

WATER PERMIT NO. 7264-3

Name of Applicant: Van Buskirk Farms LLP

Address: Box 73, Hitchcock SD 57348

Phone: 605 350-5671

Amount of Water Claimed: 6.67 cfs

Total Acres: 480 acres

Source of Water Supply: two sloughs

Water to be used for: irrigation

County: Beadle

Type of Waste Disposal System:

Location: ½ miles southwest of Hitchcock

PRIORITY

Date Received: 9-12-11

Application/License Fee: \$1,550.00

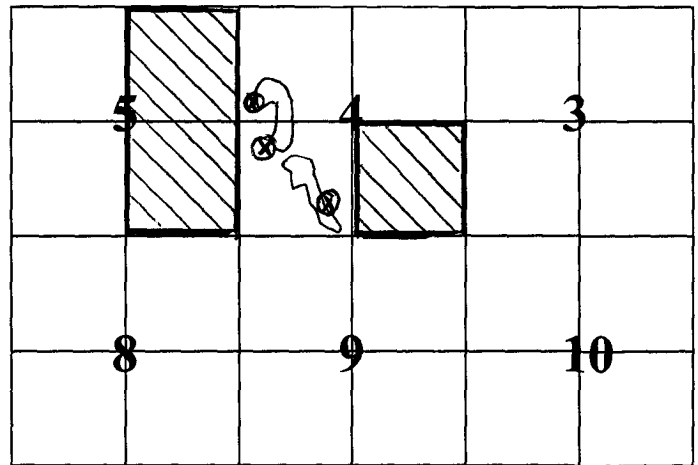
Corrected Application Received:

Period of Annual Use: May 1 – September 30

Remarks:

Diversion Point: SE ¼ SW ¼, SW ¼ NW ¼ and
NW ¼ SW ¼ Sec 4-T113N-R63W

Land to be Irrigated: SE ¼ Sec 4 and E ½ Sec 5;
all in T113N-R63W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 9-12-11

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7264-3</u> (office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>
	Newspaper <u>The Plainsman PO Box 1278</u>
	<u>605-352-6401</u> <u>Huron 57350</u>

RECEIVED
SEP 12 2011
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 Van Buskirk Farms LLP Phone 605 350-5671

(check one) ☒ Owner ☐ Tenant/lessee

Mailing Address Box 73 Hitchcock SD 57348
(Address) (City) (State) (Zip Code)

2. Amount of water claimed 6.67*CFS or 3000 **GPM ***AF Total Acreage 480
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply two sloughs that are connected

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Beadle
SE 1/4 SW 1/4, SW 1/4 NW 1/4 and NW 1/4 SW 1/4 Section 4, T113, R63W

5. County or counties where water will be used Beadle

6. Annual period during which water is to be used May 1 - September 30

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
SE 1/4 Section 4, T113N, R63W	160		
E 1/2 Section 5, T113N, R63W	320		

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

Develop irrigation from two sloughs that are connected.

STATE OF SOUTH DAKOTA)

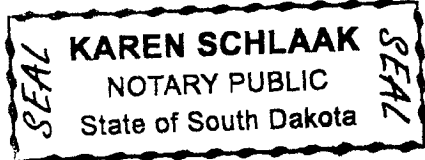
County of Hughes) SS

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

I, Merlyn Van Buskirk, 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 Merlyn Van Buskirk

Subscribed and sworn to before me this 12th day of Sept 20 11



Karen Schlaack
Notary Public signature
Commission Expires 4/1/2013

**SOUTH DAKOTA
WATER PERMIT NO. 7264-3**

Date of first receipt of application September 12, 2011.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7264-3 to Van Buskirk Farms LLP, c/o Merlyn Van Buskirk, Box 73, Hitchcock SD 57348 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. 7264-3 appropriates 6.67 cubic feet of water per second from two connected sloughs located in SE 1/4 SW 1/4, SW 1/4 NW 1/4 and NW 1/4 SW 1/4 Section 4 for irrigation of 480 acres located in the SE 1/4 Section 4 and E 1/2 Section 5; all in T113N-R63W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is September 12, 2011.
4. The date of approval of Permit No. 7264-3 is December 19, 2011.
5. One-fifth of the construction is to be completed on or before June 19, 2014.
6. All construction is to be completed on or before December 19, 2016.
7. Water is to be put to beneficial use on or before December 19, 2020.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

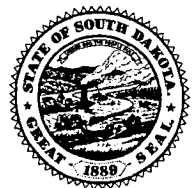
WATER MANAGEMENT BOARD

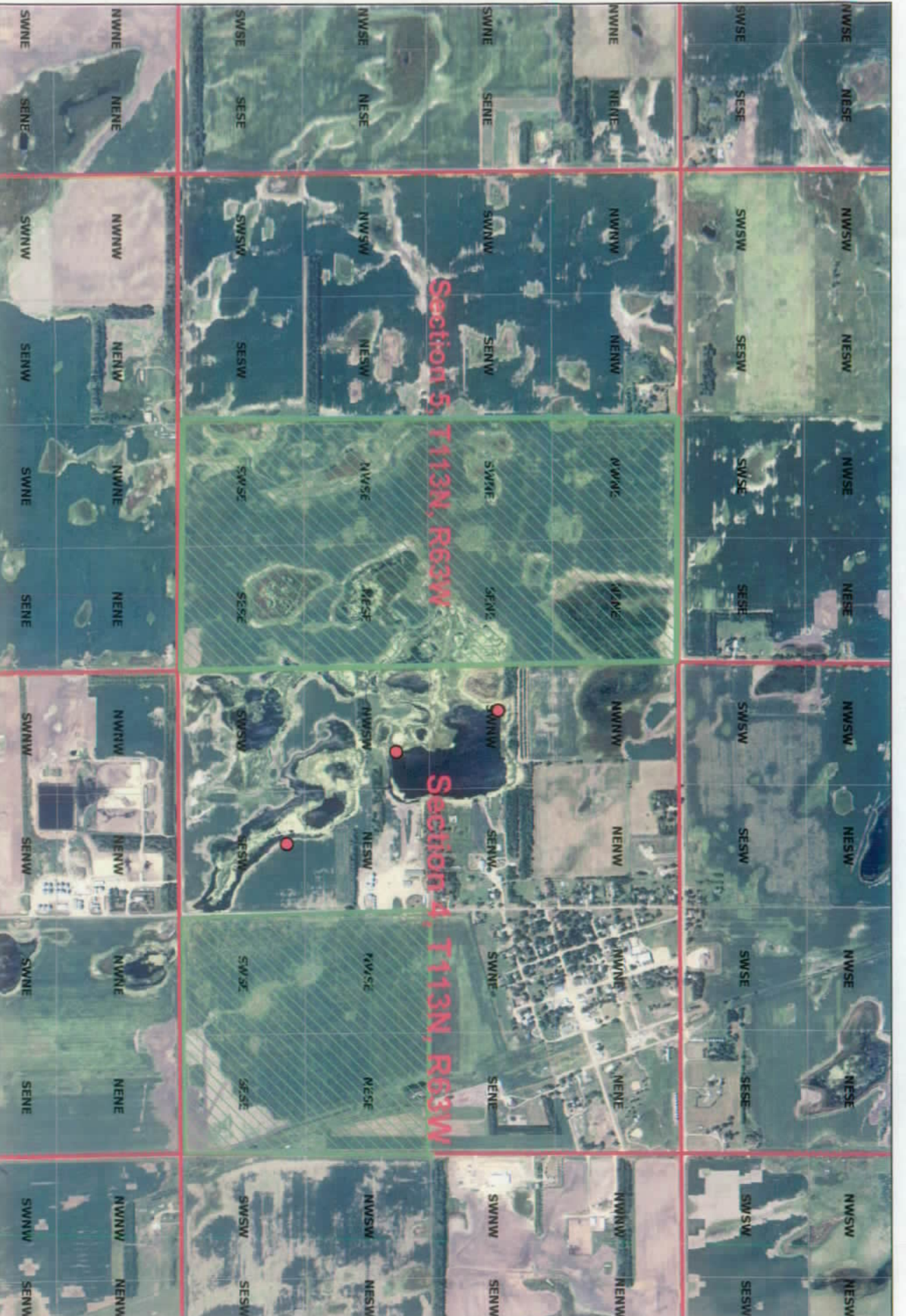
By: Garland Erbele

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

JAN 26 2012

date





Proposed diversion point locations

2,400 1,200 0 2,400 Feet

Eric Gronlund

Eric Gronlund
Water Rights Program, DENR
September 12, 2011

* based on representation made by Merlyn and Matt Van Buskirk

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/7, 20 11

RECEIVED OF Merlyn Vanbuskirk 55 Cedar St Hitchcock SD 57348

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

Fee for Application for Permit No. <u>72273 7264-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	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 _____		
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	500 00

No.

04812

By

Larsen Erbe
Chief Engineer

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 13, 20 11

Merlyn VanBuskirk, 55 Cedar St, Bithbrook SD 57348

RECEIVED OF _____

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	200 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>72273 7264-3</u>		
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	<u>200.00</u>

No. 04827

By Harland Erbille
Chief Engineer 1/15

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/12, 20 11

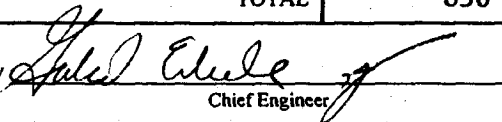
RECEIVED OF Van Buskirk Farms LLP PO Box 72 Hitchcock SD 57348

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

Fee for Application for Permit No. <u>7264-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	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 _____		
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	850 00

No. **05020**

By


Chief Engineer

Water Rights Program - File Documentation

NAME: Merlyn Van Buskirk

ADDRESS: Box 73, Hitchcock SD 57348

DATE: 9-12-11 **COUNTY:** BD **TELEPHONE:** 605 350-5671

RE: Withdrawn application

COMMENTS:

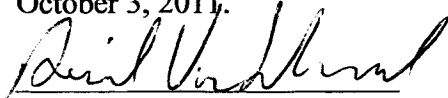
On September 12, 2011, Myron Van Buskirk withdrew Application No. 7227-3. He filed a new application. The application/license fee of \$700 submitted at that time will not be refunded but applied towards Application No. 7264-3 (Receipt Nos. 4812 and 4827).



Karen Schlaak
Environmental Scientist

I, David Van Scharrel of 501 Maple Ave. , Hitchcock, South Dakota 57348-2012, as land owner of the NW ¼ of section 4-113-63, will allow the adjacent landowners in section 4-113-63, Van Buskirk Farms to pump water from the adjoining pond on their land which will result in the lowering of the water level of the pond on my land also.

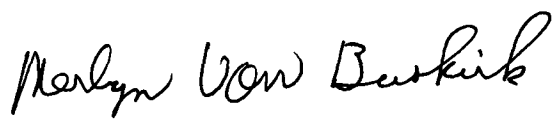
October 3, 2011.

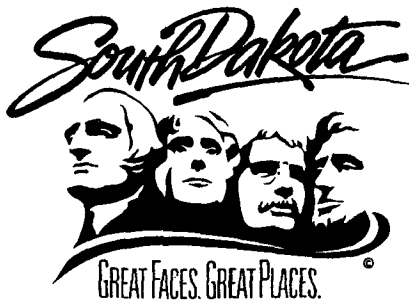

David Van Scharrel

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NOV 07 2011

WATER RIGHTS
PROGRAM





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 22, 2011

David Van Scharrel
501 Maple Avenue
Hitchcock SD 57348

Dear Mr. Van Scharrel:

Enclosed is a copy of the report, recommendation and public notice for Water Permit Application No. 7264-3 filed by Van Buskirk Farms LLP. The application proposes to appropriate water from two connected sloughs for irrigation. The public notice is scheduled to be published November 30th and December 7th in the Plainsman. If no petitions to intervene are received, the water permit will be approved based on the Chief Engineer's recommendation. If a petition is received, a hearing will be scheduled before the Water Management Board.

This information is being sent to you because you own a portion of the slough holds water. If you have any questions regarding DENR's review of the application, please contact me.

Sincerely,

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

enclosures



**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. 7264-3, Van Buskirk Farms LLP**

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. 7264-3, Van Buskirk Farms LLP, Merlyn and Matt Van Buskirk, Box 73, Hitchcock SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 7264-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) existing rights will not be unlawfully impaired, 3) the proposed use is a beneficial use, and 4) it is in the public interest with the following qualification:

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
November 22, 2011

Note: The north slough extends beyond property owned by the applicant. DENR has a letter on file from the adjacent landowner consenting to the pumping.

REPORT ON WATER PERMIT APPLICATION NO. 7264-3

Van Buskirk Farms LLP

PO Box 73

Hitchcock, SD 57348

November 16, 2011

Water Permit Application No. 7264-3, proposes to appropriate 6.67 cubic feet per second (cfs) of water from two connected sloughs located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4 for irrigation of 480 acres located in the SE $\frac{1}{4}$ Section 4 and E $\frac{1}{2}$ Section 5; all in T113N-R63W. The project is located in Beadle County, approximately $\frac{1}{4}$ mile west of Hitchcock, SD.

Review of the Water Source and Existing Water Rights

The source of water for this application is from two sloughs. The sloughs will be allowed to fill with incidental surface water run-off from some surface water source such as melting snow or run-off from rainfall when it occurs. Water will then be pumped from the sloughs to irrigate the 160 acres located in the SE $\frac{1}{4}$ Section 4 and 320 acres in the E $\frac{1}{2}$ Section 5; all in T113N-R63W. The north slough appears to be approximately 18 acres in size while the south slough appears to be approximately 20 acres. During dry periods, these sloughs cannot be considered a reliable source of water. There are no existing water rights authorized to divert water from run-off in the area.

While reviewing the application, the north slough crossed the quarter section from the SW $\frac{1}{4}$ into the NW $\frac{1}{4}$ of Section 4. The property owner of the NW $\frac{1}{4}$ was not the applicant. The applicant was notified that the DENR would need that landowner to give permission to pump water off his property. The Water Rights Program received a letter from the landowner dated October 3, 2011 and we received the signed letter by both the applicant and the landowner who owns the NW $\frac{1}{4}$ giving his consent to lower the water level on November 7, 2011.

Conclusions

1. Application No. 7264-3 proposes to appropriate 6.67 cfs of water from run-off collected in two sloughs located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4-T113N-R63W.
2. During dry periods, these sloughs cannot be considered a reliable source of water.
3. There are no existing water rights authorized to divert water from run-off in the area.
4. The applicant submitted a letter from the adjacent landowner allowing the applicant to pump water from the north slough which he shares with the applicant.

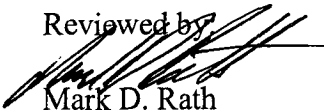


Mike DeFea

Natural Resources Engineer II

DENR, Water Rights Program

Reviewed by



Mark D. Rath

Natural Resources Engineer III

DENR, Water Rights Program

RECEIVED

JAN - 3 2012

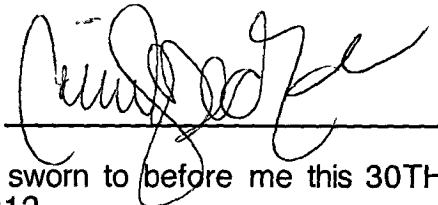
WATER RIGHTS PROGRAM **PRINTER'S AFFIDAVIT**

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss.

I, CORINN DECKER, being duly sworn on oath, say that THE PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

MARLYN VAN BUSKIRK - NOTICE TO WATER

Was published for Two days, once each week, on the same day, in said newspaper, and not in any supplement of the said newspaper. The first publication being the 30TH day of NOV. 2011 and the last publication was on the 7th day of DEC. 2011. That the full amount of the fee charged for publishing's: FIFTY-SEVEN & 02/00 Dollars insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division there of has been made with any other person, and that no part there of has been agreed to be paid to any person whom so ever.



Subscribed and sworn to before me this 30TH day of DEC. 2012


Notary Public, South Dakota

My term expires 10/25/2017

Legal # 491

2000 - Legals

F.P. 11-30-11 .
L.P. 12-07-11

**NOTICE OF APPLICATION
NO. 7264-3**

to Appropriate Water
Notice is given that Van Buskirk Farms LLP, c/o Merlyn Van Buskirk, Box 73, Hitchcock SD 57348 has filed an application for a water permit to appropriate 6.67 cubic feet of water per second from two connected sloughs located in SE 1/4 SW 1/4, SW 1/4 NW 1/4 and NW 1/4 SW 1/4 Section 4 for irrigation of 480 acres located in the SE 1/4 Section 4 and E 1/2 Section 5, all in T113N-R63W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7264-3 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 December 19, 2011.

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.

No. 491(adv.)
Published twice at the total approximate cost of \$59.21.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 22, 2011

The Plainsman
PO Box 1278
Huron SD 57350

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7264-3 to Appropriate Water to be published twice. Please publish the first notice on November 30, 2011 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 Van Buskirk Farms LLP, c/o Merlyn Van Buskirk, PO Box 73, Hitchcock SD 57348 (Ph # 605-350-5671).

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. 7264-3

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

Date _____

We are in receipt of your letter of November 22, 2011 enclosing Notice to Appropriate Water by Application No. 7264-3 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.

November 22, 2011

Merlyn Van Buskirk
PO Box 73
Hitchcock SD 57350

Dear Mr. Van Buskirk:

Water Permit Application No. 7264-3 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 Plainsman printed at Huron SD (Ph # 605-352-6401). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
eric.gronlund@state.sd.us

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 November 30, 2011 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. 7264-3 to Appropriate Water

Notice is given that Van Buskirk Farms LLP, c/o Merlyn Van Buskirk, Box 73, Hitchcock SD 57348 has filed an application for a water permit to appropriate 6.67 cubic feet of water per second from two connected sloughs located in SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4 for irrigation of 480 acres located in the SE $\frac{1}{4}$ Section 4 and E $\frac{1}{2}$ Section 5; all in T113N-R63W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7264-3 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 December 19, 2011.

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

JAN 26 2012

Van Buskirk Farms LLP
Merlyn Van Buskirk
PO Box 73
Hitchcock SD 57348

Dear Mr. Van Buskirk:

Enclosed is Water Permit No. 7264-3 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

7264-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7264-3, Van Buskirk Farms

ADDRESS: COUNTY: Beadle

DATE: May 22, 2013 TELEPHONE:

RE: excavation and use from a well

Beverly Gordon (home 266-1718 or husband Larry's cell 354-1735) called regarding Van Buskirk's excavating in the slough area authorized by Permit No. 7264-3. Mrs. Gordon also said that Van Buskirk's had a new well drilled by the shop and are letting it discharge into the slough that will then be used for irrigation.

I discussed with Ken Buhler regarding whether the excavation in the slough may encounter the Tulare Western Spink Hitchcock Aquifer. We found that the excavation would need to be about 30 feet before the aquifer is encountered. The real distinguishing factor of encountering the aquifer is if the excavation penetrates into sand and gravel.

I contacted Matt Van Buskirk and informed him that DENR received a call regarding the excavation being conducted and the new well that was drilled. He indicated the excavation were holding ponds for the drain tiling that was installed. He stated that these ponds were not excavated to a depth that sand and gravel was encountered. Drain tiling would need to be conducted in accordance with county drainage regulations.

Mr. VanBuskirk stated they did drill a new well that is used to fill spray trucks and for fire protection. He did indicate the well is shallow presumably in the TWSH Aquifer. As such for use on the farm, a individual is entitled to the domestic use criteria of a maximum pump rate of 25 gpm with a daily use not to exceed 25,920 gallons. Mr. Van Buskirk stated the well water is not being diverted to the slough area for use in irrigation.

I called and talked with Larry Gordon to inform him of what action was taken. He said the excavation were very large and that DENR should take a look at them. I said if staff were in the area or at the time of the licensing investigation, we'd take a look.

NAME: Eric Munk

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7264-3

I have this day, November 11th, 2015, made a thorough examination of the water use system constructed by Van Buskirk Farms LLP c/o Merlyn Van Buskirk at PO Box 73, Hitchcock, SD holder of Permit No. 7264-3, bearing the priority of September 12, 2011 authorizing the diversion of 6.67 cubic feet per second (cfs) of the waters of two sloughs for irrigation purposes, in Beadle County.

Inspection contact & relationship **Matt Van Buskirk**
to permit holder, if applicable:

A. Works used to divert the water:

Pump:

- 1) Make Baldor (both diversion point have same floating pump setup for the sloughs)
- 2) Model Reliance
- 3) Spec No. 09F825Y900G1
- 4) Capacity 650 GPM

Motor:

- 1) Horsepower rating 25 hp

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

- 1) Type underground pipe
- 2) Size unknown inches
- 3) Length ≈1,280 feet to pivot center in Sec. 4.

Length ≈1,900 feet to pivot center in NE ¼ Sec. 5

Length ≈1,870 feet to pivot center in SE ¼ Sec. 5

C. Works used to apply water to beneficial use:

Center pivot:

Location	NE ¼ Sec. 5	SE ¼ Sec. 5	Sec. 4
Make	Valley	Valley	Valley
Overall length (ft)	1,298.5	1,298.5	1,516.8
Number of Towers	7	7	8
End gun	Yes (range 91.6 ft)	Yes (range 91.6 ft)	Yes (range 79.3 ft)
Pressure (psi)	19	19	20
Capacity (gpm)	600	600	600

Chemigation Equipment:

- 1) Does chemigate Yes (pumps had been pulled from the soughs at the time of inspection and chemigation equipment was unhooked)
- 2) Main line check valve Y/N
- 3) Inspection port/air relief Y/N
- 4) Low pressure drain Y/N
- 5) Discharge is 20' from source Y/N
- 6) Interlock type electrical or mechanical
- 7) Injection pump type piston or other
- 8) Injection check valve Y/N
- 9) Injection line check valve or positive displacement pump Y/N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes

List any extended period of nonuse: none

- 3) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: west diversion point: NW ¼ SW ¼ Sec. 4-T113N-63W (latitude: 44.62562 longitude: -98.42272) and 2,560 feet north and 80 feet east of the SW corner; east diversion point: NE ¼ SW ¼ Sec. 4-T113N-63W (latitude:44.62227, longitude:-98.41573) and 1,425 feet north and 1,850 feet east of the SW corner
2. The works are capable of diverting and conveying to the place of use 2.67 cfs of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

legal description/acreage

SE ¼ SE ¼ Sec. 4-T113N-R63W 13 acres
 SW ¼ SE ¼ Sec. 4-T113N-R63W 31 acres
 NE ¼ SE ¼ Sec. 4-T113N-R63W 20 acres
 NW ¼ SE ¼ Sec. 4-T113N-R63W 28 acres
 SE ¼ NE ¼ Sec. 4-T113N-R63W 2 acres
 SW ¼ NE ¼ Sec. 4-T113N-R63W 12 acres
 NE ¼ NE ¼ Sec. 5-T113N-R63W 34 acres

legal description/acreage

NW ¼ NE ¼ Sec. 5-T113N-R63W 34 acres
 SE ¼ NE ¼ Sec. 5-T113N-R63W 34 acres
 SW ¼ NE ¼ Sec. 5-T113N-R63W 34 acres
 NE ¼ SE ¼ Sec. 5-T113N-R63W 34 acres
 SE ¼ SE ¼ Sec. 5-T113N-R63W 34 acres
 NW ¼ SE ¼ Sec. 5-T113N-R63W 34 acres
 SW ¼ SE ¼ Sec. 5-T113N-R63W 34 acres

comprising a total of 378 acres of land and the license should be issued for 2.67 cfs.

3. All structures, wells and lands on map Yes

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

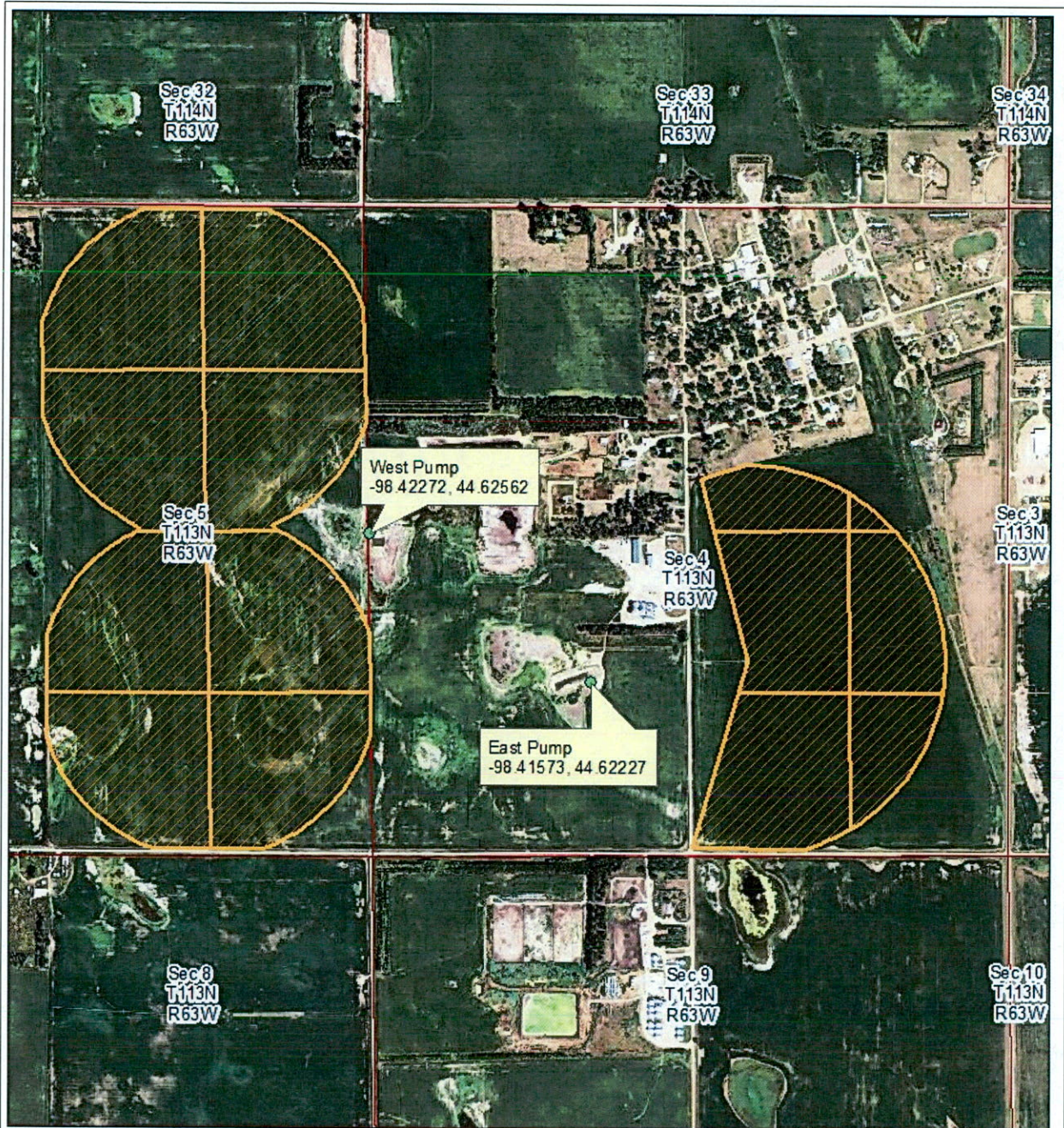
The western diversion point (west pump) is alternated between the two pivots in Sec. 5 and the eastern diversion point (east pump) supplies the pivot in Sec. 4. The pivots in Sec. 5 have about two acres of overlap.

Whitney Kilts

Whitney Kilts

Natural Resources Engineer
DENR, Water Rights Program

Date report completed: 09/02/2016



Completed by: *Whitney Kilts*
Whitney Kilts, Natural Resources Engineer
SD DENR, Water Rights Program

Diversion point(s) located using Garmin eTrex 10 GPS
Date: September 2, 2016

Water Right No. 7264-3

Licensing of Acreage Outside of Permitted Area

NAME: Van Buskirk Farms c/o Merlyn Van Buskirk

ADDRESS: PO Box 73 Hitchcock, SD

DATE: 09/19/2016 **COUNTY:** Beadle **TELEPHONE:** xx

AUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The acreage developed for irrigation is 378 acres as compared to 480 acres authorized by the permit. Licensing of the permit will result in a reduction in the amount of water appropriated.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**

The 14 acres developed in the NE ¼ Section 4-T113N-R63W outside the permitted area are contiguous to the acres developed in the permitted area in the SE ¼ Section 4-T113N-R63W.

- **Owned by Same Property Owner**

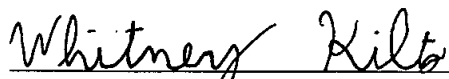
Yes

- **Developed Prior to Expiration of Construction Period**

Yes

RECOMMENDED ACTION

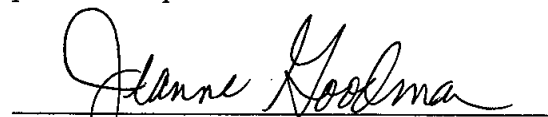
Based on the above criteria, it is recommended that the 14 acre area be included in the water license.



Whitney Kilts, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.



Jeanne Goodman, Chief Engineer
Water Rights Program

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

NAME: Van Buskirk Farms c/o Merlyn Van Buskirk

ADDRESS: PO Box 73 Hitchcock, SD

DATE: 9/19/2016 **COUNTY:** Beadle **TELEPHONE:** xx

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 was originally for three diversion points located in SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 4-T113-63W from two sloughs, only two diversion points were developed in the two permitted sloughs located in NW $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec 4-T113-63W. The permitted diversion rate is 6.67 cfs and the developed diversion rate is 2.67 cfs and is the same permitted water source.

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

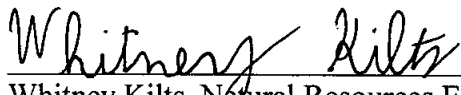
The majority of developed acres fall within the permitted legal description; however 14 acres were developed on land outside the permitted area but is contiguous to the permitted acreage.

- **Review of Existing Diversions**

This permit is the only diversion for these two sloughs.

RECOMMENDED ACTION

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



Whitney Kilts, 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.



Jeanne Goodman, Chief Engineer
Water Rights Program

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

MAIL TO: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352

Date 11/3/15

FROM: Van Buskirk Farms c/o Matt Van Buskirk
(name)

PO Box 73
(address)

Hitchcock SD 57348 605 350-5671
(city) (state) (zip) (phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 7264-3 states that the water use system is to be constructed by
12/19/16, and water is to be put to beneficial use by 12/19/2020
(date) (date)

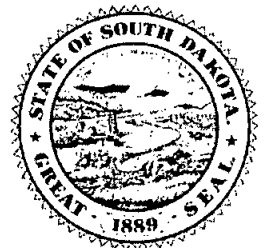
The water use system was completed on 2012 to 2013
(date),

Applying the water to beneficial use was completed on 2013
(date)

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

Matt Van Buskirk

Done with completion





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

OCT 11 2016

7264-3
7316-3

Van Buskirk Farms LLC
c/o Matt Van Buskirk
PO Box 73
Hitchcock SD 57348

Dear Mr. Van Buskirk:

Enclosed are Water License Nos. 7264-3 and 7316-3. These are the final water right documents completing your process of obtaining a Water Right. Also, included with each license is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by Water Right No. 7264-3 and 7316-3, 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 Licenses, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7264-3

(1) Van Buskirk Farms LLC, c/o Merlyn Van Buskirk, PO Box 73, Hitchcock SD 57348 made Application No. 7264-3, September 12, 2011 for a water permit to divert 6.67 cubic feet of water per second from two sloughs, Beadle County, South Dakota for irrigation purposes. Permit No. 7264-3, with a priority date of September 12, 2011 was approved December 19, 2011 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before December 19, 2016 and for the application to beneficial use of water on or before December 19, 2020.

The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on November 3, 2015. The *Notice* stated the diversion system was completed and the water placed to beneficial use in 2013.

An investigation conducted for licensing purposes found one of the diversion points and acreage developed for irrigation under Water Permit No. 7264-3 were not in the locations authorized by the permit. Pursuant to SDCL 46-5-13.1 and 46-5-30.5, the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 7264-3 is issued a license, bearing a priority date of September 12, 2011 to appropriate 2.67 cubic feet of water per second from two sloughs to irrigate 378 acres.

The west diversion point is located: 2,560 feet N and 80 feet E of the SW corner Section 4-T113N-R63W (NW 1/4 SW 1/4).

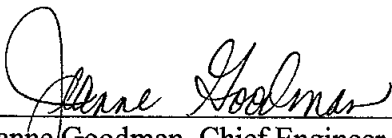
The east diversion point is located: 1,425 feet N and 1,850 feet E of the SW corner of Section 4-T113N-R63W (NE 1/4 SW 1/4).

The acres authorized for irrigation are as follows:

Section 4-T113N-R63W		Section 5-T113N-R63W			
SE 1/4 SE 1/4	13 acres	NE 1/4 NE 1/4	34 acres	NE 1/4 SE 1/4	34 acres
SW 1/4 SE 1/4	31 acres	NW 1/4 NE 1/4	34 acres	SE 1/4 SE 1/4	34 acres
NE 1/4 SE 1/4	20 acres	SE 1/4 NE 1/4	34 acres	NW 1/4 SE 1/4	34 acres
NW 1/4 SE 1/4	28 acres	SW 1/4 NE 1/4	34 acres	SW 1/4 SE 1/4	34 acres
SE 1/4 NE 1/4	2 acres				
SW 1/4 NE 1/4	12 acres				
		Total 378 acres			

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 7264-3 including the following qualification:

- This permit is approved subject to the irrigation questionnaire being submitted each year.



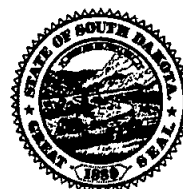
Jeanne Goodman, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

OCT 11 2016

date





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2024

NOTICE

TO: VAN BUSKIRK FARMS LLP, MATT VAN BUSKIRK, PO BOX 98, HITCHCOCK, SD 57348
0098

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaires

Our records indicate your 2023 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1723-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 1504B-3, 3390-3A, 3191-3, 5601-3, 7264-3, 7315A-3, 7316-3 & 8261-3 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, 2024 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) 1504B-3, 3390-3A, 3191-3, 5601-3, 7264-3, 7315A-3, 7316-3 & 8261-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1723-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: LZTUNL**

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 AGRICULTURE
and NATURAL RESOURCES**

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

February 2, 2024

1504B-3, 3390-3A, 3191-3
5601-3, 7264-3, 7315A-3
1723-3, 7316-3 & 8261-3

Van Buskirk Farms LLC
c/o Matt Van Buskirk, Mgr
PO Box 98
Hitchcock SD 57348

Dear Mr. Van Buskirk:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 1504B-3, 1723-3, 3390-3A, 5601-3, 7264-3, 7315A-3, 7316-3 & 8261-3. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

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

NOTE: The irrigation questionnaire for Scott Mueller's Permit No. 3191-3 has not been received. Permit No. 3191-3 is still scheduled to be reviewed by the Water Management Board on Wednesday, March 6, 2024. If the irrigation questionnaire is returned prior to the March 6th meeting, it will be removed from the agenda.

cc: STEVEN NICOLAI, 4535 MORMAN COULEE RD, LACROSS WI
SCOTT A MUELLER, 19221 397TH AVE, HITCHCOCK SD 57348



also add to: 8261-3, 7315A-3, 7264-3
7316-3, 8108-3, 8109-3, 8110-3
8748-3, 8752-3, 8751-3, 8750-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

8749-3
5601-3

January 21, 2025

7316-3

Van Buskirk Farms LLP
18892 390th Ave
Hitchcock SD 57348

Dear Mr. Van Buskirk:

Enclosed is a "Notice" dated January 14, 2025, concerning the 2024 Irrigation Questionnaire.

The notice was originally mailed to Van Buskirk Farms LLP, PO Box 98, Hitchcock SD 57348. The post office notified our office that your address has changed, and your records have been updated accordingly.

This is a time sensitive matter. Please complete and return the enclosed questionnaire or submit your report online at <https://danr.sd.gov/iq/> using this password **CFLRWV**.

If this change of address is in-correct, please contact our office immediately to update your contact information.

Sincerely,

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

55E NFE 114192410001/15/25
RETURN TO SENDER
VANBUSKIRK
18892 390TH AVE
HITCHCOCK SD 57348-7707

RETURN TO SENDER