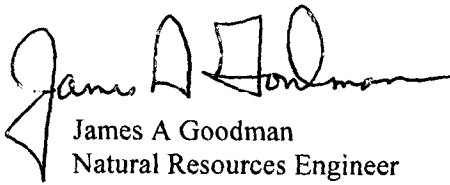
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There is an existing Water Right No. 1684-3 located in the same section as the wells for this application. The proposed wells will be about one-half mile northwest of the existing irrigation well for Water Permit No. 1684-3. Interference should not be a concern. Drawdown at this distance is not expected to be significant. The applicant does not indicate a distance between the two proposed wells. The applicant

should carefully test a production well at the proposed site to determine an optimum spacing between these wells to minimize potential interference. The applicant also holds Water Right No. 1684-3 which is the only other Water Right for a ground water source from the Crow Creek aquifer in this area. There are domestic wells in this area and approval of Water Right No. 1684-3 was controversial in 1969. That controversy has not remained since development of the original water right.

CONCLUSIONS

1. Water is available from the Crow Creek aquifer.
2. The aquifer appears to be under water table conditions in this area. The hydrograph of observation well BF-78C shows this behavior very well. Drawdown is not expected to be significant. Interference with the existing permit should not be a concern. This is based upon the results of the aquifer test and the observation well records.
3. The wells authorized by this application must be constructed in accordance with SD Well Construction Standards.
4. Although not required the general water quality of this aquifer should be carefully tested to determine suitability for irrigation on these specific project lands.
5. The applicant should be aware that the aquifer does not appear to be as thick at this site as the existing production well. Two wells at this site may not produce the amount of water requested. The applicant needs to also be aware that the distance these proposed wells are apart can also affect the potential well yield. This is a management decision for the applicant and his well driller. Right now both wells will be placed in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and could be as far as 1,320 feet apart or as close as side by side.
6. Approval of Water Permit Application No. 1684-3 proved to be controversial in 1969. The two major issues were jurisdictional (tribal and state control of water) and potential for effects on area domestic wells. The adverse effects did not materialize and the system has been in use for many with no apparent problems.



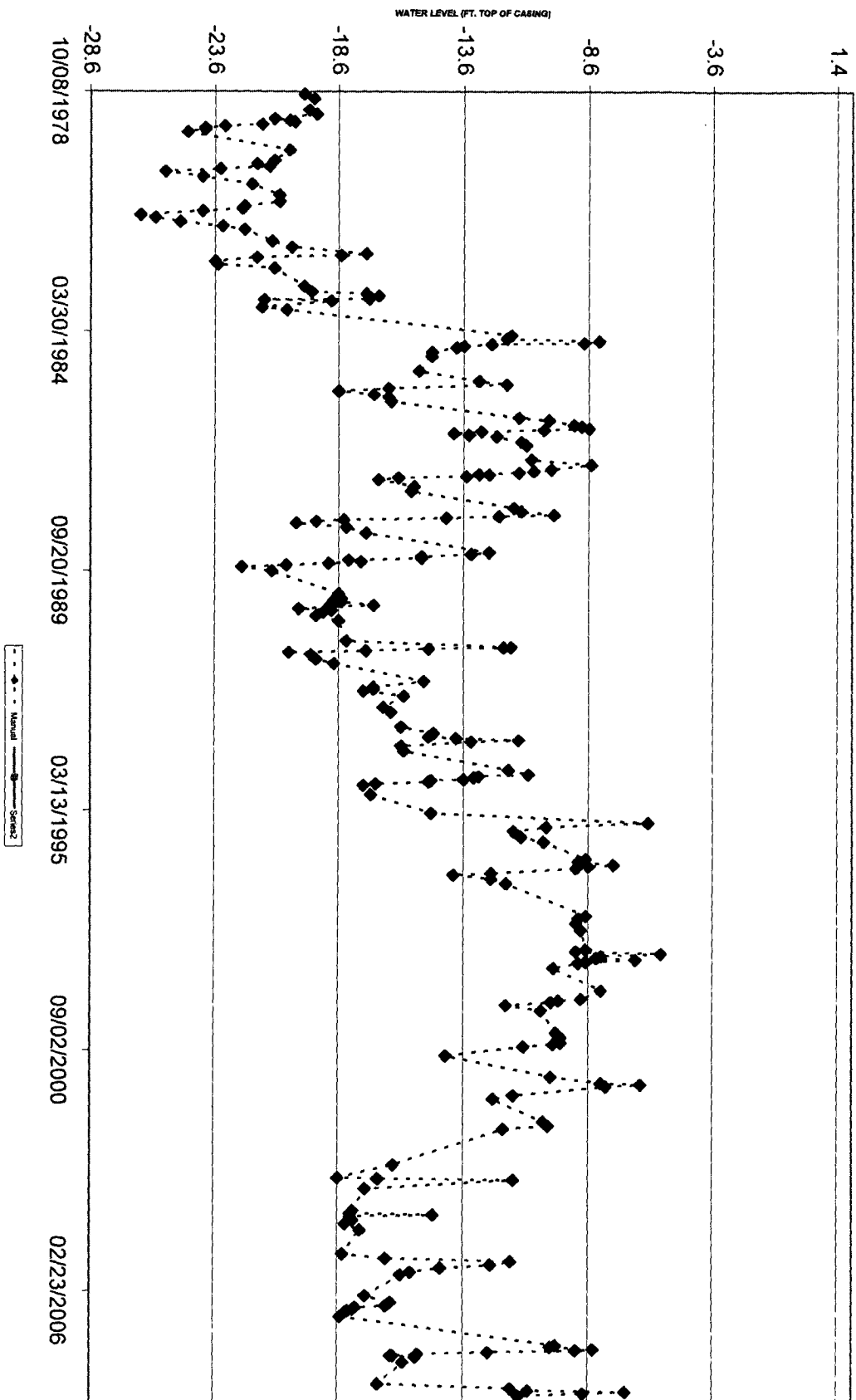
James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

Hamilton, L.J., 1985, Water Resources of Aurora and Jerauld Counties, South Dakota, Water-Resources Investigations Report 84-4030, USGS, Huron, SD, 57350.

Water Rights, 2008, Unpublished Observation Well Data for the Crow Creek Aquifer, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

**WATER RIGHTS' OBSERVATION WELL
BF-78C**



AFFIDAVIT OF PUBLICATION

State of South Dakota

SS

County of Brule

RECEIVED

AUG 15 2008

WATER RIGHTS
PROGRAM

Debi Ruiz of said county, being, first duly sworn, on oath, says: That she is the publisher of *Central Dakota Times*, a weekly newspaper, published in the City of Chamberlain, in said County of Brule, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Brule and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the Notice of Application

No. 7039-3 To Appropriate
Water

a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for

two successive week(s) to wit:

Aug. 6, 2008; Aug. 13, 2008
_____, 20____; _____, 20____;
_____, 20____; _____, 20____;

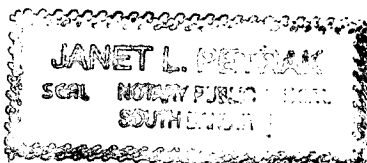
That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

\$38.17

Signed: Debi Ruiz

Subscribed and sworn to before me this 14th day
of August, 2008

Janet L. Petraitis
Notary Public in and for the County of Brule,
South Dakota



NOTICE OF APPLICATION NO. 7039-3 TO APPROPRIATE WATER

Notice is given that John Daly, 34662 236th Street, Pukwana, SD 57370, has filed an application for a water permit to appropriate 4.0 cubic feet of water per second from two wells to be completed into the Crow Creek Aquifer (approximately 41 feet deep) located in NW 1/4 NE 1/4 Section 28 to irrigate 520 acres located in the S 1/2 Section 17, N 1/2 Section 20 and SW 1/4 Section 16; all in the T106N-R70W located within the boundaries of the Crow Creek Indian Reservation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7039-3 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 this 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 this application. Notice of 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 East 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 Aug. 25, 2008.

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

(August 6/August 13)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 30, 2008

Central Dakota Times
PO Box 125
Chamberlain SD 57325

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7039-3 to Appropriate Water to be published twice. Please publish the first notice on August 6, 2008 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 John Daly, 34662 236th St, Pukwana SD 57370 (Ph # 605-894-4192).

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. 7039-3

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

Date _____

We are in receipt of your letter of July 30, 2008 enclosing Notice to Appropriate Water by Application No. 7039-3 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.

July 30, 2008

John Daly
34662 236th St
Pukwana SD 57370

Dear Mr. Daly:

Water Permit Application No. 7039-3 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 Central Dakota Times printed at Chamberlain SD (Ph # 605-234-0266). 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 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 August 6, 2008 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 7039-3 to Appropriate Water

Notice is given that John Daly, 34662 236th St, Pukwana SD 57370 has filed an application for a water permit to appropriate 4.0 cubic feet of water per second from two wells to be completed into the Crow Creek Aquifer (approximately 41 feet deep) located in NW ¼ NE ¼ Section 28 to irrigate 520 acres located in the S ½ Section 17, N ½ Section 20 and SW ¼ Section 16; all in T106N-R70W located within the boundaries of the Crow Creek Indian reservation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7039-3 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 this 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 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 recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 25, 2008.

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

SEP 17 2005

John Daly
34662 236th St
Pukwana SD 57370

Dear Mr. Daly:

Enclosed is Water Permit No. 7039-3 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

TO: DENR, water Rights

I am requesting an adjustment to my water Permit Due to the fact that we were unable to get adequate water in that area. I would like to change the point of diversion from $N\frac{1}{2} NE\frac{1}{4} S. 28 106-70$ to $S\frac{1}{2} NE\frac{1}{4} S. 28 106-70$.

The enclosed map will show the change. I will also utilize the existing well so I would need only 1 well instead of 2 on the original application.

Email: John 24688@hotmail.com

Thank you for
your Consideration,

Cell 680-1354 John Daly

Approval of a Change of Diversion Point

NAME: John Daly

ADDRESS: 34662 236th Street, Pukwana SD 57370

DATE: July 7, 2011 **COUNTY:** Buffalo **TELEPHONE:**

BACKGROUND:

Water Permit No. 7039-3 approved August 25, 2008 appropriates 4.0 cubic feet of water per second from two wells to be completed into the Crow creek Aquifer (approximately 41 feet deep) located in the NW ¼ NE ¼ Section 28, to irrigate 520 acres located in the S ½ Section 17, N ½ Section 20 and SW ¼ Section 16, all in T106N, R70W. This land is within the boundaries of the Crow Creek reservation. In a phone conversation with me, Mr. Daly represented that he was not a tribal member and the land is not in tribal trust.

Mr. Daly submitted a letter requesting a change of well locations since he was unable to get adequate water at the intended location. He now requests to drill one new well approximate 2,200 feet to the south and utilize the existing well authorized by Water Right No. 1684-3. The attached map generated using ArcMap and the 2010 FSA aerial photo shows the location of the original location and newly requested locations. Also attached is a map of the approximate location of all other permitted wells from the Crow Creek Aquifer along with a table of those water rights.

AUTHORITY:

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

- **Developed water source same as permitted source and no additional water appropriated**

The water source authorized by Water Permit No. 7039-3 is the Crow Creek Aquifer. There is not a change in the water source. The existing permitted well is approximately 600 feet to the east of the new well site and is completed into the Crow Creek Aquifer at a depth of 53 feet.

No additional appropriation of water is requested or authorized by this action.

- **Review of Existing Diversions**

The report prepared by Jim Goodman in July of 2008. This is the most recent application processed from the Crow Creek Aquifer. The report concluded that drawdown is not expected to be significant. The report also concluded that the aquifer does not appear to be thick at this site. Therefore, the wells may not produce the amount of water requested. It went on to say that the applicant needs to be aware of the distance of the proposed wells apart which can affect the yield. This comment is still relevant since the new well location is about 600 feet west of the existing well for Water Right No. 1684-3. This water right is in the name of Paul Daly and John Daly is the operator. The operation of the wells in close proximity to one another is a management decision when operated by the same producer.

There are a total of 23 water permits/rights appropriating water from Crow Creek Aquifer. The nearest is Water Right No. 1684-3 located 600 feet east of the new well location. In fact the request also is to use this existing well as the second well. However, this system is operated by Mr. Daly. The next closest water right is approximately 5 miles to the southeast which is held by Thompson Hereford Ranch. There are three other water rights about 2 miles farther to the east. Then majority of water rights from this aquifer are concentrated over twelve miles to the northeast of Water Permit No. 7039-3. Generally water movement in the aquifer is from east to west and southwest towards the Missouri River. Interference by a change of diversion point location at this distance is not a concern except for the water right also operated by Mr. Daly.

There are a total of eight well completion reports for domestic wells within the neighboring sections. Five of these domestic wells appear to be completed into the Crow Creek Aquifer.

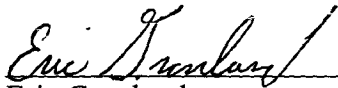
Finally, from a regulatory standpoint there is a concern if the land held under Water Right No. 1684-3 and Water Permit No. 7039-3 is sold to separate owners. There is the potential for interference because of the proximity of the two wells to one another. While this is manageable if held by the same producer it is a concern when under separate ownership. Water Right No. 1684-3 has the senior priority. Therefore, the owner of Water Permit No. 7039-3 would need to control withdrawal, if necessary, so there is not a reduction of needed water to satisfy Water Right No. 1684-3. From a practical standpoint, these two wells will be used in conjunction with each other to irrigate lands under Water Right No. 1684-3 and Permit No. 7039-3. It is not anticipated that production in this area will be sufficient to irrigate all the land at the same time.

CONCLUSION

- The change in the well location does not appropriate additional water.
- The well is to be completed into the Crow Creek Aquifer.
- Interference is not expected to be a concern for water rights held by others.
- Existing domestic wells should not be adversely impacted by authorizing this change.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the change of diversion point be authorized under Water Permit No. 7039-3.



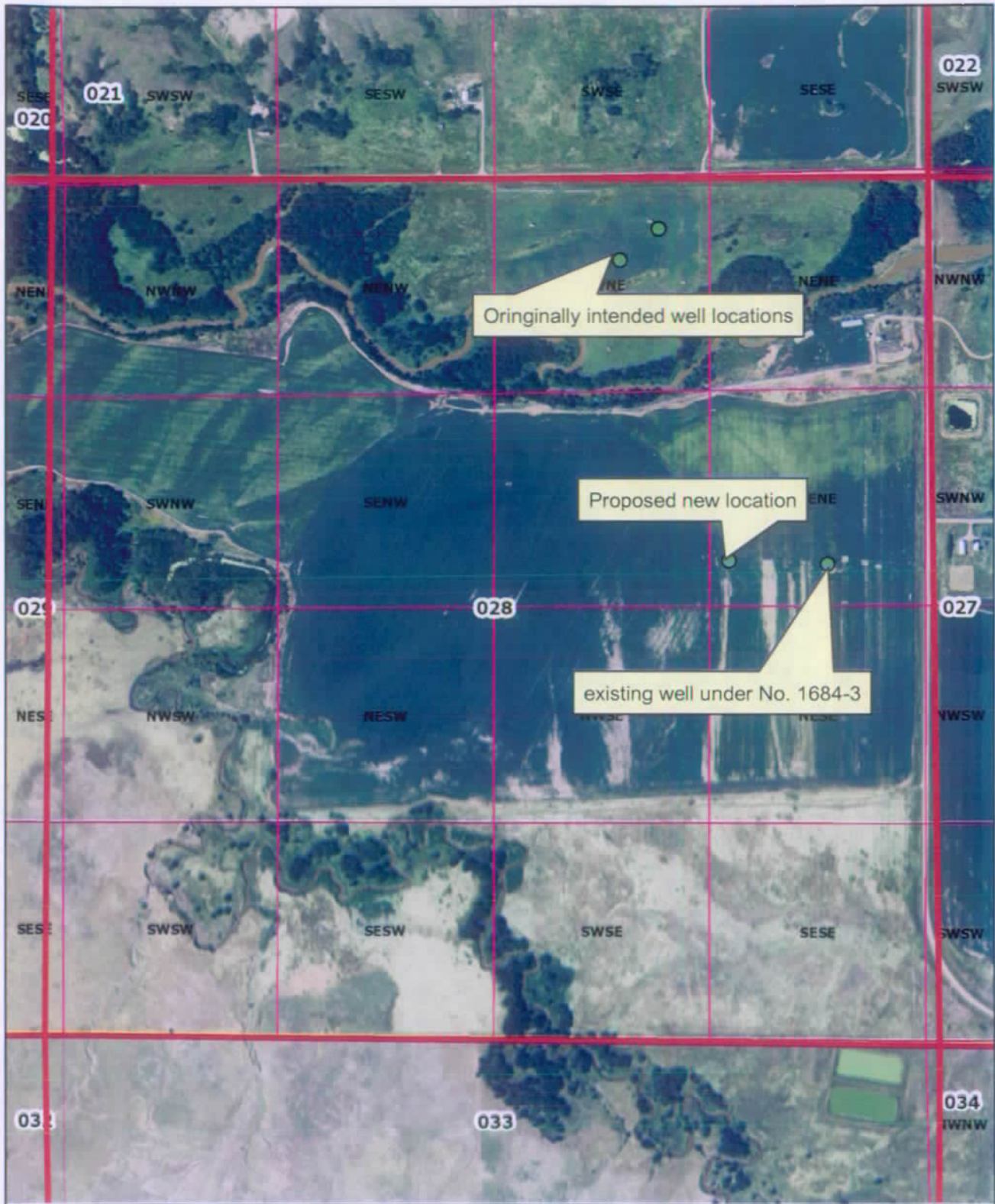
Eric Gronlund
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change of diversion point does not increase the potential for adverse effects to existing diversions.



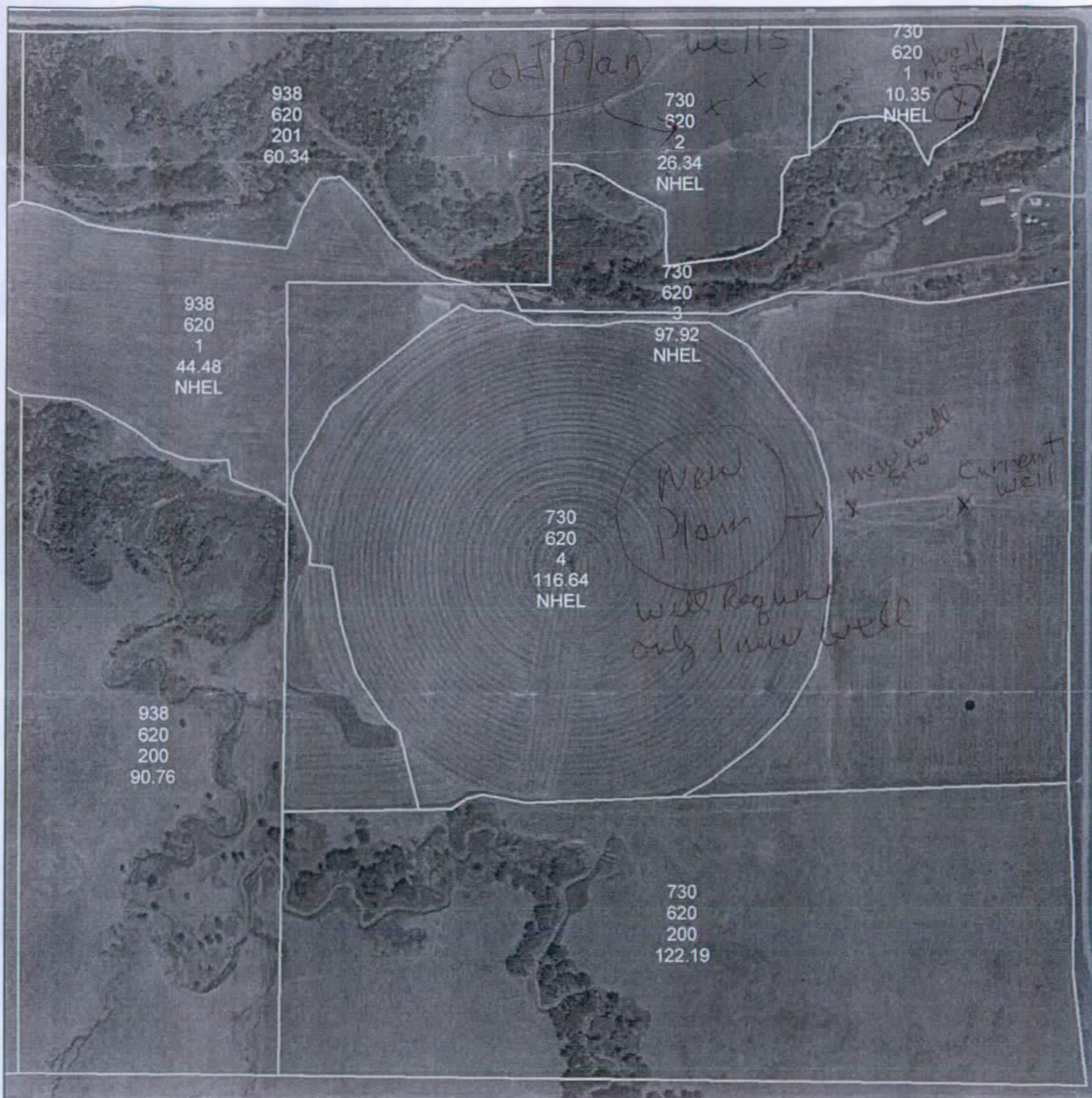
Garland Erbele, Chief Engineer
Water Rights Program



0 310 620 1,240 1,860 2,480 Feet



Section 28, T106N, R70W



USDA - Farm Service Agency

FARM SERVICE AGENCY
200 S. Park Ave., Suite #110
Chamberlain, SD 57526-1021

Buffalo County, SD
28-106N-70W

May 15, 2008

RECEIVED

JUL - 5 2011

WATER RIGHTS PROGRAM

Legend 1:0

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

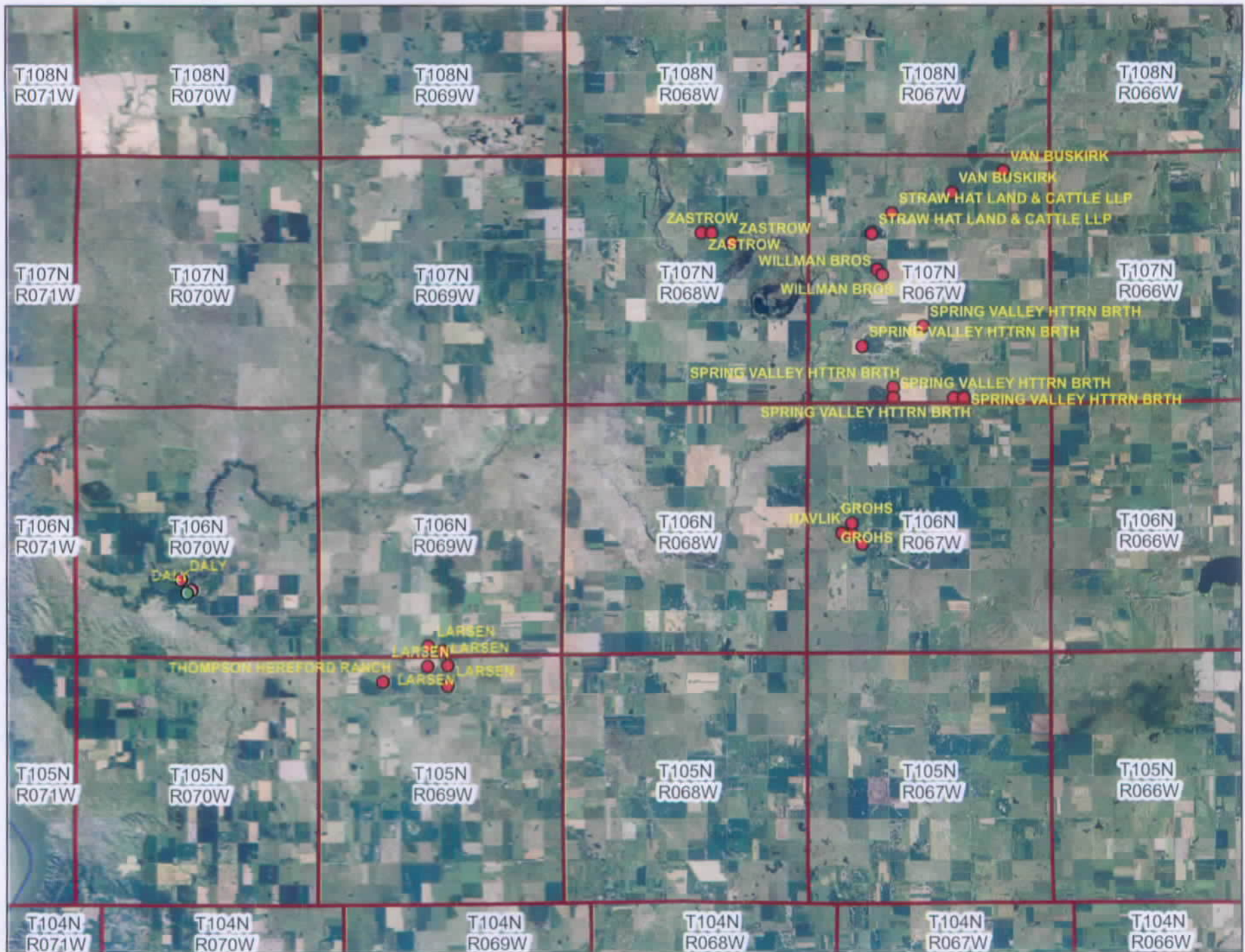
Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions

USDA FSA maps are for FSA Program administration only. There is no guarantee or representation to the user as to the accuracy, currency, suitability or reliability of the data. FSA MAPS DO NOT REPRESENT A LEGAL SURVEY. The user accepts the data 'as is' and assumes all risks associated with its use. Wetland points reflect records available with NRCS and may or may not constitute a full inventory of the property. 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.

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 attached maps) for exact wetland boundaries and determinations, or contact NRCS.

Approximate Location Wells Authorized by Water Rights/Permits from the Crow Creek Aquifer



Water Permits/Rights from Crow Creek Aquifer

PERMIT	LAST NAME	COUNTY	PRIORDATE	STATUS	USE	CFS	ACRES
1684-3	DALY	BF	06/06/1969	LC	IRR	1.9	178
2751A-3	ZASTROW	BF	04/29/1976	LC	IRR	1.66	132
4975A-3	ZASTROW	BF	07/27/1983	LC	IRR	1.22	130
5708-3	ZASTROW	BF	07/02/1992	LC	IRR	2.44	205
7022-3	LARSEN	BF	04/16/2008	PE	IRR	1.94	135
7023-3	LARSEN	BF	04/16/2008	PE	IRR	1.94	135
7039-3	DALY	BF	05/23/2008	PE	IRR	4	520
6800-3	THOMPSON HEREFORD RANCH	BL	02/01/2007	PE	IRR	2.67	270
7020-3	LARSEN	BL	04/16/2008	PE	IRR	3.89	270
7021-3	LARSEN	BL	04/16/2008	PE	IRR	1.94	135
2721-3	SPRING VALLEY HTRN BRTH	JE	04/29/1976	LC	IRR	1.55	132
3395-3	STRAW HAT LAND & CATTLE LLP	JE	12/09/1976	LC	IRR	1.56	109
3540-3	SPRING VALLEY HTRN BRTH	JE	12/14/1976	LC	IRR	1.66	402
3996-3	WILLMAN BROS	JE	12/27/1976	LC	IRR	1.78	119
3783-3	HOARTY	JE	03/08/1977	LC	IRR	1.55	122
4660-3	GROHS	JE	03/05/1981	PE	IRR	4	280
4986-3	SPRING VALLEY HTRN BRTH	JE	10/07/1983	LC	IRR	3.55	266
5603-3	GROHS	JE	12/05/1991	PE	IRR	0	456
6748-3	HAVLIK	JE	08/08/2006	PE	DOM	0.17	0
6845-3	GROHS	JE	11/16/2006	PE	IRR	1	264
6827-3	VAN BUSKIRK	JE	02/28/2007	PE	IRR	3.56	260
6880-3	PHEASANT CREST LODGE INC	JE	10/22/2007	PE	IRR	4	280
6991-3	STRAW HAT LAND & CATTLE LLP	JE	03/03/2008	PE	IRR	0.33	105
TOTAL *						48.31	4905

* In those cases of permits, the quantities reflect the permitted amount but not necessarily the level of development

7039-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 12, 2011

John Daly
34662 236th Street
Pukwana SD 57370

Dear Mr. Daly:

You filed a request to change in the well locations authorized by Water Permit No. 7039-3.

Water Permit No. 7039-appropriates 4.0 cubic feet of water per second from two wells to be completed into the Crow creek Aquifer (approximately 41 feet deep) located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, to irrigate 520 acres located in the S $\frac{1}{2}$ Section 17, N $\frac{1}{2}$ Section 20 and SW $\frac{1}{4}$ Section 16, all in T106N, R70W.

Upon review of the request and pursuant to SDCL 46-5-13.1, the change in the location of the wells is authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. No increase in the authorized diversion rate of 4.0 cfs from the two wells is authorized. If the total diversion rate increases, a new water right permit will need to be obtained.

The Water Rights Program does recognize the proximity of the well to the existing well authorized by Water Right No. 1684-3. Since you operate both these systems it becomes a management decision on operating the wells if interference becomes an issue. However, in the future if the lands under these water rights are sold into different ownership and adverse interference occurs, the junior Water Permit No. 7039-3 shall control withdrawal, if necessary, so there is not a reduction of needed water to satisfy Water Right No. 1684-3.

If you have any questions, please contact Jim Goodman or Eric Gronlund at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

John Daly
34662 236th St
Pukwana SD 57370

June 1, 2015

Dear Mr. Daly:

This letter is in regards to our recent telephone conversation concerning the results of my May 18, 2015 water permit inspection.

As I explained during the call, your irrigation system covered by Water Right No. 1684-3 and Water Permit Nos. 7039-3 and 7039A-3, combined, authorize the irrigation of 698 acres with an authorized diversion rate of 6.0 cfs (2693 gpm). Based upon what you have developed, there are 615 acres irrigated; 125 acres under No. 1684-3 and 490 acres under Nos. 7039-3 and 7039A-3. You have a total developed combined pump capacity from the two wells of 7.58 cfs (3400 gpm). As we discussed over the telephone you will need to file a new permit application to pick up the additional diversion authority of 1.58 cfs (707 gpm) to bring your water permits into compliance.

We discussed the possibility of applying for additional irrigated acres with the same application you are applying for the increased diversion authority. If the new irrigation is going to be part of the existing system and supplied from current two wells, then the increased acres can be included in the same application as the request for additional diversion authority. However, if the new irrigation will have a different source of water from the current system, then this will be a new project and will take a separate application. I'm enclosing a map showing what is currently developed, water permit application forms and an instruction sheet. Please complete application and submit it along with the appropriate fee. The application filing fee for just additional diversion rate authority is \$500. If additional acres are requested, the fee will be based on the number of acres (see instruction sheet)

Also, Water Right No. 1684-3 is still listed under Paul Daly. I am including a partially completed transfer form. Please complete and submit it with a \$50 transfer fee.

If you have any questions, please contact Eric Gronlund or myself at phone (605) 773-3352.

Sincerely,

Mark D. Rath
Natural Resources Engineer

enclosures

Water Rights Program - DENR

Conversation or File Documentation

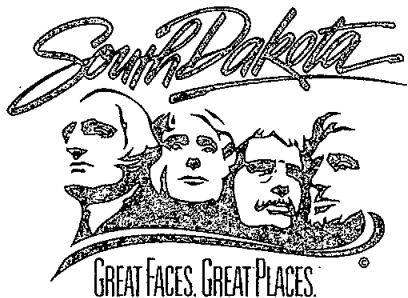
Name of Person: John Daly **File No.** 1684-3, (7039-3) and 7039A-3
Address: 34662 236th St, Pukwana SD 57370 **County:** Buffalo
Date: Oct 16, 2015 **Telephone:** 650-680-1354; cell
RE: Status of 1684-3, 7039-3 and 7039A-3

Comments: On May 18, 2015 I made an inspection of water permit Nos 7039-3 and 7039A-3 for John Daly. At that time he was considering adding an additional well and another center pivot. I sent him the application forms and a transfer form for No. 1684-3.

On October 16, 2015, Mr. Daly called me and said he decided he was not going to expand his irrigation system. He said will send in the transfer form for 1684-3. I told him, when that occurs, I will finish up my inspection report and will incorporate Nos. 1684-3, 7039-3 and 7039A-3 into a single license since all three utilize the same water source.



Mark D Rath
Natural Resources Engineer III



7039-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

APR 12 2016

8191-3

John Daly
34662 236th St
Pukwana SD 57370

Dear Mr. Daly:

Enclosed are Water Permit and Water License No. 8191-3. The water license is the final document completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the 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. 8191-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

Note: The applicable portions of Nos. 1684-3, 7039-3 and 7039A-3 are incorporated into Water License No. 8191-3.