

WATER PERMIT NO. 7073-3

Name of Applicant: **Duane J Gaikowski**

Address: **13872 450th Ave, Waubay SD 57273**

Phone: **605 947-4623**

Amount of Water Claimed: **5.13 cfs**

Total Acres: **359.5**

Source of Water Supply: **groundwater (2 existing well)**

Water to be used for: **irrigation**

County: **Roberts**

Type of Waste Disposal System:

Location: **4 miles northeast of Waubay**

PRIORITY

Date Received: **9-16-08**

Application/License Fee: **\$375**

Corrected Application Received: **8/23-08**

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

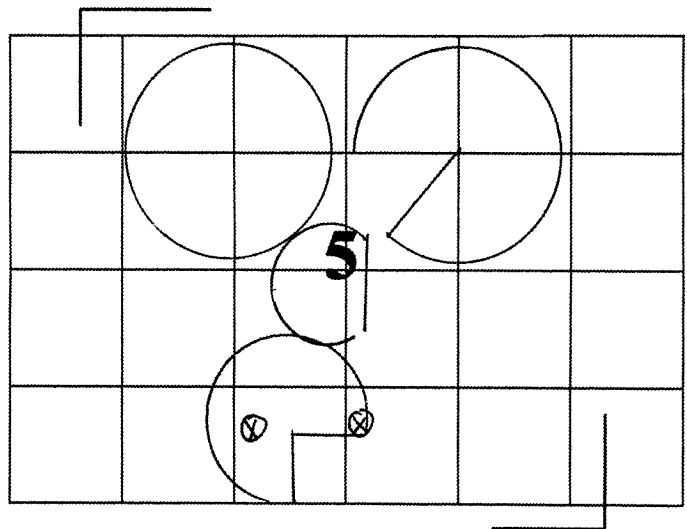
Remarks: **Lands were originally covered under cancelled Permit No. 5260-3**

Diversion Point: **SE ¼ SW ¼ and SW ¼ SE ¼ Sec**

5-T122N-R52W

Land to be Irrigated: **N ½, SW ¼, W ½ SE ¼ Sec**

5-T122N-R52W



Depth of Well: **36 and 40 feet deep**

Well Driller: : **Falk Bros**

Remarks:

Type of Map: **aerial**

Prepared by: **June Helgeson, Roberts Cons Dist.**

Reviewed and the Number Assigned on: **XX**

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>7073-3</u>	Hydrologic Unit <u>10160010</u>
	Basin <u>James River</u>	
	Newspaper <u>Sisseton Courier PO Box 169</u> <u>605-698-7642</u> <u>Sisseton 57262</u>	

RECEIVED
SEP 15 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.)

- Name of Applicant Duane J. Gaikowski Phone 605-947-4623 Cell 605-520-0174
 (check one) ☒ Owner ☐ Tenant/lessee
 Mailing Address 13872 450th Ave. Waubay State SD 57273
 (Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 5.13*CFS or **GPM ***AF Total Acreage 334.5 359.5
 (*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Wells
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Roberts
Well # 1 NE1/4SE1/4SW1/4 Sec. 5-122-52 & Well # 2 NW1/4SW1/4SE1/4 Sec. 5-122-52
- County or counties where water will be used Roberts
- Annual period during which water is to be used April 1 through October 31
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.

See sheet (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW1/4NE1/4 Sec. 5-122-52	35	SW1/4SE1/4 Sec. 5-122-52	26
NE1/4NE1/4 Sec. 5-122-52	35	NW1/4SE1/4 Sec. 5-122-52	11
SE1/4NE1/4 Sec. 5-122-52	35	NW1/4NW1/4 Sec. 5-122-52	35
SW1/4NE1/4 Sec. 5-122-52	11	NE1/4NW1/4 Sec. 5-122-52	18
NW1/4SW1/4 Sec. 5-122-52	25	SE1/4NW1/4 Sec. 5-122-52	25
NE1/4SW1/4 Sec. 5-122-52	10	SW1/4NW1/4 Sec. 5-122-52	35
SE1/4SW1/4 Sec. 5-122-52	26.5	SW1/4SW1/4 Sec. 5-122-52	9

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

To irrigate alfalfa, corn, soybeans and small grain.

STATE OF SOUTH DAKOTA) SS
 County of Roberts)

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, Duane J. Gaikowski, 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 Duane J. Gaikowski

Subscribed and sworn to before me this 15th day of September 20 08

Caryn A. Curran
 Notary Public signature

Based on the letter returned by Duane Gaikowski on Sept 23, the following are the acres proposed to be irrigated:

All in Section 5-T122N-R52W

NW ¼ NW ¼	35 ac	NW ¼ NE ¼	35 ac	NW ¼ SW ¼	1 ac	NW ¼ SE ¼	26 ac
NE ¼ NW ¼	35 ac	NE ¼ NE ¼	35 ac	NE ¼ SW ¼	26.5 ac	SW ¼ SE ¼	11 ac
SW ¼ NW ¼	35 ac	SW ¼ NE ¼	19 ac	SW ¼ SW ¼	5 ac		
SE ¼ NW ¼	35 ac	SE ¼ NE ¼	35 ac	SE ¼ SW ¼	26 ac		

Total 359.5 acres

**SOUTH DAKOTA
WATER PERMIT NO. 7073-3**

Date of first receipt of application September 16, 2008.

Date of return to applicant for corrections, amendments or changes September 16, 2008.

Date of receipt of corrected application September 23, 2008.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7073-3 to Duane J Gaikowski, 13872 450th Ave, Waubay SD 57273 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. 7073-3 appropriates 5.13 cubic feet of water per second from two wells completed into the Coteau Lakes Aquifer (35 and 37 feet deep) located in SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5 to irrigate 359.5 acres located in the N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 5; all in T122N-R52W within the boundaries of the Sisseton Wahpeton 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: April 1 – October 31.
3. The date from which applicant may claim right is September 16, 2008.
4. The date of approval of Permit No. 7073-3 is January 2, 2009.
5. One-fifth of the construction is to be completed on or before July 2, 2011.
6. All construction is to be completed on or before January 2, 2014.
7. Water is to be put to beneficial use on or before January 2, 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

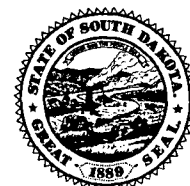
1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 7073-3 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.

WATER MANAGEMENT BOARD

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

JAN 27 2009

date



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

(type or print in ink)

Duane J. Gaiskowiak
9-15-08

1. Well Information - Proposed Construction

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

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

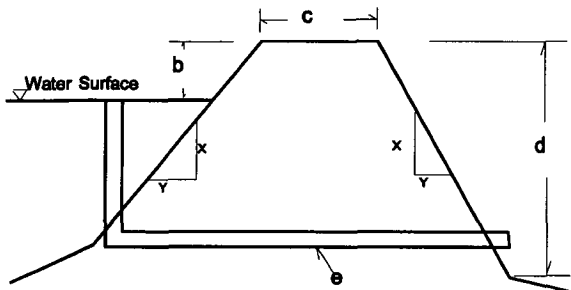
3. Dugout Information

- 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.

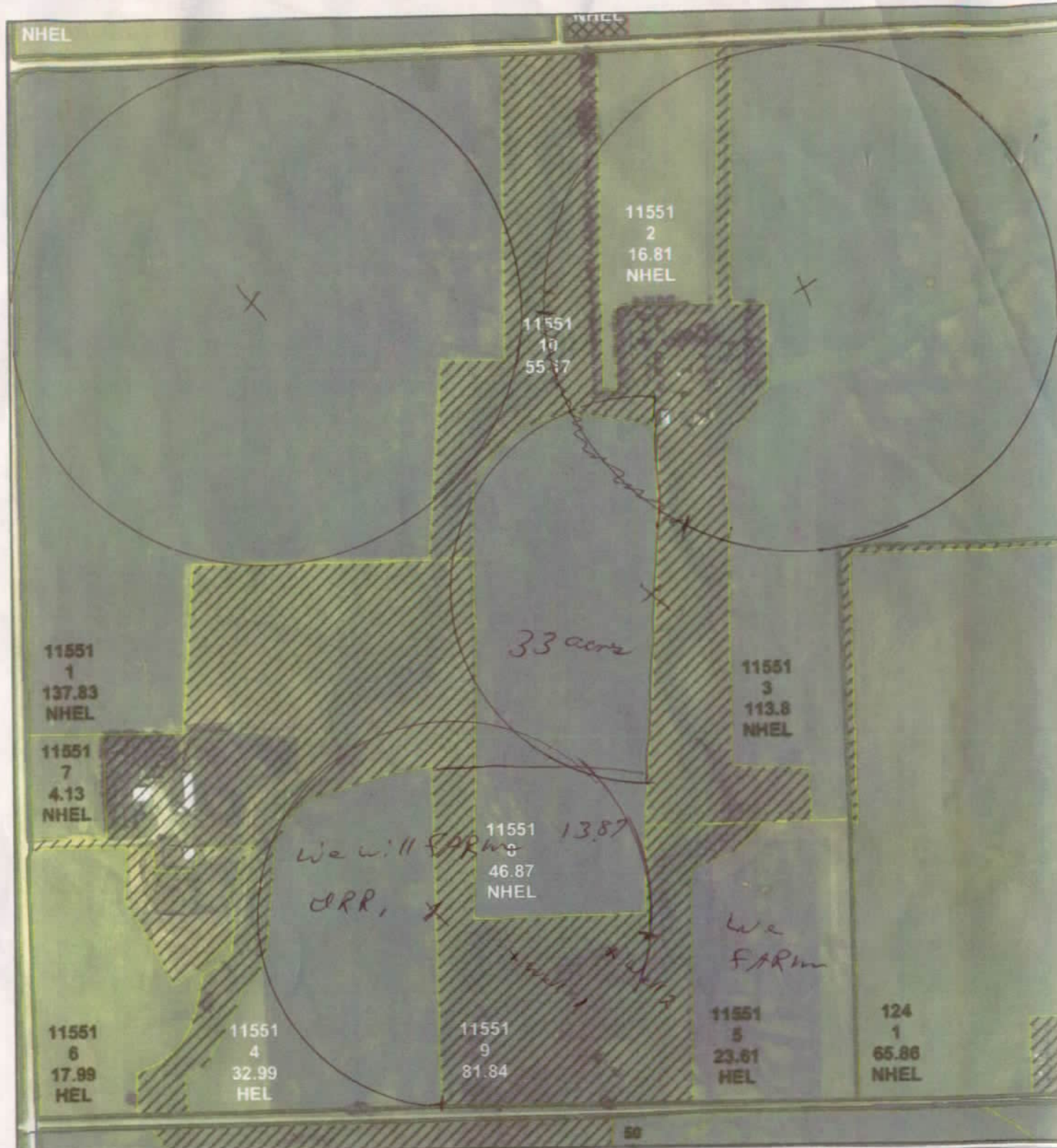
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- 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

Duane G. Galkowski 9-15-08

Duane Hylgeson, Dist. Manager
Roberts County Dist.
9-15-08



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



RECEIVED
SEP 16 2006
WATER RIGHTS
PROGRAM

South Dakota
Roberts County

5-122N-52W

NOT TO SCALE

NO OFFICIAL WETLAND DETERMINATIONS

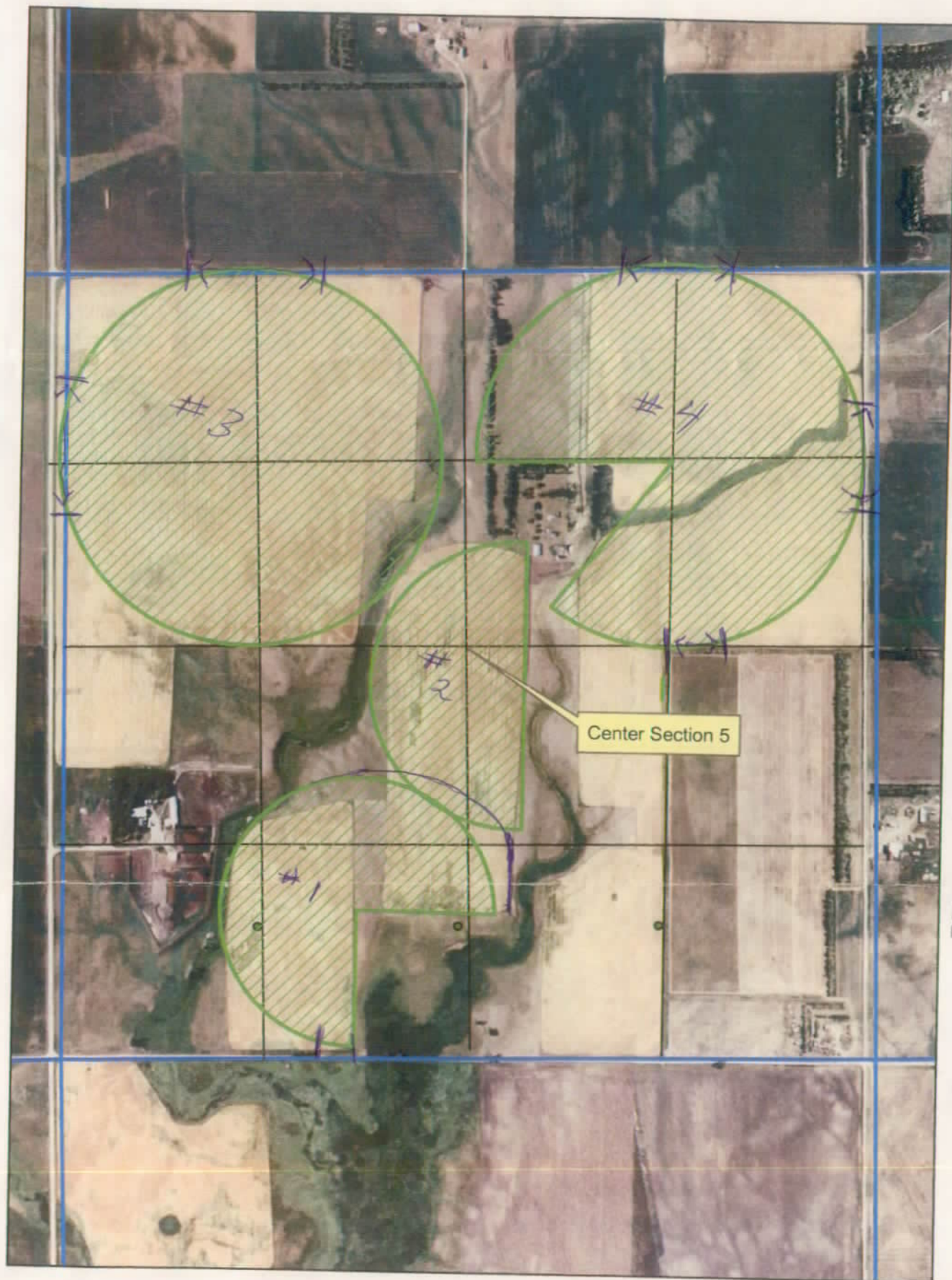
Legend

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

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

March 28, 2006

* Map prepared by Eric Thonlund, Water Rights Program



RECEIVED
SEP 23 2008
WATER RIGHTS
PROGRAM

RECEIPT
WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

Date 9/16, 20 08

RECEIVED OF Duane J Gaikowski 13872 450th Ave Waubay SD 57273

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

Fee for Application for Permit No. <u>7073-3</u> to Appropriate Water, to construct and to put water to beneficial use	325	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>7073-3</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	375 00

No.

13704

By

Michael Grubbs
Chief Engineer

Water Rights Program - File Documentation

NAME: Duane J Gaikowski

ADDRESS: Waubay SD

DATE: 9-16-2008 **COUNTY:** RB **TELEPHONE:** 605 947-4623

RE: Pending application

COMMENTS:

I called Duane Gaikowski and asked him what amount of water he wanted to claim on his application.

Mr. Gaikowski stated he wanted the maximum allowed for the number of acres he is proposing to irrigate.

I told him based on 359.5 acres, that amount would be 5.13 cfs or approximately 2300 gpm. He stated that was the amount he wanted on the application.



Karen Schlaak
Environmental Scientist



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 16, 2008

Duane J Gaikowski
13872 450th Ave
Waubay SD 57273

Dear Mr. Gaikowski:

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

The acreage breakdown as listed on Item No. 7 of the application does not appear to match up with the areas outlined on the aerial photo map. By our estimation, the area to be irrigated is approximately 317 acres (see the map which we prepared).

We estimate the acres to be irrigated as follows:

NW ¼ NW ¼	35 ac	NW ¼ NE ¼	35 ac	NW ¼ SW ¼	1 ac	NW ¼ SE ¼	10 ac
NE ¼ NW ¼	25 ac	NE ¼ NE ¼	35 ac	NE ¼ SW ¼	24 ac	SW ¼ SE ¼	2 ac
SW ¼ NW ¼	35 ac	SW ¼ NE ¼	19 ac	SW ¼ SW ¼	5 ac		
SE ¼ NW ¼	30 ac	SE ¼ NE ¼	35 ac	SE ¼ SW ¼	26 ac		

Total 317 acres

Let us know if you agree with these acreage amounts. Please make whatever changes are necessary on either the maps and/or the acreage amounts. It is our intent to have the application accurately reflect your proposed project.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosure



RECEIVED
SEP 23 2008
WATER RIGHTS
PROGRAM

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 16, 2008

Duane J Gaikowski
13872 450th Ave
Waubay SD 57273

Dear Mr. Gaikowski:

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

The acreage breakdown as listed on Item No. 7 of the application does not appear to match up with the areas outlined on the aerial photo map. By our estimation, the area to be irrigated is approximately 317 acres (see the map which we prepared).

We estimate the acres to be irrigated as follows:

of

NW 1/4 NW 1/4	35 ac	NW 1/4 NE 1/4	35 ac	NW 1/4 SW 1/4	1 ac	NW 1/4 SE 1/4	10 ac
NE 1/4 NW 1/4	35 ac	NE 1/4 NE 1/4	35 ac	NE 1/4 SW 1/4	24 ac	SW 1/4 SE 1/4	2 ac
SW 1/4 NW 1/4	35 ac	SW 1/4 NE 1/4	19 ac	SW 1/4 SW 1/4	5 ac		
SE 1/4 NW 1/4	30 ac	SE 1/4 NE 1/4	35 ac	SE 1/4 SW 1/4	26 ac		

NOT SURE OF ACRES on #2
35 ac on #3
Total 317 acres
June HAS 26.5 ac
June figured 26
11
NOT SURE OF ACRES

Let us know if you agree with these acreage amounts. Please make whatever changes are necessary on either the maps and/or the acreage amounts. It is our intent to have the application accurately reflect your proposed project.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosure

Each Pivot HAS End gun
To Add. 100 ft. except for Roads
will be shut off in areas MARKED
By. 1st
Pivots #1 + 2 OVERLAP.



**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. 7073-3, Duane J. Gaikowski**

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. 7073-3, Duane J. Gaikowski, 13872 450th Avenue, Waubay SD 57273.

The Chief Engineer is recommending APPROVAL of Application No. 7073-3 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. 7073-3 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
December 4, 2008

NOTE: Jim Goodman's staff report indicates that it is unlikely that the two wells requested will be capable of producing the 2,300 gallons per minute requested by this application. Once the wells are completed and the irrigation system's are in place, the system will be inspected and a water license issued for only what is developed.

REPORT ON WATER PERMIT APPLICATION NO. 7073-3
For Duane J Gaikowski
November 13, 2008

Application No. 7073-3 proposes to appropriate 5.13 cfs (2,300 gpm) from two wells approximately 35 and 37 feet deep located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of section 5 to irrigate 359.5 acres located in the N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ of section 5; all in T122N R52W and within the former boundaries of the Sisseton Wahpeton Indian Reservation and in Roberts County.

AQUIFER – COTEAU LAKES (COL)

The Coteau Lakes is a predominantly surficial outwash (sand and gravel) under water table conditions in this area. The aquifer underlies about 20 square miles in southwestern Roberts (Gilbertson, 1966). The aquifer extends into Day County to the west and into Grant County to the south (Thompson, 2001). Ground water movement is probably from northeast to southwest in the area of this application. Recharge to the Coteau Lakes aquifer has been estimated at a rate of about 4.5 inches per year (Hedges, 1983). Also recharge to the Big Sioux aquifer in Grant and Codington Counties has been estimated at 5.5 inches per year (Putnam, 1996). The Big Sioux aquifer is a similar type of aquifer to the Coteau Lakes and located in the same general area. These recharge rates seem reasonable and would indicate an expected range of recharge to the Coteau Lakes aquifer of about 4,800 to 5,900 acre-feet per year for just Roberts County. Also the size of the aquifer increased from 20 square miles to 22 to 25 square miles as mapped by Thompson. Reported irrigation from the Coteau Lakes aquifer (Roberts County portion) was 1,408 acre-feet in 2005, 1,681 acre-feet in 2006 and 870 acre-feet in 2007.

There are existing test well logs for this application. Both tests indicate sand and gravel from near the land surface to a depth of 35 and 37 feet below land surface. The static water level was reported to be about three feet below land surface and one of the test wells produced 200 gpm using air to develop. These tests were drilled about 20 years ago for the first water permit granted for this area.

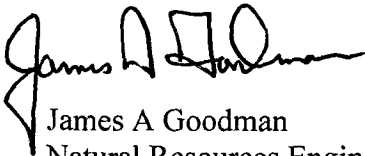
The Water Rights Program monitors two observation wells completed into the Coteau Lakes aquifer and within two miles of this application. These are observation well RB-77R (located about one-half west of these proposed wells) and observation well RB-82B (located about one-mile south of these proposed wells). Hydrographs for these two observation wells are included with this report. In general, the water level record indicates recharge does occur and that pumping does not appear to cause significant fluctuation in water levels. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2008).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

The nearest existing water right is No. 4886-3 (Greg Endres, two wells, 1.78 cfs and 136 acres). The wells for this application would be approximately 4,000 feet northwest of the existing wells for Water Right No. 4886-3. Interference is not a concern. Drawdown created by pumping should not be significant and should not cause any adverse effects at this distance. This is shown by the observation well record.

CONCLUSIONS

1. Water is available from the Coteau Lakes aquifer.
2. The aquifer is under water table conditions in this area. Drawdown created by pumping should not be significant. Interference is not a concern.
3. The wells authorized by this application must be constructed in accordance with SD Well Construction Standards.
4. It is unlikely that two wells will produce the amount of water requested by this application. The water right to the south (No. 4886-3) has two wells each capable of 400 gpm and each are similar in depth to these proposed wells.
5. Most of these lands have been permitted for irrigation in the past and the lands were never developed.

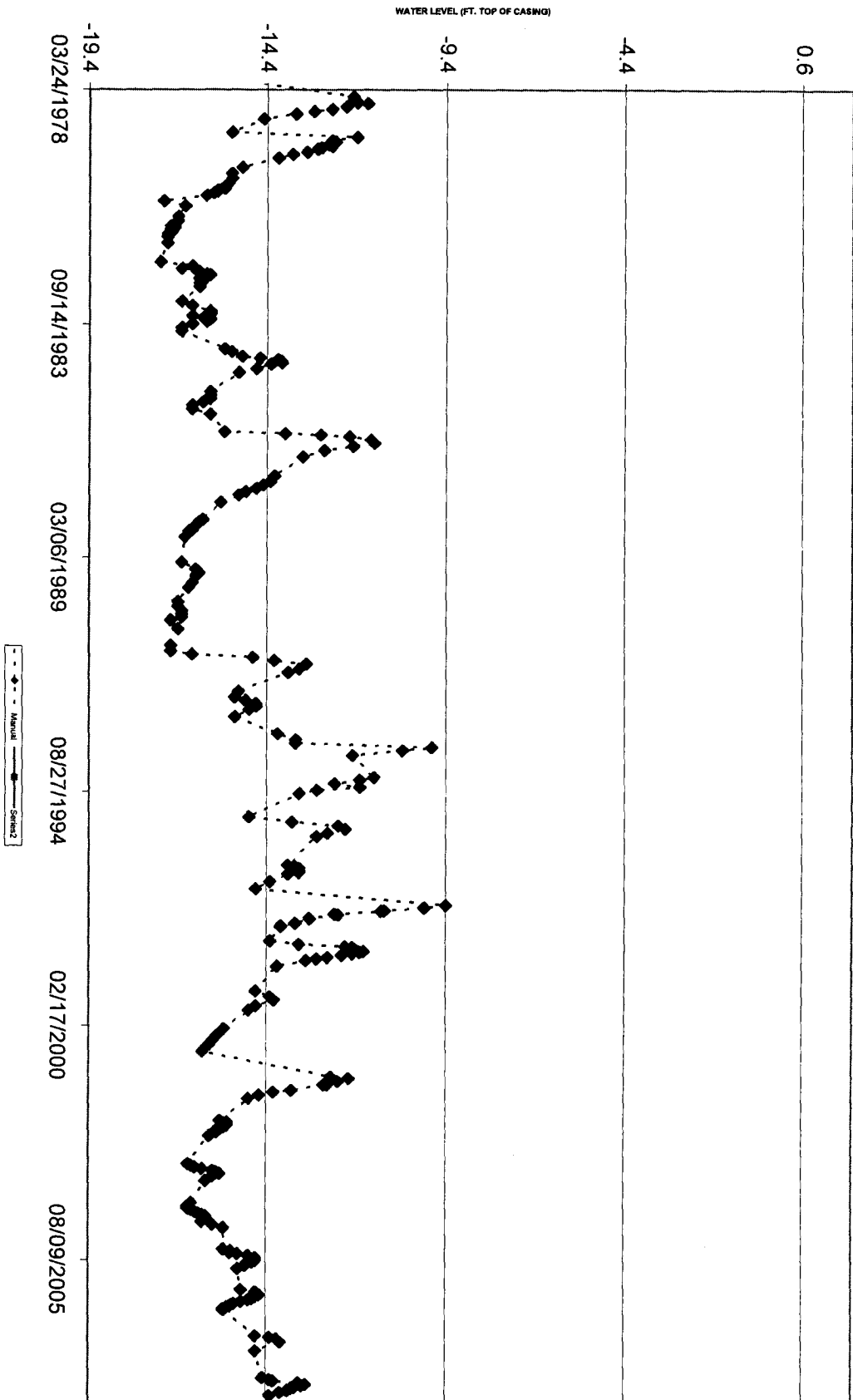


James A Goodman
Natural Resources Engineer

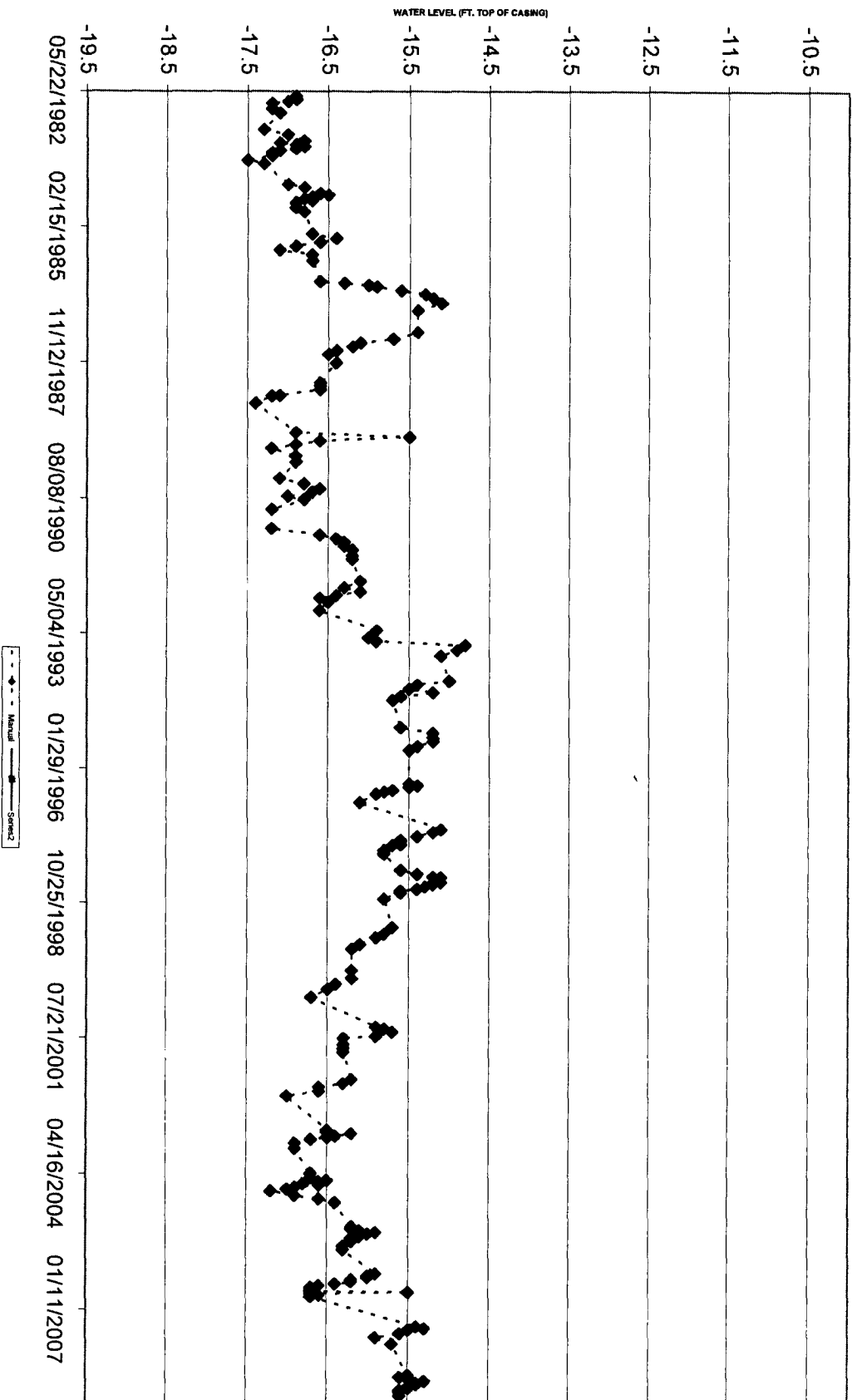
BIBLIOGRAPHY

- Gilbertson, J.P., 1996, Investigation of Ground Water Resources in Portions of Roberts County, South Dakota, Open-File Report 81-UR, SD DENR, SDGS, Vermillion, SD, 57069.
- Hedges, L.S., and others, 1983, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, for US Army Corps of Engineers, Task 7 Ground Water Recharge, SD DENR, SDGS, Vermillion, SD, 57069.
- Putnam, L.D., R. C. Thompson, 1996, Appraisal of the Water Resources of the Big Sioux Aquifer, Codington and Grant Counties, South Dakota, Water-Resources Report 96-4275, USGS, Rapid City, SD, 57702.
- Thompson, R.F., 2001, Water Resources of the Lake Traverse Reservation, South Dakota and North Dakota, and Roberts County, South Dakota, Water-Resources Investigations Report 01-4219, USGS, Rapid City, SD, 57702.
- Water Rights, 2008, Unpublished Observation Well Data for Roberts County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL RB-77R



WATER RIGHTS' OBSERVATION WELL RB-82B



RECEIVED
DEC 29 2008
WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA }
County of Roberts } ss.

Harley E. Deutsch of said county, being first duly sworn, on oath says, that he is publisher of THE SISSETON COURIER, a weekly newspaper printed and published in Sisseton, in said county of Roberts, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bonafide circulation of at least two hundred copies weekly, and has been published within said county for 52 successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the Notice of Notice of Application No 7073-3, a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this affidavit, was published in said newspaper at least once in each week for two successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

Dec. 16, 2008,	_____
Dec. 23, 2008,	_____
_____	_____
_____	_____
_____	_____

that the full amount of the fee is charged for publication of said Notice insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division there has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever and that the fees charged for the publication there of are \$ 37.21

Harley E Deutsch

Subscribed and sworn to before me this 23rd day of

December, A.D., 2008

Steven Deutsch

Notary Public, Roberts County, South Dakota
My commission expires February 3, 2010

NOTICE OF APPLICATION NO. 7073-3

TO APPROPRIATE WATER

Notice is given that Duane J. Galkowski, 13872 450th Ave., Waubay, SD 57273 has filed an application for a water permit to appropriate 5.13 cubic feet of water per second from two wells completed into the Coteau Lakes Aquifer (35 and 37 feet deep) located in SE1/4SW1/4, SW1/4SE1/4 Section 5 to irrigate 359.5 acres located in the N1/2, SW1/4, W1/2SE1/4 Section 5; all in T122N-R52W within the boundaries of the Sisseton-Wahpeton Indian Reservation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7073-3 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 January 2, 2009.

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.

(Dec. 16 - 23 - 2 wks.)



**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.

December 5, 2008

Duane J Gaikowski
13872 450th Ave
Waubay SD 57273

Dear Mr. Gaikowski:

Water Permit Application No. 7073-3 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 Sisseton Courier printed at Sisseton SD (Ph # 605-698-7642). 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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 5, 2008

Sisseton Courier
PO Box 169
Sisseton SD 57262

ATTENTION: Legal Public Notice

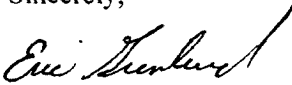
Enclosed is a Notice on Application No. 7073-3 to Appropriate Water to be published twice. Please publish the first notice on December 16, 2008 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Duane J Gaikowski, 13872 450th Ave, Waubay SD 57273 (Ph # 605-947-4623).

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. 7073-3

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

Date _____

We are in receipt of your letter of December 5, 2008 enclosing Notice to Appropriate Water by Application No. 7073-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on December 16, 2008 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 7073-3 to Appropriate Water

Notice is given that Duane J Gaikowski, 13872 450th Ave, Waubay SD 57273 has filed an application for a water permit to appropriate 5.13 cubic feet of water per second from two wells completed into the Coteau Lakes Aquifer (35 and 37 feet deep) located in SE ¼ SW ¼, SW ¼ SE ¼ Section 5 to irrigate 359.5 acres located in the N ½, SW ¼, W ½ SE ¼ Section 5; all in T122N-R52W within the boundaries of the Sisseton Wahpeton Indian Reservation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7073-3 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 January 2, 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 2009

Duane J Gaikowski
13872 450th Ave
Waubay SD 57273

Dear Mr. Gaikowski:

Enclosed is Water Permit No. 7073-3 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

As per phone call
from Duane Gai Kowski

SOUTH DAKOTA WATER WELL COMPLETION REPORT

7073-B
07-92

Location SE 1/4 SW 1/4 Sec 5 Twp 122 Rg 52

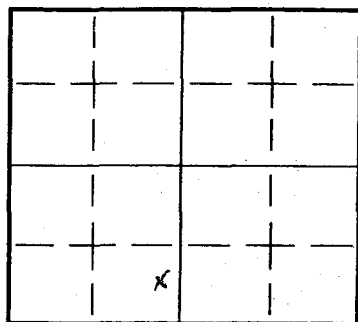
County Day

North

W

E

Please mark well location with an "X"



Well Completion Date

5-24-2010

Well Owner: Duane Gai Kowski

Business Name:

Address: 13872 450 AVE

Wanbury SD. 57273

WELL LOG:

DEPTH

FORMATION

FROM

TO

Top Soil	0	1
yellow mixed gravel	1	35

LOCATION:

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

PROPOSED USE:

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

METHOD OF DRILLING:

Direct Rotary

CASING DATA:

- ☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT SEL 40 LB/FT DIAMETER 12 IN FROM 3 FT TO 25 FT HOLE DIAMETER 18 IN
____ LB/FT ____ IN ____ FT ____ FT ____ IN
____ LB/FT ____ IN ____ FT ____ FT ____ IN

GROUTING DATA

Grout Type Portland No. of Sacks 36 Grout Weight 91 lb./gal From 0 ft. To 22 ft.
Remarks _____ lb./gal _____ ft. _____ ft.
Describe grouting procedure pressure grouting

SCREEN: ☐ Perforated pipe ☒ Manufactured

Diameter 12 IN Length 10 FEET

Material plastic

Slot Size 2080 Set From 25 Feet to 35 Feet

Other information

WAS A PACKER OR SEAL USED? ☐ YES ☐ NO

If so, what material?

Describe packer(s) and location?

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: HTH tablets

☐ NO, Why Not?

Laboratory sent to for water quality analysis

P. H. H. H.

STATIC WATER LEVEL 2 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped

Describe: Sub pump

☐ Bailed

☐ Other

Pumping Level Below Land Surface

20 ft. After 6 Hrs. pumped 400 GPM

25 ft. After 10 Hrs. pumped 700 GPM

If pump installed, pump rate _____ GPM

REMARKS

RECEIVED

FEB - 1 2011

WATER RIGHTS PROGRAM

This well was drilled under license # 689

And this report is true and accurate.

Drilling firm Kaiser Well Drilling

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date:



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 9, 2011

Duane Gaikowski
13872 450th Ave
Waubay SD 57273

Dear Mr. Gaikowski:

I am writing in regard to a well driller's report filed by Kaiser Well Drilling. The report shows a new well was completed for you on May 24, 2010. A review of our files indicates that you hold Water Permit No. 7073-3 for 5.13 cubic feet of water per second (cfs) from two wells, approximately 35 feet deep located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5-T122N-R52W to irrigate 360 acres.

South Dakota Codified Law 46-5-13.1 provides that a point of diversion (well) may be changed or additional points of diversion may be approved without application or publication of a notice of hearing if the additional point of diversion is from the same source of water, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Is the new well a replacement well or an additional well? If it is an additional well, does the well increase the total appropriation of 5.13 cfs authorized by Water Right No. 7073-3? Once we determine the status of the new well, we can determine what, if any additional action needs to be taken.

We want to work with you so that the permit accurately reflects your water use. 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

Water Rights Program - File Documentation

NAME: Duane Gaikowski

ADDRESS: Waubay

DATE: 2-15-11 **COUNTY:** **TELEPHONE:** 605 520-0174

RE: Well completion report

COMMENTS:

Duane Gaikowski called regarding my letter dated 2-9-11. After a review of the permit, I thought the permit was issued for 2 existing wells.

Mr. Gaikowski stated the wells were never drilled for cancelled Permit No. 5260-3. The report was for the first of the two wells they will utilize with this project. He also indicated that the well was drilled in the SW ¼ SE ¼ Section 5-T122N-R52W. I told him I would make that change on the well completion report. He requested that I send him a copy.



Karen Schlaak
Environmental Scientist

4041-3, 5723-3 & ~~7073-3~~

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 4041-3 – Endres
Water Right No. 5723-3, Endres
Water Permit No. 7073-3, Gaikowski

ADDRESS: COUNTY: Roberts

DATE: August 9 and 10, 2012 TELEPHONE:

RE: Center Pivot overspray

At 11:30 AM, August 9, 2012, Delwin Pies called to complain of end gun overspray on to roads and his property from center pivots located in Sections 4, 5 and 10. The pivots in Sections 4 and 10 are owned by Jim Endres and operated by Greg Endres. The pivot in Section 5 is owned by Duane Gaikowski.

Mr. Pies said the most urgent was in Section 10 as someone with the BIA is attempting to put in a post for a sign and this has caused them to drive on pasture ground he leases from the tribe.

Upon receiving the complaint I called and left messages for Greg Endres (882-1711), Jim Endres (886-7342). I also attempted to contact Duane Gaikowski (947-4623).

Friday, August 10, 2012

8:30 AM, Duane Gaikowski called and saw from caller ID that I tried calling. I explained by Mr. Pies had called to complain about the end gun stops on one of the pivots in Section 5 not being properly set and there being overspray on the road. He indicated he would go check on it.

8:40 AM, Jim Endres returned my call and said that Greg Endres operates the ground and is going up there to check on the situation.

8:50 AM, Greg Endres called. He indicated about a week ago they put in new Ag Sensor controllers on the pivots where they can control and monitor pivot operation on-line. He said there may need to be some adjustments needed to the calibration and will work to remedy it if any overspray is occurring. He was surprised about the complaint on Section 10 as they've had problems with the well resulting in the pivot not being used much this year.

Cell Phone numbers

Greg Endres – 605 880-1711

Jim Endres – 605 881-0424

NAME: Eric Handland



4041-3
DEPARTMENT of ENVIRONMENT 5723-3
and NATURAL RESOURCES 7073-3

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

August 10, 2012

Delwin Pies
45187 138th Street
Waubay SD 57273

Dear Mr. Pies:

In response to your phone call on August 9, 2012, DENR contacted Greg Endres and Duane Gaikoswki regarding end gun overspray from center pivots operating in Sections 4, 5 and 10 of Ortley Township in Roberts County. Your concern was that water is being sprayed on to roads and land that you are haying. Both Mr. Endres and Mr. Gaikowski indicated they will check the pivots and end gun stops to insure proper operation.

At this time, DENR is satisfied with Mr. Endres and Mr. Gaikowski's commitment to check the end guns and insure proper operation. Please let DENR know if the end gun operation is not remedied where direct end gun spray is being applied to the road or inappropriate lands.

Sincerely,


Eric Gronlund

Water Rights Program, DENR
605 773-3352

c: Greg Endres, 2011 S Serenity Drive, Watertown SD 57201
Duane Gaikowski, 13872 450th Avenue, Waubay SD 57273

Gronlund, Eric

From: Gronlund, Eric
Sent: Tuesday, July 23, 2013 8:39 AM
To: Rath, Mark
Subject: FW: ongoing complaint on irrigation overspray in Roberts County

I did contact Mr. Gaikowski (947-4623). He knew immediately what it was about. I said Delwin Pies called stating the pivot in the NE ¼ Section 5, T122N, R52W sprayed irrigation water over the road and directly on hay bales on his property. Mr. Gaikowski said this is a new system and they are still trying to get the bugs worked out of it. I told him that the end gun stops need to be in place such that direct irrigation (not wind drift) only is applied to his property. He will try to address the issue. He did inquire as to why Mr. Pies placed the hay bales right along the property line in as close of proximity to the right of way as possible. I said it could very well due to irrigation but that he has the right to place baled anywhere on his land.

Using this email as file documentation that will go on the administrative record.

Eric

From: Gronlund, Eric
Sent: Monday, July 22, 2013 10:58 AM
To: Goodman, Jeanne; Rath, Mark; Duvall, Ron; Buhler, Ken
Subject: ongoing complaint on irrigation overspray in Roberts County

Monday morning received a call from Delwin Pies in Roberts County regarding neighboring irrigators allowing their systems to overspray on to roads and his property. This has been somewhat of an annual call in which I then call the irrigators and tell them to go check their endgun stops to make sure they are functioning properly.

1. According to Mr. Pies, Water Right No. 4886-3 owned by Greg Endres for irrigation of the NE ¼ Section 8, T122N, R52W has been spraying on to the road making for dangerous travel and damage to road. He said direct irrigation spray is also going on to his property. In past years he has made the distinction that this is not wind drift but direct irrigation. I called Greg Endres (880-1711) to ask that he check the system. He asked when the overspray occurred because the location of the pivot has not been such that it would have occurred in the last few days. He stated he would go out and check to make sure the endgun stops are functioning properly. The pivot is coming back around to the road location and should be there this afternoon or this evening and we are welcome to come out and verify he is not irrigating the road or Mr. Pies' property. He stressed that they have been trying to be real careful knowing Mr. Pies is watching.
2. The primary reason for the call was the irrigation by Duane Gaikowski under Water Permit No. 7073-3 in Section 5, T122N, R52W. There are four various sized pivots in this section. He stated that the pivot in the NE ¼ of Section 5 is irrigating on his property and applied water upon his hay bales. Attempts thus far to contact Mr. Gaikowski have been unsuccessful but in the past he's called back in once he's seen the caller ID number.

Mr. Pies second complaint regarded the pivot in the SE ¼ of Section 5. He had Gaikowski's supply pipeline surveyed in for the pivot in the SE ¼ of Section 5 and part of the pipeline is on his property. This is the north-south line bisecting the W ½ SE ¼ (Gaikowski) and the E ½ SE 1/4 (Pies). Based on the map submitted with the application it does not appear the pivot should be near the property boundary. Therefore, I believe that when a staff engineer is in the area, a licensing investigation should be conducted to see how the systems are set-up. The time to complete construction of work is January 2, 2014 so he's about at the time to have the permit licensed anyway.

7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7073-3, Duane Gaikowski

ADDRESS: COUNTY: Roberts

DATE: July 26, 2013 TELEPHONE:

RE: irrigation endgun overspray

Earlier in the week I received a call from Delwin Pies (268-5466) regarding the endgun on center pivot in the NE ¼ Section 5, T122N, R52W being allowed to spray water on to the roadway and on to bales located on Mr. Pies' property. He indicated this was direct endgun spray and not wind drift. The water is damaging the road, causes unsafe driving conditions and damages the bales.

I contacted Mr. Gaikowski and he stated he would go check the system to make sure the endgun stops are operating correctly.

On Friday, July 26th at 4:00 PM, I again got a call from Delwin Pies stating the pivot is now on its southerly swing and endgun overspray is watering his ground including bales. He wanted it to stop. I believe he wanted me to have Mr. Gaikowski stop the whole system, I said I can not do that but can tell Mr. Gaikowski to get the endgun stops functioning properly so that he's only irrigating land on his property authorized by the permit. Mr. Pies said he is tired of this and wants a way to get the matter before the Board. I asked him to let me discuss this with the Chief Engineer and then I'll get back to him.

I then contacted Mr. Gaikowski (520-0174) and informed him of what Mr. Pies claims is occurring. He indicated he would go out and check the system's endgun stops. I cautioned him that if this continues to occur the matter is going to be brought before the Water Management Board.

NAME: Eric Humlund

Gronlund, Eric

From: Gronlund, Eric
Sent: Monday, July 29, 2013 9:03 AM
To: Goodman, Jeanne
Cc: Buhler, Ken; Duvall, Ron; Rath, Mark
Subject: RE: ongoing complaint on irrigation overspray in Roberts County

Delwin Pies called again first thing this morning. He claimed that Duane Gaikowski called him this morning basically saying what is the big deal and he should just move his bales out of the way. I told him we are going to have a well reader conduct a drive by. His response was that it will not be at a point where it is irrigating the road or his land. I told him we'd look for evidence of irrigation to the road or the bales. I said without evidence, I doubt the Chief Engineer will issue an order.

From: Gronlund, Eric
Sent: Friday, July 26, 2013 4:21 PM
To: Goodman, Jeanne; Rath, Mark; Duvall, Ron; Buhler, Ken
Subject: RE: ongoing complaint on irrigation overspray in Roberts County

This is a problem that isn't going away. Mr. Pies called late Friday afternoon saying the Gaikowski pivot in the NE ¼ of Section 5 is on its south rotation and irrigation endgun direct spray is hitting his land including bales. I called Mr. Gaikowski and he stated he'd go out and check.

Mr. Pies wants to push this to go before the Board. Two options are whether to bring it on as a violation or Mr. Pies makes a declaratory ruling request. He indicated to me that he has documented the occurrence with pictures. We need to discuss. Possible we could issue an order.

I left a note for Bracken that while on his well run if he's in the general area to do a drive by and see if he can see any indication of overspray on either the roadway or bales.

This is the second complaint I've received this week in different portions of the state. I vaguely recall in the past DENR putting out a press release about irrigation overspray due to damage to roadways as well as being a traffic hazard. Is the issue of a press release worth bringing up at Monday morning staff meeting?

From: Gronlund, Eric
Sent: Monday, July 22, 2013 10:58 AM
To: Goodman, Jeanne; Rath, Mark; Duvall, Ron; Buhler, Ken
Subject: ongoing complaint on irrigation overspray in Roberts County

Monday morning received a call from Delwin Pies in Roberts County regarding neighboring irrigators allowing their systems to overspray on to roads and his property. This has been somewhat of an annual call in which I then call the irrigators and tell them to go check their endgun stops to make sure they are functioning properly.

1. According to Mr. Pies, Water Right No. 4886-3 owned by Greg Endres for irrigation of the NE ¼ Section 8, T122N, R52W has been spraying on to the road making for dangerous travel and damage to road. He said direct irrigation spray is also going on to his property. In past years he has made the distinction that this is not wind drift but direct irrigation. I called Greg Endres (880-1711) to ask that he check the system. He asked when the overspray occurred because the location of the pivot has not been such that it would have occurred in the last few days. He stated he would go out and check to make sure the endgun stops are functioning properly. The pivot is coming back around to the road location and should be there this afternoon or this evening and we are

welcome to come out and verify he is not irrigating the road or Mr. Pies' property. He stressed that they have been trying to be real careful knowing Mr. Pies is watching.

2. The primary reason for the call was the irrigation by Duane Gaikowski under Water Permit No. 7073-3 in Section 5, T122N, R52W. There are four various sized pivots in this section. He stated that the pivot in the NE ¼ of Section 5 is irrigating on his property and applied water upon his hay bales. Attempts thus far to contact Mr. Gaikowski have been unsuccessful but in the past he's called back in once he's seen the caller ID number.

Mr. Pies second complaint regarded the pivot in the SE ¼ of Section 5. He had Gaikowski's supply pipeline surveyed in for the pivot in the SE ¼ of Section 5 and part of the pipeline is on his property. This is the north-south line bisecting the W ½ SE ¼ (Gaikowski) and the E ½ SE ¼ (Pies). Based on the map submitted with the application it does not appear the pivot should be near the property boundary. Therefore, I believe that when a staff engineer is in the area, a licensing investigation should be conducted to see how the systems are set-up. The time to complete construction of work is January 2, 2014 so he's about at the time to have the permit licensed anyway.

Eric

7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7073-3, Duane Gaikowski

ADDRESS: COUNTY: Roberts

DATE: July 30, 2013 TELEPHONE:

RE: Delwin Pies – 268-5466

Delwin Pies called first thing Tuesday morning saying that the north most pivot was watering his property. I contacted Nick Emme of the Water Rights staff who was out conducting a well run in the northeast part of the state and requested that he drive to the area and see if there is evidence of irrigation overspray.

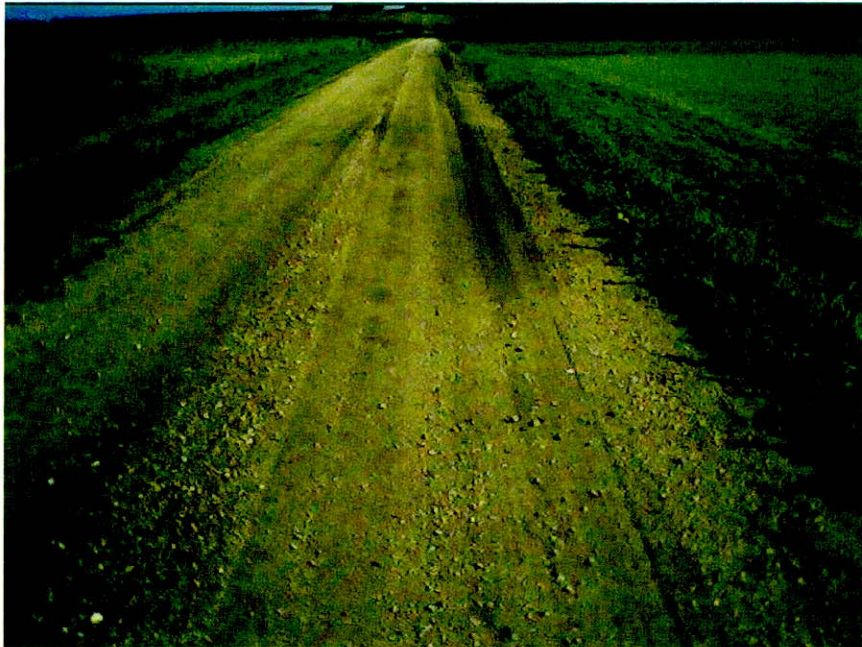
He met with Delwin Pies and reported back that a gravel road, presumably a township road, showed evidence of direct irrigation endgun overspray. Mr. Pies told him this was from Sunday. Mr. Pies also took him to an area that had just been watered. Mr. Emme reported that there was clear evidence of irrigation overspray going 75 – 100 feet on to Mr. Pies alfalfa field.

NAME: _____

Nick Emme's Inspection of over spraying pivot in Roberts County, Section 5 in Ortley Township

I met with Delwin Pies on the morning of Tuesday 7/30/13 at 9:30 am to inspect a neighbor's pivot that was over spraying on his property and on the township road. That morning it was mostly cloudy with wind that was less than 5 mph and the temperature was in mid 60°s.

We first inspected a road that runs north and south between section 5 and section 4. That road was found to be muddy along the northeast corner of section from when the pivot over sprayed the road. Delwin informed me that the pivot last hit the road the previous Sunday (7/28/13) at around 5:00 pm. I took two pictures (Pic1 and Pic2) of the road to show that it was truly wet from the over spray.



Pic1 – Road running north and south between section 5 and section 4 Ortley Township in Roberts County.



Pic2 – Road running north and south between section 5 and section 4 Ortley Township in Roberts County.

After the inspection of the road, we drove on Delwin's 60 acre private property on the Southeast corner of section 5 at 9:40 am. This property consisted of an alfalfa field with a tree line that butted up against neighbor's property with pivot on the west side of the 60 acre's. Delwin informed me that the pivot was running that morning and was spraying on his alfalfa field. When we got out and inspected this, it was clear that the pivot had over sprayed onto Delwin's property. The grass was wet for 75-100 feet onto Mr. Pie's property. There was not much dew that morning and was clear that the grass out of reach from the over spraying pivot was dry.

The last part of the inspection was a road that ran east and west between section 5 and section 8 in the Ortley Township. The road was soaked for at least 300 feet from a pivot that is on section 8. I took a picture to show the wet road (Pic3).



Pic3 – Road running east and west between section 5 and section 8 Ortley Township in Roberts County.



7073-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

July 31, 2013

denr.sd.gov

Duane Gaikowski
13872 450th Avenue
Waubay SD 57273

Dear Mr. Gaikowski:

Water Permit No. 7073-3 held in your name appropriates water from two wells completed into the Coteau Lakes Aquifer to irrigate 359.5 acres located in Section 5, T122N, R52W. You currently have pivots set up and operational. The Department of Environment and Natural Resources (DENR) has received complaints regarding end gun overspray from these center pivots on to the roadway and neighboring property. Below is a general chronology of the calls received by DENR and our calls to you to remedy the issue.

- August 9, 2012 – A call from Mr. Pies on end gun overspray.
- August 10, 2012 – DENR contacted you and you agreed to check and make adjustments as needed.
- July 23, 2013 – A call from Mr. Pies stating that water from the end gun on the pivot in the NE ¼ Section 5, T122N, R52W (Ortley Township) is spraying directly on to the roadway and on hay bales on his property.
- July 23, 2013 – DENR contacted you and you indicated you are still trying to get the bugs worked out of the system.
- July 26, 2013 – A call from Mr. Pies that the same pivot was on southern swing and watering his property.
- July 26, 2013 – DENR contacted you and you again agreed to check the system's end gun stops
- July 29, 2013 – A call from Mr. Pies that north most pivot in Section 5 had irrigated the roadway on Sunday and to inform DENR that you told him he should move his bales.
- July 30, 2013 – A call from Mr. Pies that north pivot was irrigating his alfalfa field.

A DENR staff person made a visual observation of the irrigation systems at approximately 10:30 AM on Tuesday, July 30, 2013. This investigation found a local gravel road, which is presumably a township road; muddy from irrigation overspray that Mr. Pies stated occurred on Sunday, July 28th. Mr. Pies then showed an area on his property that a pivot in the section had just past. The DENR staff person indicated that the alfalfa on Mr. Pies property had clearly received irrigation water from the end gun. The estimate is that the pivot's end gun applied water to Mr. Pies' property at a maximum of 75 – 100 feet beyond the property boundary.

A water right holder is not allowed to operate their irrigation system in violation of state water law, which includes unauthorized end gun overspray upon land not authorized by the water permit. DENR's enforcement applies to direct irrigation of land not listed on the water right. It does not apply to incidental wind drift that may occur. At this time, DENR cannot prohibit you from irrigating lands specified in the water permit. What DENR can do is order compliance with the water permit if water is being directly applied to unauthorized land.

Continued overspray can result in the Chief Engineer issuing a formal order pursuant to SDCL 46-2A-18 to discontinue the use of water to which the user has no legal right. Failure to comply with the Chief Engineer's Order will result in the Water Rights Program scheduling a hearing before the Water Management Board for further enforcement action.

This letter will be filed on the administrative record for Water Permit No. 7073-3. If you have any questions, please contact me at the number below.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

Eric Gronlund
Water Rights Program, DENR
605 773-3352

c: Delwin Pies, 45187 138th Street, Waubay SD 57273

7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7073-3, Duane Gaikowski

ADDRESS: COUNTY: Roberts

DATE: August 12, 2013

TELEPHONE:

RE: irrigation endgun overspray

Delwin Pies (947-4923) called in at 8:15 AM regarding the center pivot in the SE ¼ of Section 5, T122N, R52W authorized under Water Permit No. 7073-3. It is my understanding that this pivot was developed different than on the map submitted with the application and actually is constructed in a windshield wipe rotation on the property boundary of Gaikowski / Pies. Mr. Pies stated the system started up this weekend and watered ground owned by Mr. Pies. This was an area of black dirt that he planned to plant trees. Mr. Pies is frustrated with the continued irrigation by Mr. Gaikowski on to his ground.

I then contacted Mr. Gaikowski (520-0174) and informed him of what Mr. Pies claims is occurring. He indicated this is a system that he just got operating last Friday. He said the stops were not set up properly and has someone coming out today to get it fixed. He did indicate the tires went on to the Pies property. I told him to get the system fixed and he needs to be conscientious as he knows he has a neighbor that does not want irrigation water applied to his property.

Mr. Gaikowski stated in regard to the previous letter we sent to him that the endgun on the pivot in the NE ¼ is not functioning so it is not possible for it to be applying water. In addition, he contends the hay bales of Mr. Pies never received irrigation water from his system and the reason he told him to move them was because they were in the right-of-way.

At 9:00 AM, Mr. Pies called me from his cell phone (268-5466). He was at the location of the pivot in the SE ¼ of Section 5. He indicated that the tires went at least 25 feet on to his property. I told him to document. I said our authority deals with the appropriation of water based on diversion rate and irrigated acres. That if there is a trespass issue that may be handled by local law enforcement. Mr. Pies indicated his intent to call the sheriff.

11:45AM, Mr. Pies called and said the tires on Gaikowski's pivot knocked down his fence and ran over trees. He thinks Water Rights has to take action. I told him to file a written complaint with documentation of the damage.

NAME: Eric Hunter

7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7073-3, Duane Gaikowski

ADDRESS: COUNTY: Roberts

DATE: August 13, 2013 TELEPHONE:

RE: irrigation endgun overspray

Delwin Pies (947-4923) called at 10:00 AM to get the Water Rights Program's address to file a written complaint. I provided him the address.

He stated Gaikowski's pivot in the NE ¼ Section 5, T122N, R52W was spraying clear over the road. I indicated that Mr. Gaikowski told me yesterday, the endgun on this pivot is not operational so it could not be spraying on to the road. Mr. Pies said that is not true, the endgun is working according to him.

NAME: Eric Brunken

SOUTH DAKOTA WATER WELL COMPLETION REPORT

7073-3

07-92

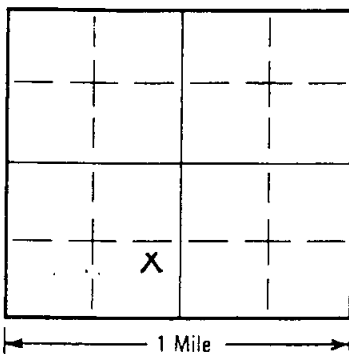
Location SE 1/4 SW 1/4 Sec 5 Twp 122 Rg S2
County Roberts North

Please mark well location with an "X"

Ortley Township W E

Well Completion Date

7/10/13



Well Owner: Duane Galkowski

Business Name:

Address: 13872 480th Ave.
Waukegan, SD 57273

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>topsoil</u>	<u>0</u>	<u>2</u>
<u>Sand</u>	<u>2</u>	<u>30</u>
<u>clay</u>	<u>30</u>	<u>33</u>

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 300 ft. from SE slough (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Forward Rotary

CASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>SDR21 LB/FT</u>	<u>12 IN</u>	<u>0 FT</u>	<u>20 FT</u>	<u>18 IN</u>
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Neat Cement</u>	_____	<u>65 lb./gal</u>	<u>0 ft</u>	<u>16 ft</u>
_____	_____	_____ lb./gal	_____ ft	_____ ft

Describe grouting procedure Pressure Grout w/ tremie
pipe

SCREEN: ☐ Perforated pipe ☒ Manufactured (Johnson)

Diameter 12" P.S. IN Length 13 FEET

Material Stainless Steel

Slot Size 90 Set From 20 Feet to 33 Feet

Other information Bottom 3 ft tite wired w/
Stainless bottom

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: _____

Chloride
Solution

Laboratory sent to for water quality analysis

☐ NO, Why Not? _____

None - Irrigation

STATIC WATER LEVEL 4 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped

Describe: 250/250
Blew w/ Air Compressor

☐ Bailed

☐ Other

Pumping Level Below Land Surface

20 ft. After 3 Hrs. pumped 450 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS East well of our 2 -
12" well farther East 400ft, Kaiser 35' deep

This well was drilled under license # 63

And this report is true and accurate

Drilling firm Lee Well Drilling

Signature of License Representative

Signature of Well Owner or Equitable Property Holder

RECEIVED
JUL 24 2013

WATER RIGHTS
PROGRAM

Date: _____

7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7073-3, Duane Gaikowski

ADDRESS: COUNTY: Roberts

DATE: July 21, 2014 TELEPHONE:

RE: irrigation endgun overspray

I received a voicemail from Delwin Pies (268-5466) regarding the endgun on center pivot in the NE ¼ Section 5, T122N, R52W being allowed to spray water on to the roadway and on to hay ground located on Mr. Pies' property. He said the incident occurred this weekend after he had conversations with DJ Gaikowski (Duane Gaikowski's son) and was assured the end gun stops were operating properly. When it was occurring at 1:30 AM in the morning Mr. Pies stated he called DJ Gaikowski and he refused to immediately come out to check the system.

Mr. Pies stated it has reached the point where he plans to file a written complaint and that DENR will receive it soon.

I contacted Mr. Duane Gaikowski (520-0174) about 11:30 AM on Monday, July 21, 2014, to inform him of the situation. He indicated that Mr Pies did contact his son very early one morning this weekend to state the endgun stop were not functioning. To his knowledge they were operating correctly. I stated that we will wait to see the complaint and any supporting evidence submitted by Mr. Pies. I told him if true it is possible that the Chief Engineer will issue an formal order with the potential for civil fine. In addition, there is the potential that this matter will come before the Water Management Board for suspension of the water rights.

NAME: Eric Tranter

7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7073-3, Gaikowski

ADDRESS: COUNTY: Roberts

DATE: July 24, 2014 (9:30 AM) TELEPHONE:

RE: Center Pivot overspray

Duane Gaikowski called to ask if anything had come up in regard to Mr. Delwin Pies complaint on overspray from one of his center pivots. I stated that DENR has not received a written complaint from Mr. Pies.

Mr. Gaikowski indicated that they had a issue with a pivot running into Mr. Pies' nephew's property. I got the impression there was damage to the nephew's property. Mr. Gaikowski said they are cleaning that up and working through their insurance and they continue to have a good working relationship with the nephew.

As far as the pivot overspray going on to Mr. Pies' property. He again stated that his son got a call at 2:00 in the morning from Mr. Pies that it was occurring. Last Sunday, Mr. Gaikowski drove the road and the hay bale we not next to the road on the Pies property. Then the bales were suddenly placed by the road. He thinks they are being placed their on purpose. I said regardless, he does not have the right to allow direct end gun spray on to property not included in his water right.

He wanted to know if the contents of the file on his water right are available to him. I said yes and that if a complaint was filed he would have an opportunity to see the complaint.

NAME: *Eric Humber*



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



August 5, 2014

ORDER

TO: Duane J Gaikowski
13872 450th Avenue
Waubay SD 57273

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program, DENR

SUBJECT: Order to Cease Center Pivot End Gun Overspray

Water Permit No. 7073-3 authorizes irrigation of the N ½, SW ¼ and W ½ SE 1/4 Section 5, T122N, R52W within the boundaries of the Sisseton Wahpeton Indian Reservation in Roberts County.

The South Dakota Department of Environment and Natural Resources (DENR) received a complaint that on July 20, 2014, the end gun on the center pivot located in the NE ¼ of Section 5 was allowed to overspray on to the road and neighboring property not authorized for irrigation by the water permit. In 2012 and 2013, DENR contacted you in response to direct irrigation overspray on to the road and neighboring property. A DENR staff person documented overspray in 2013.

Pursuant to SDCL 46-2-18, you are ordered to limit irrigation to land authorized by Water Permit No. 7073-3 and discontinue application of water to any other land. Application of water to a roadway or unauthorized lands is a waste and unreasonable use of water pursuant to SDCL 46-1-4.

Failure to comply with this order may result in one or more of the following actions being taken:

- directing the Attorney General's office to request a temporary restraining order or injunction (SDCL 46-2-18);
- seeking a fine of up to five hundred dollars for each day of violation (SDCL 46-1-11);
- scheduling a hearing before the Water Management Board to consider suspending Water Permit No. 7073-3 for a period of up to one year (SDCL 46-1-12). A permit can be suspended one year for the first violation, for up to three years for the second violation; and cancelled by the board for the third violation.

A copy of the complaint and applicable statutes are enclosed. Please contact Eric Gronlund at (605) 773-3352 or eric.gronlund@state.sd.us if you have questions regarding this order.

enclosures

c: Delwin Pies, 45187 138th Street, Waubay SD 57273
Ann Mines, Assistant Attorney General
Matthew Naasz, Assistant Attorney General

South Dakota Codified Law

46-1-4. Beneficial use of water resources--Prevention of waste--Right to water from natural stream or watercourse. It is hereby declared that, because of conditions prevailing in this state, the general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable method of use of water be prevented, and that the conservation of such water is to be exercised with a view to the reasonable and beneficial use of the water in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or watercourse in this state is limited to an amount of water reasonably required for the beneficial use to be served, and such right does not extend to the waste or unreasonable use or unreasonable method of diversion of water.

46-1-11. Violations of water use laws as misdemeanors--Civil fine in addition--Each day as separate violation--Exemption of board and commission actions. Unless otherwise provided in this title, any person, firm, or corporation violating any of the provisions of chapters 46-4 to 46-10, inclusive, is guilty of a Class 2 misdemeanor. In addition, a civil fine of not more than five hundred dollars may be imposed for the violation. Each day of noncompliance with the provisions of this title shall be deemed a separate violation. Administrative actions of the department or Board of Water and Natural Resources, the Water Management Board, or the conservation commission are exempt from this section.

46-1-12. Suspension or cancellation of permit or license. Any permit or license issued pursuant to this title may be suspended or canceled by order of the Water Management Board after a hearing pursuant to chapter 1-26 whenever the board finds that an individual permittee or licensee, or the agent or employee of either of them as the case may be, has violated any term of the permit or license. The board may suspend the permit or license for a period of up to one year for the first violation; for up to three years for the second violation; and may cancel the permit or license for a third violation.

46-2-18. Chief engineer's authority to order discontinuance of water use. The provisions of chapter 1-26 notwithstanding, the chief engineer may, after appropriate investigation, issue an order to any person to shut off or limit the person's use of surface or groundwater, or to plug or otherwise control a well. The order may be issued only to protect another user who has higher or earlier priority or to cause a user of water to discontinue the use of water to which the user has no legal right. Upon a refusal to obey the order, the chief engineer may request a court of proper jurisdiction to issue a temporary restraining order or injunction to effectuate the provisions of the order.

RECEIVED
JUL 25 2014
WATER RIGHTS
PROGRAM

Delwin Pies
45187 138th St.
Waubay, SD 57273

July 22, 2014

Department of Environment & Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Dear Chief Engineer, Water Rights Division,

First of all I would like to thank Mr. Eric Gronlund for all the time, visits, phone calls, and letters he put forth in attempting to resolve this issue in 2013. Unfortunately, the problem has persisted and violations have occurred as lately as last week. The problem I am referring to is the end gun overspray onto my property from irrigation systems run by Duane, Daniel, and Duane Jr. Gaikowski. We had thought the issues had improved but as the season has dried the Gaikowskis have reverted to old practices.

On July 19, 2014 at 9:29pm, we noticed the end gun was watering over the township road and onto our property. The road mentioned runs between section 5 and section 4, Ortleigh township, Roberts County. I proceeded to call Duane Jr., who claims total control of the irrigation systems this year, at 9:42pm that same evening to let him know he was watering my property. He did not answer at that time so I left him a voicemail requesting him to stop the end gun as to prevent it from watering my bales further down the line and prevent further property damage. When Duane Jr. returned my phone call I stated that they had watered over the road and onto my property and "do not water my hay when it goes south." He stated that he would not allow that to happen. On July 20, 2014 at 1:45am, my son Jerrett Pies called me and said, "Dad, the end gun is right now watering the bales." I drove down there to find all of my bales which are 44 feet from the property line on my property had been completely saturated. I called Duane Jr. and told him that he had just watered all of my bales and he needed to come down and see for himself, which he refused to do. I called Mr. Eric Gronlund in the morning to report this latest infraction.

This is another in a long list of examples of complete disregard for their neighbors' property. As we are writing this letter, a portion of Duane's irrigation system in the southeast quarter sits in my nephew's yard. The system was allowed to run over onto his home property, crashed into his garage, damaged the building, vehicle and lawn, as well as the destroyed the system itself. Last year, this same irrigation system ran over my fence because the proper stops were not put in place. There was no apology and no attempt to repair the fence by Duane or his sons. When this system in particular was built in 2013, it was placed ten feet over onto my land as they did not look into the actual location of the legal property line.

We understand there are legal regulations to protect us from these abuses. Is there anything else we need to do to claim our rights to protection under the law and prevent further destruction of our property?

We would appreciate your swift and appropriate action in addressing these frustrating issues.

Sincerely,

Delwin Pies, Ann Pies, and Jerrett Pies

Delwin Pies
Ann Pies
Jerrett Pies

✓

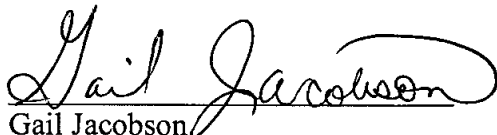
CERTIFICATION

I hereby certify that on August 5, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated August 5, 2014 regarding an overspray complaint addressed as stated below:

Duane J Gaikowski, 13872 450th Ave, Waubay SD 57273

Delwin Pies, 45187 138th St, Waubay SD 57273

Sent by Inter-Office mail to Ann Mines and Matt Naasz, Attorney General's Office,
Pierre SD



Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

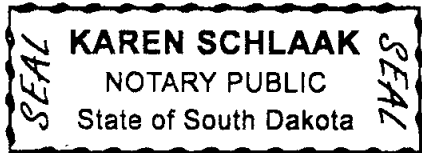
Sworn to, before me, this 5th day of August, 20 14.



Karen Schlaak

Notary Public

My Commission expires April 1, 2019





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 17, 2015

Notice and Order

denr.sd.gov

TO: Duane J Gaikowski
13872 450th Avenue
Waubay SD 57273

Daniel Gaikowski
45065 138th Street
Waubay SD 57273

FROM: Jeanne Goodman, Chief Engineer,
Water Rights Program, DENR

SUBJECT: Cease Center Pivot End Gun Overspray

Water Permit No. 7073-3 held in the name of Duane Gaikowski authorizes irrigation of the N ½, SW ¼ and W ½ SE 1/4 Section 5, T122N, R52W within the boundaries of the Sisseton Wahpeton Indian Reservation in Roberts County. The N ½ of Section 5 is owned by Daniel Gaikowski.

On August 5, 2014, you were sent a Chief Engineer's order to cease center pivot overspray from the pivot in the NE ¼ of Section 5, T122N, R52W on to the road and neighboring property. DENR received a complaint that the overspray again occurred on June 27, 2015. The issue of overspray has been a reoccurring issue since 2012. DENR staff documented overspray had occurred in 2013.

A water right holder is not allowed to waste water or operate an irrigation system in violation of state water law, which includes spraying water on land not covered by the water permit. Irrigation systems and especially end guns must be constantly monitored to make sure they are not applying water where it is not allowed.

Pursuant to SDCL 46-2-18, you are ordered to limit irrigation to land authorized by Water Permit No. 7073-3 and discontinue application of water to any other land. Application of water to a roadway or unauthorized lands is a waste and unreasonable use of water pursuant to SDCL 46-1-4.

DENR staff will be in the area periodically, and they will conduct a drive by to see if overspray has or is occurring. DENR documenting endgun overspray will be deemed as failure to comply with this order and may result in one or more of the following actions being taken:

- seeking a fine of up to five hundred dollars for each day of violation (SDCL 46-1-11);
- scheduling a hearing before the Water Management Board to consider suspending Water Permit No. 7073-3 for a period of up to one year (SDCL 46-1-12). A permit can be suspended one year for the first violation, for up to three years for the second violation; and cancelled by the board for the third violation.

A copy of the recent complaint is enclosed. Please contact Eric Gronlund at (605) 773-3352 or eric.gronlund@state.sd.us if you have questions regarding this order.

enclosure

c: Delwin Pies, 45187 138th Street, Waubay SD 57273
Ann Mines, Assistant Attorney General

CERTIFICATION

I hereby certify that on July 17, 2015, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated July 17, 2015, regarding irrigation overspray under Water Permit No. 7073-3, as set forth below:

Duane J Gaikowski
13872 450th Avenue
Waubay SD 57273

Daniel Gaikowski
45065 138th Street
Waubay SD 57273

Delwin Pies
45187 138th Street
Waubay SD 57273

Sent Inter-Office Mail:

Ann Mines-Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



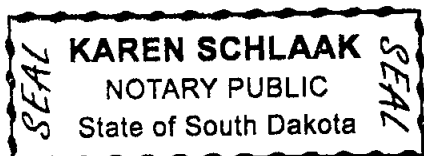
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 17th day of July, 2015



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



RECEIVED

JUL 06 2015

WATER RIGHTS
PROGRAM

Delwin Pies
45187 138th St.
Waubay, SD 57273

June 30, 2015

Department of Environmental & Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Dear Chief Engineer, Water Rights Division,

I need to report a water rights violation involving an irrigation system of the northeast quarter of section 5, Ortley Township, Roberts County. On June 26, 2015, I mowed my hay in the northwest quarter of section 4, Ortley Township, Roberts County. On June 27, 2015, approximately between the hours of 10:00 and 11:30 am the irrigation end gun from section 5 saturated the road and my down hay that was drying. This township road between the two sections is an improved gravel road. The irrigation system in question is owned by Daniel Gaikowski and run under water permit of Duane Gaikowski.

I filed several complaints on this same irrigation system in 2014. Though the Gaikowski's have complied thus far with the "Order to Cease Center Pivot End Gun Overspray" issued August 5, 2014, this is a clear violation. My frustration lies in the belief that neighbors should respect their property boundaries, a feat that should be fairly easy to honor, but apparently not. In the past, several avenues requesting full compliance have failed, resulting in end gun over spray. First I respectfully asked them not to spray; they ignored my request. I firmly told them to stop watering my property; they sprayed anyway. Mr. Eric Gronlund from Water Rights told them spraying my property was violating South Dakota law; again they over sprayed. The longest running positive result came from when you, the Chief Engineer, sent the "Order to Cease" but with time even this has proved ineffective. Ironical that they complied until I had begun another haying season.

I request and would greatly appreciate your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Delwin Pies, Ann Pies, Jerrett Pies". The signature is stylized and cursive, with the names written in a continuous flow.

Delwin Pies, Ann Pies, and Jerrett Pies

No. 7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7073-3, Gaikowski

ADDRESS: COUNTY: Roberts

DATE: August 9, 2016 TELEPHONE:

RE: Center Pivot overspray

On August 9, 2016, Delwin Pies called to inform me that Mr. Gaikowski's center pivots were again overspraying directly on the road. He said it occurred a couple times and he did not contact DENR but it continues to occur and he's sick of it. He wants this matter brought before the Water Management Board.

I talked with the Chief Engineer and called Mr. Pies back. I told him if he was willing to contact me when he sees one of the pivots approaching the road or his property. If he could give me about five hours of lead time, I would make every effort to drive up there to witness the overspray. DENR thinks it is important to either have a DENR staff person or law enforcement witness the overspray occurring for the purpose of testifying if the matter is brought before the Water Management Board.

NAME: Eric Humlund

No. 7073-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7073-3, Gaikowski

ADDRESS: COUNTY: Roberts

DATE: August 24, 2016 TELEPHONE:

RE:

On August 24, 2016, Delwin Pies called to inform me that Mr. Gaikowski's center pivot located in the NE ¼ Section 5, T122N, R52W was turned on. Instead of calling in he decided to wait and see if overspray would occur on the road. He said that this time the endgun stops worked perfectly and there was no overspray on to the road or his property.

After our August 9th conversation, they got a three inch rain and the systems operated by Mr. Gaikowski were not turned back on until recently. Mr. Pies speculated the irrigation season is about over.

NAME: Eric Brunk

RECEIVED

DEC - 6 2016

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate Dec 1 - 2016

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

FROM: Duane J. Galkowski
(name)

13872 450th Ave
(address)

Waubesa S.D. 57273
(city, state, zip)

947-4623
605-520-0174
(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. 7073-3 states that the water use system is to be constructed by

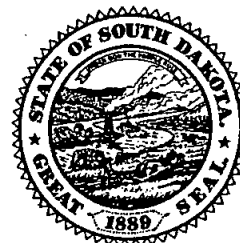
JAN 2 - 2014 (date), and water is to be put to beneficial use by JAN 2 - 2017 (date).

The water use system was completed on July 20 - 2013 (date).

Applying the water to beneficial use was completed on July 20 - 2013 (date).

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

Duane J. Galkowski
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 12, 2016

7073-3

Duane J Gaikowski
13872 450th Ave
Waubay SD 57273

Dear Mr. Gaikowski:

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.

Also received with your correspondence was the 2016 irrigation questionnaire. Thank you for getting it in, everything is now up to date.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

Schlaak, Karen.

From: Gronlund, Eric
Sent: Tuesday, August 27, 2019 2:20 PM
To: Schlaak, Karen
Cc: Goodman, Jeanne
Subject: Gaikowski alleged overspray - 7073-3

I received a call from Delwin Pies regarding overspray by the pivot of Mr. Gaikowski in the NE ¼ Section 5-T122N-R52W. He said it has been overspray on his property for the last week. He indicated with the wet conditions they should even be needing to irrigate.

I called Duane Gaikowski who initially said they are not even irrigated. Then he said it did make a rotation to apply fertilizer. He state his spent \$2,000 to get GPS controlled electronic end gun stops on this center pivot. He stated he would go out and make sure it is functioning properly.

Karen, please place this email in the administrative record for No. 7073-3.

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

RECEIVED

7073-3

AUG 30 2021

WATER RIGHTS
PROGRAM

Hi Genny.

I am sending the map back with an outline in pink showing what I own. The pink line crossed out shouldnt be there. I'm also sending the descriptions of each of our properties in case you need them. I hope this helps, As I said, this is all new to me dealing with this. If you have any more questions, please call me at 881-6705.

Thank You, Carol

Carol's: SW1/4 of Section 5 Township 122 North, Range 52 West of the 5th P.M.;

W1/2SE1/4 of Section 5 Township 122 North, Range 52 West of the 5th P.M.;

NW1/4 of Section 8 Township 122 North, Range 52 West of the 5th P.M.

Daniel's: Township 122 North, Range 52 West of the 5th P.M.

Section 5: NE1/4

DJ's: No Irrigation 148.49 acres S2NW4 EXC Gaikowski Addition in the

SW4NW4; Lots 3 & 4 Sec 5-122-52 Ortley

Township

No Pivot

Approval of Location Change and/or Additional Diversion Point(s)

NAME: Duane Gaikowski

ADDRESS: 13872 450th Ave, Waubay SD 57273

DATE: 02-10-2022

COUNTY: Roberts

GENERAL DESCRIPTION OF AUTHORIZED PROJECT:

The permit holder is authorized to divert from Coteau Lakes Aquifer at a diversion rate of 5.13 cfs from two wells into the Coteau Lakes Aquifer to irrigate 359.5 acres in Sec 5 T122N-R52W (Res). The permit holder constructed 3 wells into Coteau Lakes Aquifer 3.57 cfs for irrigation of 250 acres in Sec 5 T122N-R52W (Res).

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 third well was constructed into the Coteau Lakes Aquifer as was permitted. The additional well is located in the SE ¼ SW ¼ of Sec 5 T122N-R52W (Res), which is the same quarter-quarter section authorized by the permit.

- **If irrigation, no new land is irrigated**

There is less irrigation developed than was permitted.

- **Review of Existing Diversions**

The source of water is from Coteau Lakes Aquifer. The nearest well not part of this permit and constructed into the same aquifer is located approximately 0.75 miles southeast of this project, adverse impacts to this well is not expected.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.



Mark D. Rath, Natural Resources Engineer III
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 in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



Eric Gronlund, Chief Engineer
Water Rights Program

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7073-3

I have this day, August 18, 2021, made a thorough examination of the water use system constructed by Duane J Gaikowski, 13872 450th Ave, Waubay, SD 57273 of Permit No. 7073-3, bearing the priority of September 16, 2008 authorizing the diversion of 5.13 cu. ft. per second of the waters of the Coteau Lakes Aquifer for irrigation purposes, in Roberts County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Kaiser Well Drilling & Lee Well Drilling
- 2) No. of Wells 3
- 3) Depth(s) 33 - 37 feet
- 4) Well logs are available Y

Casing:

- 1) Diameter 12 inches
- 2) Length 20 - 25 feet
- 3) Type Plastic

Screen:

- 1) Type 1 - Plastic & 2 - Stainless steel
- 2) Length 10, 13 & 15 feet
- 3) Static water level 3 feet

Pump:

- 1) Make NA
- 2) Model Submersibles
- 3) Size NA
- 4) Capacity 1700 total GPM (more like 1450 – pivot design flows)

Motor: unknown

B. Works used to transport water to place of use: Buried pipe lines

C. Works used to apply water to beneficial use:

Center pivots:

- 1) Make 4 - Valleys
- 2) Overall length 1 - 1300 & 3 - 775 feet

- 3) Number of towers 1 - 7 & 3 - 5
- 4) End gun Y
- 5) Capacity 1 - 750 , 1 - 750 & 2 - 700 GPM (Source Farmers Impl/Irrigation)

Chemigation Equipment: none

D. Compliance with Permit Requirements:

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

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: **WELL LOCATIONS**
From the SW corner of Section 5 T122N R52W; ** WELL #1: 155 ft N & 1995 ft E, Lat 45.37062 Long -97.19866 (SE ¼ SW ¼ Sec 5) ** WELL #2: 970 ft N & 2340 ft E, Lat 45.37266 Long -97.19727 (SE ¼ SW ¼ Sec 5) ** WELL #3: 915 ft N & 3000 ft E, Lat 45.37256 Long -97.19481 (SW ¼ SE ¼ Sec 5)

2. The works are capable of diverting and conveying to the place of use 3.78 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

All land in Sec 5 T122N R52W
SE ¼ NW ¼ – 9 acres

NW ¼ NE ¼ – 31 acres
NE ¼ NE ¼ – 31 acres
SE ¼ NE ¼ – 31 acres
SW ¼ NE ¼ – 28 acres

NW ¼ SW ¼ – 1 acre
NE ¼ SW ¼ – 29 acres
SE ¼ SW ¼ – 23 acres
SW ¼ SW ¼ – 5 acres

NW ¼ SE ¼ – 37 acres
SW ¼ SE ¼ – 25 acres

comprising a total of 250 acres of land and the license should be issued for 3.57 cfs (statutory limit for the acreage developed.

3. All structures, wells and lands on map Y

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

The irrigated acreage was determined with the aid of FSA maps and the ArcMAP software.



Darrell W DeBoer
 Water Rights Inspector
 DANR, Water Rights Program

Date report completed: August 23, 2021

At the time of licensing, the land authorized for irrigation was owned by three different people. Ownership changes were filed in August and October 2021. The Water Licenses will be issued as follows:

- **No. 7073A-3:** Carol Gaikowski, 120 acres in the S $\frac{1}{2}$ Section 5 and 1.71 cfs (~767 gpm)
- **No. 7073B-3:** Daniel Gaikowski, 121 acres in the NE $\frac{1}{4}$ Section 5 and 1.73 cfs (~776 gpm)
- **No. 7073C-3:** D J Gaikowski, 9 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 5 and 0.13 cfs (~54 gpm)



Genny McMath
Water Rights Program

07-92

Date:

Date:

RECEIVED
JUL 24 2013
WATER RIGHTS
PROGRAM

1 Mile

Date:

WATER RIGHTS
PROGRAM



WELL LOCATIONS

From the SW corner of Section 5 T122N R52W

** WELL #1 155 ft N & 1995 ft E

Lat 45.37062 Long -97.19866 **

WELL #2 970 ft N & 2340 ft E

Lat 45.37266 Long -97.19727 **

WELL #3 915 ft N & 3000 ft E

Lat 45.37256 Long -97.19481



0 0.15 0.3 0.6 0.9 1.2 Miles



Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program