

## WATER PERMIT NO. 7152-3

Name of Applicant: Bradley W Dirksen

Address: 37376 Hwy 3, LeMars IA 51031 Phone: 712 546-5661

Amount of Water Claimed: 2.0 Total Acres: 145

Source of Water Supply: groundwater

Water to be used for: irrigation County: Clay

Type of Waste Disposal System: NA

Location: 12 miles northwest of Vermillion

PRIORITY Date Received: 5-11-09

Application/License Fee: \$300

Corrected Application Received: 7-22-09

Period of Annual Use: April 1 – Oct 31

Remarks: Currently irrigating the land with well authorized by Water Permit No. 5658A-3. May drill a new well in the center of the NE ¼ Sec 9

Diversion Point: center SE ¼ Sec 9; new well center of the NE ¼ Sec 9' all in T93N-R53W

Land to be Irrigated: NE ¼ Sec 9-T93N-R53W

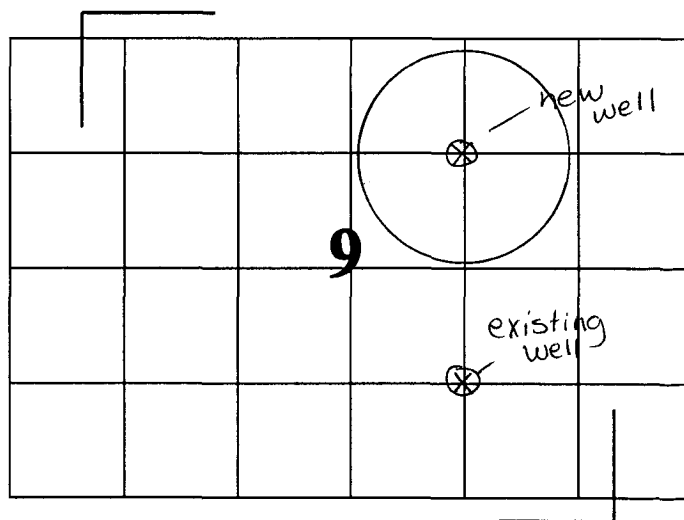
Depth of Well: 125 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Keith Jante, Clay Co FSA



Reviewed and the Number Assigned on: 7-22-09

By: Karen Schlaak

Notice of Hearing - date to intervene: \_\_\_\_\_

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

|                                                                                                                    |                                          |                                 |
|--------------------------------------------------------------------------------------------------------------------|------------------------------------------|---------------------------------|
| Mail to:<br>Water Rights Program<br>Joe Foss Building<br>523 E. Capitol<br>Pierre, SD 57501-3181<br>(605) 773-3352 | No. <u>7152-3</u> (office use only)      | Hydrologic Unit <u>10170102</u> |
|                                                                                                                    | Basin <u>Vermillion River</u>            |                                 |
|                                                                                                                    | Newspaper <u>Plain Talk 201 W Cherry</u> |                                 |
|                                                                                                                    | <u>605-624-2695</u>                      | <u>Vermillion 57069</u>         |

RECEIVED  
MAY 11 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.)

- Name of Applicant Bradley W. Dirksen Phone 712-546-5661  
(check one) ☒ Owner ☐ Tenant/lessee  
Mailing Address 37376 Hwy 3 Lemars State Ia 51031  
(Street, RR, or Box, and City) (Zip Code)
- Amount of water claimed 2.0 CFS or 900 GPM \*\*\*AF Total Acreage 145  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*) Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Ground water
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Clay  
Existing well near center of  
SE 1/4 Sect. 9 - Possible new well in center of NE 1/4  
T93N R53W
- County or counties where water will be used Clay Co.
- Annual period during which water is to be used April 1 - Oct. 31
- 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>NE 1/4 T93N, R53W</u> | <u>145ac</u> |                  |       |
| <u>Sec 9</u>             |              |                  |       |
|                          |              |                  |       |
|                          |              |                  |       |

8. Give a description of the project. (Attach sheet if more space is needed) Authorize additional water to NE 1/4, T93N, R53W, authorized by Permit # 5658A-3. Possible additional well in center of NE 1/4 T93N, R53W

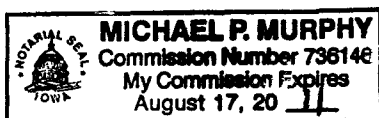
STATE OF SOUTH DAKOTA) SS  
County of Clay

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, Brad Dirksen, 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 Brad Dirksen

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



Michael P. Murphy  
Notary Public signature

**SOUTH DAKOTA  
WATER PERMIT NO. 7152-3**

Date of first receipt of application May 11, 2009.

Date of return to applicant for corrections, amendments or changes May 11, 2009.

Date of receipt of corrected application July 22, 2009.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7152-3 to Bradley W Dirksen, 37376 Hwy 3, LeMars IA 51031 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. 7152-3 appropriates 2.0 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (approximately 125 feet deep) located in the center of the NE ¼ Section 9 to irrigate 145 acres located in the NE 1/4 Section 9; all in T93N-R53W. The acreage may also be irrigated from the existing well completed into the Missouri: Elk Point Aquifer (125 feet deep) authorized by Water Permit No. 5658A-3 located in the center of the SE 1/4 Section 9-T93N-R53W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is July 22, 2009.
4. The date of approval of Permit No. 7152-3 is September 21, 2009.
5. One-fifth of the construction is to be completed on or before March 21, 2011.
6. All construction is to be completed on or before September 21, 2014.
7. Water is to be put to beneficial use on or before September 21, 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 wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 7152-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

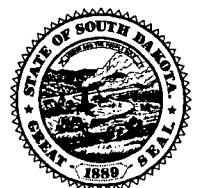
**WATER MANAGEMENT BOARD**

By: Garland Erbele

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

JAN 13 2010

date



*currently use well from* (type or print in ink) *permit #5658A-3*

**1. Well Information - Proposed Construction**

- a) Drill Hole Diameter \_\_\_\_\_ Depth 125'
- b) Casing Type Plastic Diameter 16" Thickness \_\_\_\_\_
- c) Screen Type stainless Diameter 16" Thickness \_\_\_\_\_
- d) Gravel Pack \_\_\_\_\_ Length of Gravel Pack \_\_\_\_\_
- e) Depth to Top of Water Bearing Material 60'
- f) Depth to Water (ground surface to water level) 4'
- g) Distance to nearest existing domestic well:  
On applicants property 1/2 mi. On property owned by others \_\_\_\_\_

**2. Wastewater Disposal System Information**

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

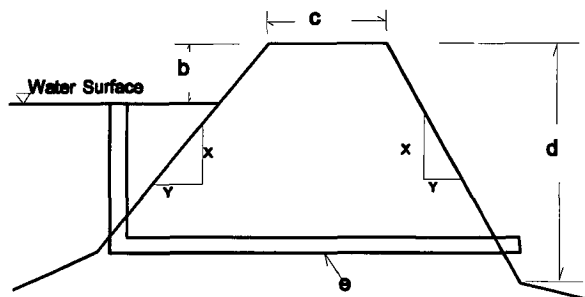
**3. Dugout Information**

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

**4. Water Storage Dams**

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

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



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



# United States Department of Agriculture Farm Service Agency



**South Dakota**  
**Clay County**

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MAY 11 2009

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Farm Number  
4252

Township-Range-Section  
93539

## Legend

- Restricted Use
- ▼ Limited Restrictions
- Exempt from Conservation Compliance Provisions
- CLU Field Boundary
- Tract Boundary



1:8,413

USDA FSA maps are for FSA Program administration only. This map is a survey or reflect actual ownership, rather it depicts the information provided directly from the producer and/or the 2008 ortho rectified imagery for South Dakota. The producer accepts the data 'as is' and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs. 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.

Apr 06, 2009

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/11, 20 09

RECEIVED OF Dirksen Ag Enterprises Inc 37306 Hwy 3 LeMars IA 51031

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

|                                                                                                                        |       |        |
|------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>7152-3</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>7152-3</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. _____                                              |       |        |
| 1 (Any Other Work Provided by Law)                                                                                     | TOTAL | 300 00 |

No. 04152

By

Laurel E. White  
Chief Engineer



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WATER RIGHTS  
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DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

May 11, 2009

Bradley W Dirksen  
37376 Hwy 3  
LeMars IA 51031

Dear Mr. Dirksen:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation of the NE ¼ Section 9-T93N-R53W. The application is being returned because it needs to be signed and notarized where indicated on the bottom portion of the application.

Also, enclosed is your receipt for payment of the Notice of Transfer of Ownership. Water Permit No. 5658A-3 formerly listed in the name of Robert Emmick is now listed in your name.

Upon receipt of the signed and notarized application, further processing of the application will continue. If you have any questions, please contact me.

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Water Rights Program  
605 773-3352  
[karen.schlaak@state.sd.us](mailto:karen.schlaak@state.sd.us)

enclosure



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 7152-3, Bradley W. Dirksen**

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. 7152-3, Bradley W. Dirksen, 37376 Hwy 3, LeMars IA 51031.

The Chief Engineer is recommending APPROVAL of Application No. 7152-3 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. 7152-3 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  
August 21, 2009

**Report on Water Permit Application No. 7152-3  
for Bradley W. Dirksen  
July 30, 2009**

Application No. 7152-3 proposes to appropriate 900 gallons per minute (2.0 cfs) from one well approximately 125 feet deep located in the center of the NE ¼ of Section 9, T93N R53W in Clay County. The water is to be used to irrigate approximately 145 acres located in the NE ¼ Section 9; all in T93N R53W. The annual period during which water will be used is April 1 through October 31. The acreage may also be irrigated from the existing well authorized by Water Permit No. 5658A3, which is located in the center of the SE ¼ Section 9, T93N R53W.

**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 is a buried outwash (sand and gravel) that is under water table conditions in the area of this application. The aquifer underlies 74,500 acres and contains an estimated 1.1 million acre feet of recoverable water in storage in Clay County (Hedges, 1982).

**Observation Well Data:**

The Water Rights Program monitors two observation wells, CL-80A and YA-80KA, located within five and a half 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).

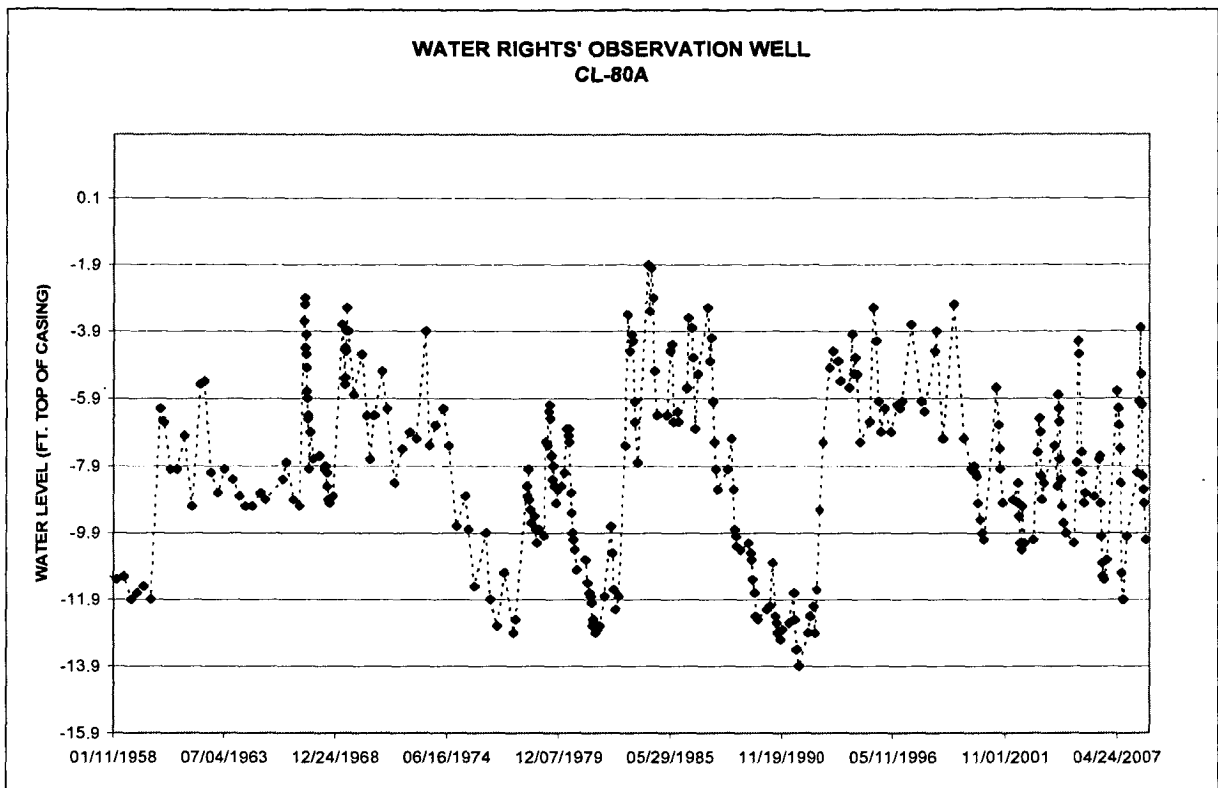


Figure 1. Hydrograph for Water Rights Observation Well CL-80A, completed into the Elk Point management unit of the Missouri Aquifer within four miles of 7152-3

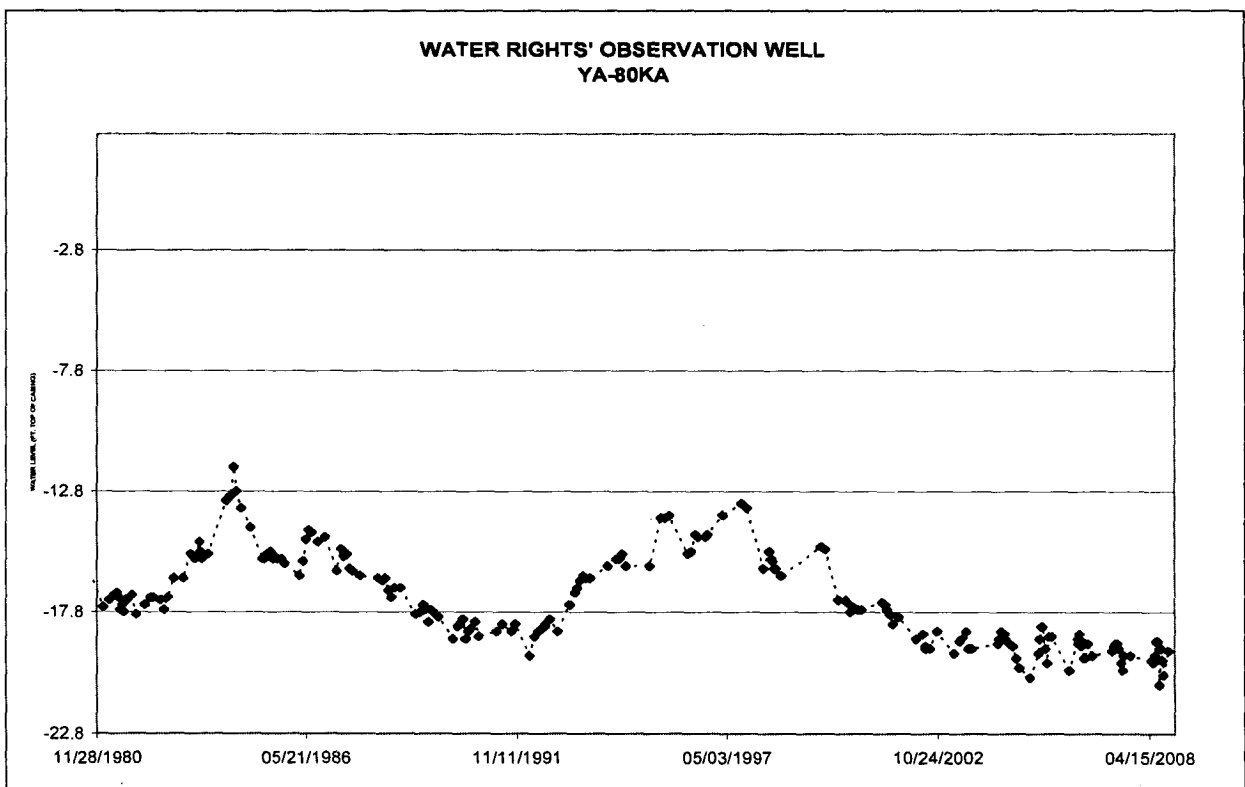


Figure 2. Hydrograph for Water Rights Observation Well YA-80KA, completed into the Elk Point management unit of the Missouri Aquifer within five and half miles of 7152-3

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 127,000 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                       |
| <b>AVERAGE</b>              | <b>301.31</b>            | <b>126962.26</b>         | <b>17124.55</b>             |
| <b>MAXIMUM</b>              | <b>368</b>               | <b>140746.6</b>          | <b>31052.03</b>             |
| <b>MINIMUM</b>              | <b>265</b>               | <b>121644.25</b>         | <b>1475.2</b>               |

Table 1. Irrigation usage from the Missouri aquifer (Water Rights, 1979-2008).

There are nine existing water permits/rights for irrigation located within two 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.

**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 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 depletes 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:**

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

Niehus, 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 County, SD DENR, Division of Water Rights, Pierre, SD, 57501

# AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Clay, ss.

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SEP 16 2009

WATER RIGHTS  
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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 Yankton Media, 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 NO. 7152-3

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 4th day of September 20 09, and that the succeeding publications were severally

on Friday, the 11th day of September, 20 09,

on Friday, the \_\_\_\_\_ day of \_\_\_\_\_, 20 09,

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

Forty-five dollars and 88 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 14th day of September, 20 09

Paul A. Bremer

Notary Public

My Commission Expires 1/24/2010

## NOTICE OF APPLICATION NO. 7152-3 to Appropriate Water

Notice is given that Bradley W Dirksen, 37376 Hwy 3, LeMars IA 51031 has filed an application for a water permit to appropriate 2.0 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (approximately 125 feet deep) located in the center of the NE 1/4 Section 9 to irrigate 145 acres located in the NE 1/4 Section 9; all in T93N-R53W. The acreage may also be irrigated from the existing well completed into the Missouri: Elk Point Aquifer (125 feet deep) authorized by Water Permit No. 5658A-3 located in the center of the SE 1/4 Section 9-T93N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7152-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 21, 2009.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

**Publish: September 4 & 11, 2009**

Published twice at the total approximate cost of \$45.88

Estimated publishing cost per circulated copy: \$.01



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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JOE FOSS BUILDING  
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PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 24, 2009

Plain Talk  
201 W Cherry St  
Vermillion SD 57069

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7152-3 to Appropriate Water to be published twice. Please publish the first notice on September 4, 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 Bradley W Dirksen, 37376 Hwy 3, LeMars IA 51031 (Ph # 712-546-5661).

**Please send the Water Rights Program the first publication immediately.** The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

-----CUT HERE-----

No. 7152-3

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

Date \_\_\_\_\_

We are in receipt of your letter of August 24, 2009 enclosing Notice to Appropriate Water by Application No. 7152-3 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](http://www.state.sd.us/denr)

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

August 24, 2009

Bradley W Dirksen  
37376 Hwy 3  
LeMars IA 51031

Dear Mr. Dirksen:

Water Permit Application No. 7152-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the 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 applications.

Sincerely,

  
Eric Gronlund  
Natural Resources Engineer  
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

Instruction to Newspaper - Publish first Notice on September 4, 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 NO. 7152-3 to Appropriate Water

Notice is given that Bradley W Dirksen, 37376 Hwy 3, LeMars IA 51031 has filed an application for a water permit to appropriate 2.0 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (approximately 125 feet deep) located in the center of the NE ¼ Section 9 to irrigate 145 acres located in the NE ¼ Section 9; all in T93N-R53W. The acreage may also be irrigated from the existing well completed into the Missouri: Elk Point Aquifer (125 feet deep) authorized by Water Permit No. 5658A-3 located in the center of the SE ¼ Section 9-T93N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7152-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 21, 2009.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published twice at the total approximate cost of \_\_\_\_\_.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
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PIERRE, SOUTH DAKOTA 57501-3182  
[denr.sd.gov](http://denr.sd.gov)

JAN 13 2010

Bradley W Dirksen  
37376 Hwy 3  
LeMars IA 51031

Dear Mr. Dirksen:

Enclosed is Water Permit No. 7152-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program  
(605) 773-3352

enclosures

7152-3

Water Rights Program - DENR  
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7152-3, Ralph Marquardt

ADDRESS: COUNTY: Clay

DATE: July 26, 2013 TELEPHONE: 660-6970

RE: irrigation endgun overspray

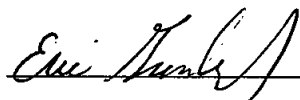
I received an inquiry regarding irrigation endgun overspray from a pivot located in the NE ¼ Section 9, T93N, R53W on to a road which is causing damage and unsafe driving conditions. The Water Rights database lists the permit being held by Bradley Dirksen of LeMars Iowa. I contacted Mr. Dirksen and he said he sold the entire E ½ of Section 9, T93N, R53W to Ralph Dirksen last winter.

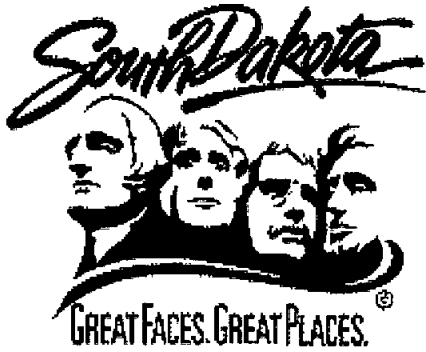
I then called Ralph Marquardt (660-6970) to inform him that a transfer of ownership needs to be filed for Water Permit No. 7152-3 (NE ¼) and 5658A-3 (SE ¼). I told him Water Rights will send him partially completed transfer forms for him to complete and return.

I then told him that we had an inquiry regarding irrigation overspray with the pivot in the NE ¼ Section 9, T93N, R53W. I asked him to go and check the end gun stops to insure that they are operating properly. Mr. Marquardt committed to doing so and reporting back to me.

UPDATED – July 29, 2013 – Mr. Marquardt said his sons went and checked and they are sure it is not their system but the windshield wipe to the east that may have gone on to the road way. However, they plan to watch the systems closely and will call in if they learn on any pivots irrigating on to the roadway.

NAME:

\_\_\_\_\_



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

July 29, 2013

5658A-3  
7152-3

Ralph Marquardt  
PO Box 1040  
Yankton SD 57078

Dear Mr. Marquardt:

I am writing in follow-up to your phone conversation with Eric Gronlund in our program concerning Water Permit Nos. 5658A-3 and 7152-3. It is our understanding that you have purchased the land described in the permits from Bradley Dirksen. I have included copies of both water permits for you to keep for your records.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing an ownership change with each water permit. Please review the forms and complete as needed. Upon completion, please sign the forms and return them to our office with a required filing fee of \$50.00 each (total of \$100). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

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

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

enclosures

RECEIVED

AUG 15 2013

WATER RIGHTS  
PROGRAM

## NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer  
Water Rights Program, DENR  
523 E. Capitol  
Pierre, SD 57501-3181

No. 7152-3

Date: 8/6/2013

I/We request that Water Permit No. 7152-3

formerly owned by: Bradley W Dirksen

be transferred to: (name & address) Marguardt Family Limited Partnership,  
A South Dakota Limited Partnership, 1317 Golf View Lane, PO Box 1040  
Yankton, SD 57078 Telephone No. 605-665-1053

Title to the following described land(s)/property has been transferred as described above:

145 acres – NE ¼ Section 9, T93N, R53W

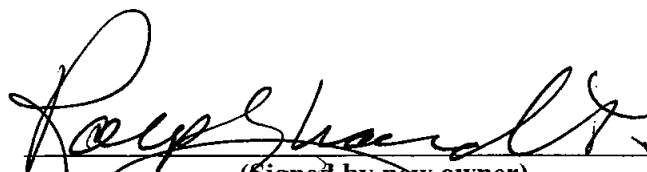
I/We understand that the validity of Water Permit No. 7152-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

**A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

Ralph Marguardt on behalf of Marguardt Family  
Limited Partnership

I/We Limited Partnership, the new owner, certify that the above information is true and correct.

  
(Signed by new owner)  
Marguardt Family Limited Partnership

**NOTE:** Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

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

Date 8/12, 20 13

RECEIVED OF Marquardt Farms PO Box 1040 Yankton SD 57078

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

|                                                                                                                |       |    |
|----------------------------------------------------------------------------------------------------------------|-------|----|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 50    | 00 |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                   |       |    |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                         |       |    |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____            |       |    |
| Fee for Filing Transfer Form _____ 7152-3                                                                      |       |    |
| Fee for _____                                                                                                  |       |    |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |    |
| Fee for Renewal of Well Driller's License No _____ for C.Y. _____                                              |       |    |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         |       |    |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |    |
| (Any Other Work Provided by Law)                                                                               | TOTAL |    |
|                                                                                                                | 50    | 00 |

No. **06404**

By Jeanne Goodman  
Chief Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

[denr.sd.gov](http://denr.sd.gov)

August 15, 2013

5658A-3  
7152-3

Ralph Marquardt  
Marquardt Family Limited Partnership  
PO Box 1040  
Yankton SD 57078

Dear Mr. Marquardt:

I am writing to acknowledge receipt of the ownership changes and filing fees submitted for transferring Water Permit Nos. 5658A-3 and 7152-3.

The ownership changes have been completed. Water Permit Nos. 5658A-3 and 7152-3 formerly held by Bradley W Dirksen are now listed in the name of Marquardt Family Limited Partnership.

Enclosed for your records are Receipt Nos. 06403 and 06404 in the amounts of \$50 each. If I can answer any questions for you, please let me know.

Sincerely,

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

encl



7152-3  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 25, 2019

NOTICE

TO: MARQUARDT FAMILY LTD PARTNERSHIP, PO BOX 1040, YANKTON, SD 57078  
FROM: Ron Duvall, Natural Resources Engineer  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5391A-3, 5658A-3, 6978-3, 6979-3, 6980-3, 7152-3, 7213-3, 7214-3 & 7800-3, 7801-3, 7802-3 & 7803-3. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 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) 5391A-3, 5658A-3, 6978-3, 6979-3, 6980-3, 7152-3, 7213-3, 7214-3 & 7800-3, 7801-3, 7802-3 & 7803-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2019 at 10:30 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) 5391A-3, 5658A-3, 6978-3, 6979-3, 6980-3, 7152-3, 7213-3, 7214-3 & 7800-3, 7801-3, 7802-3 & 7803-3 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 6, 2019** 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](mailto: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.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

February 6, 2019

Marquardt Family Ltd Partnership  
PO Box 1040  
Yankton SD 57078

RE: Water Permit/Right Nos. 5391A-3, 5658A-3, 6978-3, 6979-3, 6980-3, 7152-3, 7213-3,  
7214-3 & 7800-3, 7801-3, 7802-3 & 7803-3

Dear Sir:

I am writing to acknowledge receipt of your 2018 irrigation questionnaires.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Permit or Right Nos. 5391A-3, 5658A-3, 6978-3, 6979-3, 6980-3, 7152-3, 7213-3, 7214-3 & 7800-3, 7801-3, 7802-3 & 7803-3. 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 cursive script that reads "Genny McMath".

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

## **Water Rights Program - File Documentation**

---

**NAME:** Marquart Family LTD Partnership

**ADDRESS:** Yankton

**DATE:** 8-4-22

**RE:** Overspray

**COMMENTS:**

Justin Orr called and talked with Eric. Justin indicated there was overspray on the north and east roads adjacent to irrigation located in the E 1/2 Section 9-T93N-R53W. The water permits for these systems are No. 7152-3 and 5658A-3, Marquardt Family LTP Partnership.



Karen Schlaak  
Water Rights Program



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

7152-3  
5658A-3

August 4, 2022

Marquardt Family LTD Partnership  
c/o Ralph Marquardt  
PO Box 1040  
Yankton SD 57078

Dear Mr. Marquardt:

The irrigation season is in full swing. This has led to the Department of Agriculture and Natural Resources (DANR) fielding inquiries regarding end gun overspray on to roads. This is a reminder that a water right holder is not allowed to operate an irrigation system in violation of state water law, which includes end gun overspray upon land not authorized by the water right.

DANR received an inquiry alleging the irrigation systems located in the E 1/2 Section 9-T93N-R53W had irrigation water from the end gun hitting the roads to the north and east. The water permits for these systems are held in your name under Water Permit Nos. 7152-3 and 5658A-3.

Please take steps to ensure end gun stops are functioning properly so there is not direct overspray on to the road. If you don't believe your irrigation system is causing the overspray, or if you have any questions, please contact me at (605) 773-3352 or by email at [ron.duvall@state.sd.us](mailto:ron.duvall@state.sd.us)

Thank you for your cooperation,

Ron Duvall  
Water Rights Program, DANR

c: Dave Husby (email)

## Schlaak, Karen

---

**From:** Dave Husby <Daveh@marqcompanies.com>  
**Sent:** Thursday, August 4, 2022 3:18 PM  
**To:** Schlaak, Karen  
**Subject:** RE: [EXT] Overspray Complaint

The end guns will be adjusted either later today or no later than tomorrow. Thank you for letting us know.

---

**From:** Schlaak, Karen <Karen.Schlaak@state.sd.us>  
**Sent:** Thursday, August 4, 2022 11:39 AM  
**To:** Dave Husby <Daveh@marqcompanies.com>  
**Subject:** Overspray Complaint

Attached is a letter being sent today. We received a call concerning overspray in the location of these two permits.

*Karen Schlaak*

DANR - Water Rights Program  
(605) 773-3352  
Website: <https://danr.sd.gov>



7152-3



DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

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

SEP 21 2022

5658A-3  
7152-3

Marquardt Family Ltd Partnership  
PO Box 1040  
Yankton SD 57078

Dear Mr. Marquardt:

Enclosed is Water License No. 7152-3. 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.

The investigation of the water use system found the well located in the approximate center of the SE ¼ Section 9, T93N, R53W to be abandoned and left open. Under South Dakota Water Law, 46-6-27, the well owner shall plug an abandoned well **OR** seal/cap the well at the surface to prevent contamination. **You will need to work with a well driller to plug the well or at a minimum cap or seal the well within 30 days. Contact our office as soon as the work is completed.**

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

Sincerely,

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

enclosures

Note: Upon licensing, the applicable portions of Water Permit No. 5658A-3 were incorporated into Water License No. 7152-3.

**STATE OF SOUTH DAKOTA  
WATER LICENSE NO. 7152-3**

---

(1) Bradley W Dirksen made Application No. 7152-3, May 11, 2009, for a water permit to divert 2.00 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer), Clay County, South Dakota for irrigation purposes. Permit No. 7152-3, with a priority date of July 22, 2009, was approved September 21, 2009, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 21, 2014, and for the application to beneficial use of water on or before September 21, 2018.

Water Permit No. 7152-3 authorized irrigation of 145 acres in the NE ¼ Section 9, T93N, R53W. The permit included authorization to irrigate the acreage from the well described in Water Permit No. 5658A-3 located in the center of the SE ¼ Section 9, T93N, R53W. No. 5658A-3, with a priority date of April 21, 1992, authorized irrigation of the SE ¼ Section 9.

Water Permit No. 5658A-3 and Water Permit No. 7152-3 were transferred in May 2009 and August 2013 respectively to Marquardt Family Limited Partnership.

An investigation for licensing purposes found the well described in No. 5658A-3 to be abandoned. The acreage for both Nos. 5658A-3 and 7152-3 are irrigated from a well located in the N ½ SE ¼ Section 9, T93N, R53W which is outside of the permitted area. Pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.01, the Chief Engineer made a finding that the change in the diversion point location did not increase the potential for adverse effects to existing diversions.

The applicable portions of Permit No. 5658A-3 are incorporated into Water License No. 7152-3. Priority dates as they pertain to the acres irrigated are described in (3) of this license.

(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 1.78 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,330' W and 2,580' N of the SE corner of Section 9, T93N, R53W (N ½ SE ¼)  
Latitude 42.88815, Longitude -97.10732

(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 9, T93N, R53W | NW ¼ NE ¼ | 34 acres | NW ¼ SE ¼ | 35 acres |
|                       | NE ¼ NE ¼ | 33 acres | NE ¼ SE ¼ | 34 acres |
|                       | SW ¼ NE ¼ | 35 acres | SW ¼ SE ¼ | 34 acres |
|                       | SE ¼ NE ¼ | 34 acres | SE ¼ SE ¼ | 33 acres |
| Total 272 acres       |           |          |           |          |

**NE ¼ Section 9 carries a priority date of July 22, 2009 (established under No. 7152-3)**

**SE ¼ Section 9 carries a priority date of April 21, 1992 (established under Nos. 5658-3/5658A-3)**

continued

(4) Pursuant to South Dakota Water Law 46-5-30.1 Marquardt Family Limited Partnership, PO Box 1040, Yankton SD 57078 the holder and/or owner of Incorporated Water Right No. 7152-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer) with priority dates of April 21, 1992 (SE ¼), and July 22, 2009 (NE ¼) 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 Incorporated Water Right No. 7152-3 and subject to the following qualifications:

- The well approved under this water right will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this water right 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. 7152-3 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 drilled July 20, 2013, by Hammond-Wetmore Drilling LLC. A copy of the well completion report is on file with the Water Rights Program.*
- This Water Right is approved subject to the irrigation water use questionnaire being submitted each year.

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

SEP 21 2022  
date



**Report of Examination of Works and/or Application of Water to Beneficial Use  
For Permit Nos. 7152-3 and 5658A-3**

I have this day, March 17, 2022, made a thorough examination of the water use system owned by Marquardt Family Limited Partnership, PO Box 1040, Yankton, SD 57078, holder of Permit Nos. 7152-3 and 5658A-3, bearing the priority dates of June 22, 2009, and April 21, 1992, respectively authorizing the diversion of 2.0 cu. ft. per second each of the waters of groundwater (Missouri: Elk Point Aquifer) for the irrigation of 145 acres and 140 acres respectively, located in Clay County.

Inspection contacts: Dave Husby and Breyton Nelson

**A. Works used to divert the water:**

**Well Information: (N. Well WR No. 7152-3)**

- 1) Well Drilling Firm: Hammond Wetmore
- 2) No. of Wells: 1
- 3) Depth(s): 80 feet
- 4) Well log is available: Yes

**Casing:**

- 1) Diameter: 16 inches
- 2) Length: 40 feet
- 3) Type: PVC

**Screen:**

- 1) Diameter: 16 inches
- 2) Length: 40 feet
- 3) Type: PVC
- 4) Static water level: 10.6 feet

**Pump:**

- 1) Make: Grundfos
- 2) Model: 800S400-2AA
- 3) Capacity: 800 GPM

**Motor:**

- 1) Make: Franklin
- 2) Model No.: Unknown
- 3) Horsepower rating: 40 hp

**Well Information: (S. Well WR No. 5658A-3)**

- 1) Well Drilling Firm: Unknown
- 2) No. of Wells: 1
- 3) Depth(s): 125 ft (WRs 3462-3 and 5658-3)
- 4) Well log is available: No

**Casing:**

- 1) Diameter: Unknown inches
- 2) Length: Unknown feet
- 3) Type: Unknown

**Screen:**

- 1) Diameter: Unknown inches
- 2) Length: Unknown feet
- 3) Type: Unknown
- 4) Static water level: Unknown feet

**Pump:**

- 1) Make: Unknown
- 2) Model: Unknown
- 3) Capacity: Unknown GPM

**Motor:**

- 1) Make: General Electric
- 2) Model No.: 5KE326DTT6005
- 3) Horsepower rating: 50 hp

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

- Type: PVC      Size: 8 inches      Length: 1,240 feet from the south pivot to the north well
- Type: PVC      Size: 8 inches      Length: 1,410 feet from the north well to the north pivot

**C. Works used to apply water to beneficial use:**

**South Center Pivot (WR No. 5658A-3):**

- 1) Make: Valley
- 2) Overall length: 1,312 feet
- 3) Number of towers: 7
- 4) End gun: Yes
- 5) Capacity: 800 GPM

**North Center Pivot (WR No. 7152-3):**

- 1) Make: Valley
- 2) Overall length: 1,312 feet
- 3) Number of towers: 7
- 4) End gun: Yes
- 5) Capacity: 800 GPM

**Chemigation Equipment:**

- 1) Does chemigate: No

**D. Compliance with Permit Requirements:**

- 1) Permit qualifications being abided by: No  
2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: Yes  
3) Exceptions to compliance are: Well location and abandonment.

**E. Condition and Location:**

- 1) The systems are in good condition with the point(s) of diversion located as follows:  
The north well (WR No. 7152-3) is 1,330 feet west and 2,580 feet north of the southeast corner of Section 9-T93N-R53W (Latitude 42.88815, Longitude -97.10732 – N1/2 of the SE1/4).  
The south well (WR No. 5658A-3) is 1,320 ft west and 1,320 ft north of the SE corner of Section 9-T93N-R53W (Latitude 42.88476, Longitude -97.10723 – center of the SE1/4). (ABANDONED)  
2) The works are capable of diverting and conveying to the place of use 1.78 cu. ft. per second of water which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows:

All in Section 9-T93N-R53W

|                   |                 |                   |                 |
|-------------------|-----------------|-------------------|-----------------|
| <u>NW1/4NE1/4</u> | <u>34 acres</u> | <u>NW1/4SE1/4</u> | <u>35 acres</u> |
| <u>NE1/4NE1/4</u> | <u>33 acres</u> | <u>NE1/4SE1/4</u> | <u>34 acres</u> |
| <u>SW1/4NE1/4</u> | <u>35 acres</u> | <u>SW1/4SE1/4</u> | <u>34 acres</u> |
| <u>SE1/4NE1/4</u> | <u>34 acres</u> | <u>SE1/4SE1/4</u> | <u>33 acres</u> |

comprising a total of 272 acres of land and the license should be issued for 1.78 cfs.

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

**F. Comments or other permit(s) associated with the project:** It appears that the south well has been abandoned but not plugged. This well may have been installed in the 1970's under Water Right No. 3462-3. The old electric motor was laying in the grass, but a pump was not visible. The well was uncovered and I mentioned that it should be covered until it is plugged.

The north well feeds both pivots. Both water rights could be incorporated into one license since one well provides water for both pivots. Also, the north well is in the N1/2 of the SE1/4 instead of the NE1/4 of Section 9. The pump and motor information was obtained from Heine Electric and Irrigation.

*Keith DeJong*

Keith DeJong, PE Ret.  
Water Rights Inspector  
DANR, Water Rights Program

Date report completed: September 7, 2022

**Note:** The “south” well will be left off of the water license since it is no longer used to supply water to the pivots.  
-Genny

7152-3

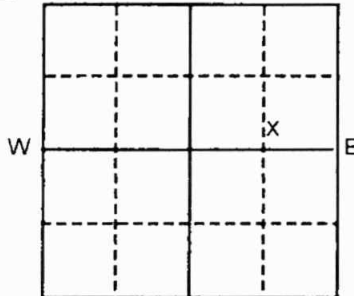
SD EForm - 1621LD V1

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SE 1/4 NE 1/4 Sec 9 Twp 93N Rg 53WCounty Clay

North

Please mark well  
location with an "X"

Well Completion Date

July 20, 2013

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?  
3,000.0 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 | 40.0 FT | 24.00 IN      |
| LB/FT      | IN       | FT     | FT      | IN            |
| LB/FT      | IN       | FT     | FT      | IN            |

## GROUTING DATA:

| Grout Type | No. of Sacks | Grout Weight | From   | To      |
|------------|--------------|--------------|--------|---------|
| Bentonite  | 20           | 9.5 Lb/gal   | 0.0 Ft | 30.0 Ft |
|            |              | Lb/gal       | Ft     | Ft      |

Describe grouting procedure  
Tremie Method

## SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 16.00 Inches Length 40.0 FeetMaterial PVCSlot Size .085 Set From 40.0 Feet to 60.0 FeetOther information .050 Set from 60.0 feet to 80.0 feetWAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How?Lab to which water ☒ No, Why Not? Not Required  
quality sample sent for analysisWell Owner: Ralph Marquardt

Business Name:

Address: POB 1040City, State, Zip: Yankton SD 57078

## WELL LOG:

DEPTH

| FORMATION            | FROM | TO |
|----------------------|------|----|
| Black Top Soil       | 0    | 2  |
| Brown Clay           | 2    | 18 |
| Fine Sand            | 18   | 42 |
| Medium Gravel        | 42   | 62 |
| Sandy Gravel; Coarse | 62   | 80 |
|                      |      |    |
|                      |      |    |
|                      |      |    |
|                      |      |    |

STATIC WATER LEVEL 10.6 FEETIf flowing: closed in pressure 5/27/14 PSIGPM flow through  Inch pipeControlled by ☐ Valve ☐ Reducers ☐ OtherReduced flow rate  GPM

Can well be completely shut in?

## WELL TEST DATA:

☐ Pumped Describe:☐ Bailed☐ Other

Pumping Level Below Land Surface

 Ft. After  Hrs. pumped  GPM Ft. After  Hrs. pumped  GPMIf pump installed, pump rate:  GPM

## REMARKS

RECEIVED

OCT - 4 2013

WATER RIGHTS  
PROGRAMThis well was drilled under license # 666 and this  
report is true and accurate.Drilling firm: Hammond-Wetmore Drilling, LLC

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: 9/28/2013

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

NAME: Marquardt Farms

ADDRESS: PO Box 1040, Yankton SD 57078

DATE: 09-14-2022

COUNTY: Clay

### GENERAL DESCRIPTION OF AUTHORIZED PROJECT:

The permit holder is authorized to construct a 125 foot deep well into the Missouri: Elk Point Aquifer in the NE1/4 of Section 9 for irrigation of 145 acres in the NE1/4 of Section 9; all in T93N-R53W.

### AUTHORITY:

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

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

The permit holder was authorized to construct an approximate 125 foot well into the Lower Missouri: Elk Point Aquifer located in the center NE1/4 Section 9 T93N-R53W with a diversion rate of 2.0 cfs but constructed an 80 ft well into the Missouri: Elk Point Aquifer in the N1/2 SE1/4 Section 9 T93N-R53W at a diversion rate of 1.78 cfs

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

The permit holder developed irrigation of 145 acres of the 145 acres authorized in the NE1/4 of Section 9 T93N-R53W

- **Review of Existing Diversions**

There are seven existing water permits/rights within a mile of where the this well was developed. Two of these were existing permit/rights when this permit was issued the other five were permitted and developed after this permit was issued, when any of these permits were issued it was determined that there was reasonable probability any well interference due to pumping of this well would not adversely or unlawfully impair existing rights. The same would be expected for the well constructed in the new location.

### RECOMMENDED ACTION

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



Mark D. Rath, Natural Resources Engineer  
Water Rights Program

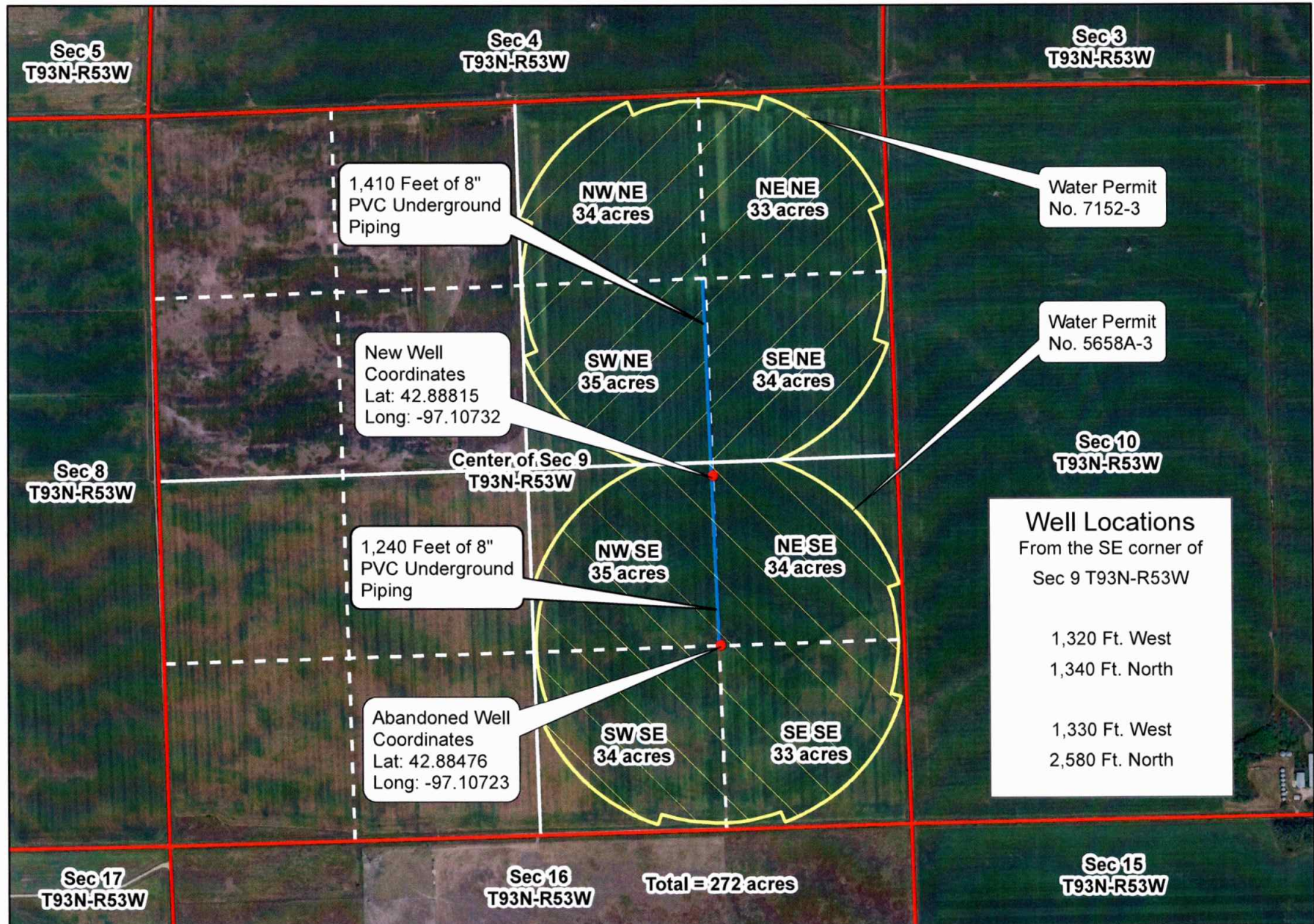
The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



Eric Gronlund, Chief Engineer  
Water Rights Program

# Water Permit Nos. 7152-3 and 5658A-3



*Keith DeJong*

Keith DeJong, PE Ret.  
Staff Engineer  
September 7, 2022

# NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: SD DANR, Water Rights Program  
523 E Capitol Ave  
Pierre, SD 57501-3182

Water Right/Permit No. 7152-3

Date: 1/31/25

I/We request that Water Right/Permit No. 7152-3 formerly owned by:  
Marquardt Family LP - Yankton SD be transferred to:

New Owner Name: Dakota RE Holdings LLC, A Delaware Limited liability Company  
Address: 501 Silverside Rd STE 87A2Q mobile: 773-960-2515  
City, State, Zip Wilmington DE 19809 email: matthewlebenson@gmail.com

Title to the following described land(s)/property has been transferred as described above:

E 1/2 Section 9, T93N, R53W - 272 acres

**PAID**  
FEB 04 2025  
Ck# 21432  
Rec't# 21432

☒ I understand that the validity of Water Right/Permit No. 7152-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Matthew Lebenson as manager of Dakota RE Holdings LLC, the new owner, certify that the above information is true and correct.

Matthew Lebenson

(signed by new owner)

**NOTE:** Water permits may be cancelled for nonconstruction after the five-year construction period has expired. Once a water permit is developed, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three-year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIVED

FEB 05 2025

OFFICE OF  
WATER

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date February 5th 2025

RECEIVED OF Dakota RE Holding LLC 501 Silverside Rd Ste 87AZQ Wilmington DE 19809

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

|                                                                                                                   |                  |
|-------------------------------------------------------------------------------------------------------------------|------------------|
| Fee for Application for Permit No. _____ to Appropriate Water, to<br>construct and to put water to beneficial use | \$ _____         |
| Fee for Application for Permit No. _____ to Appropriate Water for<br>Future use                                   | \$ _____         |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                            | \$ _____         |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing<br>Water License No. _____            | \$ _____         |
| Fee for Filing Transfer Form #6978-3, #7152-3, #7802-3                                                            | \$ <u>150.00</u> |
| Fee for _____                                                                                                     | \$ _____         |
| Fee for Issuing New Well Driller's License No. _____                                                              | \$ _____         |
| Fee for Renewal of Well Driller's License No. _____                                                               | \$ _____         |
| Fee for Issuing Well Pump Installer's License No. _____                                                           | \$ _____         |
| Fee for Renewal of Well Pump Installer's License No. _____                                                        | \$ _____         |
| (Any Other Work Provided by Law)                                                                                  |                  |
| TOTAL                                                                                                             | \$ <u>150.00</u> |

By

Eric Gronlund

Chief Engineer



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

February 6, 2025

6978-3  
7152-3  
7802-3

Dakota RE Holdings LLC  
c/o Matthew Lebenson  
501 Silverside Rd, Ste 87AZQ  
Wilmington DE 19809

Dear Mr. Lebenson:

I have received the "Notice of Transfer of Ownership" forms and the required fees for the transfer of Water Right Nos. 6978-3, 7152-3 & 7802-3. Enclosed is a receipt of payment for your records.

Water Right Nos. 6978-3, 7152-3 & 7802-3, previously owned by Marquardt Farms, Marquardt Family LP & Ralph Marquardt, respectively, are now all listed under Dakota RE Holdings LLC (a Delaware Limited Liability Company). I have also updated your contact information in our system.

As a reminder, so long as you use the water beneficially, as stated in the licenses, State Water Laws provide that you have a continuing right to use the water. Should the water not be put to beneficial use for a period longer than 3 consecutive years, without legal excuse, the water rights will be subject to cancellation.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell  
Permitting Administrator  
Water Rights Program  
605 773-3352  
Amanda.Dewell@state.sd.us

**NOTE:** The validity of Water Nos. 6978-3, 7152-3 & 7802-3, has not been determined by this transfer action. Only the Water Management Board has the authority to determine if a water permit/right is valid.

*enclosure*