

WATER PERMIT NO. 7083-3

Name of Applicant: **Bottolfson Bros.**

Address: **1834 Constance Dr, Vermillion SD 575069**

Phone: **605 624-8249**

Amount of Water Claimed: **1.56 cfs**

Total Acres: **103.5**

Source of Water Supply: **groundwater (one well)**

Water to be used for: **irrigation**

County: **Clay**

Type of Waste Disposal System:

Location: **1 mile west of Vermillion**

PRIORITY

Date Received: **10-29-08**

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

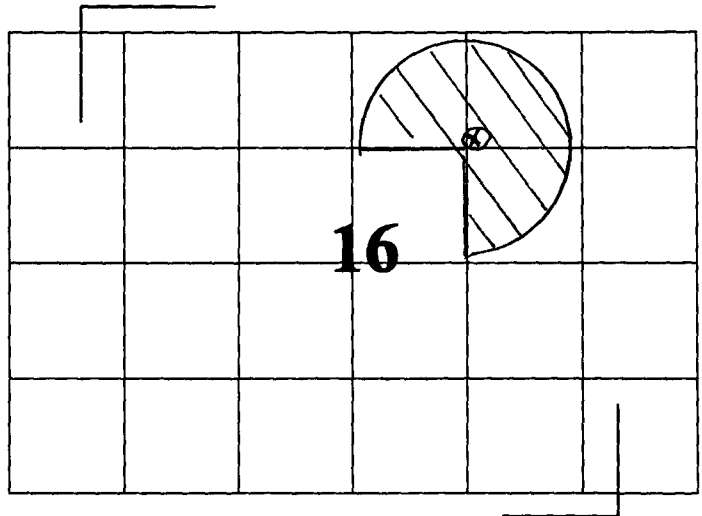
Corrected Application Received: **11-17-08**

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

Remarks:

Diversion Point: **NE ¼ NE ¼ Sec 16-T92N-R52W**

Land to be Irrigated: **N ½ NE ¼, SE ¼ NE ¼ Sec
16-T92N-R52W**



Depth of Well: **115 feet dep**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Kay Anderson, Clay Co FSA**

Reviewed and the Number Assigned on: **11-17-08**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>7083-3</u> (office use only) Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion River</u>
	Newspaper <u>Plain Talk</u>

RECEIVED
OCT 29 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 Bottolfsen Bros Phone 605-624-8249
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 1834 Constance Dr Vermillion State SD 57069
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.56*CFS or 700 **GPM ***AF Total Acreage 103.5
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Clay
1 well in NE 1/4 NE 1/4 sect 16-T92N-R52W
16-T92N-R52W
- County or counties where water will be used Clay
- Annual period during which water is to be used May - Sept
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 NE 1/4 sect 16-T92N-R52W	34.5		
NE 1/4 NE 1/4 sect 16-T92N-R52W	34.5		
SE 1/4 NE 1/4 sect 16-T92N-R52W	34.5		

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

agricultural center pivot irrigation

STATE OF SOUTH DAKOTA) SS
County of Clay)

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, Bottolfsen Bros, 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 Bottolfsen Bros by Jay Bottolfsen

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

Karla K. Bird

Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 7083-3**

Date of first receipt of application October 29, 2008.

Date of return to applicant for corrections, amendments or changes October 29, 2008.

Date of receipt of corrected application November 17, 2008.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7083-3 to Bottolfson Bros, 1834 Constance Dr., Vermillion SD 57069 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. 7082-3 appropriates 1.56 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (approximately 115 feet deep) located in the NE ¼ NE ¼ Section 16 to irrigate 103.5 acres located in the N ½ NE ¼, SE ¼ NE ¼ Section 16; all in T92N-R52W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is October 29, 2008.
4. The date of approval of Permit No. 7083-3 is January 26, 2009.
5. One-fifth of the construction is to be completed on or before July 26, 2011.
6. All construction is to be completed on or before January 26, 2014.
7. Water is to be put to beneficial use on or before January 26, 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 well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control 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 well authorized by Permit No. 7083-3 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

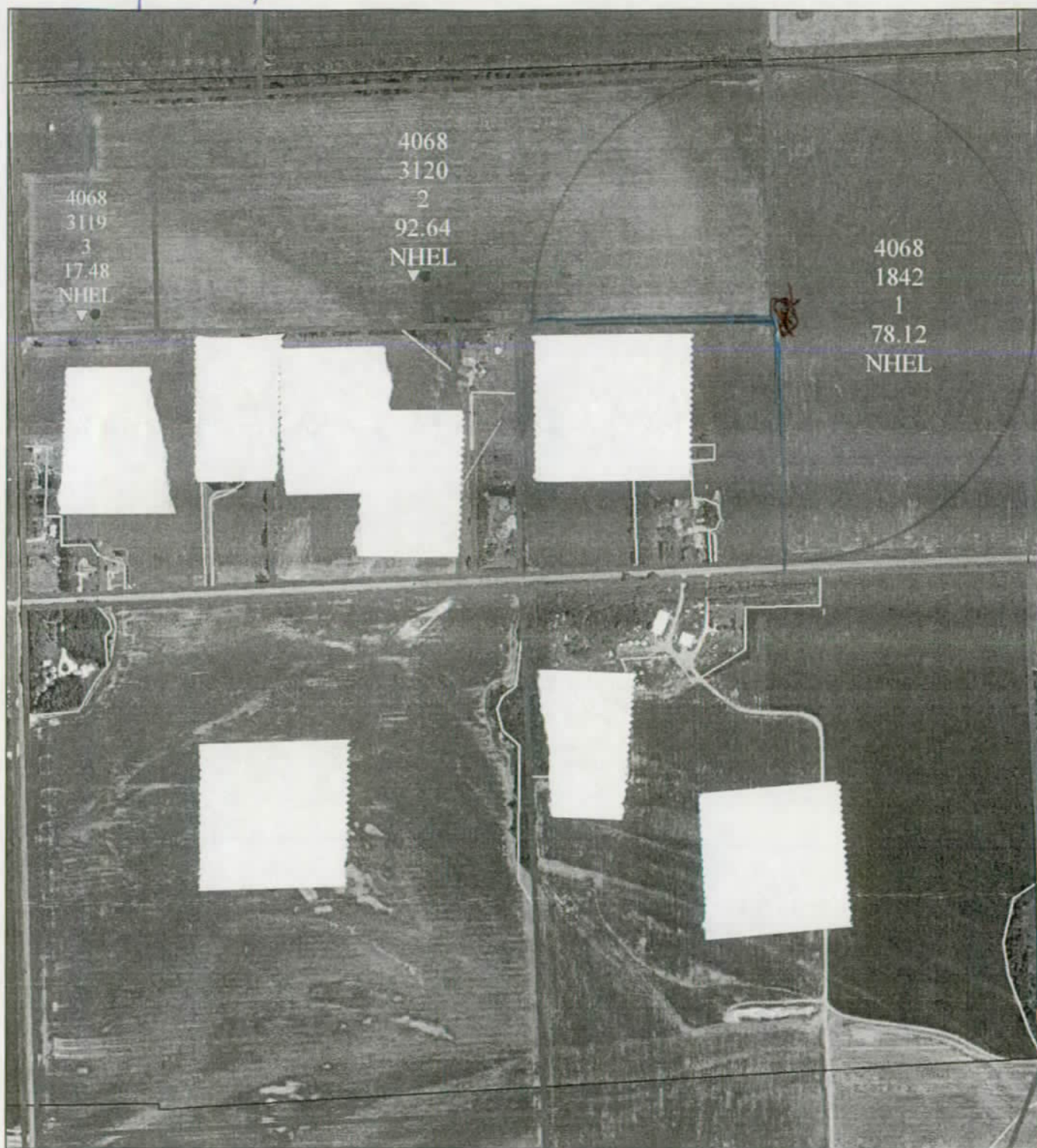
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 12 2009

date



Kelly Andersen PT
Clay County FSA



USDA **USDA**
Farm Service Agency



South Dakota
Clay County

16-92N-52W

May 15, 2008

Legend

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

Wetland Determination Identifiers

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

RECEIVED
OCT 29 2008
WATER RIGHTS
PROGRAM

USDA FSA maps are for FSA Program administration only. There is no guarantee or representation to the user as to the accuracy, currency, suitability or reliability of the data. FSA maps do not represent a legal survey. The user accepts the data 'as is' and assumes all risks associated with its use. Wetland points reflect records available with NRCS and may or may not constitute a full inventory of the property. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data. Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA -026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

1:8,637

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 22" Depth 115'
- b) Casing Type PVC Diameter 16" Thickness 3/4"
- c) Screen Type PVC Diameter 16" Thickness 3/4"
- d) Gravel Pack 1/8 to 3/8 Gravel Length of Gravel Pack 60 ft.
- e) Depth to Top of Water Bearing Material 50'
- f) Depth to Water (ground surface to water level) 22'
- g) Distance to nearest existing domestic well:
- On applicants property none On property owned by others none known for miles

2. Wastewater Disposal System Information

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

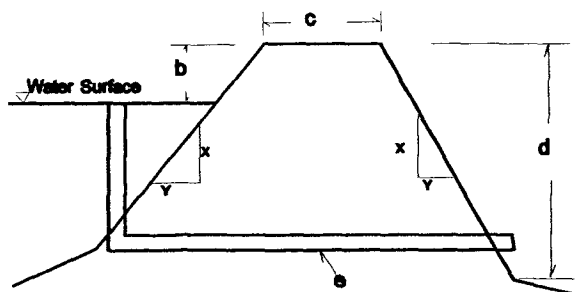
3. Dugout Information

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

4. Water Storage Dams

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

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



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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/29, 20 08

RECEIVED OF Bottolfson Bros 1834 Constance Dr Vermillion SD 57069

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

Fee for Application for Permit No. <u>7083-3</u> to Appropriate Water, to construct and to put water to beneficial use	250	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7083-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	300 00

No.

03778

By

Harold Erbe

Chief Engineer

03/31/2009

PAYMENT REQUEST FORM

PAYEE: Bottolfson Brothers
Jay Bottolfson
1834 Constance Dr
Vermillion SD 57069

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Refund on Water Permit # 7083-3

AMOUNT: \$25.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Darlene C. C. C.

JUN 12 2009

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 29, 2008

Bottolfson Bros.
c/o Jay Bottolfson
1834 Constance Dr
Vermillion SD 57069

Dear Mr. Bottolfson:

Thank you for submitting the two *Applications for a Permit to Appropriate Water* for irrigation in Clay County. In order to complete the applications, the following is required.

- Enclosed are the aerial photo maps submitted with the applications. On the maps, please outline the acres to be irrigated and mark the proposed well locations with an "X".
- If available, submit a well log or test hole log signed by a licensed South Dakota well driller.

If you have any questions, please contact me.

Sincerely,

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

enclosures

Water Rights Program - File Documentation

NAME: Penny Tucker – The Plain Talk

ADDRESS: Vermillion

DATE: 1-12-09

COUNTY:

TELEPHONE: 605 624-2695

RE: Correction on Publication Notice

COMMENTS:

I called and talked with Penny Tucker. I gave her the correction (adding a comma in legal description in 3rd paragraph) for the notice and the date change for petitions. Penny said the notice would be published again on January 16th with the correction and she would send another Affidavit at that time.

She said normally they have me email them a copy of the notice, she thought this was during the holidays when she took some time off.



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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7083-3, Jay Bottolfson**

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. 7082-3, Jay Bottolfson, 1834 Constance Drive, Vermillion SD 57069.

The Chief Engineer is recommending APPROVAL of Application No. 7083-3 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 well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control 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 well authorized by Permit No. 7083-3 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 23, 2008

**Report on Water Permit Application No. 7083-3
for Jay Bottolfson
November 17, 2008**

Application No. 7083-3 proposes to appropriate 700 gallons per minute (1.56 cfs) from one well approximately 115 feet deep located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16 to irrigate 103.5 acres located in the N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16; all in T92N R52W in Clay County. The annual period during which water will be used is May 1 through September 30.

AQUIFER: Missouri Elk Point

This report will address the availability of unappropriated water from the Elk Point management unit of the Missouri aquifer.

WATER AVAILABILITY

Aquifer Characteristics:

The Missouri Elk Point aquifer is an alluvium mantled outwash (sand and gravel) that is under predominantly water table conditions in the area of this application. The aquifer underlies 74,500 acres and contains an estimated 1.117 million acre-feet of recoverable water in storage in Clay County (Hedges, 1982). The aquifer extends into Union County to the south-east, into Yankton County to the west, blends into the Lower Vermillion Missouri directly to the east of the application location and is hydraulically connected to both the Vermillion and Missouri Rivers. Ground water movement is from northwest to southeast in the area of this application (Christensen, 1967).

Observation Well Data:

The Water Rights Program monitors two observation wells, CL-80B and CL-80C, located within two miles of this application location. Water levels for these wells show good response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years due to natural discharge and to pumping. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2008). Hydrographs for these observation wells are included with this report.

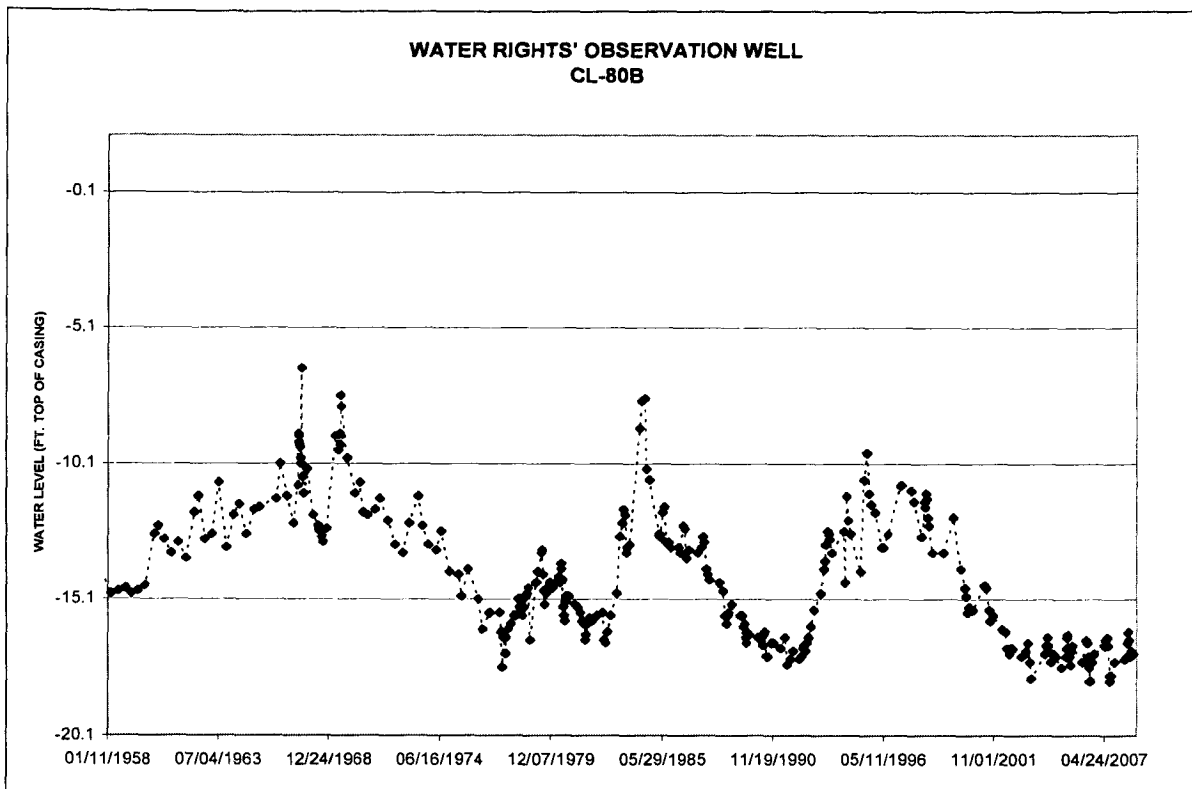


Figure 1. Hydrograph for Water Rights Observation Well CL-80B, completed into the Missouri Elk Point Aquifer within five miles of 7083-3

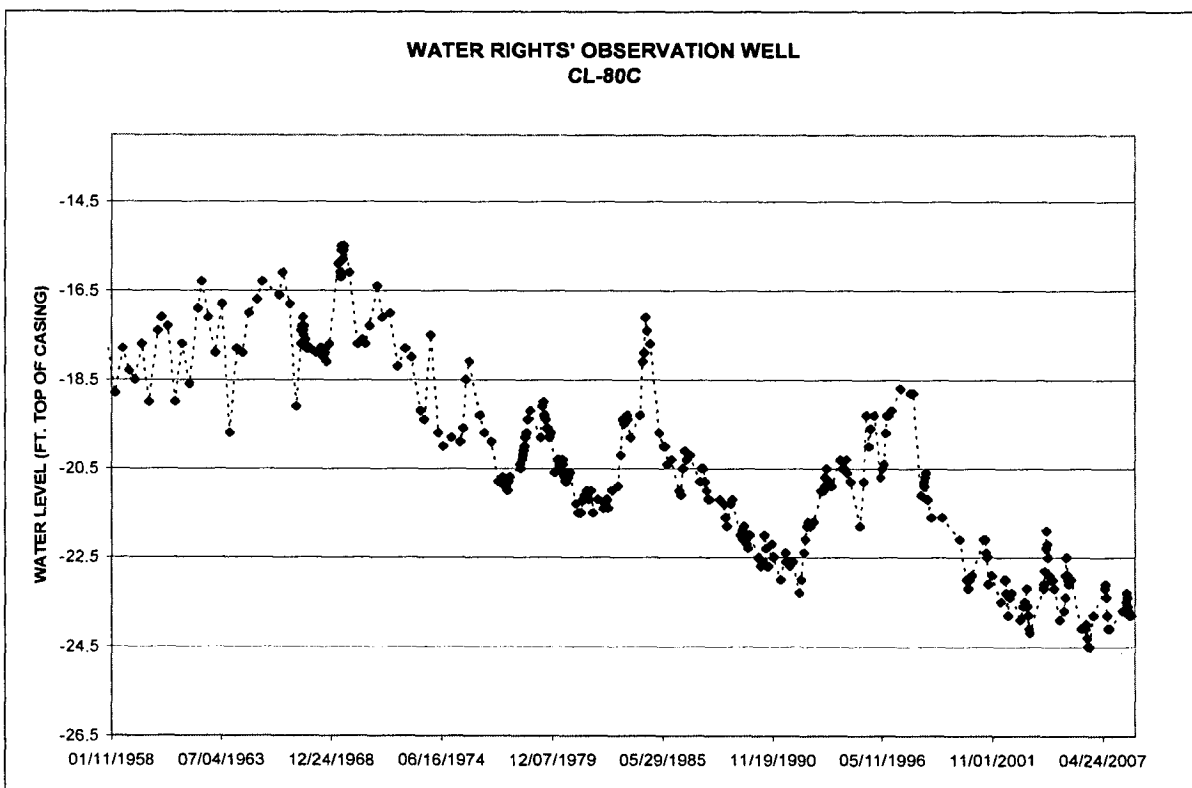


Figure 2. Hydrograph for Water Rights Observation Well CL-80C, completed into the Missouri Elk Point Aquifer within four miles of 7083-3

In general, the hydrographs shows that over the period of record, withdrawals have not exceeded recharge. Also, note the overall decline in the lowest water levels since record keeping began. This appears to be due to entrenching of the Missouri River which in turn lowers the ground water level. This phenomenon is noticed on all the observation wells located near the river.

Review of Existing Water Permits/Rights/Water Use:

Records of irrigation use from the Missouri aquifer, which includes the Peoria management unit, the Pierre management unit, the Greenwood management unit and the Elk Point management unit date back to 1979. The Elk Point management unit typically includes the majority of irrigators; irrigators in the other management units typically total less than ten.

Table 1 shows the number of appropriations, the total amount of water appropriated, and the reported amount of water pumped for each year. The average number of appropriations is just over 301, with the average annual appropriation being nearly 148,000 acre-feet and the average annual pumpage reported at over 17,000 acre-feet.

IRRIGATION USE (ac-ft/yr) M			
Year	Number of Appropriations	Appropriation (ac-ft/yr)	Pumpage Reported (ac-ft/yr)
2007	368	140746.6	31052.03
2006	355	137411.6	28874.29
2005	337	130966.6	24176.62
2004	323	127635.8	24515.85
2003	315	126059.8	27161.56
2002	316	126235.8	24105.36
2001	314	126217.4	19451.93
2000	310	125532.2	27070.99
1999	308	125225.6	14748.02
1998	313	127862.6	11127.24
1997	305	126518.2	17182
1996	296	124606.2	9412.78
1995	292	121644.25	18320.24
1994	297	123656.75	10323.94
1993	299	125656.3	1475.2
1992	296	125336.68	1881.95
1991	301	126551.68	18798.6
1990	299	128458.33	19694.5
1989	294	126847.33	25941.9
1988	283	124014.13	28756.35
1987	282	124104.33	13439.7
1986	288	125842.47	6451.6
1985	284	125068.47	13983.5
1984	283	126743.35	9194.3
1983	274	121895.73	10834.04
1982	272	123559.28	18822.35
1981	302	136318	14233
1980	267	126362	15205
1979	265	124828	10377
AVERAGE	301.31	126962.26	17124.55
MAXIMUM	368	140746.6	31052.03
MINIMUM	265	121644.25	1475.2

Table 1. Irrigation usage from the Elk Point management unit of the Missouri aquifer (Water Rights, 1979-2008).

There are four existing water permits/rights located within one mile of this application. Water levels do fluctuate as a result of area pumping but this does not affect the availability of water from the aquifer.

Recharge:

The Missouri aquifer is recharged from several sources. Recharge to the Missouri aquifer occurs through infiltration and subsequent percolation of precipitation in areas where the aquifer is near land surface (Niehus, 1994). Normal precipitation in Clay County is estimated to be 500,000 acre-feet (Christensen, 1967), a portion of which also contributes to aquifer recharge. The aquifer is also recharged from the underlying Dakota aquifer and some recharge also is from the Missouri River during periods of high flow and stage (Niehus, 1994).

Conclusions:

1. Water is available from the Elk Point management unit of the Missouri aquifer.
2. The aquifer appears to be under water table conditions at this location. Drawdown will result from pumping. Interference is not expected to be a problem.
3. If the wells covered by this Permit deplete the domestic supplies or interfere with prior water rights, restrictions, to the extent necessary, of the capacity of the wells or periods of operation or other arrangements may be required to protect these water supplies.
4. These wells must be constructed in accordance with SD Well Construction Standards.



Hayes Haas
Natural Resources Engineer

Bibliography:

Christensen, C.M., J.C. Stephens, 1967, Geology and Water Resources of Clay County, South Dakota, Bulletin 19, Part II Water Resources, South Dakota Geological Survey, Vermillion, SD 57069

Hedges, L.S. et al, 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, for the U.S. Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD 57069

Niehaus, C.A., 1994, Water Resources of Lincoln and Union Counties, South Dakota, USGS WRI Report 93-44195, United States Geological Survey, Rapid City, SD 57702

Water Rights, 2008, Unpublished Observation Well Records for Clay and Union Counties, SD DENR, Division of Water Rights, Pierre, SD, 57501

AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Clay, **JAN 12 2009**

Penny Tucker

WATER RIGHTS
PROGRAM

Being first duly sworn, deposes and says: That he/she is a resident of the County of Clay and State of South Dakota; that

THE PLAIN TALK

is a legal newspaper of general circulation, printed and published in Vermillion, in said County and State, by Broadcaster Press, Inc., and is now and has been such newspaper continuously during all the times hereinafter mentioned; that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

NOTICE OF APPLICATION NOS. 7082-3 AND 7083-3

TO APPROPRIATE WATER

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in each week

for 2 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two-hundred paid copies weekly, and had been published in the said county of Clay for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Vermillion, the said place of publication; that the first publication of said notice in said newspaper as aforesaid

was on Friday, the 2nd day of January, 20 09, and that the succeeding publications were severally

on Friday, the 9th day of January, 20 09,

on Friday, the _____ day of _____, 20 _____,

on Friday, the _____ day of _____, 20 _____,

on Friday, the _____ day of _____, 20 _____,

that the fees charged for the printing and publication of the said notice and advertisement in said newspaper as aforesaid were

Fifty-one dollars and 84 cents

and that said fees for the printing and publishing of said notice and advertisement have been fully paid; that the full amount of the fee charged for the publishing of the said attached annexed notice and advertisement inures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Penny Tucker

Subscribed and sworn to before me

this 9th day of January, 20 09

Cami R. Crum

Notary Public

My Commission Expires 2-28-11

NOTICE OF APPLICATION NOS. 7082-3 and 7083-3 to Appropriate Water

Notice is given that Bottolfson Bros., Jay Bottolfson, 1834 Constance Dr., Vermillion, SD 57069 has filed the following application for a water permit.

Application No. 7082-3 proposes to appropriate 1.56 cubic feet of water per second (cfs) from one well to be completed into the lower Vermillion: Missouri Aquifer (approximately 190 feet deep) located in approximate center of the NW 1/4 Section 35 to irrigate 138 acres in the NW 1/4 Section 35; all in T93N-R52W.

Application No. 7083-3 proposes to appropriate 1.56 cfs from one well to be completed into the Missouri: Elk Point Aquifer (approximately 115 feet deep) located in the NE 1/4 NE 1/4 Section 16 to irrigate 103.5 acres located in the N 1/2 NE 1/4 SE 1/4 NE 1/4 Section 16; all in T92N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7082-3 and 7083-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider the applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. 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 19, 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 these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Publish: January 2 & 9, 2009

AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Clay, ss.

Penny Tucker

Being first duly sworn, deposes and says: That he/she is a resident of the County of Clay and State of South Dakota; that

THE PLAIN TALK

is a legal newspaper of general circulation, printed and published in Vermillion, in said County and State, by Broadcaster Press, Inc., and is now and has been such newspaper continuously during all the times hereinafter mentioned; that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

NOTICE OF APPLICATION NOS. 7082-3 AND 7083-3

TO APPROPRIATE WATER

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in each week

for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two-hundred paid copies weekly, and had been published in the said county of Clay for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Vermillion, the said place of publication; that the first publication of said notice in said newspaper as aforesaid

was on Friday, the 16th day of January, 20 09, and that the succeeding publications were severally

on Friday, the _____ day of _____, 20 _____,

on Friday, the _____ day of _____, 20 _____,

on Friday, the _____ day of _____, 20 _____,

on Friday, the _____ day of _____, 20 _____,

that the fees charged for the printing and publication of the said notice and advertisement in said newspaper as aforesaid were

0 dollars and 0 cents

and that said fees for the printing and publishing of said notice and advertisement have been fully paid; that the full amount of the fee charged for the publishing of the said attached annexed notice and advertisement inures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me

this 19th day of January, 20 09

RECEIVED

JAN 22 2009

WATER RIGHTS
PROGRAM

Notary Public

8-27-2011

NOTICE OF APPLICATION NOS. 7082-3 and 7083-3 to Appropriate Water

Notice is given that Bottolfson Bros., Jay Bottolfson, 1834 Constance Dr., Vermillion, SD 57069 has filed the following application for a water permit.

Application No. 7082-3 proposes to appropriate 1.56 cubic feet of water per second (cfs) from one well to be completed into the lower Vermillion: Missouri Aquifer (approximately 190 feet deep) located in approximate center of the NW 1/4 Section 35 to irrigate 138 acres in the NW 1/4 Section 35; all in T93N-R52W.

Application No. 7083-3 proposes to appropriate 1.56 cfs from one well to be completed into the Missouri: Elk Point Aquifer (approximately 115 feet deep) located in the NE 1/4 NE 1/4 Section 16 to irrigate 103.5 acres located in the N 1/2 NE 1/4, SE 1/4 NE 1/4 Section 16; all in T92N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7082-3 and 7083-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief

Engineer will act on the applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider the applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. 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 26, 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 these applications. Steven M. Pirner, Secretary.

Department of Environment and Natural Resources.

Publish: January 16, 2009



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 23, 2008

Plain Talk
PO Box 256
Vermillion SD 57069

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7082-3 & 7083-3 to Appropriate Water to be published twice. Please publish the first notice on January 2, 2009 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 Bottolfson Borthers, c/o Jay Bottolfson, 1834 Constance Dr., Vermillion SD 57069 (Ph # 605-624-8249).

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-----

Nos. 7082-3 & 7083-3

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

Date _____

We are in receipt of your letter of December 23, 2008 enclosing Notice to Appropriate Water by Application Nos. 7082-3 & 7083-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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

December 23, 2008

Bottolfson Brothers
c/o Jay Bottolfson
1834 Constance Dr
Vermillion SD 57069

Dear Mr. Bottolfson:

Water Permit Application Nos. 7082-3 & 7083-3 for irrigation use have 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 Plain Talk printed at Vermillion SD (Ph #605-624-2695). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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 recommendations, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

Instruction to Newspaper - Publish first Notice on January 2, 2009 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 NOS. 7082-3 and 7083-3 to Appropriate Water

Notice is given that Bottolfson Bros., Jay Bottolfson, 1834 Constance Dr., Vermillion SD 57069 has filed the following applications for a water permit.

Application No. 7082-3 proposes to appropriate 1.56 cubic feet of water per second (cfs) from one well to be completed into the Lower Vermillion:Missouri Aquifer (approximately 190 feet deep) located in approximate center of the NW ¼ Section 35 to irrigate 138 acres located in the NW ¼ Section 35; all in T93N-R52W.

Application No. 7083-3 proposes to appropriate 1.56 cfs from one well to be completed into the Missouri:Elk Point Aquifer (approximately 115 feet deep) located in the NE ¼ NE ¼ Section 16 to irrigate 103.5 acres located in the N ½ NE ¼, SE ¼ NE ¼ Section 16; all in T92N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7082-3 and 7083-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider the applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. 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 19, 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 these applications. 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

JUN 12 2009

Bottolfson Bros.
c/o Jay Bottolfson
1834 Constance Dr.
Vermillion Sd 57069

Dear Mr. Bottolfson:

Enclosed are Water Permit Nos. 7082-3 and 7083-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return these completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water licenses may be issued, thus completing the acquisition of a water right.

Permit No. 7083-3 was submitted with a filing fee of \$300.00 which was more than required. Therefore, \$25.00 will be refunded to you. The refund check should be received within the next couple of weeks.

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

RECEIVED

JUN 17 2009

WATER RIGHTS
PROGRAM

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

Date 6-15-09

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

FROM: Bottolfsen Bros
(name)

1834 Constance Dr.
(address)

Vermillion, SD 57069
(city, state, zip)

(605) 674-2404
(605) 677-9562
(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.

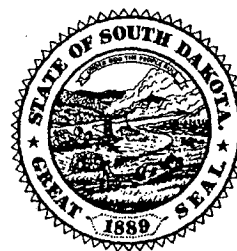
Water Permit No. 7083-3 states that the water use system is to be constructed by Jan 26, 2014 (date), and water is to be put to beneficial use by Jan. 26, 2017 (date).

The water use system was completed on MAY 28, 2009 (date).

Applying the water to beneficial use was completed on JUNE 2, 2009 (date).

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

Bottolfsen Bros
by Mark Bottolfsen owner/partner
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 18, 2009

7082-3
7083-3

Bottolfson Brothers
1834 Constance Dr
Vermillion SD 57069

Dear Sirs:

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

They are 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 permits.

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

Sincerely,

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

11-02

Date:



7083-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 22, 2010

NOTICE

TO: BOTTOLFSON BROS, JAY BOTTOLFSON, 1834 CONSTANCE DR, VERMILLION, SD 57069

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

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaire(s)

Our records indicate that the 2009 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6898-3, 6899-3, 7082-3 & 7083-3. The request for the Questionnaire was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6898-3, 6899-3, 7082-3 & 7083-3 qualification:

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

The hearing will be held at **10:00 am, March 10, 2010** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6898-3, 6899-3, 7082-3 & 7083-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 5, 2010**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 1, 2010

Jay Bottolfson
Bottolfson Brothers
1834 Constance Dr
Vermillion SD 57069

RE: 2009 Irrigation Questionnaires for Water Permit Nos. 6898-3, 6899-3, 7082-3 & 7083-3

Dear Sir:

I am writing to acknowledge receipt of your 2009 irrigation questionnaires. You may disregard the January 22, 2010, "Notice" concerning reporting requirements for Water Permit Nos. 6898-3, 6899-3, 7082-3 & 7083-3.

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

If you have any questions, please contact me.

Sincerely,

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JUN 11 2015

Jay Bottolfson
Bottolfson Brothers
1834 Constance Dr
Vermillion SD 57069

RE: Water License Nos. 6899-3, 7082-3, 7486-3, 7487-3 and 7488-3

Dear Mr. Bottolfson:

Enclosed are Water License Nos. 6899-3, 7082-3, 7486-3, 7487-3 and 7488-3. They are the final water right documents completing your process of obtaining Water Rights. Included with each license is a map prepared by the staff engineer who conducted the field investigation.

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

In regard to the equipment used for applying chemicals and/or fertilizer through your irrigation systems, the staff engineer indicated he spoke with you about the absence of a low pressure drain. Enclosed is a copy of Water Management Board rules dealing with chemigation. "Appendix A" shows the minimum requirements for the equipment. Low pressure drains are required and must be in place to prevent contamination of the water source. If after reading through the rules you have questions concerning placement of the equipment, please contact Ron Duvall with our program (his card is attached).

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

Sincerely,

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

enclosures

Note: Water Permit Nos. 7083-3 and 7486-3 authorized irrigation of acreage using the same well. Upon licensing, the applicable portions of Water Permit No. 7083-3 were incorporated into Water License No. 7486-3.