

WATER PERMIT NO. 7056-3

Name of Applicant: **Roger L Baumfalk**

Address: **40429 311th St, Avon SD 57315**

Phone: **605 286-3596**

Amount of Water Claimed: **1.33 cfs**

Total Acres: **141**

Source of Water Supply: **Choteau Creek**

Water to be used for: **irrigation**

County: **Bon Homme**

Type of Waste Disposal System:

Location: **9 miles west of Springfield**

PRIORITY

Date Received: **8-14-08**

Application/License Fee: **\$300**

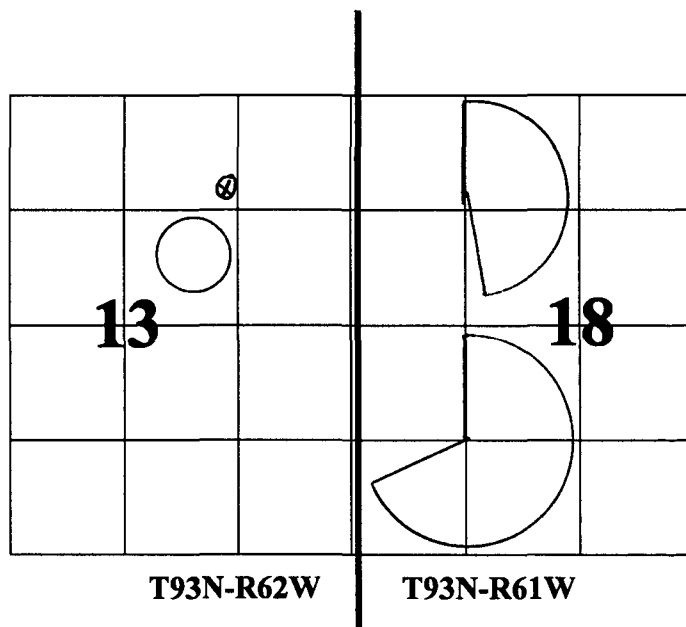
Corrected Application Received:

Period of Annual Use: **April 1 – October 30**

Remarks:

Diversion Point: **NW ¼ NE ¼ Sec 18-T93N-R62W**

Land to be Irrigated: **E ½ NW ¼, E ½ SW ¼, SW ¼ SW ¼ Sec 18; T93N-R61W and SW ¼ NE ¼ Sec 13-T93N-R62W**



Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Paul F Rolston, Bon Homme FSA**

Reviewed and the Number Assigned on: **8-14-08**

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	(office use only)	
	No. <u>7056-3</u>	Hydrologic Unit <u>10170/01</u>
	Basin <u>Missouri River</u>	
	Newspaper <u>Tyndall Tribune & Register P.O. Box 520</u> <u>605-589-3242</u> <u>Tyndall 57066</u>	

RECEIVED
AUG 14 2008
WATER RIGHTS PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: X New Vested Right Amendment/Correction to Permit No.

(Use predates Mar 2, 1955)

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

- Name of Applicant Roger L Baumfalk Phone 605-286-3596
(check one) X Owner Tenant/lessee
- Mailing Address 40429 311th St Avon State SD 57315
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.33 CFS or 400-600 **GPM ***AF Total Acreage 141
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Choteau Creek
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 1150' East of P.O. Box 520
1480' West of NE Corner of 13-93-62
(NW1/4 NE1/4) County Bon Homme
- County or counties where water will be used Bon Homme
- Annual period during which water is to be used April thru June 30
- 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
NE 1/4 of NW 1/4 18-93-61	25.2	SW 1/4 of SW 1/4 18-93-61	20.8
SE 1/4 of NW 1/4 18-93-61	20.4	SW 1/4 of NE 1/4 13-93-62	15.9
NE 1/4 of SW 1/4 18-93-61	27.2		
SE 1/4 of SW 1/4 18-93-61	31.4		

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

To irrigate 141.1 Acres with 3 center pivots. Will only operate one pivot at a time. Water will be used for row crops.

STATE OF SOUTH DAKOTA SS
County of Bon Homme

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, Roger L Baumfalk, 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 Roger L Baumfalk

Subscribed and sworn to before me this 13th day of August 20 08

E. R. Baum

Notary Public signature

My Commission Expires 10-15-2010

**SOUTH DAKOTA
WATER PERMIT NO. 7056-3**

Date of first receipt of application August 14, 2008.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7056-3 to Roger L Baumfalk, 40429 311th St, Avon SD 57315 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. 7056-3 appropriates 1.33 cubic feet of water per second from Choteau Creek located in NW ¼ NE ¼ Section 13-T93N-R62W to irrigate 141 acres located in the E ½ NW ¼, E ½ SW ¼, SW ¼ SW ¼ Section 18-T93N-R61W and SW ¼ NE ¼ Section 13-T93N-R62W.
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 – June 30.
3. The date from which applicant may claim right is August 14, 2008.
4. The date of approval of Permit No. 7056-3 is November 17, 2008.
5. One-fifth of the construction is to be completed on or before May 17, 2011.
6. All construction is to be completed on or before November 17, 2013.
7. Water is to be put to beneficial use on or before November 17, 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. Water may be diverted from Choteau Creek only during flow events that are obviously sufficient to meet the downstream domestic uses, including livestock water and prior water rights. At no time may the entire creek flow be diverted. Pumping is allowed each year from April 1 – June 30 unless the Chief Engineer is contacted and grants written authorization to pump past June 30.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

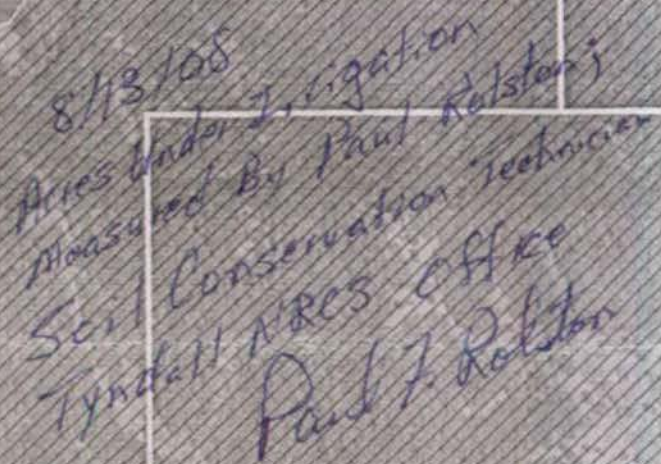
By: Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 27 2009

date



2008

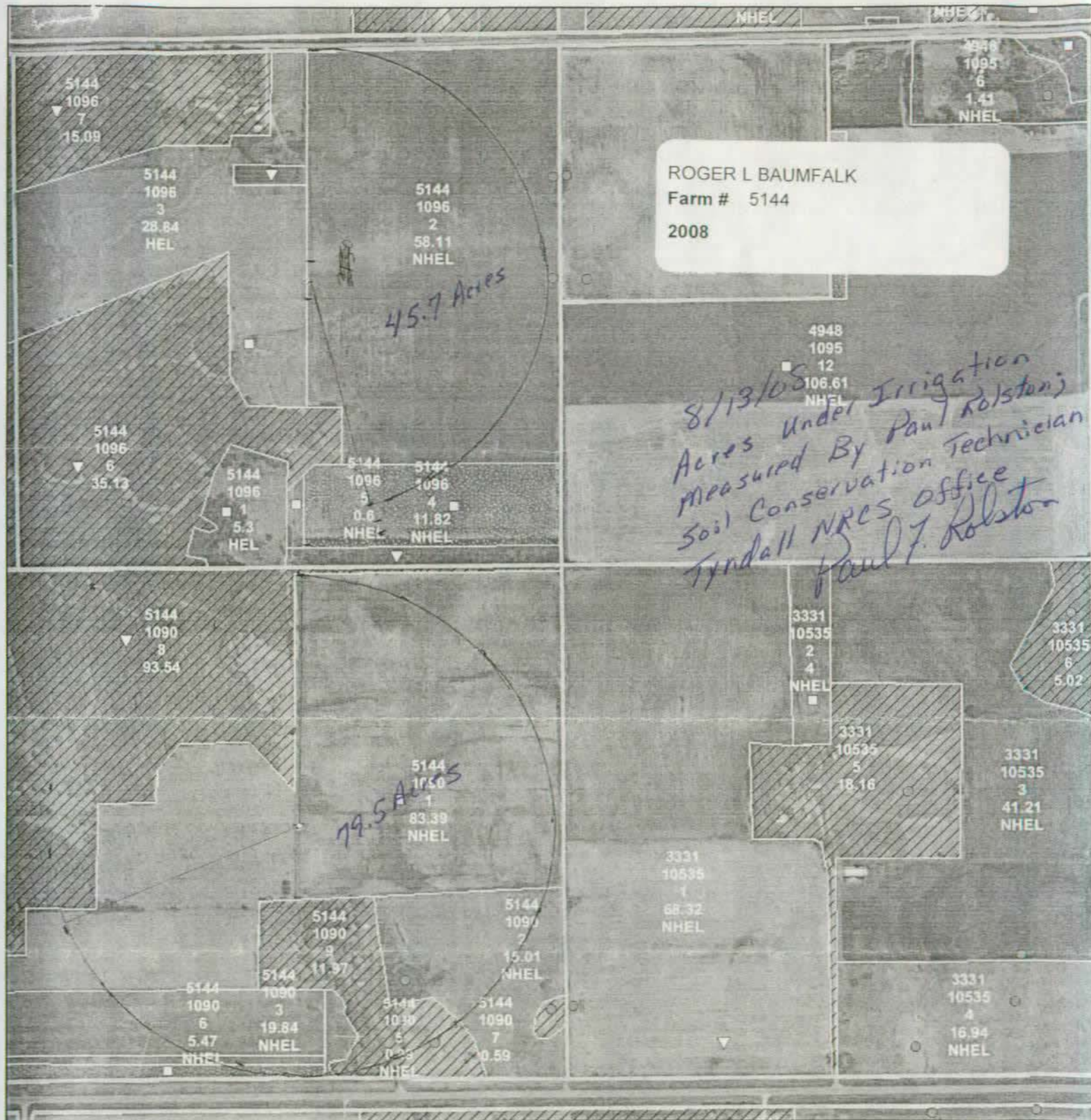


March 19, 2008

- ☒ 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 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



Bon Homme, SD

18-93N-61W

1:7,675

March 19, 2008

Legend

- 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. 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.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8-14, 2008

RECEIVED OF Roger L Baumfalk, 40429 211th St, Avon SD 57315

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

Fee for Application for Permit No. <u>70563</u> to Appropriate Water, to construct and to put water to beneficial use	250	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>7056-3</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	300.00

No.

13719

By

Garland Erbeley

Chief Engineer

155



**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. 7056-3, Roger Baumfalk**

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. 7056-3, Roger Baumfalk, 40429 311th Street, Avon SD 57315.

The Chief Engineer is recommending APPROVAL of Application No. 7056-3 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. Water may be diverted from Choteau Creek only during flow events that are obviously sufficient to meet the downstream domestic uses, including livestock water and prior water rights. At no time may the entire creek flow be diverted. Pumping is allowed each year from April 1 – June 30 unless the Chief Engineer is contacted and grants written authorization to pump past June 30.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
October 22, 2008

NOTE: I encourage you to review the staff report carefully. Choteau Creek can not be considered a reliable source of water during dry climatic conditions. There was an active USGS gaging station on the creek from 1983 through 2003. This flow information shows the variability of flow and that low flows occur especially during July through October of the irrigation season. Therefore, this recommendation includes limiting pumping from April 1 – June 30.

WATER PERMIT APPLICATION NO. 7056-3

Roger L. Baumfalk

40429 311th Street

Avon, SD 57315

September 25, 2008

Water Permit Application No. 7056-3, Roger L. Baumfalk, proposes to appropriate 1.33 cubic feet per second (cfs) of water from Choteau Creek located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 13-T93N-R62W to irrigate 141 acres located in the E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18-T93N-R61W and SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 13-T93N-R62W.

The requested period of annual use is from April 1 to October 30.

Review of the Project and Existing Water Rights

The applicant proposes to divert water from Choteau Creek to three center pivots to irrigate 125.1 acres in Section 18-T93N-R61W and 15.9 acres in Section 13-T93N-R62W. The applicant states only one pivot will operate at a time.

Currently, there are two existing water rights/permits downstream of the proposed project authorized to divert 2.44 cfs of water from Choteau Creek.

Water Permit No. 2648-3 is authorized to divert 1.0 cfs of water from the creek between two points in the NE $\frac{1}{4}$ and SW $\frac{1}{4}$ of Section 13-T93N-R62W. On the map which was included with Water Permit Application No. 2648-3, the diversion point in the NE $\frac{1}{4}$ is approximately 500 feet downstream from the diversion point as shown on the map which was submitted with Water Permit Application No. 7056-3. The diversion point in the SW $\frac{1}{4}$ is approximately 1.2 miles downstream from this proposed diversion point. Also, the Annual Irrigation Questionnaire Reports dating back to 1983 indicate that Water Permit No. 2648-3 has not been irrigating for a variety of reasons.

Water Right No. 3004-3 is authorized to divert 1.44 cfs of water from the creek between two points in the SE $\frac{1}{4}$ of Section 14-T93N-R62W and SE $\frac{1}{4}$ Section 22-T93N-R63W. The diversion point in the SE $\frac{1}{4}$ Section 14 is located approximately 1.7 miles downstream of this proposed diversion and the diversion point located in the SE $\frac{1}{4}$ Section 22 is approximately 2.8 miles downstream of the proposed project. The Annual Irrigation Questionnaire Reports for Water Right No. 3004-3 indicate that since 1983, the water right holder has irrigated in all but four years.

Review of the Water Source

The proposed water source is Choteau Creek in Bon Homme County. Choteau Creek has a drainage area of 602 square miles in Davison, Aurora, Douglas, Charles Mix and Bon Homme Counties. The headwaters for Choteau Creek are near Corsica, SD in Douglas County. The creek flows south into the Missouri River in Bon Homme County near Perkins, SD.

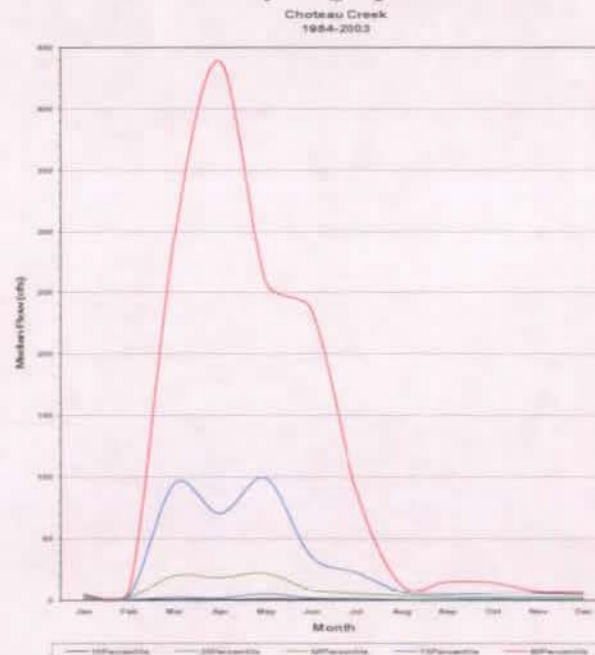
Currently, the United States Geological Survey (USGS) does not have an active stream flow gaging station along Choteau Creek. However, a gaging station was maintained from 1983

through 2003 near Avon, SD located approximately 3 stream miles upstream from the proposed project. USGS historical data from 1983 through 2003, indicate there is a 50 percent probability monthly median flows could range from 22 to 3 cfs or greater for any given April through October annual period. There is a 75 percent probability monthly median flows at this same location could range from 5 cfs to 1 cfs or greater for the same annual period. Monthly median discharges are listed in Table 1 and shown in Hydrograph 1.

Table 1: Choteau Creek Median Stream Flow Probabilities (cfs)

Probability	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
90%	0	1	1	1	1	1	0	0	0	1	1	0
75%	1	1	3	2	5	2	2	1	1	1	1	1
50%	2	3	20	19	22	9	6	4	3	3	3	3
25%	4	4	95	71	99	36	23	7	5	6	6	5
10%	5	8	294	439	259	236	89	12	15	14	7	7

Hydrograph 1



Discussion

USGS stream flow data indicates there is a 50 percent probability water will be available during April through July and only a 25 percent probability that water may be available throughout the entire April through October requested period of use. Sufficient water may not be available throughout the entire requested period of use, particularly during the summer months and still protect downstream domestic use and the existing water rights. The possibility exists that pumping of water from Choteau Creek at the requested rate could, in dry climatic conditions, dry up the creek. Choteau Creek cannot be considered a reliable source of water during dry climatic conditions.

If approved, the water permit should contain a qualification that at all times sufficient flow must be bypassing the diversion point while pumping to protect domestic use and the downstream existing water rights.

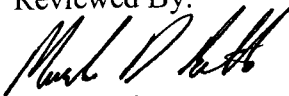
Conclusion

1. Water Permit Application No. 7056-3, Roger Baumfalk, proposes to divert water from Choteau Creek to three center pivots to irrigate 125.1 acres in Section 18-T93N-R61W and 15.9 acres in Section 13-T93N-R62W. The applicant states only one pivot will operate at a time.
2. Currently, there are two existing water permits/rights downstream of the proposed project authorized to divert 2.44 cfs of water from Choteau Creek.
3. Water Permit No. 2648-3 is authorized to divert 1.0 cfs of water from the creek between two points in the NE $\frac{1}{4}$ and SW $\frac{1}{4}$ of Section 13-T93N-R62W. The Annual Irrigation Questionnaire Reports dating back to 1983 indicate that Water Permit No. 2648-3 has not irrigated for a variety of reasons.
4. Water Right No. 3004-3 is authorized to divert 1.44 cfs of water from the creek between two points in the SE $\frac{1}{4}$ of Section 14-T93N-R62W and SE $\frac{1}{4}$ Section 22-T93N-R63W. The Annual Irrigation Questionnaire Reports for Water Right No. 3004-3 indicate that since 1983, the water right holder has irrigated in all but four years.
5. USGS historical data from 1983 through 2003, indicate there is a 50 percent probability monthly median flows could range from 22 to 3 cfs or greater for any given April through October annual period.
6. USGS historical data from 1983 through 2003, indicate there is a 75 percent probability monthly median flows at this same location could range from 5 cfs to 1 cfs or greater for the same annual period.
7. Sufficient water may not be available particularly during the summer months and still protect downstream domestic use and the existing water rights.
8. The possibility exists that pumping of water from Choteau Creek at the requested rate could in dry climatic conditions, dry up the creek.
9. If approved, the water permit should contain a qualification that at all times sufficient flow must be bypassing the diversion point while pumping to protect domestic use and the downstream existing water right.



Mike DeFea
Natural Resources Project Engineer
DENR, Water Rights Program

Reviewed By:



Mark Rath
Natural Resources Engineer Specialist
DENR, Water Rights Program

RECEIVED

NOV - 7 2008

WATER RIGHTS
PROGRAM

Affidavit of Publication

State of South Dakota }
County of Bon Homme } SS

Rebecca Tyndall.....Being first duly sworn
says that the **Tyndall Tribune & Register** is a legal
weekly newspaper for publication of legal and other offi-
cial notices as required by Chapter 298 of the Session
Laws of South Dakota, 1939; that it has bona fide paid
circulation of more than two hundred copies weekly;
that it is published in English language in the City of
Tyndall, Bon Homme County, South Dakota, and has
been admitted to the United States mail under second
class mailing privilege for more than one year prior to
the first publication of the notice herein mentioned, and
that it is printed in an office maintained at the place of
publication at Tyndall, South Dakota, and that depo-
nent is the publisher in charge of the advertising depart-
ment of said newspaper; that the advertisement headed

Notice - Application # 7056-3
60037.2 + 80% x 1

a printed copy of which is hereto attached, was printed
and published in said newspaper for two.....successive
weeks, upon the following dates:

<u>Oct. 29</u>20 <u>08</u>	20.....
<u>Nov. 5</u>20 <u>08</u>	20.....
.....20.....	20.....
.....20.....	20.....

That the full amount of the fee charged for the publica-
tion of said notice, \$40.18....., inures to the benefit
of the publisher of said newspaper, that no agreement or
understanding for the division thereof has been made
with any other person, and that no part has been agreed
to be paid to any person whomsoever.

Rebecca Tyndall

Subscribed and sworn to before me this

5th day of Nov. 2008
Rebecca Tyndall
Notary Public, South Dakota

My Commission expires 10-24-2009.

NOTICE OF APPLICATION

NO. 7056-3 to Appropriate Water

Notice is given that Roger L. Baum-
falk, 40429 311th St, Avon SD 57315 has
filed an application for a water permit to
appropriate 1.33 cubic feet of water per
second from Choteau Creek located in
NW1/4 NE1/4 Section 13-T93N-R62W
to irrigate 141 acres located in the E1/2
NW1/4, E1/2 SW1/4, SW1/4 SW1/4
Section 18-T93N-R61W and SW1/4
NE1/4 Section 13-T93N-R62W.

Pursuant to SDCL 46-2A-2, the Chief
Engineer recommends APPROVAL of
Application No. 7056-3 because 1) un-
appropriated water is available, 2) ex-
isting rights will not be unlawfully im-
paired, 3) it is a beneficial use of water,
and 4) it is in the public interest. In ac-
cordance 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 appli-
cant files a petition contesting the Chief
Engineer's recommendation. If a peti-
tion opposing the application or con-
testing 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 recom-
mendation must file a written petition
with BOTH the applicant and Chief En-
gineer. The applicant must file a petition
if contesting the Chief Engineer's rec-
ommendation. The Chief Engineer's ad-
dress is "Water Rights Program, Foss
Building, 523 E Capitol, Pierre SD 57501
(605 773-3352)" and the applicants
mailing address is given above. A peti-
tion filed by either an interested person
or the applicant must be filed by No-
vember 17, 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 sig-
nature and mailing address of the peti-
tioner 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 in-
formation pertaining to this application.
Steven M. Pirner, Secretary, Department
of Environment and Natural Resources.

(Oct. 29 & Nov. 5)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 22, 2008

Tyndall Tribune & Register
PO Box 520
Tyndall SD 57066

ATTENTION: Legal Public Notice

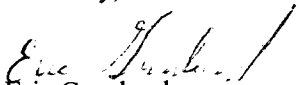
Enclosed is a Notice on Application No. 7056-3 to Appropriate Water to be published twice. Please publish the first notice on October 29, 2008 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Roger L Baumfalk, 40429 311th St, Avon SD 57315 (Ph # 605-286-3596).

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. 7056-3

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

Date _____

We are in receipt of your letter of October 22, 2008 enclosing Notice to Appropriate Water by Application No. 7056-3 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.**

October 22, 2008

Roger L Baumfalk
40429 311th St
Avon SD 57315

Dear Mr. Baumfalk:

Water Permit Application No. 7056-3 for irrigatin 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 Tyndall Tribune & Register printed at Tyndall SD (Ph # 605-589-3242). 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 October 29, 2008 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 7056-3 to Appropriate Water

Notice is given that Roger L Baumfalk, 40429 311th St, Avon SD 57315 has filed an application for a water permit to appropriate 1.33 cubic feet of water per second from Choteau Creek located in NW ¼ NE ¼ Section 13-T93N-R62W to irrigate 141 acres located in the E ½ NW ¼, E ½ SW ¼, SW ¼ SW ¼ Section 18-T93N-R61W and SW ¼ NE ¼ Section 13-T93N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7056-3 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 November 17, 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
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

JAN 27 2001

Roger L Baumfalk
40429 311th St
Avon SD 57315

Dear Mr. Baumfalk:

Enclosed is Water Permit No. 7056-3 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

7056-3
RECEIVED
OCT 29 2012
WATER RIGHTS
PROGRAM

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

Date 10-25-12

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

FROM: Roger L Baumfalk
(name)

40429 31st st
(address)

Avon SD 57315
(city, state, zip)

605-286-3596
(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.

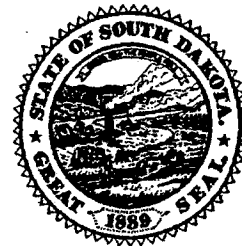
Water Permit No. 7056-3 states that the water use system is to be constructed by
Nov 17 2013, and water is to be put to beneficial use by Nov 17 2017.
(date) (date)

The water use system was completed on 10-20-12.
(date)

Applying the water to beneficial use was completed on 6-30-12.
(date)

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

Roger L Baumfalk
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

October 29, 2012

7056-3

Roger L Baumfalk
40429 311th St
Avon SD 57315

Dear Mr. Baumfalk:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

March 14, 2012

Roger Baumfalk
40429 311 St
Avon SD 57315

Dear Mr. Baumfalk:

I am writing in regard to a well driller's report filed by Sargent Irrigation Co. The report indicates a well was completed for you on December 9, 2011 located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 18-T94N-R61W. A review of our files shows you hold Water Permit No. 7056-3 which authorizes 1.33 cfs from Choteau Creek to irrigate 141 acres. I did not find a permit authorizing irrigation from a groundwater source.

Since this is a different water source than your existing permit, it will be necessary to apply for a permit from this groundwater source. Enclosed are application forms and an instruction sheet to apply for a water permit for irrigation. The completed forms with the application fee and map can be returned to the "Water Rights Program, 523 E Capitol, Pierre SD 57501.

Obtaining a water permit that accurately reflects your water use ultimately benefits you by protecting your right to use water.

If you have any questions, please contact Eric Gronlund or me. We will be happy to assist you in any way possible.

Sincerely,

Karen Schlaak

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

enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 18 Twp 94 Rg 61

County

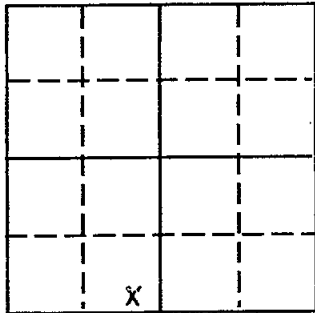
Bon Homme

North

Please mark well location with an "X"

W

E



1 Mile

Well Completion Date

12/9/2011

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

? ft. from _____ (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Reverse Rotary1

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
37.0 LB/FT	16.00 IN	0.0 FT	100.0 FT	30.00 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Bentonite		14.0 Lb/gal	20.0 Ft	100.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

Tremmie

SCREEN:

☒ Perforated pipe ☐ Manufactured
Diameter 16.00 Inches Length 30.0 FeetMaterial 26 SDR PVC CasingSlot Size .085 Set From 100.0 Feet to 130.0 FeetOther information Gravel

WAS A PACKER OR SEAL USED?

☒ Yes ☐ No
If so, what material? Concrete

Describe packer(s) and location

20' to Surface

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? HTH
☐ No, Why Not?

Lab sample sent to for water quality analysis

Well Owner: Roger Baumfalk

Business Name: _____

Address: 40429 311 St.City, State, Zip: AvonSD57315

WELL LOG:

		DEPTH	
FORMATION		FROM	TO
0 To	20	Top soil & clay	
20 To	40	Blue clay	
40 To	80	Blue clay w/embedded gravel	
80 To	88	Blue clay	
88 To	91	Gravel	
91 To	118	Blue clay	
118 To	120	Gravel	
120 To	134	Gravel & rocks	
134 To	140	Shale	

STATIC WATER LEVEL

FEET

If flowing: closed in pressure

PSI

GPM flow

through

Inch pipe

Controlled by ☐ Valve☐ Reducers ☐ Other

Reduced flow rate

GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe:☐ Bailed☐ Other

Pumping Level Below Land Surface

Ft. After

Hrs. pumped

GPM

Ft. After

Hrs. pumped

GPM

If pump installed, pump rate:

GPM

REMARKS

RECEIVED

FEB 10 2012

WATER RIGHTS PROGRAM

This well was drilled under license #

273

And this report is true and accurate.

Drilling firm: Sargent Irrigation Co.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: _____

2/22/12

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: Roger Baumfalk

ADDRESS: 40429 311 St., Avon SD 57315

DATE: February 8, 2016

RE: Status of Irrigation/domestic well drilled in December 2011

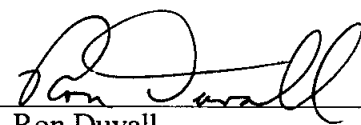
COMMENTS:

I contacted Mr. Baumfalk to determine whether a well constructed for irrigation and domestic purposes was ever put into production for irrigation. Mr. Baumfalk indicated the well did not produce sufficient water to operate an irrigation system. Currently, no pump is in the well but Mr. Baumfalk indicated he may use the well for domestic purposes.

Mr. Baumfalk was contacted in response to an inquiry concerning the well from Dave Koenigshof with First Dakota National Bank – 605-463-2201.

RECOMMENDED ACTION:

No action needed.



Ron Duvall
Natural Resources Engineer
Water Rights Program

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit Nos. 7056-3 and 7408-3

I have this day, April 17, 2020, made a thorough examination of the water use systems constructed by Roger Baumfalk, 40429 311th St., Avon, SD 57315, holder of Permit No. 7056-3, bearing the priority of August 14, 2008 authorizing the diversion of 1.33 cu. ft. per second of the waters of surface water (Choteau Creek) for irrigation purposes, in Bon Homme County, and holder of Permit No. 7408-3, bearing the priority of August 7, 2012 authorizing the diversion of 0.00 cu. ft. per second of the waters of surface water (Choteau Creek and runoff) for irrigation purposes, in Bon Homme County.

Inspection contact: Roger Baumfalk, Owner

A. Works used to divert the water to the dam (Water Right No. 7408-3):

Pump:

- 1) Make: Berkeley
- 2) Model: B4EPBM
- 3) Capacity: 600 GPM

Motor:

- 1) Make: Marathon
- 2) Model No.: LVC 365TTFS762AU W
- 3) Horsepower rating: 75 HP

Dam:

- 1) Height to crest (spillway, no auxiliary spillway): 28.7 feet from downstream toe.
- 2) Height to outlet pipe: 19.0 feet from downstream toe.
- 3) Riser Pipe Size: 10 ft. of 48-inch concrete pipe
- 4) Outlet Pipe: 165 feet of 24-inch PVC pipe
- 5) Crest width 15 feet
- 6) Crest length 291 feet
- 7) Approx. storage to outlet pipe: 32 ac-ft.
- 8) Approx. storage to crest: 58.5 ac-ft.
- 9) Date constructed: 2015, as-builts dated 12/3/2012 from NRCS

This is an earth fill embankment utilizing a 15-foot wide top trapezoidal dam. The end of the discharge pipe is armored with rock riprap. The water impounded in the reservoir is put to beneficial use in-place.

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

Pipe from Choteau Creek to Dam	1) Type: <u>PVC</u>	2) Size: <u>8</u> inches	3) Length: <u>950</u> feet
Pipe from Dam to Pivots	1) Type: <u>PVC</u>	2) Size: <u>8</u> inches	3) Length: <u>6,500</u> feet

C. Works used to apply water to beneficial use (irrigation system):

West Center Pivot

- 1) Make: Zimmatic
- 2) Overall length: 440 feet
- 3) Number of towers: 3
- 4) End gun: Yes
- 5) Capacity: 600 GPM

Chemigation Equipment:

- 1) Does chemigate: No

Northeast Center Pivot

- 1) Make: Olson
- 2) Overall length: 1,252 feet
- 3) Number of towers: 8

Report of Examination of Works

Permit Nos. 7056-3 and 7408-3

- 4) End gun: Yes
- 5) Capacity: 600 GPM

Chemigation Equipment:

- 1) Does chemigate: No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: No
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: Yes
- 3) Exceptions to compliance are: none

E. Condition and Location:

- 1. The system is in good condition with the point(s) of diversion located as follows:
Choteau Creek Intake: 1,280 feet south and 1,550 feet west of the northeast corner of Section 13-T93N-R62W (Latitude 42.87654, Longitude -98.11494 – NW1/4NE1/4):
Dam and Reservoir: 1,820 feet south and 940 feet west of the northeast corner of Section 13-T93N-R62W (Latitude 42.87524, Longitude -98.11291 – SE1/4NE1/4).
- 2. The works are capable of diverting and conveying to the place of use 1.33 cu. ft. per second of water which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows:

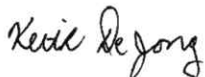
<u>Section 18-T93N-R61W</u>	
<u>NE1/4NW1/4</u>	<u>31 acres</u>
<u>SE1/4NW1/4</u>	<u>32 acres</u>

<u>Section 13-T93N-R62W</u>	
<u>SW1/4NE1/4</u>	<u>16 acres</u>

comprising a total of 78 acres of land and the license should be issued for 1.11 cfs (statutory limit).

- 3. All structures, wells and lands on map: Yes

F. Comments or other permit(s) associated with the project: Water Permit No. 7056-3 appropriates 1.33 cubic feet of water per second from Choteau Creek to be used for irrigating 141 acres of land. Water Permit No. 7408-3 authorizes the impoundment of 32 acre-feet of water by constructing a dam. The water from Choteau Creek is pumped directly to the center pivots or into the reservoir behind the dam from April 1 through June 30 each year when necessary, and then the water from the dam is used for irrigation when needed after June 30. The two permits are intertwined and could be considered for combining into one license. Also, the west center pivot originally irrigated a full circle of property. However, in 2019 a flood eroded the stream bank and the pivot no longer makes a full circle.



Keith DeJong
Water Rights Inspector
DENR, Water Rights Program

Date report completed: April 28, 2020

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Alex Kocer, 620 E HWY 46, Wagner SD 57380

DATE: 04/19/2024

TELEPHONE: 605.491.3860

RE: Property ownership and absence of irrigation

COMMENTS:

Keith Dejong made an inspection of Permit No. 7408-3 & 7056-3 on April 17, 2020. At the time of inspection, it was found that the acres authorized for irrigation in the SW ¼ Sec18, T93N, R61W, were sold off and the pivot was removed.

Prior to licensing the permits as developed, contact needed to be made with the new owner of the SW ¼ to ensure there was no interest in the irrigation permits.

On Friday, April 19, 2024, I was able to get in contact with Alex Kocer, owner of the SW ¼ Sec18, T93N, R61W. I explained that Mr. Baumfalk had a permit for irrigation of those acres that we were looking to license but that it was our intention to leave the SW ¼ off the license.

Alex was agreeable, saying he had no interest in irrigation at this time. I did however tell him that this would have no bearing on his ability to apply for an irrigation permit in the future and invited him to call me if he ever decided to pursue irrigation.

The Water Rights Program will now proceed with licensing of the irrigation project developed under Permit Nos. 7408-3 & 7056-3.



Amanda Dewell
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

APR 29 2024

7056-3
7408-3

Roger Baumfalk
40429 311th St
Avon SD 57315

Dear Mr. Baumfalk:

Enclosed is Water License No. 7408-3. 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.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

NOTES: The application portions of Permit No. 7056-3 have been incorporated into Water Right No. 7408-3.

The investigation found your irrigation system is capable of diverting 1.33 cubic feet of water per second (cfs) which is equivalent to approximately 600 gallons per minute. The statutory limit is 1 cfs per 70 irrigated acres. For 78 acres, the statutory limit is 1.11 cfs, equivalent to 500 gpm. Diversion of water under this water license is limited to 1.11 cfs.

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7408-3**

(1) Roger Baumfalk, 40429 311th St, Avon SD 57315, made Application No. 7056-3, April 14, 2008, for a water permit to divert 1.33 cubic feet of water per second from Choteau Creek, Bon Homme County, South Dakota for irrigation purposes. Permit No. 7056-3, with a priority date of August 14, 2008, was approved November 17, 2008, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before November 17, 2013, and for the application to beneficial use of water on or before November 17, 2017.

Mr. Baumfalk made Application No. 7408-3, August 7, 2012, for a water permit to divert from Choteau Creek to impound 32 acre-feet of water in a dam, to be used for the irrigation system authorized under Permit No. 7056-3. Permit No. 7408-3, with a priority date of August 7, 2012, was approved October 9, 2012, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before October 9, 2017, and for the application to beneficial use of water on or before October 9, 2021.

The applicable portions of Permit No. 7056-3 have been incorporated into Water Right No. 7408-3.

(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 1.11 cubic feet of water per second for beneficial use. The locations of the diversion points are:

- Choteau Creek Intake: 1,280 ft S & 1,550 ft W of the NE $\frac{1}{4}$ Section 13, T93N, R62W (NW $\frac{1}{4}$ NE $\frac{1}{4}$) (Latitude 42.87654 & Longitude -98.11494)
- Dam & Reservoir: 1,820 ft S & 940 ft W of the NE $\frac{1}{4}$ Section 13, T93N, R62W (SW $\frac{1}{4}$ NE $\frac{1}{4}$) (Latitude 42.87524 & Longitude -98.11291)

(3) The amount of appropriation may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31 (irrigation) & January 1 – December 31 (storage dam).

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

Section 18, T93N, R61W	Section 13, T93N, R62W
NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 31 acres	SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 15 acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 32 acres	

TOTAL: 78 acres

(5) Pursuant to South Dakota Water Law 46-5-30.1 Roger Baumfalk, the holder and/or owner of Water Right No. 7408-3 is issued a license to appropriate water, the right to use 1.11 cubic feet of water per second from Choteau Creek & the storage dam, with priority dates of August 14, 2008 (for diversion from Choteau Creek) and August 7, 2012 (storage dam), specified in (2) of this license for irrigation purposes.

continued

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 7408-3 and subject to the following qualifications:

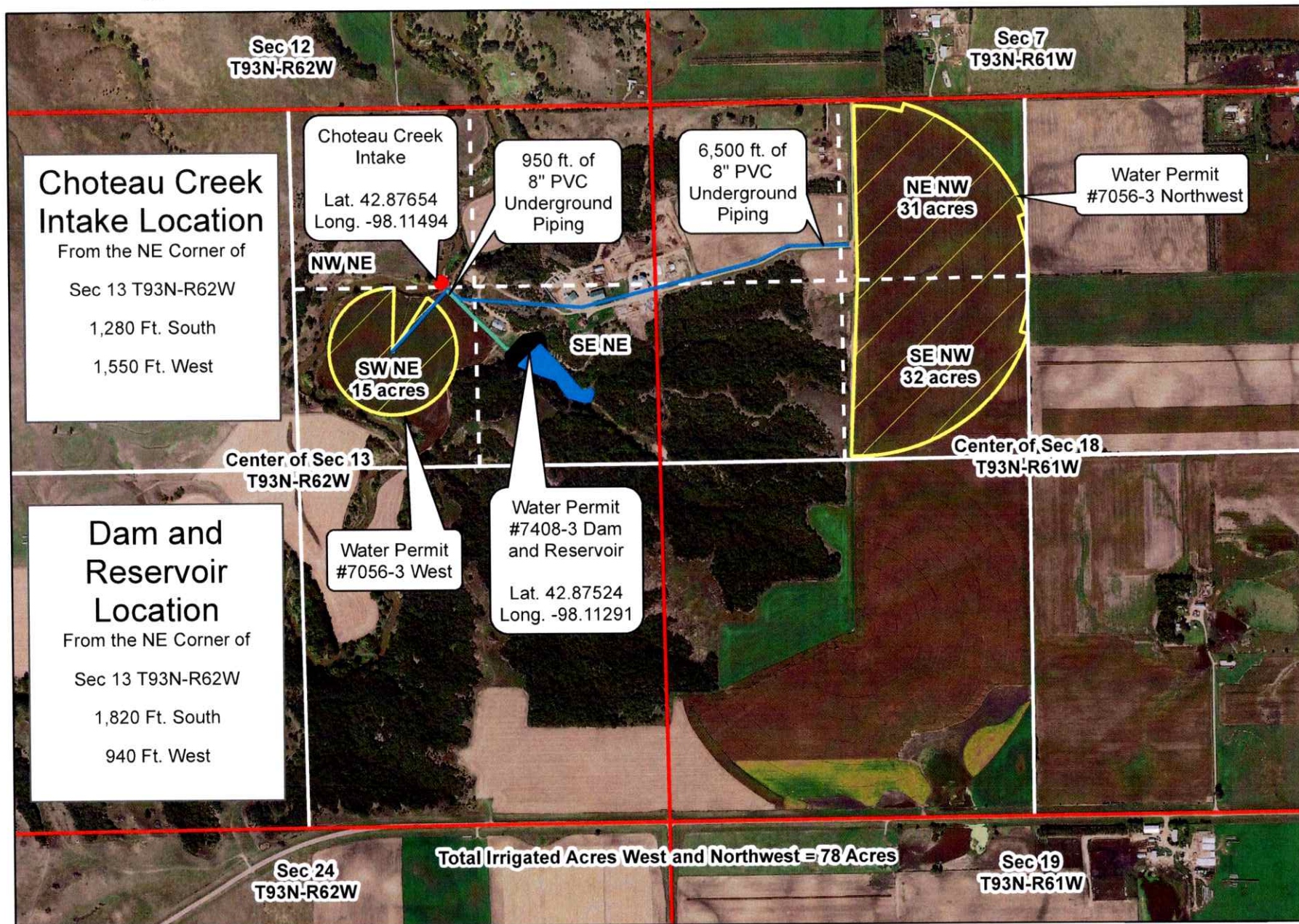
1. Water Right No. 7408-3 authorizes an impoundment with a storage capacity of 32 acre-feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.
3. Water may be diverted from Choteau Creek to the dam only during flow events that are obviously sufficient to meet downstream domestic uses, including livestock water and prior water rights. At no time, may the entire creek flow be diverted. Pumping is allowed each year from April 1 – June 30 unless the Chief Engineer is contacted and grants written authorization to pump from the creek past June 30. Storage water from the dam may be pumped for the purpose of irrigating land authorized by Permit No. 7056-3 after June 30 of each year. *(The applicable portions of Permit No. 7056-3 have been incorporated into this water right. Irrigation of land is now authorized by Water Right No. 7408-3.)*
4. This Water Right is approved subject to the irrigation water use questionnaire being submitted each year. The water right holder will need to distinguish on the irrigation questionnaire when the stored water is being pumped for irrigation.


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

APR 29 2024
date



Water Right Nos. 7056-3 and 7408-3



Keith DeJong
Keith DeJong, PE
Staff Engineer
April 28, 2020