

WATER PERMIT NO. 7120-3

Name of Applicant: **Jay Cutts**

Address: **44681 309th St, Mission Hill SD 57046**

Phone: **665-9693**

Amount of Water Claimed: **1.42 cfs**

Total Acres: **100**

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

Water to be used for: **irrigation**

County: **Yankton**

Type of Waste Disposal System: **NA**

Location: **½ mile south of Mission Hill**

PRIORITY

Date Received: **3-16-09**

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

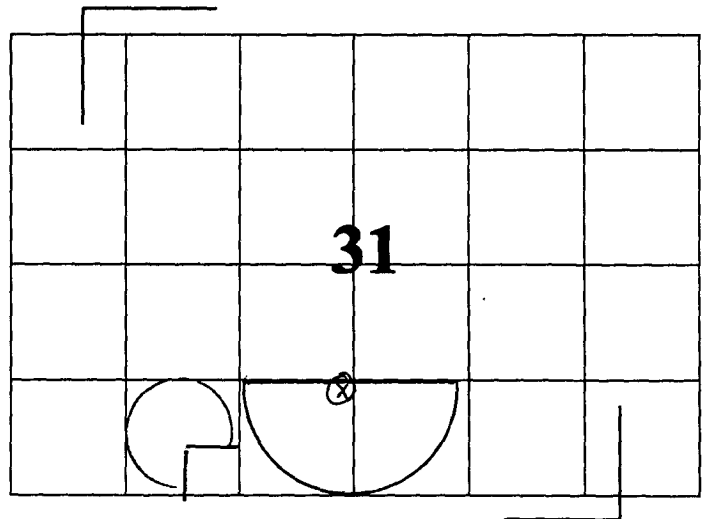
Corrected Application Received: **4-2-09**

Period of Annual Use: **May 1 – August 31**

Remarks:

Diversion Point: **SE ¼ SW ¼ Sec 31-T94N-R54W**

Land to be Irrigated: **S ½, SW ¼ SW ¼ SE ¼ Sec 31-T94N-R54W**



Depth of Well: **120 feet deep**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Richard Schwartz, Yankton Co FSA**

Reviewed and the Number Assigned on: **4-2-09**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>7120-3</u> (office use only)
	Hydrologic Unit <u>10170101</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Daily Press & Dakotan</u>

Rcd MAR 16 2009
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

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

1. Name of Applicant Jay Cuths Phone 665-9693
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 44681 309th ST Mission Hill State SD 57046
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed 1.42*CFS or 1040**GPM ***AF Total Acreage 100
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Ground
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County YANKTON
1 well in SE 1/4 SW 1/4 Section 31
T94N-R54W
5. County or counties where water will be used YANKTON
6. Annual period during which water is to be used MAY - August
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>SW 1/4 SW 1/4</u>	<u>25</u>		
<u>SE 1/4 SW 1/4</u>	<u>35</u>		
<u>SW 1/4 SE 1/4</u>	<u>40</u>		
<u>Sec 31 T94N R54W</u>			

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

Two Pivots To irrigate 100 Acre 100 ft

STATE OF SOUTH DAKOTA) SS
County of YANKTON

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, Jay Cuths, 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 Jay Cuths

Subscribed and sworn to before me this 10th day of March 20 09

Rebecca S. Grogan
Notary Public signature

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 24" Depth 120'
- b) Casing Type Plastic Diameter 16" Thickness _____
- c) Screen Type Plastic Diameter 16" Thickness _____
- d) Gravel Pack Pea Rock Length of Gravel Pack 100'
- e) Depth to Top of Water Bearing Material 14'
- f) Depth to Water (ground surface to water level) 14'
- g) Distance to nearest existing domestic well:
On applicants property * On property owned by others 1/4 mi

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

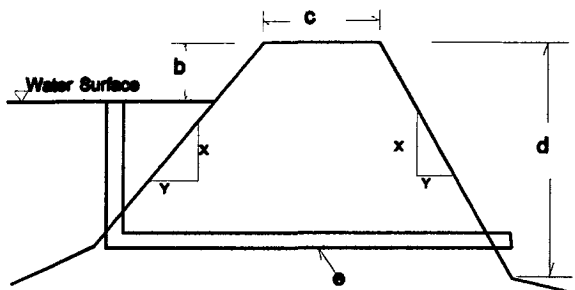
3. Dugout Information

- 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

SOUTH DAKOTA
WATER PERMIT NO. 7120-3

Date of first receipt of application March 16, 2009.

Date of return to applicant for corrections, amendments or changes March 16, 2009.

Date of receipt of corrected application April 2, 2009.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7120-3 to Jay Cutts, 44681 309th St, Mission Hill SD 57046 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. 7120-3 appropriates 1.42 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (approximately 120 feet deep) located in SE 1/4 SW 1/4 Section 31 to irrigate 100 acres located in the S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 31; all in T94N-R54W.
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 – August 31.
3. The date from which applicant may claim right is March 16, 2009.
4. The date of approval of Permit No. 7120-3 is June 15, 2009.
5. One-fifth of the construction is to be completed on or before December 15, 2011.
6. All construction is to be completed on or before June 15, 2014.
7. Water is to be put to beneficial use on or before June 15, 2018.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

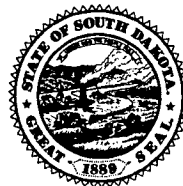
1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7120-3 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

AUG 04 2009

date





RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/16, 20 09

RECEIVED OF Cutts Farms 44681 309th St Mission Hill SD 57046

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

Fee for Application for Permit No. <u>7120-3</u> to Appropriate Water, to construct and to put water to beneficial use	225	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7120-3</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	275 00

No.

04070

By

[Signature]
Chief Engineer



March 16, 2009

Jay Cutts
44681 309th St
Mission Hill SD 57046

Dear Mr. Cutts:

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

- Enclosed are the aerial photo maps submitted with the applications. On each map, mark the proposed well location with an "X". *X*

On the map for Section 31, it appears that a few acres will be irrigated in the NW $\frac{1}{4}$ SW $\frac{1}{4}$. These acres are not included on the application. Please make the necessary changes on the map and/or the application form. *Do not Plan to Irrigate*

- Regarding the amount of water claimed, State Statutes limit diversions to 1 cubic feet of water per second (cfs) for each 70 acres irrigated. This would mean that you are allowed approximately 1.42 cfs or 640 gpm to irrigate 100 acres located in Section 31. Regarding the application in Section 6, you are allowed approximately 1.71 cfs or 770 gpm to irrigate 120 acres. *Change to proper gpm*

We understand that in order to accommodate certain irrigation methods, a greater diversion rate is required. Please justify in writing your request for a diversion rate greater than the statutory limit (please explain diversion rate requirement for the projects).

- If available, for each application, please submit a well log or test hole log signed by a licensed South Dakota well driller. *SD Test well DENR Water*

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

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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APR - 2 2009

WATER RIGHTS
PROGRAM

YA 79H
1/2 mi west of Sec 31 well
1/4 mi N 3/4 west of Sec 6 well



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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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. 7120-3, Jay Cutts**

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. 7120-3, Jay Cutts, 44681 309th Street, Mission Hill SD 57046.

The Chief Engineer is recommending APPROVAL of Application No. 7120-3 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 wells authorized by Permit No. 7120-3 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
May 20, 2009

**Report on Water Permit Application No. 7119-3 & 7120-3
for Jay Cutts
April 6, 2009**

Application No. 7119-3 proposes to appropriate 767 gallons per minute (1.71 cfs) from one well approximately 120 feet deep located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, T93N R54W in Yankton County. The water is to be used to irrigate approximately 120 acres located in the NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6; all in T93N R54W. The annual period during which water will be used is May 1 through August 31.

Application No. 7120-3 proposes to appropriate 637 gallons per minute (1.42 cfs) from one well approximately 120 feet deep located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T94N R54W in Yankton County. The water is to be used to irrigate approximately 100 acres located in the S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31; all in T94N R54W. The annual period during which water will be used is May 1 through August 31.

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 45,000 acres and contains an estimated 675,000 acre-feet of recoverable water in storage in Yankton County (Hedges, 1982). The aquifer extends into Union County to the south-east, into Clay County to the east, blends into the Lower Vermillion Missouri directly to the east of the application location and is hydraulically connected to the James, Vermillion and Missouri Rivers. Ground water movement is from northwest to southeast and locally toward the Missouri River.

Observation Well Data:

The Water Rights Program monitors two observation wells, YA-79H and YA-78J, located within two miles of these application locations. 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).

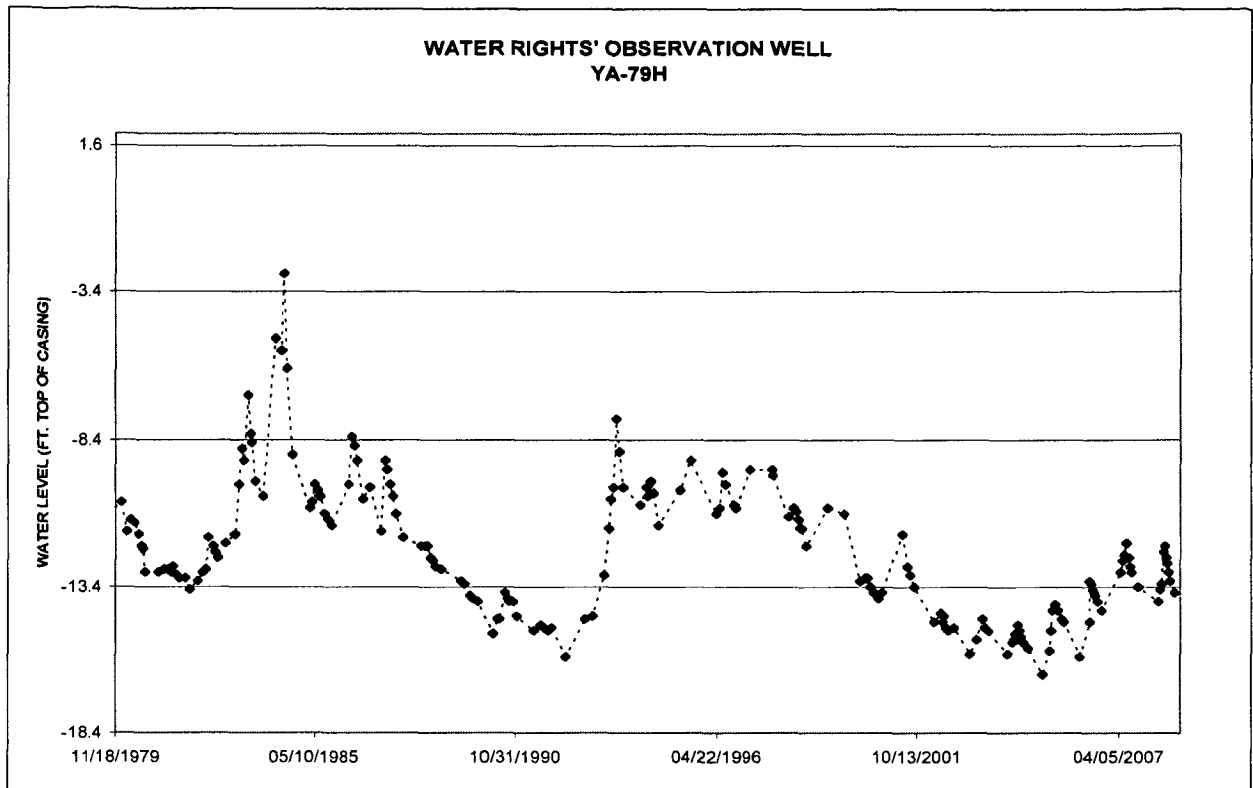


Figure 1. Hydrograph for Water Rights Observation Well YA-79H, completed into the Elk Point management unit of the Missouri Aquifer within one mile of 7119-3 & 7120-3

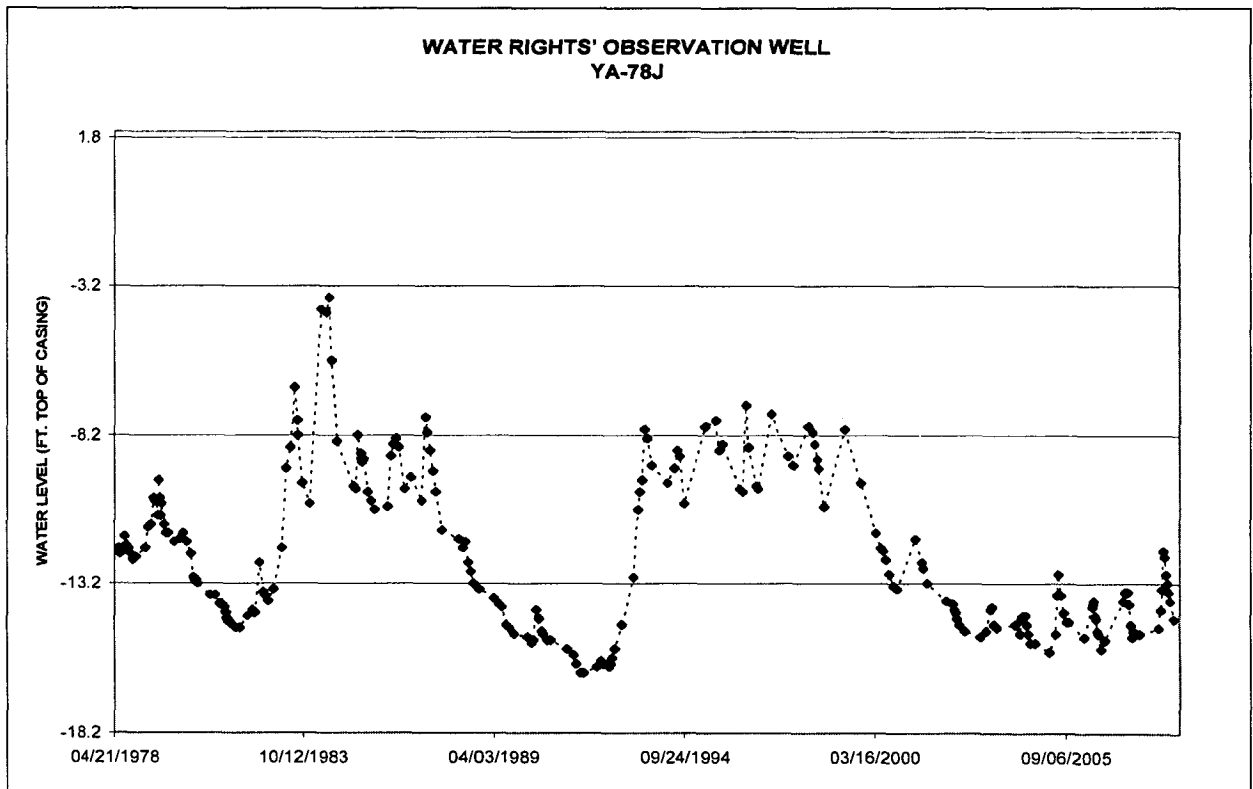


Figure 2. Hydrograph for Water Rights Observation Well YA-78J, completed into the Elk Point management unit of the Missouri Aquifer within two miles of 7119-3 & 7120-3

In general, the hydrographs shows that over the period of record, withdrawals have not exceeded recharge.

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 appropriation being nearly 148,000 acre-feet and the average 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 Missouri aquifer (Water Rights, 1979-2008).

There are eight existing water permits/rights for irrigation located within one and a half miles 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.

Conclusions:

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



Hayes Haas
Natural Resources Engineer

Bibliography:

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

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

RECEIVED

JUN 12 2009

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
PMB 2020

Joe Foss Building
523 East Capitol
Pierre, SD 57501

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

Gary Wood BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE Publisher OF THE YANKTON
PRINTING COMPANY, A CORPORATION, THE PRINTER AND THE
PUBLISHER OF THE YANKTON DAILY PRESS AND DAKOTAN, A LEGAL
DAILY NEWSPAPER PRINTED AND PUBLISHED IN THE CITY OF YANKTON,
SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF
THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE
ANNEXED Notice of Application Nos. 7119-3 and 7120-3.

TAKEN FROM THE PAPER IN WHICH IT WAS PUBLISHED IN THE
NEWSPAPER ON THE 5th DAY OF June 2009
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$47.88 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 6/5/2009

FILED ON: 6/10/2009

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10th DAY OF June

2009

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES 8/19/2009

NOTICE OF APPLICATION
NOS. 7119-3 and 7120-3 to
Appropriate Water

Notice is given that Jay Cutts,
44681 309th St, Mission Hill SD
57046 has filed the following
applications for a water permit.

Application No. 7119-3 proposes
to appropriate 1.71 cubic feet of

water per second (cfs) from one
well to be completed into the
Missouri:Elk Point Aquifer
(approximately 120 feet deep)
located in NE 1/4 NE 1/4 Section
6 to irrigate 120 acres located in
the NE 1/4, E 1/2 NW 1/4 Section
6; all in T93N-R54W.

Application No. 7120-3 proposes
to appropriate 1.42 cfs from one
well to be completed into the
Missouri:Elk Point Aquifer
(approximately 120 feet deep)
located in the SE 1/4 SW 1/4
Section 31 to irrigate 100 acres
located in the S 1/2 SW 1/4, SW
1/4 SE 1/4 Section 31; all in
T94N-R54W.

Pursuant to SDCL 46-2A-2, the
Chief Engineer recommends
APPROVAL of Application Nos.
7119-3 & 7120-3 because 1) unap-
propriated water is available, 2)
existing rights will not be unlaw-
fully impaired, 3) it is a beneficial
use of water, and 4) it is in the pub-
lic interest. In accordance with
SDCL 46-2A-23, the Chief
Engineer will act on the applica-
tions, as recommended, unless a
petition is filed opposing the appli-
cations or the applicant files a peti-
tion contesting the Chief
Engineer's recommendations. If a
petition opposing the applications
or contesting the recommenda-
tions 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 appli-
cant and any person filing a peti-
tion.

Any person interested in opposing
or supporting these applications or
recommendations must file a writ-
ten petition with BOTH the appli-
cant 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 appli-
cant's mailing address is given
above. A petition filed by either an
interested person or the applicant
must be filed by June 15, 2009.

The petition may be informal, but
must include a statement describ-
ing the petitioner's interest in the
application, the petitioner's rea-
sons for opposing or supporting
the application, and the signature



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 21, 2009

Daily Press & Dakotan
PO Box 56
Yankton SD 57078

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7119-3 and 7120-3 to Appropriate Water to be published twice. Please publish the first notice on May 29, 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 Jay Cutts, 44681 309th St., Mission Hill SD 57046 (Ph # 605-665-9693).

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. 7119-3 & 7120-3

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

Date _____

We are in receipt of your letter of May 21, 2009 enclosing Notice to Appropriate Water by Application Nos. 7119-3 & 7120-3 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.

May 21, 2009

Jay Cutts
44681 309th St
Mission Hill SD 57046

Dear Mr. Cutts:

Water Permit Application Nos. 7119-3 & 7120-3 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 Daily Press & Dakotan printed at Yankton SD (Ph #605-665-7811). 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 May 29, 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. 7119-3 and 7120-3 to Appropriate Water

Notice is given that Jay Cutts, 44681 309th St, Mission Hill SD 57046 has filed the following applications for a water permit.

Application No. 7119-3 proposes to appropriate 1.71 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (approximately 120 feet deep) located in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 6 to irrigate 120 acres located in the NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6; all in T93N-R54W.

Application No. 7120-3 proposes to appropriate 1.42 cfs from one well to be completed into the Missouri:Elk Point Aquifer (approximately 120 feet deep) located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 31 to irrigate 100 acres located in the S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31; all in T94N-R54W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7119-3 & 7120-3 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 June 15, 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

AUG 04 2003

Jay Cutts
44681 309th St
Mission Hill SD 57046

Dear Mr. Cutts:

Enclosed are Water Permit Nos. 7119-3 and 7120-3 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's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the 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.

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

7120-3

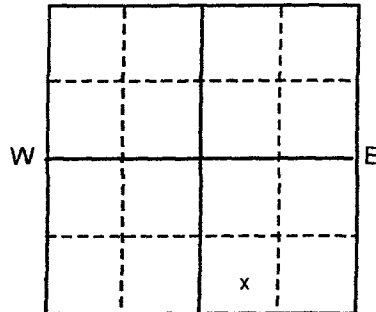
SD EForm - 1621LD V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location sw 1/4 se 1/4 Sec 31 Twp 94n Rg 54wCounty Yankton

North

Please mark well
location with an "X"

Well Completion Date

October 31, 2010

1 Mile

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

>1,600.0 ft. from septic tank

(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	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	16.00 IN	0.0 FT	58.0 FT	22.00 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	20	9.5 Lb/gal	0.0 Ft	50.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 16.00 Inches Length 40.0 FeetMaterial PVCSlot Size 0.80 Set From 58.0 Feet to 98.0 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?
Lab to which water
quality sample sent for analysisWell Owner: Jay Cutts

Business Name:

Address: 44681 309th StreetCity, State, Zip: Mission Hill SD 57046

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Silt, brown, sandy	0	5
Sand, brown, fine	5	51
Gravel, med to crse, few sand beds	51	99
Sand, coarse, green	99	119
Shale, gray, very hard & sticky	119	123

STATIC WATER LEVEL 19.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: Air lift development, est 600-700 gpm
☐ Bailed

☒ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

customer plans to set pump, build pivot in 2011.

This well was drilled under license # 666 and this report is true and accurate.Drilling firm: Hammond Wetmore Drilling

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date:

Nov 1, 2010

RECEIVED

FEB - 4 2011

WATER RIGHTS PROGRAM

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

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

I have this day, June 23, 2015 made a thorough examination of the water system used by the Jay Cutts, 44681 309th St., Mission Hill, SD 57046, holder of Water Permit No. 7120-3, bearing the priority date of March 16, 2009. Water Permit No. 7120-3 authorizes the diversion of 1.42 cubic feet per second (cfs) or 637 gallons per minute (gpm) from one well completed into the Missouri: Elk Point aquifer for the purpose of irrigating 100 acres in Yankton County as follows: 25 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, 35 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, 40 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, all in T94N-R54W.

I have the following conditions to report for the system in question:

- 1) Works used to divert water:
One submersible pump, manufacturer unknown.
- 2) Works used to transport water to a place of use:
Underground and above ground pipes, 8 inch diameter.
- 3) Works used to apply water to beneficial use:
Two pivots, one Lockwood and one Zimmatic.

The system is in the following condition: well maintained. The well associated with Water Permit No. 7120-3 is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, T94N-R54W. The exact location the pump is as follows:

- 1) **1,300 feet north and 2,600 feet west of the southeast corner of Section 31, T94N-R54W.
Lat 42.91264N Lon 97.26943W.**

The lands irrigated by the fore mentioned well are as follows:

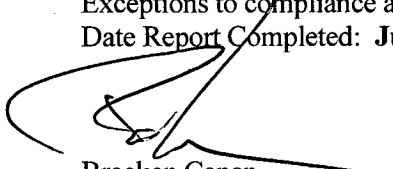
- 1) 35 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, T94N-R54W.
 - 2) 30 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T94N-R54W.
 - 3) 25 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T94N-R54W.
- For a total of 90 acres.**

License should be issued for ~~the developed diversion rates of:~~ **1.29 cfs or 579 gpm.**

Applicable permit qualifications have been complied with: **Yes**

Exceptions to compliance are: **None**

Date Report Completed: **June 29, 2015**



Bracken Capen
Natural Resources Engineer
DENR, Water Rights Program

FIELD INVESTIGATION REPORT FOR WATER PERMIT NO. 7120-3

DATE OF INVESTIGATION:	June 23, 2015
NAME & ADDRESS OF PERMIT HOLDER	Jay Cutts 44681 309 th St. Mission Hill, SD 57046
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	Jay Cutts
DIVERSION POINT LEGAL LOCATIONS	1,300 feet north and 2,600 feet west of the southeast corner of Section 31, T94N-R54W. Lat 42.91264N Lon 97.26943W.

WELL INFORMATION:

- 1) Well Drilling Firm: **Hammond Wetmore Drilling**
- 2) Number of Wells: **1**
- 3) Depth: **98 feet**
- 4) Well Logs Available: **Yes**
- 5) Comment:

Pumps

- 1) Make:
- 2) Model:
- 3) Size:
- 4) Capacity: **900 gpm (2.0 cfs)**

Casing

- 1) Diameter: **16 inches**
- 2) Length: **58 feet**
- 3) Type: **Plastic**

Screen

- 1) Type: **Manufactured**
- 2) Length: **40 feet**
- 3) Static Water Level: **19 feet**

Motor

- 1) Make:
- 2) Model No:
- 3) Power: **40 hp**

System Type

- 1) Make: **Zimmatic, Lockwood Pivots**
- 2) Overall length: **1,300, 700 feet**
- 3) Number of Towers: **9, 5 towers**
- 4) Distance Between Towers:
- 5) End Gun: **Yes**
- 6) Pressure:
- 7) Capacity: **900 gpm**

CHEMIGATION EQUIPMENT:

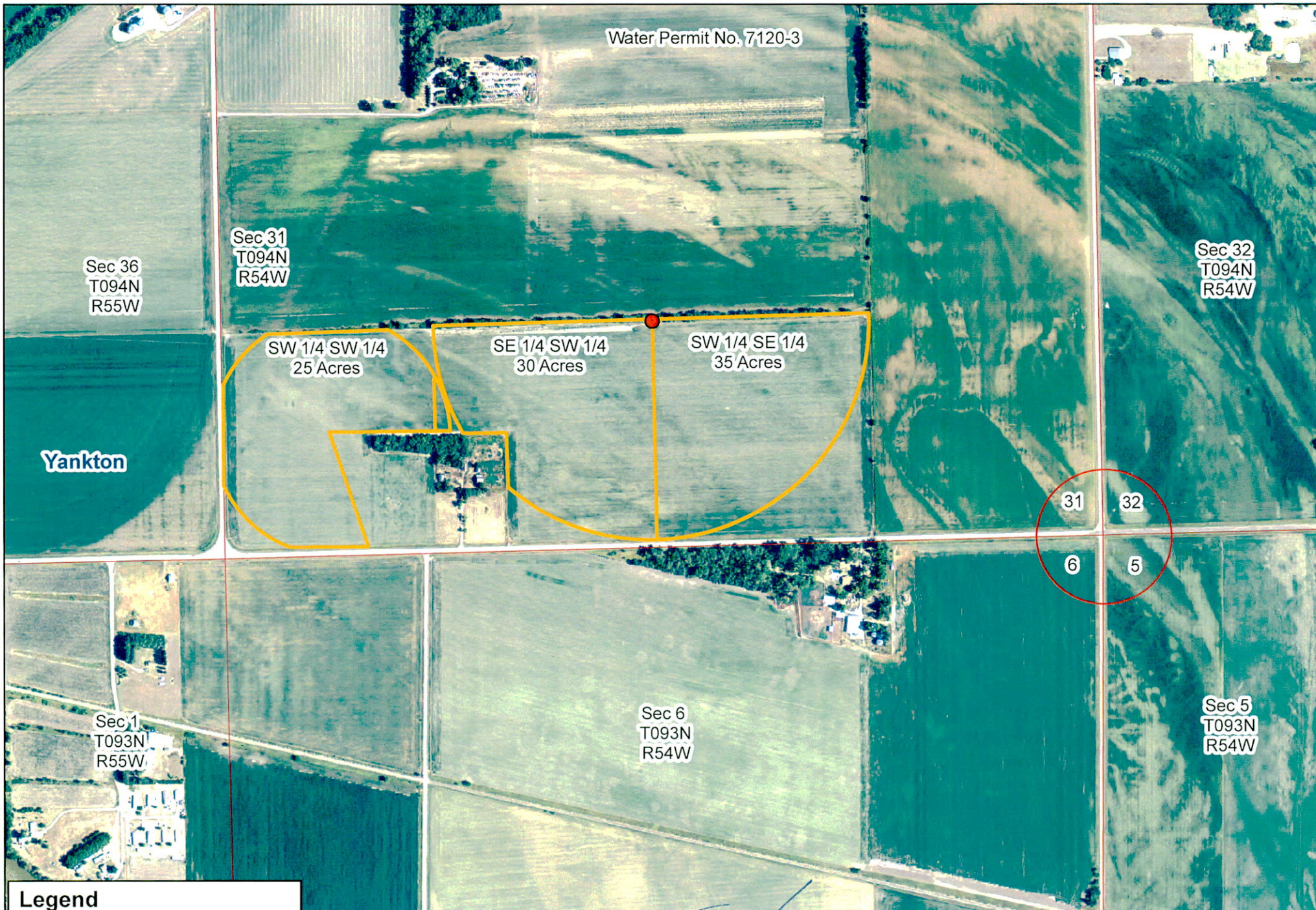
No

- 1) Mainline Check Valve:
- 2) Low Pressure Drain:
- 3) Inspection Port/Air Relief:
- 4) Discharge 20 Feet Away:
- 5) Injection Line Check Valve or Positive Displacement Pump:
- 6) Injection Check Valve:
- 7) Properly Installed:

PERMIT QUALIFICATIONS:

- 1) Special qualifications to permit being abided by: **N/A**
- 2) All structures, wells, and lands on map: **Yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period: **Yes, irrigation in 2011 to present**

COMMENTS: The system authorized under Water Permit No. 7120-3 has a greater capacity than the permit allows. During the inspection on June 23, 2015 Jay Cutts was made aware that Water Permit No. 7120-3 restricts withdrawals from the Missouri: Elk Point aquifer to 1.0 cfs per 70 acres and that if he desired to pump at a greater maximum diversion rate he would be required to submit an additional water permit application.



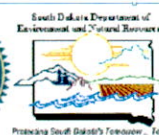
Legend

- Irrigated_Acres
- Section Boundaries - PLSS
- Well Location



0 0.05 0.1 0.2 Miles

Prepared by Bracken Capen
Natural Resources Engineer
DENR, Water Rights Program





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

AUG 27 2015

7120-3

Jay Cutts
44681 309th St
Mission Hill SD 57046

Dear Mr. Cutts:

Enclosed is Water License No. 7120-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 7120-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

enclosures

Note: The investigation found your pump capacity to be 2.00 cubic feet per second (900 gallons per minute). The water license can only be issued for the statutory limit of one cfs per 70 acres. Water License No. 7120-3 authorizes 1.29 cfs (approximately 580 gpm) for the 90 acres developed. You are not authorized to divert in excess of the licensed rate.



7120-3
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 15, 2016

NOTICE

TO: JAY CUTTS, 44681 309TH ST, MISSION HILL, SD 57046

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

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6621-3, 6867-3, 7119-3 & 7120-3. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 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) 6621-3, 6867-3, 7119-3 & 7120-3 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6621-3, 6867-3, 7119-3 & 7120-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://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.



7120-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 1, 2016

Jay Cutts
44681 309th St
Mission Hill SD 57046

RE: Water Right Nos. 6621-3, 6867-3, 7119-3 & 7120-3

Dear Mr. Cutts:

I am writing to acknowledge receipt of your 2015 irrigation questionnaires.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right Nos. 6621-3, 6867-3, 7119-3 & 7120-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7120-3**

(1) Jay Cutts, 44681 309th St, Mission Hill SD 57046 made Application No. 7120-3, March 16, 2009 for a water permit to divert 1.42 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer), Yankton County, South Dakota for irrigation purposes. Permit No. 7120-3, with a priority date of March 16, 2009 was approved June 15, 2009 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before June 15, 2014 and for the application to beneficial use of said water on or before June 15, 2018.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.29 cubic feet of water per second for beneficial use.

The location of the diversion point is 1,300 feet north and 2,640 feet west of the SE corner of Section 31, T94N, R54W (approximate center of the S ½ Section 31).

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

Section 31, T94N, R54W	SW ¼ SE ¼	35 acres
	SE ¼ SW ¼	30 acres
	SW ¼ SW ¼	25 acres
	Total	90 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Jay Cutts, 44681 309th St, Mission Hill SD 57046 the holder and/or owner of Water Right No. 7120-3 is issued a license to appropriate water, the right to use 1.29 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer) with a priority date of March 16, 2009 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 7120-3 and subject to the following qualifications:

- 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.
- The well authorized by Permit No. 7120-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. ***The well was completed in October, 2010 by Hammond Wetmore Drilling. A copy of the well log is on file with the Water Rights Program.***
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 27 2015

date

