

WATER PERMIT NO. 7295-3

Name of Applicant: William F St. Clair

Address: 37644 184th St, Tulare SD 57476 Phone: 605 596-4262

Amount of Water Claimed: 1.78 cfs Total Acres: 120

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation County: Spink

Type of Waste Disposal System:

Location: 5 miles northwest of Frankfort

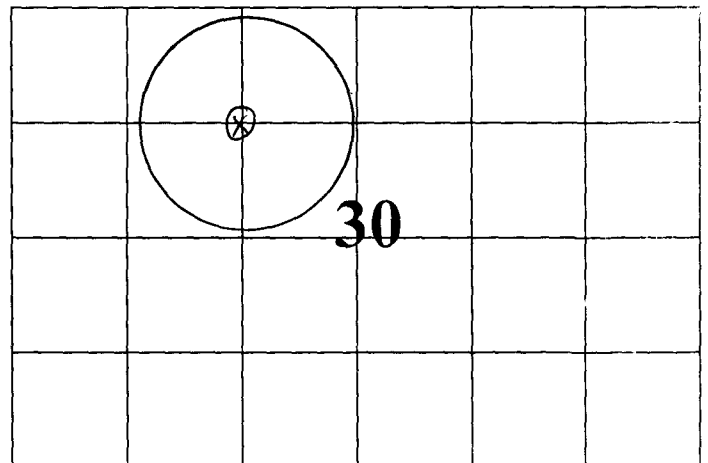
PRIORITY Date Received: 12-20-11 Application/License Fee: \$ 950

Corrected Application Received: Period of Annual Use: May 1 – September 30

Remarks:

Diversion Point: center of NW ¼ Sec 30-T117N-
R61W

Land to be Irrigated: NW ¼ Sec 30-T117N-R61W



Depth of Well: 90 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: ?, Spink Co. FSA office

Reviewed and the Number Assigned on: 12-20-11

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)	
	No. <u>7295-3</u>	Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>	
	Newspaper <u>Redfield Press PO Box 470</u> <u>1605-472-0822</u> <u>57469</u>	

RECEIVED
DEC 20 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 William F St Clair Phone 605-596-4262
(check one) ☒ Owner ☐ Tenant/lessee

Mailing Address 37644 184th St Tabor State SD 57476
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 1.78 *CFS or 800 **GPM 240 ***AF Total Acreage 120
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply well

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
Center of the NW 1/4 sec 30-117N-61W County Spink

5. County or counties where water will be used Spink

6. Annual period during which water is to be used Growing Season May 1 - Sept. 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)

Sec 30	Land Description	Acres	Land Description	Acres
	NW 1/4 NW 1/4	30		
	NE 1/4 NW 1/4	30		
	SW 1/4 NW 1/4	30		
	SE 1/4 NW 1/4	30		
	Sec 30-T117N-R61W	30		

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

STATE OF SOUTH DAKOTA) SS
County of Spink

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, William F St Clair, 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 William F St Clair

Subscribed and sworn to before me this 16th day of December 20 11

Patricia J Payant

Notary Public signature

My Commission Expires 12/1/12

**SOUTH DAKOTA
WATER PERMIT NO. 7295-3**

Date of first receipt of application December 20, 2011.

The Water Management Board approved Water Permit No. 7295-3 on December 6, 2012 for William F St. Clair, 37644 184th St, Tulare SD 57476 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. 7295-3 appropriates 1.78 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (90 feet deep) located in the center of the NW 1/4 Section 30 for irrigation of 120 acres located in the NW 1/4 Section 30; all in T117N-R61W.
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 December 20, 2011.
4. One-fifth of the construction is to be completed on or before June 6, 2015.
5. All construction is to be completed on or before December 6, 2017.
6. Water is to be put to beneficial use on or before December 6, 2021.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7295-3 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 25 2013
date



Sec 30-117-61
Supplemental Information

(type or print in ink)

Water Right
1007

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 24 Depth 90 Ft
- b) Casing Type PVC Diameter 16 Thickness 1/4 in
- c) Screen Type PVC Diameter 16 Thickness 1/4 in
- d) Gravel Pack yes Length of Gravel Pack 50 ft
- e) Depth to Top of Water Bearing Material 21
- f) Depth to Water (ground surface to water level) 21
- g) Distance to nearest existing domestic well:
- On applicants property 1700 ft 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 _____

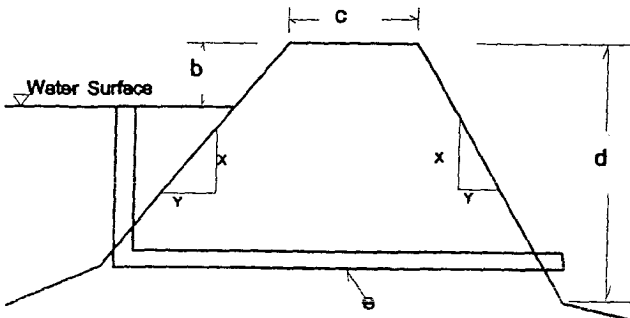
3. Dugout Information

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

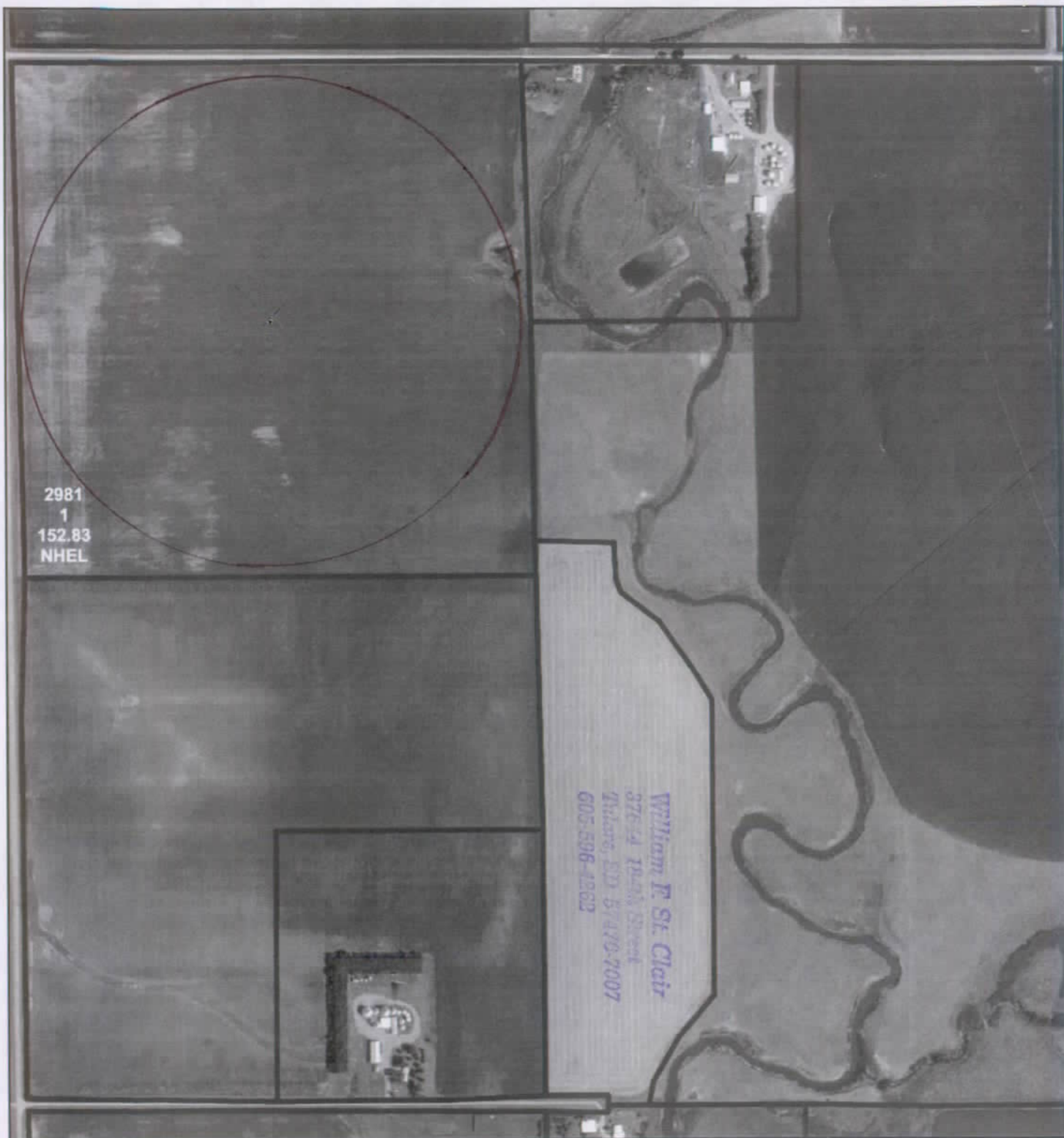
4. Water Storage Dams

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

December 02, 2010

PLSS: 30_117N_61W
Farm: 7767

Spink County, SD
1:8,194



Wetland Determination Identifiers

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

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

RECEIVED
DEC 20 2011

**WATER RIGHTS
PROGRAM**

2010 Ortho-Photography - Not to Scale

12/16/11

RL RL CED
SPINK Co FSA Office
Redfield SD,

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/20, 20 11

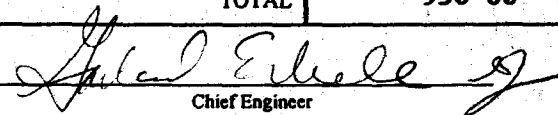
RECEIVED OF St Clair Ranch Partnership 37644 184th St Tulare SD 57476

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

Fee for Application for Permit No. <u>7295-3</u> to Appropriate Water, to construct and to put water to beneficial use	750	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>7295-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	950 00

No. **05152**

By


Chief Engineer

RECEIVED

FEB 18 2012

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Mark E. Davis, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

#158 Hearing Notice

A printed copy of which is hereto attached, was printed and published in said newspaper in 2 successive issues, to wit: The first publication being made on February 8th and the last publication being made on February 15th, that Seventy-three and .08/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, 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 person whomsoever.



Subscribed and sworn to before me this 15th day of February, 2012.

Notary Public, South Dakota

My commission expires 04/06/2016

Hearing Notice

NOTICE OF HEARING ON APPLICATION NO. 7295-3 TO APPROPRIATE WATER

Notice is given that William F. St. Clair, 37644 184th St, Tulare SD 57476 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Tulare-East James Aquifer (90 feet deep) located in the center of the NW 1/4 Section 30 for irrigation of 120 acres located in the NW 1/4 Section 30; all in T117N-R61W. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFER-

RAL of Application No. 7295-3 to determine the level of development of issued permits that have not been licensed. The level of development may affect water availability from the aquifer. DENR's intent is to conduct licensing investigations of the unlicensed permits in order to bring this application back before the Board at their May or July meeting.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 February 27, 2012. 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.

The Water Management Board will consider this application at 11:00 a.m. on March 7, 2012 at the Matthew Training Center 523 E Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 7, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 27, 2012.

Any hearing will be an adversary

proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by February 27, 2012, at the above Water Rights Program address to request copies of information pertaining to this application. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at 3. 1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74-02.01.01 thru 74-02.01.15.

Steven M. Pirner, Secretary
Department of Environment and
Natural Resources
Published twice at an approximate
cost of \$73.08. (Feb 8, 15)

involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by February 27, 2012. This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74-02.01.01 thru 74-02.01.15.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 3, 2012

Redfield Press
PO Box 440
Redfield SD 57469

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7295-3 to Appropriate Water to be published twice. Please publish the first notice on February 8, 2012 with the second publication 7 days later.

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 William St. Clair, 37644 184th St., Tulare SD 57476 (Ph # 605-596-4262).

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. 7295-3

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

Date _____

We are in receipt of your letter of February 3, 2012 enclosing Notice to Appropriate Water by Application No. 7295-3 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
denr.sd.gov

February 3, 2012

William St Clair
37644 184th St
Tulare SD 57476

Dear Mr. St. Clair:

Water Permit Application No. 7295-3 for irrigation use has been examined and found to comply with the South Dakota water laws and applicable rules. The Chief Engineer's recommendation is for DEFERRAL of Application No. 7295-3. For your information, the staff report, Chief Engineer's recommendation and notice of hearing are enclosed.

Please review the report and recommendation. If you wish to proceed with the application and schedule a March 7, 2012 hearing before the Water Management Board, you must contact the Redfield Press (ph# 605 472-0822) to authorize publication of the notice of hearing. The notice was sent to the Redfield Press with instructions to publish only if the applicant authorizes publication.

If the notice is published on February 8 and 15, 2012, a hearing is scheduled for 11:00 AM, March 7, 2012 in the Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue in Pierre SD. The hearing will be held in conjunction with other pending applications from this aquifer.

State law provides that if the Chief Engineer recommends denial of an application, the applicant has 20 days from the date the recommendation is mailed to state whether they intend to oppose the recommendation. Failure to submit a statement of intent to oppose the recommendation to deny constitutes withdrawal of the application. If you authorize the newspaper to publish the notice of hearing, this will constitute your formal intent to oppose the recommendation and proceed to a March hearing before the Board. You may also choose to delay consideration of the application until the May Board meeting. If you want to delay the hearing, do not authorize publication of the notice at this time. Contact me by February 27, 2012 to state your intent to proceed with the application but wait until the May meeting. Failure to either authorize publication or contact me by February 27, 2012 will constitute withdrawal of your application.

Please contact me if you have any questions.

Sincerely,

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

enclosures

Instruction to Newspaper - Publish first Notice on February 8, 2012 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 7295-3 to Appropriate Water

Notice is given that William F St. Clair, 37644 184th St, Tulare SD 57476 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (90 feet deep) located in the center of the NW 1/4 Section 30 for irrigation of 120 acres located in the NW 1/4 Section 30; all in T117N-R61W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 7295-3 to determine the level of development of issued permits that have not been licensed. The level of development may affect water availability from the aquifer. DENR's intent is to conduct licensing investigations of the unlicensed permits in order to bring this application back before the Board at their May or July meeting.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 February 27, 2012. 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.

The Water Management Board will consider this application at 11:00 a.m. on March 7, 2012 at the Matthew Training Center 523 E Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 7, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 27, 2012.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by February 27, 2012, at the above Water Rights Program address to request copies of information pertaining to this application. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by February 27, 2012.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. 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

September 6, 2012

Sent via email

Redfield Press
PO Box 440
Redfield SD 57469

The Plainsman
PO Box 1278
Huron SD 57350

ATTENTION: Legal Public Notice

Enclosed is a Notice on Hearing on Application Nos. 7295-3, 7316-3 and 7348-3 to Appropriate Water. Please publish the notice once on September 12, 2012. The text of the notice has been e-mailed to your paper.

Please send the Water Rights Program an affidavit immediately. Also, please bill the cost of the publication to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Gronlund".

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, September 06, 2012 11:06 AM
To: 'Plainsman (rnewman.plainsman@midconetwork.com)';
'office.redpress@midconetwork.com' (office.redpress@midconetwork.com)
Subject: Notice of Hearing on Application No. 7295-3, 7316-3 and 7348-3
Attachments: 7295-3 7316-3 7348-3.oct.wmb.docx; 7295-3 7316-3 7348-3news.docx

Contacts: Plainsman

Ruby – Plainsman and Redfield Press,

Attached is a Notice of Hearing to be published on September 12, 2012. Please send us the affidavit immediately following publication. The Water Rights Program will pay the cost of publication. Please acknowledge receipt of this email.

Thanks,

Karen Schlaak

Water Rights Program
Phone: 605 773-3352
Fax: 605 773-4068



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 6, 2012

William F St. Clair
37644 184th St
Tulare SD 57476

VanBuskirk Farms LLP
c/o Matt VanBuskirk
Box 73
Hitchcock SD 57348

Michael Sentell
18690 398th Ave
Hitchcock SD 57348

Dear Sirs:

Water Permit Application Nos. 7295-3, 7316-3 and 7348-3 from the Tulare:East James Aquifer were previously deferred by the Water Management Board. Upon reevaluation, as stated in the notice, the Chief Engineer has revised his recommendations. Therefore, it is necessary to public notice the applications and Chief Engineer's revised recommendations.

A notice has been sent to the Redfield Press and the Huron Daily Plainsman. The three deferred applications are set to be published on September 12, 2012 scheduling an October 3, 2012 hearing before the Water Management Board. For your information, the notice of hearing, the recommendation of the Chief Engineer and report on the applications are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The Water Right Program will pay the cost of publication.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

Affidavit of Publication

RECEIVED

SEP 20 2012

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Mark E. Davis, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

#553 Notice

A printed copy of which is hereto attached, was printed and published in said newspaper in 1 issue, to wit: The first publication being made on September 12th, that Seventy and .00/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, 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 person whomsoever.



Subscribed and sworn to before me this 12th day of September, 2012.



Notary Public, South Dakota

My commission expires 04/06/2016.

Notice

#553

NOTICE OF HEARING ON APPLICATION NOS. 7295-3, 7316-3 AND 7348-3 TO APPROPRIATE WATER

Notice is given of three water permit applications to appropriate water from the Tulare:East James Aquifer in Spink County. The following applications were previously public noticed for deferral. Upon reevaluation of the current availability of water in the aquifer in light of historic record, recent irrigation reports and past and recent USGS reports, the Chief Engineer has revised his recommendation. Therefore it is necessary to public notice the applications and the Chief Engineer's revised recommendations.

Application No. 7295-3 filed by William F. St. Clair, 37644 184th St, Tulare SD 57476 proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (90 feet deep) located in the center of the NW 1/4 Section 30 for irrigation of 120 acres located in the NW 1/4 Section 30; all in T117N-R61W.

Application No. 7316-3 filed by Van Buskirk Farms LLP, c/o Matt Van Buskirk, Box 73, Hitchcock SD 57348 proposes appropriate 4.5 cubic feet of water per second from two wells to be completed into the Tulare:East James Aquifer (80 feet deep) located in the approximate centers of the NW 1/4 and the SW 1/4 Section 12 for irrigation of 272 acres located in the W 1/2 Section 12; all in T114N-R62W.

Application No. 7348-3 filed by Michael Sentell, 18690 398th Ave, Hitchcock SD 57348 proposes to appropriate 5.33 cubic feet of water per second from a gravel pit completed into the Tulare:East James Aquifer and located in the NE 1/4 SW 1/4 Section 14 for irrigation of 440 acres located in the NW 1/4 Section 13, NW 1/4, W 1/2 SE 1/4, SE 1/4 SW 1/4 Section 14; all in T114N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7295-3, 7316-3 and 7348-3 because 1) the Water Rights Program reevaluated the current availability of water in the aquifer and determined that unappropriated water is available from the aquifer, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest to put water resources of the state to the fullest extent of which they are capable.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 10:30 AM on October 3, 2012 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny any of these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support any of the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. 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 addresses are given above. A petition filed by an interested person must be filed by September 24, 2012. The petition may be informal, but must include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting any of the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The October 3, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support any of the applications. The request for an automatic

delay must be filed by September 24, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by September 24, 2012, at the above Chief Engineer's address to request copies of the staff report, recommendations, applications or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is September 24, 2012. However, since this particular matter are water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

The legal authority and jurisdiction under which the hearing is to be held are the following as applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 26-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

The particular section of statutes and rules pertaining to these permit applications are, in addition to the above, the following: SDCL 46-2A-9, 46-6-3.1, 46-2A-15, 46-5-10 thru 46-5-13, 46-6-10, 46-6-26; the above listed administrative rules and the following rule pertaining to qualifications recommended by the Chief Engineer: ARSD Chapter 74:02:01:14.02.

Steven M. Pirner, Secretary
Department of Environment and
Natural Resources.

Published at an approximate cost of
\$70.00. (Sept 12)

RECEIVED

SEP 21 2012

PRINTER'S AFFIDAVIT

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss.

I, TRISHA NELSON, 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:

**SD ENVIRONMENTAL & NATURAL – WATER
PERMIT HEARING**

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 12TH day **SEPT 2012** That the full **NINETY-SEVEN & 49/000** dollars insures to the benefit of the publisher of 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 person whom so ever.

Trisha Nelson

Subscribed and sworn to before me this 20th
day of SEPT, 2012.

Michael Sentell
Notary Public, South Dakota

My term expires 10/25/17

Legal # 379

F.P. 09-12-12

**NOTICE OF HEARING
on Application**

**Nos. 7295-3, 7316-3
and 7348-3**

to Appropriate Water

Notice is given of three water permit applications to appropriate water from the Tulare: East James Aquifer in Spink County. The following applications were previously public noticed for deferral. Upon reevaluation of the current availability of water in the aquifer in light of historic record, recent irrigation reports and past and recent USGS reports, the Chief Engineer has revised his recommendation. Therefore it is necessary to public notice the applications and the Chief Engineer's revised recommendations.

Application No. 7295-3 filed by William F St. Clair, 37644 184th St, Tulare SD 57476 proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (90 feet deep) located in the center of the NW 1/4 Section 30 for irrigation of 120 acres located in the NW 1/4 Section 30; all in T117N-R61W.

Application No. 7316-3 filed by Van Buskirk Farms LLP, c/o Matt Van Buskirk, Box 73, Hitchcock SD 57348 proposes appropriate 4.5 cubic feet of water per second from two wells to be completed into the Tulare: East James Aquifer (80 feet deep) located in the approximate centers of the NW 1/4 and the SW 1/4 Section 12 for irrigation of 272 acres located in the W 1/2 Section 12; all in T114N-R62W.

Application No. 7348-3 filed by Michael Sentell, 18690 398th Ave, Hitchcock SD 57348 proposes to appropriate 5.33

cubic feet of water per second from a gravel pit completed into the Tulare: East James Aquifer and located in the NE 1/4 SW 1/4 Section 14 for irrigation of 440 acres located in the NW 1/4 Section 13, NW 1/4, W 1/2 SE 1/4, SE 1/4 SW 1/4 Section 14; all in T114N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7295-3, 7316-3 and 7348-3 because 1) the Water Rights Program reevaluated the current availability of water in the aquifer and determined that unappropriated water is available from the aquifer, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest to put water resources of the state to the fullest extent of which they are capable.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 10:30 AM on October 3, 2012 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny any of these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support any of the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. 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 addresses are given above. A petition filed by an interested person must be filed by September 24, 2012. The petition may be informal, but must include a statement describing the petitioner's interest in any of the applications, the pet-

itioner's reasons for opposing or supporting any of the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The October 3, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support any of the applications. The request for an automatic delay must be filed by September 24, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by September 24, 2012, at the above Chief Engineer's address to request copies of the staff report, recommendations, applications or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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The legal authority and jurisdiction under which the hearing is to be held are the following as

applicable: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-14 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-10, 26-2A-14, 46-2A-15; 46-5-6.11, 46-5-10 thru 46-5-13, 46-5-30 thru 46-5-30.3, 46-5-32; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-26; and Board rules ARSD 74:02:01:01 thru 74:02:01:15.

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No. 379(adv.)

Published once at an approximate cost of \$97.48.

NOTICE OF HEARING on Application Nos. 7295-3, 7316-3 and 7348-3 to Appropriate Water

Notice is given of three water permit applications to appropriate water from the Tulare:East James Aquifer in Spink County. The following applications were previously public noticed for deferral. Upon reevaluation of the current availability of water in the aquifer in light of historic record, recent irrigation reports and past and recent USGS reports, the Chief Engineer has revised his recommendation. Therefore it is necessary to public notice the applications and the Chief Engineer's revised recommendations.

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hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

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Under SDCL 1-26-17(6) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is September 24, 2012. However, since this particular matter are water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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October 4, 2012

PAYMENT REQUEST FORM

PAYEE: Redfield Press
PO Box 440
Redfield SD 57469

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Pub Notice on 7295-3 & 7316-3 & 7348-3 # 553

AMOUNT: \$70.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Les Jackson 10/4/12

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

October 4, 2012

PAYMENT REQUEST FORM

PAYEE: Plainsman
PO Box 1278
Huron SD 57350

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Pub Notice on 7295-3 & 7316-3 & 7348-3 # 379

AMOUNT: \$97.49

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Lail Jackson 10/4/12

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 29, 2012

NOTICE

TO: William St. Clair
37644 184th Street
Tulare SD 57476

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Change in Hearing Time for Water Permit Application No. 7295-3

Water Permit Application No. 7295-3 proposes to appropriate 1.78 cubic feet of water per second from one well completed into the Tulare:East James Aquifer for irrigation of 120 acres located in the NW ¼ Section 30, T117N, R 61W. The Chief Engineer's recommendation is for deferral to determine the level of development of issued permits that have not been licensed. The application has been public noticed for hearing before the Water Management Board at 11:00 AM on March 7, 2012.

The Water Management Board will now conduct its March 7, 2012 by telephone conference call. In addition, the time of the hearing on Application is being moved to 10:00 AM on March 7th to allow the Board to consider the application as soon as it completes its other business. The agenda for the March 7th meeting is attached.

You may participate in the hearing by attending in person at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Or you can call in to the meeting by following the instructions below.

Dial to Access: 605-773-2323

Conference Password: 0637#

Conference operator at 605-773-3011 - if anyone has trouble getting on the call

You previously indicated to Eric Gronlund that you would be out of state on March 7th and did not intend to attend the hearing since the recommendation was for deferral. Instead, you planned to attend the future meeting once the Water Rights Program reviewed the level of development of permits that have not been licensed.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

enclosure

CERTIFICATION

I hereby certify that on February 29, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 29, 2012, regarding the hearing on Water Right Permit Application No. 7295-3 and scheduling a new hearing date, as addressed below:

William St. Clair
37644 184th Street
Tulare SD 57476

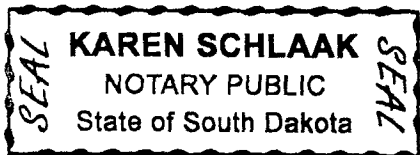
Diane Best, Assistant Attorney General
300 N. Dakota Avenue, Suite 403
Sioux Falls SD 57104


Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 29th day of February, 2012.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 8, 2012

NOTICE

TO: William St. Clair
37644 184th Street
Tulare SD 57476

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Deferral of Water Permit Application No. 7295-3, William F St. Clair

Water Permit Application No. 7295-3 proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (90 feet deep) located in the center of the NW 1/4 Section 30 for irrigation of 120 acres located in the NW 1/4 Section 30; all in T117N-R61W.

On March 7, 2012, the Water Management Board deferred Application No. 7295-3 to allow time for DENR to determine the level of development of issued permits that have not been licensed. The application will be scheduled for Board hearing once a licensing investigation of permits has been conducted. DENR anticipates this to be completed by the May or July meeting. Future notice of the time, date and location of the hearing and the Chief Engineer's revised recommendation will be provided to you.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on March 8, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 1, 2009, regarding deferral of Water Right Permit Application No. 7295-3, as addressed below:

Diane Best, Assistant Attorney General
317 N. Main
Sioux Falls SD 57104-6004

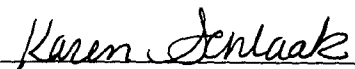
William St. Clair
37644 184th Street
Tulare SD 57476



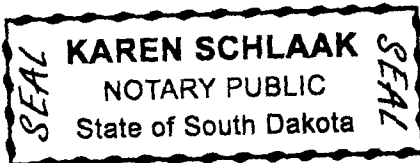
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of March, 2012.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 3, 2012

NOTICE

TO: William St. Clair
37644 184th Street
Tulare SD 57476

FROM: Garland Erbele, Chief Engineer
Water Rights Program

A handwritten signature in black ink, appearing to read "Garland Erbele", written over the printed name and title.

SUBJECT: Water Permit Application No. 7295-3, William F St. Clair

Water Permit Application No. 7295-3 proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (90 feet deep) located in the center of the NW 1/4 Section 30 for irrigation of 120 acres located in the NW 1/4 Section 30; all in T117N-R61W.

On March 7, 2012, the Water Management Board deferred Application No. 7295-3 to allow time for DENR to determine the level of development of issued permits that have not been licensed. DENR review of the level of development of issued permit will not be completed by the May meeting. Application No. 7295-3 will now be scheduled for the July 11 – 12, 2012 meeting.

Future notice will be provided prior to the meeting of the time, date and location of the hearing and the Chief Engineer's revised recommendation.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

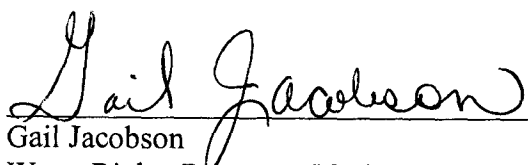
c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on April 3, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 3, 2012, regarding Water Right Permit Application No. 7295-3, as addressed below:

Diane Best, Assistant Attorney General
317 N. Main
Sioux Falls SD 57104-6004

William St. Clair
37644 184th Street
Tulare SD 57476



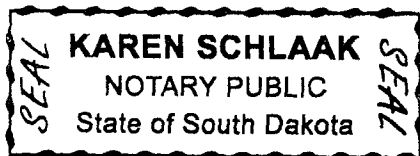
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of April, 2012.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 14, 2012

NOTICE

TO: William St. Clair
37644 184th Street
Tulare SD 57476

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Water Permit Application No. 7295-3, William F St. Clair

Water Permit Application No. 7295-3 proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (90 feet deep) located in the center of the NW 1/4 Section 30 for irrigation of 120 acres located in the NW 1/4 Section 30; all in T117N-R61W.

On March 7, 2012, the Water Management Board deferred Application No. 7295-3 to allow time for DENR to determine the level of development of issued permits that have not been licensed. DENR previously indicated that the application would be scheduled for the July 11 – 12, 2012 meeting. However, there are now eight additional applications filed seeking to appropriate water from the Tulare:East James Aquifer. These applications will require public notice which can not be accomplished by the July meeting. DENR's position is that all the applications from this aquifer should be brought before the Board at the same time. That Board meeting will likely be October 3 – 4, 2012.

Due to changes in the public notice statutes this past Legislative session, water permit applications that come before the Water Management Board after July 1st will be required to be public noticed again. When this occurs you will be provided notice and DENR will pay the cost of publication. This notice will include the time, date and location of the hearing and the Chief Engineer's revised recommendation.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on June 14, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 14, 2012, regarding Water Right Permit Application No. 7295-3, as addressed below:

Diane Best, Assistant Attorney General
317 N. Main
Sioux Falls SD 57104-6004

William St. Clair
37644 184th Street
Tulare SD 57476



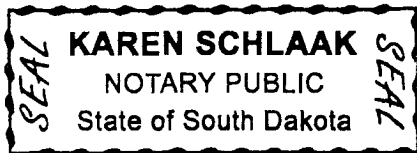
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of June, 2012.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 6, 2012

Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Floyd Peterson
209 27th Street NW
Huron SD 57350

Dear Lenny and Oscar:

As you are aware, DENR received a number of water permit applications seeking to appropriate water the Tulare:East James Aquifer in Spink and Beadle County for irrigation. The Chief Engineer has carefully reviewed the staff report on the applications and is recommending approval.

Please find enclosed the staff report, recommendations and public notice of hearing on these ten pending applications. The public notice is set to occur on September 12, 2012 scheduling a October 3, 2012 hearing before the Water Management Board. Petitions to intervene in the hearing process must be filed by September 24, 2012.

Please feel free to contact me if you have any questions.

Sincerely,

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

Enclosures

RECEIVED

SEP 24 2012

WATER RIGHTS
PROGRAM

Sept 20 2012

Eric Gronlund

Dear Eric

You have an application coming up on $SE \frac{1}{4} - 7 - 115 - 61$ our well in $SW \frac{1}{4} 17$ is on west side of the Quarter when we started that back in the 1960's the only place that we found any water was on the west side along the Road after 3 other test holes in the Quarter we thought it was very good but after we started using it we ended up with the pump at the very bottom 139 ft and we can still pull it way down there after long pumping periods - the wells on $SE \frac{1}{4} 17$ & $NE \frac{1}{4} 20$ - all 115 61 don't seem to make any difference if they are running or not. at times we have to leave that well on $SW \frac{1}{4} 17$ 115-61 Rest Then we can go again.

For some reason it doesn't follow the State well on the road east of Sec 7 115-61 - we just don't want to lose the flow of water we do have - we've been making it work fine the way it is.

Thank you
Allen Wipf

WILKINSON & WILKINSON
ATTORNEYS AT LAW
103 JOLIET AVE., S.E. P.O. BOX 29
DE SMET, SOUTH DAKOTA 57231

TELEPHONE: 605 / 854-3378
TELEFAX: 605 / 854-9006

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SEP 24 2012
WATER RIGHTS
PROGRAM

HARRY J. EGGEN (1922-1969)
ELLSWORTH F. WILKINSON (1955-2005)

TODD D. WILKINSON
MARCENE J. SMITH
GARY W. SCHUMACHER*

September 21, 2012

* ALSO LICENSED IN MINNESOTA

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

**RE: Irrigation application for Tulare: East James Aquifer
Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
7367-3, 7368-3, 7369-3, and 7370-3
Petition in Opposition**

Dear Mr. Erbele:

Our office represents Lenny Peterson and Oscar Inc., who are a land owners and operators, affected by the issuance of any additional irrigation appropriation in connection with the Tulare: East James Aquifer. This letter is intended as and constitutes a petition in opposition to said Water Permit Application No. 7316-3, Water Permit Application No. 7348-3, Water Permit Application No. 7364-3, Water Permit Application No. 7365-3, Water Permit Application No. 7366-3, Water Permit Application No. 7367-3, Water Permit Application No. 7368-3, Water Permit Application No. 7369-3, and Water Permit Application No. 7370-3, also referred to the irrigation permit,; and is further intended as and constitutes a petition in opposition to the Chief Engineer's recommendation to allow any additional appropriation without consideration of previously filed applications for water appropriation.

In addition the averaging that was done to arrive at available water did not properly consider the Boards previous findings. That if the method is now going to be

changed, previous applications should be afforded notice and opposition to apply and not lose priority in filing.

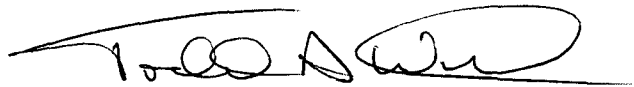
Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform our office of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

We would request a twenty (20) day extension for the hearing. If possible, when rescheduling the hearing could you contact our office to coordinate schedules, that would be great appreciated.

Thank you.

Sincerely,

WILKINSON & WILKINSON

A handwritten signature in black ink, appearing to read 'Todd D. Wilkinson', with a long horizontal line extending to the right.

Todd D. Wilkinson

TDW: mo

Enclosures

cc: Lenny Peterson
Oscar Inc
William St. Clair
Van Buskirk Farms, LLP c/o Matt Van Buskirk
Michael Sentell
Wipf Acres, LP c/o Gary Wipf
Huron Hutterian Brethren c/o Joey Waldner

September 20, 2012

RECEIVED

SEP 21 2012

WATER RIGHTS
PROGRAM

Kevin Marton
South Dakota Department of Transportation
700 East Broadway
Pierre, South Dakota 57501

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

**RE: Irrigation application for Tulare: East James Aquifer
Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
7367-3, 7368-3, 7369-3, and 7370-3
Petition in Opposition**

Dear Mr. Marton and Mr. Erbele:

I, Lenny Peterson, as a land owner and operator, affected by the issuance of any additional irrigation appropriation in connection with the Tulare: East James Aquifer. This letter is intended as and constitutes a petition in opposition to said Water Permit Application No. 7316-3, Water Permit Application No. 7348-3, Water Permit Application No. 7364-3, Water Permit Application No. 7365-3, Water Permit Application No. 7366-3, Water Permit Application No. 7367-3, Water Permit Application No. 7368-3, Water Permit Application No. 7369-3, and Water Permit Application No. 7370-3, also referred to the irrigation permit,; and is further intended as and constitutes a petition in opposition to the Chief Engineer's recommendation to allow any additional appropriation without consideration of previously filed applications for water appropriation.

In addition the averaging that was done to arrive at available water did not properly consider the Boards previous findings. That if the method is now going to be

changed, previous applications should be afforded notice and opposition to apply and not lose priority in filing.

Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform me of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lenny Peterson".

Lenny Peterson

RECEIVED

SEP 21 2012

WATER RIGHTS
PROGRAM

September 20, 2012

Kevin Marton
South Dakota Department of Transportation
700 East Broadway
Pierre, South Dakota 57501

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

**RE: Irrigation application for Tulare: East James Aquifer
Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
7367-3, 7368-3, 7369-3, and 7370-3
Petition in Opposition**

Dear Mr. Marton and Mr. Erbele:

Oscar, Inc., as a land owner and operator, affected by the issuance of any additional irrigation appropriation in connection with the Tulare: East James Aquifer. This letter is intended as and constitutes a petition in opposition to said Water Permit Application No. 7316-3, Water Permit Application No. 7348-3, Water Permit Application No. 7364-3, Water Permit Application No. 7365-3, Water Permit Application No. 7366-3, Water Permit Application No. 7367-3, Water Permit Application No. 7368-3, Water Permit Application No. 7369-3, and Water Permit Application No. 7370-3, also referred to the irrigation permit,; and is further intended as and constitutes a petition in opposition to the Chief Engineer's recommendation to allow any additional appropriation without consideration of previously filed applications for water appropriation.

In addition the averaging that was done to arrive at available water did not properly consider the Boards previous findings. That if the method is now going to be

changed, previous applications should be afforded notice and opposition to apply and not lose priority in filing.

That proposed development cannot be done without potentially impairing existing rights.

Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform me of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

Thank you.

Sincerely,

OSCAR INC.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 24, 2012

NOTICE

TO: William St. Clair
37644 184th Street
Tulare SD 57476

Michael Sentell
18690 398th Avenue
Hitchcock SD 57348

Huron Hutterian Brethren
c/o Joey Waldner
40068 Huron Colony Lane
Huron SD 57350

Oscar Inc
c/o Floyd Peterson
209 27th Street NW
Huron SD 57350

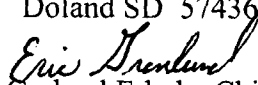
Allen Wipf
40476 184th Street
Doland SD 57436

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

Wipf Acres LP
c/o Gary Wipf
17801 401st Avenue
Frankfort SD 57440

Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Todd D. Wilkinson
Wilkinson & Wilkinson
P.O. Box 29
DeSmet SD 57231

FROM: *for*  Eric Erbele, Chief Engineer
Water Rights Program

SUBJECT: Automatic Delay of Hearing for Water Permit Application Nos. 7295-3, 7316-3,
7348-3, 7364-3 and 7365-3 through 7370-3

Petitions have been submitted opposing Water Permit Application Nos. 7295-3 (St. Clair), 7316-3 (Van Buskirk), 7348-3 (Sentell), 7364-3 (Wipf) and 7365-3 through 7370-3 (Huron Hutterian Brethren). In addition, a petition was submitted specific to Application No. 7364-3. These petitions were in response to the notice of hearing published September 12, 2012 in the Plainsman printed in Huron and/or the Redfield Press. All the petitions are enclosed. The petition filed by counsel for Peterson's also requests an automatic delay of the October 3, 2012 hearing on these water permit applications. Therefore, the hearings on all ten applications are automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on October 3, 2012.

DENR anticipates consolidating the applications for the purpose of conducting the hearing since all ten applications propose to appropriate water from the Tulare:East James Aquifer .

The hearing will be scheduled for the December 5 and 6, 2012, Water Management Board meeting tentatively to be held in Pierre. Future notice of the time and place of the hearing will be provided to parties of record.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

enclosures

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on September 24, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 24, 2012, regarding automatic delay of hearing on Water Right Permit Application Nos. 7295-3, 7316-3, 7348-3, 7364-3 and 7365-3 through 7370-3 with enclosures, as addressed below:

William St. Clair
37644 184th Street
Tulare SD 57476

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

Michael Sentell
18690 398th Avenue
Hitchcock SD 57348

Wipf Acres LP
c/o Gary Wipf
17801 401st Avenue
Frankfort SD 57440

Huron Hutterian Brethren
c/o Joey Waldner
40068 Huron Colony Lane
Huron SD 57350

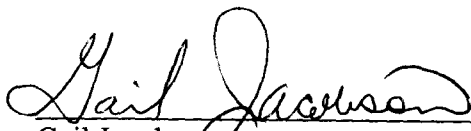
Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Oscar Inc
c/o Floyd Peterson
209 27th Street NW
Huron SD 57350

Todd D. Wilkinson
Wilkinson & Wilkinson
P.O. Box 29
DeSmet SD 57231

Allen Wipf
40476 184th Street
Doland SD 57436

Diane Best, Assistant Attorney General
317 N Main
Sioux Falls SD 57104



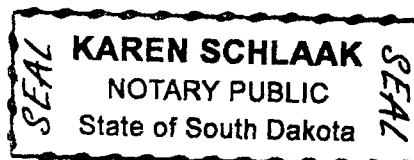
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 24th day of September, 2012.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



RECEIVED

SEP 24 2012

WATER RIGHTS
PROGRAM

Sept 20 2012

Eric Gronlund

Dear Eric

You have an application coming up on SE $\frac{1}{4}$ - 7 - 115-61 our well in SW $\frac{1}{4}$ 17 is on west side of the Quarter when we started that back in the 1960's the only place that we found any water was on the west side along the Road after 3 other test holes in the Quarter we thought it was very good but after we started using it we ended up with the pump at the very bottom 139 ft and we can still pull it way down there after long pump up periods - the wells on SE $\frac{1}{4}$ 17 + NE $\frac{1}{4}$ 20 - all 115 61 don't seem to make any difference if they are running or not. at times we have to leave that well on SW $\frac{1}{4}$ 17 115-61 Rest Then we can go again.

For some reason it doesn't follow the State well on the road east of Sec 7 115-61 - we just don't want to lose the flow of water we do have - we've been making it work fine the way it is.

Thank you
Allen Wyle

WILKINSON & WILKINSON
ATTORNEYS AT LAW
103 JOLIET AVE., S.E. P.O. BOX 29
DE SMET, SOUTH DAKOTA 57231

TELEPHONE: 605 / 854-3378
TELEFAX: 605 / 854-9006

HARRY J. EGGEN (1922-1969)
ELLSWORTH F. WILKINSON (1955-2005)

TODD D. WILKINSON
MARCENE J. SMITH
GARY W. SCHUMACHER*

RECEIVED
SEP 24 2012
WATER RIGHTS
PROGRAM

September 21, 2012

* ALSO LICENSED IN MINNESOTA

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

RE: Irrigation application for Tulare: East James Aquifer
Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
7367-3, 7368-3, 7369-3, and 7370-3
Petition in Opposition

Dear Mr. Erbele:

Our office represents Lenny Peterson and Oscar Inc., who are a land owners and operators, affected by the issuance of any additional irrigation appropriation in connection with the Tulare: East James Aquifer. This letter is intended as and constitutes a petition in opposition to said Water Permit Application No. 7316-3, Water Permit Application No. 7348-3, Water Permit Application No. 7364-3, Water Permit Application No. 7365-3, Water Permit Application No. 7366-3, Water Permit Application No. 7367-3, Water Permit Application No. 7368-3, Water Permit Application No. 7369-3, and Water Permit Application No. 7370-3, also referred to the irrigation permit,; and is further intended as and constitutes a petition in opposition to the Chief Engineer's recommendation to allow any additional appropriation without consideration of previously filed applications for water appropriation.

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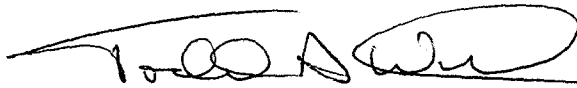
Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform our office of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

We would request a twenty (20) day extension for the hearing. If possible, when rescheduling the hearing could you contact our office to coordinate schedules, that would be great appreciated.

Thank you.

Sincerely,

WILKINSON & WILKINSON

A handwritten signature in black ink, appearing to read 'Todd D. Wilkinson', with a long horizontal flourish extending to the right.

Todd D. Wilkinson

TDW: mo

Enclosures

cc: Lenny Peterson
Oscar Inc
William St. Clair
Van Buskirk Farms, LLP c/o Matt Van Buskirk
Michael Sentell
Wipf Acres, LP c/o Gary Wipf
Huron Hutterian Brethren c/o Joey Waldner

September 20, 2012

RECEIVED

SEP 21 2012

WATER RIGHTS
PROGRAM

Kevin Marton
South Dakota Department of Transportation
700 East Broadway
Pierre, South Dakota 57501

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

**RE: Irrigation application for Tulare: East James Aquifer
 Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
 7367-3, 7368-3, 7369-3, and 7370-3
 Petition in Opposition**

Dear Mr. Marton and Mr. Erbele:

I, Lenny Peterson, as a land owner and operator, affected by the issuance of any additional irrigation appropriation in connection with the Tulare: East James Aquifer. This letter is intended as and constitutes a petition in opposition to said Water Permit Application No. 7316-3, Water Permit Application No. 7348-3, Water Permit Application No. 7364-3, Water Permit Application No. 7365-3, Water Permit Application No. 7366-3, Water Permit Application No. 7367-3, Water Permit Application No. 7368-3, Water Permit Application No. 7369-3, and Water Permit Application No. 7370-3, also referred to the irrigation permit,; and is further intended as and constitutes a petition in opposition to the Chief Engineer's recommendation to allow any additional appropriation without consideration of previously filed applications for water appropriation.

In addition the averaging that was done to arrive at available water did not properly consider the Boards previous findings. That if the method is now going to be

changed, previous applications should be afforded notice and opposition to apply and not lose priority in filing.

Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform me of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lenny Peterson".

Lenny Peterson

RECEIVED

SEP 21 2012

WATER RIGHTS
PROGRAM

September 20, 2012

Kevin Marton
South Dakota Department of Transportation
700 East Broadway
Pierre, South Dakota 57501

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

**RE: Irrigation application for Tulare: East James Aquifer
Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
7367-3, 7368-3, 7369-3, and 7370-3
Petition in Opposition**

Dear Mr. Marton and Mr. Erbele:

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In addition the averaging that was done to arrive at available water did not properly consider the Boards previous findings. That if the method is now going to be

changed, previous applications should be afforded notice and opposition to apply and not lose priority in filing.

That proposed development cannot be done without potentially impairing existing rights.

Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform me of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

Thank you.

Sincerely,
Oscar Inc. by Boyd Peterson
OSCAR INC.

7295-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Application No. 7295-3, William St. Clair

ADDRESS: 37644 184th Street, Tulare SD COUNTY: Spink County

DATE: September 25 and 26, 2012 TELEPHONE:

RE: Petition issue

DENR received petitions on the T:EJ Aquifer applications on September 21st from Lenny Peterson and Oscar Inc. Then on September 24th, a petition with a request for auto-delay was received from legal counsel for Lenny Peterson and Oscar Inc. Based on this a notice of auto-delay was sent to parties of record and the T:EJ Aquifer applications removed from the October 3, 2012 Water Management Board agenda. I then was made aware there were only 9 applications of the 10 applications pending on the petition. Upon further review, I learned that Mr. St. Clair's Application No. 7295-3 was not listed.

On September 25th I contacted both Lenny Peterson (354-4602) and Floyd Peterson (350-4892) to find out if it was an omission on their part or if they intended to leave No. 7295-3 off the petition. They both stated they thought it was purposely left off because based on the inspections I conducted in May, 2012 for the purpose of licensing there were about a pivot worth of undeveloped acres.

On September 26th I contacted Mr. St. Clair to inform him of the issue. He said he didn't notice that his application number was not listed on the petition. Informed him that since the report was prepared on all 10 application it only made sense to have all 10 T:EJ applications heard at the same time and that would be in December. He did not appear to be upset and said "whatever happens is destine to happen". I told him he'd get notice of this matter.

NAME: Eric Handlund

Gronlund, Eric

From: Todd D. Wilkinson <todd@wslawfirm.net>
Sent: Thursday, September 27, 2012 9:59 AM
To: Gronlund, Eric
Subject: Re: Tulare:East James Aquifer water permit applications

Mr. Gronlund,

I apologize. The petitions should have included Water Permit Application No. 7295-3, I see we served a copies to Mr. St. Clair but did not have the Application No. listed. I will add the Application No. to my previous letters and resend them. I will instruct Lenny to do the same for himself and Oscar Inc. Thank you for bring that to my attention.

Todd

----- Original Message -----

From: Gronlund, Eric
To: todd@wslawfirm.net
Cc: Best, Diane
Sent: Wednesday, September 26, 2012 3:39 PM
Subject: Tulare:East James Aquifer water permit applications

Mr. Wilkinson:

On Tuesday, Sept. 25th I became aware that the petitions submitted by Lenny Peterson, Oscar Inc and yourself on behalf of them did not include Application No. 7295-3 filed by William St. Clair. In other words, the petitions included only 9 of the 10 pending applications from the aquifer and omitted the first application that was filed. I initially attempted to contact you but you we tied up so I contacted both Lenny and Floyd Peterson to find out if this was an intentional omission from the petition. They both stated they thought it was purposely left off the petition because based on the inspections I conducted in May 2012 for the purpose of licensing permits (state verification of the level of development) there was about a one pivots worth of undeveloped acres. Based on DENR's understanding, Application No. 7295-3 is uncontested. However, DENR determined that all ten applications should be brought before the Board at the same time so we are administratively continuing Application No. 7295-3 until the December meeting. Just letting you know because notice is going out to that effect.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 9, 2012

NOTICE

TO: William St. Clair
37644 184th Street
Tulare SD 57476

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing for Water Permit Application No. 7295-3, William St. Clair

Water Permit Application No. 7295-3 seeks to appropriate 1.78 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer location in the center of the NW ¼ Section 30 for irrigation of 120 acres located in the NW ¼ Section 30, T117N, R61W. This application was scheduled for the October 3, 2012 Water Management Board meeting but was auto-delayed until the December meeting when a petition in opposition of nine other pending application seeking to appropriate water from the Tulare:East James Aquifer was filed. Application No. 7295-3 is not contested.

The Water Management Board will consider the Water Permit Application No. 7295-3 at 1:00 PM, December 6, 2012 meeting in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommending APPROVAL of Application No. 7295-3 because 1) the Water Rights Program evaluated the availability of water in the aquifer and determined that there is a reasonably probability that there is unappropriated water available from the Tulare:East James Aquifer, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) deny, 3) defer or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

This hearing is an adversarial proceeding. Parties have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed is a copy of DENR's staff report, the Chief Engineer's recommendation, affidavit of publication and the September 24, 2012 notice of autodelay. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules". You are encouraged to review these documents prior to the hearing.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:24.01.

Questions regarding the hearing process may be directed to Eric Gronlund at (605) 773-3352. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing.

enclosures

c: Diane Best, Assistant Attorney General
Todd D. Wilkinson, Wilkinson & Wilkinson, P.O. Box 29, DeSmet SD 57231

CERTIFICATION

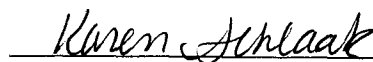
I hereby certify that on November 9, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated November 9, 2012 regarding Water Permit application 7295-3 addressed as stated below:

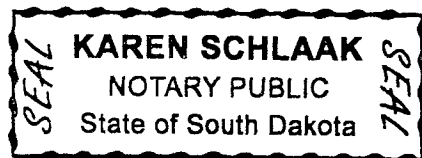
William St. Clair, 37644 184th St., Tulare SD 57476
Todd Wilkinson, PO Box 29, DeSmet SD 57231
Diane Best, Asst. Atty General, 317 N Main, Sioux Falls SD 57104


Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of November, 2012.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013



STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6711-3,)
OSCAR INC.;)

IN THE MATTER OF WATER PERMIT)
APPLICATION NOS. 6712-3 AND)
6713-3, PETERSON FARMS;)

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6715-3,)
UNITED FEEDERS, LLP;)

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6728-3, RON)
STARR.)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND
FINAL DECISION

FINDINGS OF FACT

1. These findings and conclusions concern each of the above-named water permit applications. Each concerns legal issues arising from the changed legal context with regard to the Tulare:East James Aquifer. Because of the interrelated nature of the legal and factual issues, these cases are considered together.

2. Application No. 6711-3 proposes to appropriate 4.34 cfs (1,950 gpm) from two wells approximately one hundred feet deep to irrigate 304 acres in Spink County. The source of water is Tulare:East James Aquifer. The date this application was received in the Office of the Water Rights Program was April 4, 2006.

3. Application No. 6712-3 proposes to appropriate 1.94 cfs (870 gpm) from one well approximately one hundred feet deep to irrigate 136 acres in Spink County. The source of water is the Tulare:East James Aquifer. The date this application was received in the Office of the Water Rights Program was April 4, 2006.

4. Application No. 6713-3 proposes to appropriate 1.94 cfs (870 gpm) from one well approximately one hundred feet deep to irrigate 136 acres in Spink County. The source of water is the Tulare:East James Aquifer. The date this application was received in the Office of the Water Rights Program was April 4, 2006.

5. Application No. 6715-3 proposes to appropriate .56 cfs (250 gpm) from two wells approximately one hundred feet deep in Spink County. The source of water is the Tulare:East James Aquifer. The date this application was received in the Office of the Water Rights Program was April 7, 2006.

6. Application No. 6728-3 proposes to appropriate 1.88 cfs (844 gpm) from one well approximately eighty feet deep in Spink County. The source of water is the Tulare:East James Aquifer. The date this application was received in the Office of the Water Rights Program was April 24, 2006.

7. The Board finds that its jurisdiction to grant water permits is, in this case, limited by the South Dakota statute

forbidding water mining, SDCL 46-6-3.1. That statute provides, with an exception not applicable here, that an application to appropriate ground water may not be approved if it is probable that the quantity of water withdrawn annually from the ground water source will exceed the quantity of average estimated annual recharge of water from the ground source. The Court of the Sixth Judicial Circuit has interpreted this section to mean that the term "quantity of water withdrawn annually from a ground water source" should be calculated as an average; it implied that the period of time utilized for the "average" should be the same period of time as used to compute the statutory "quantity of the average estimated annual recharge of water." In the case entitled In the Matter of Water Permit Application No. 6655-3, Oscar Inc.; In the Matter of Water Permit Application No. 6656-3, Peterson Brothers; In the Matter of Water Permit Application Nos. 6675-3 and 6676-3, William St. Clair (Water Management Board, July 12, 2006) (hereinafter "Final Decision of July 12, 2006"), this Board adopted the ruling of the Sixth Judicial Circuit.

8. The first question to be determined pursuant to this ruling is the average amount of recharge to the Tulare:East James Aquifer. The state's expert, Mr. Jim Goodman, testified that the best available analysis yielded the recharge at a rate of .76 inches per acre per year. Expert evidence further

established that the total aquifer area of the Tulare:East James Aquifer in Beadle and Spink Counties is 125,600 acres. Using the best available estimate of .76 inches per year per acre, the total annual aquifer recharge is 7,950 acre feet per year for the Tulare:East James Aquifer.

9. The Board credits the estimates and calculations of Mr. Goodman. No contrary estimates, studies or analyses were offered to the Board.

10. The Board further agrees with the suggestions of the state's expert that the period of time from 1986 to 2005 comprises the most relevant period from which to derive an estimate of the annual water use in this case. No new water permit has been approved from this aquifer since April of 1982 meaning. For all practical purposes, therefore, there should have been no new water uses developed between 1986 and 2005.

10A. A group of permit applications were approved in 1981 and the last one was finalized in 1982. Under the five year construction requirement, construction was required to have been completed in 1986 for any permits issued in 1981. SDCL 46-2A-8. One additional permit was approved in April of 1982 and irrigation began the next season for that permit. Accordingly, all permits were developed and all water use was reflected in water use measurements and reporting starting in the 1986 irrigation season. From 1986 through 2005 no additional water

permits were issued. Accordingly, this twenty-year period reflects a time period during which all issued permits were developed.

11. The average water use in acre feet for the twenty-year period in the aquifer area has been 6,981 acre feet.

12. The best estimates yield an aquifer recharge of 7,950 acre feet per year. The difference between that recharge and the average annual water use per year over the past twenty years in the aquifer area is 969 acre feet.

13. The Board finds further that there has been an average of 8.2 inches per acre per year of water use from the aquifer over the past twenty years. Considering that average across 969 acre feet of water available annually, the Board finds that, at the time of the decision of the Sixth Judicial Circuit, an additional 1,420 acres of land could be irrigated without mining water.

14. This Board, in its Final Decision of July 12, 2006, granted irrigation permits of 844 acres.

15. Under the Circuit Court decision as adopted by this Board in its Final Decision of July 12, 2006, it follows that, an additional 576 acres may be approved from the Tulare:East James Aquifer for irrigation without violating the water mining statute (i.e., 1,420 acres minus 844 acres equals 576 acres).

16. South Dakota statutes provide, in the case of conflict, an earlier filed application takes precedence over a later application.

17. In the cases now before the Board, three applications were received by the Water Rights Program on April 4, 2006. These are No. 6711-3, requesting a permit to irrigate 304 acres; No. 6712-3, requesting a permit to irrigate 136 acres; and No. 6713-3, requesting a permit to irrigate 136 acres. The total acreage requested by these permits is 576 acres.

18. As found above, the total number of new acres which may be put to irrigation use under the interpretation of the facts and law adopted by this Board in its Final Decision of July 12, 2006, and here is 576 acres. The three applications set forth above request precisely 576 acres. Therefore, if these three applications are granted, no water is available for additional irrigation permits from the Tulare:East James Aquifer, barring a change in circumstances not now before the Board.

19. The Board now turns to the specific question as to whether irrigation permits should be granted with regard to Application Nos. 6711-3, 6712-3 and 6713-3.

20. The uncontradicted expert evidence indicates that interference should not be caused by the pumping from these three permits.

21. The proposed use for irrigation for these three permits is a beneficial use.

22. The proposed use for each of the wells is in the public interest as explained below and as qualified in the Final Decision of July 12, 2006.

23. Application No. 6715-3, United Feeders, proposes to appropriate .56 cfs for commercial use in a dairy heifer development feed yard.

24. The Application No. 6715-3, was received in the Office of the Water Rights Program on April 7, 2006, after the receipt of Application Nos. 6711-3, 6712-3 and 6713-3.

25. As demonstrated above, the Board's approval of those three permits, exhaust the amount of water available from the Tulare:East James Aquifer under the state mining statute. The Board finds, therefore, the grant of Application No. 6715-3 would not be consistent with the South Dakota statute forbidding water mining. SDCL 46-6-3.1.

26. Application No. 6728-3 proposed to appropriate 1.88 cfs from one well approximately eighty feet deep in Spink County. This application was received in the Office of the Water Rights Program on April 24, 2006. Again, the source of water is the Tulare:East James Aquifer. As found above, because the amount of water available from the aquifer in question is exhausted by the grant of Application Nos. 6711-3, 6712-3 and

6713-3, this permit may not be granted because, to do so, would not be consistent with the South Dakota statute forbidding water mining. SDCL 46-6-3.1.

27. The applicant for Water Permit No. 6728-3, Mr. Ron Starr, nonetheless makes several arguments as to why his permit should be granted. Mr. Starr's claim is based upon an application filed not by Starr himself, but by his landlord, for Water Permit No. 3325-3 in February of 1977. Mr. Starr at that time was the tenant. The first hearing on the landlord's application was in 1978. The representatives of the Water Rights Program requested and were granted a deferral at that time because they needed to gather additional information about the aquifer. In 1979, a second hearing was held and the application was deferred again, for the same reason.

28. In 1982, a third hearing was held with regard to Application No. 3325-3, the application filed by Starr's landlord. By 1981-1982, the Water Rights Program believed that it had sufficient knowledge about the aquifer to advocate the grant of certain of the applications based on the first in time-first in right statute, and to advocate denial of other applications based on the same statute. The Board, in 1982, did grant certain applications based on the first in time-first in right statute. In particular, a group of permit applications from the Tulare:East James Aquifer, Nos. 4699-3, 4714-3, 4739-3,

4753-3, 4772-3, and 4845-3 all were approved in 1981 with the latest permit being approved in April of 1982. The April 1982 grant was essentially the last new permit for additional water approved until the Sixth Judicial Circuit's recent decision.

29. At the same time, the Water Rights Program began recommending denial of applications which could not be granted because of the first in time-first in right principle. The Water Rights Program thus recommended denial of the application filed by Starr's landlord, Application No. 3325-3. This Board could have denied Application No. 3325-3 in 1982 on the basis of the first in time-first in right statute, but instead it again deferred the application.

30. In 1984, the Water Rights Program recommended denial of Application No. 5009-3 for water from the Tulare:East James Aquifer. After receiving the recommendation to deny the application, the applicant for No. 5009-3 withdrew the application. Another seven permit applications for water from this aquifer were denied by this Board subsequent to 1982 up to the time of the Circuit Court's Decision referenced above.

31. In 1991, Starr became owner of the property formerly owned by his landlord, who had made the application for No. 3325-3.

32. In 2002, the Water Rights Program recommended denial of 3325-3 on two grounds. The first ground was that the

applicant for the permit, Starr's former landlord, was no longer owner of the property and had no standing to apply for a water permit. Furthermore, the Division contended that there was no water available in the aquifer for appropriation due to the water mining statute.

33. Mr. Starr was notified of the date and time of the hearing regarding the Division's recommendation for denial. About two weeks before the hearing date, the date was changed to be one day earlier. Starr received notice of this change in date. Starr forthrightly admits that he received notice. He does not offer any satisfactory answer as to why he did not appear at the 2002 hearing. At the conclusion of the 2002 hearing, the application for Water Permit No. 3325-3 was denied. Mr. Starr did not appeal, nor did the landlord.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. There is a reasonable probability that there is unappropriated water available for application Nos. 6711-3, 6712-3 and 6713-3.
3. The diversions under Application Nos. 6711-3, 6712-3 and 6713-3 can be developed without unlawful impairment of existing rights if appropriate conditions are imposed upon the permits as set forth in the final decision.

4. The proposed uses, all for irrigation, under the applications for Water Permit Nos. 6711-3, 6712-3 and 6713-3 are all beneficial uses.

5. Grant of Application Nos. 6711-3, 6712-3 and 6713-3 is consistent with the South Dakota statute forbidding water mining. SDCL 46-6-3.1 provides, with an exception not applicable here, that an application to appropriate ground water may not be approved if it is probable that the quantity of water withdrawn annually from the ground water source will exceed the quantity of average estimated annual recharge of water from the ground water source. The Court of the Sixth Judicial Circuit has interpreted this section to mean that the term "quantity of water withdrawn annually from a ground water source" should be calculated as an average and that the period of time utilized for the "average" should be the same period of time as used to compute the statutory "quantity of average estimated annual recharge of water." The Board, in its Final Decision of July 12, 2006, has adopted this legal approach. Using the appropriate calculations, the appropriations for Nos. 6711-3, 6712-3 and 6713-3 are allowable consistent with this interpretation of the water mining statute.

6. As with its Final Decision of July 12, 2006, the Board has also considered the interplay of the public interest requirement of the statute and the water mining statute. The

Board again does not find it necessary to determine whether the public interest component of the state water law can be invoked for the same reasons as set forth in the Final Decision of July 12, 2006.

7. Considering the foregoing, and all the evidence, the Board concludes that the grant of the applications for Water Permit Nos. 6711-3, 6712-3 and 6713-3 is in the public interest when qualified as set forth below.

8. The Board has also considered applications for Water Permit No. 6715-3, United Feeders, and No. 6728-3, Ron Starr. The Board concludes the grant of these permits would be inconsistent with the South Dakota statute forbidding water mining. As explained above, in the Findings of Fact, the appropriate calculations revealed that only 576 additional acres were available for appropriation after the July 12, 2006, grant of other irrigation applications. The amount of water approved today under Application Nos. 6711-3, 6712-3 and 6713-3 exhausts the remaining amount of water. Therefore, additional grants of water rights would necessarily violate the water mining statute.

9. The Board has also considered the special considerations Mr. Starr wished to bring before the Board. The Board concludes that an application for a water permit may not be transferred to another person. The Legislature has provided that a water permit can itself be transferred but has not

provided statutory authority for the transfer of an application for a water permit. This Board lacks the power to provide for such a transfer on its own authority. In this case, Mr. Starr's landlord applied for Water Permit No. 3325-3 but later sold the property to Mr. Starr. At the time the landlord sold the property to Mr. Starr, the application lost any vitality it might have. The landlord, because he was no longer a land owner, had no standing to apply for the water right. Mr. Starr, as the new owner of the lands, was not entitled by law to legally accept a transfer of the application for water right.

10. Mr. Starr's attempt to somehow rely on an alleged irregularity with the 2002 proceeding is without merit. The permit was denied in 2002. Starr had adequate notification of the matter before the Board but simply did not appear. Moreover, Starr did not appeal that denial.

11. Starr also argues that the Chief Engineer has discretion with regard to the application of the first in time-first in right statute. The statute, however, allows the Chief Engineer no such discretion. Moreover, the Board concludes that if it did have such discretion it would not necessarily follow that Starr himself would be first in line with regard to the application of equitable principles. At least seven others have been denied water permits in situations which may be analogous to those of Mr. Starr.

12. Starr's implicit argument that his current application should be deferred instead of denied is without merit. The Water Rights Program demonstrated that there is not, as of today, water available to grant a water permit to him. A deferral is available only in such cases in which the Board determines that further study of an aquifer or a hydrologic situation is appropriate. There is no evidence before the Board that the hydrologic determinations and opinions offered by the state's expert are insufficient or that further study needs to be made before appropriate determinations of this Board can be made on whether to approve or deny permits.

13. The Board further concludes that no statute allows the grant of a deferral to an applicant simply because it is speculated that a present user of water may, at some unknown time in the future, abandon his water right, thereby making water available to the applicant consistent with the water mining statute.

14. The Board also concludes that, as to this aquifer, it is unlikely that there will be a simple abandonment of any existing water right in the foreseeable future; it is much more likely that any existing holder of a water right will, if he or she chooses to discontinue his or her operation, choose to transfer that water permit to another. This makes the

contingency referred to in the paragraph immediately above all the more unlikely.

FINAL DECISION IN WATER PERMIT
APPLICATION NO. 6711-3

The application for Water Permit No. 6711-3, Oscar Inc., is approved subject to the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The wells authorized by Permit No. 6711-3 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.

FINAL DECISION IN WATER PERMIT
APPLICATION NO. 6712-3, PETERSON FARMS

The application for Water Permit No. 6712-3, Peterson Farms, is approved subject to the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The wells authorized by Permit No. 6712-3 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.

FINAL DECISION IN WATER PERMIT
APPLICATION NO. 6713-3, PETERSON FARMS

The application for Water Permit No. 6713-3, Peterson Farms, is approved subject to the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The wells authorized by Permit No. 6713-3 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.

FINAL DECISION IN WATER PERMIT
APPLICATION NO. 6715-3, UNITED FEEDERS, LLP

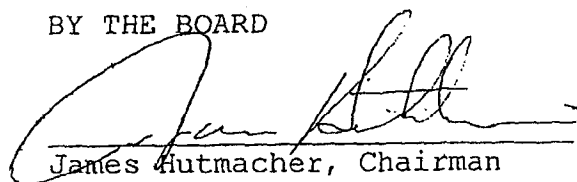
The application is denied.

FINAL DECISION IN WATER PERMIT
APPLICATION NO. 6728-3, RON STARR

The application is denied.

Dated this 26 day of October, 2006.

BY THE BOARD


James Gutmacher, Chairman

pld.jpg (Findings of Fact for Nos 6711-3, 6712-3, 6713-3, 6715-3 & 6728-3) (jmm)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7295-3, William F St. Clair**

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. 7295-3, William F St. Clair, 37644 184th Street, Tulare SD 57476.

The Chief Engineer is recommending DEFERRAL of Application No. 7295-3 to determine the level of development of issued permits that have not been licensed. The level of development may affect water availability from the aquifer. DENR's intent is to conduct licensing investigations of the unlicensed permits in order to bring this application back before the Board at their May or July meeting.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 2, 2012

REPORT ON WATER PERMIT APPLICATION NO. 7295-3

For William F. St. Clair

January 28, 2012

Application No. 7295-3 proposes to appropriate 1.78 cfs from one well approximately 90 feet deep located in the center of the NW $\frac{1}{4}$ of section 30 for irrigation of 120 acres located in the NW $\frac{1}{4}$ of section 30; all in T117N R61W in Spink County.

AQUIFER – TULARE EAST JAMES (T-EJ)

The Tulare East James aquifer has been declared fully appropriated based upon water use by the Water Management Board at the July 12, 2006 hearing. At that hearing a report was presented to the Board (Goodman, 2006) discussing the hydrogeology of the Tulare East James aquifer which summarized aquifer statistics, climate, recharge, water use, statutory considerations, observation well hydrographs and conclusions. A copy of the Findings of Fact and Conclusions of Law and Final Decision "In the Matter of Water Permit Application No. 6711-3, Oscar Inc.; In the Matter of Water Permit Application Nos. 6712-3 and 6713-3, Peterson Farms; In the Matter of Water Permit No. 6715-3, United Feeders, LLP; In the Matter of Water Permit Application No. 6728-3, Ron Starr" adopted on October 26, 2006 is included with this report for review.

This application is for additional water and for additional irrigated acres from the Tulare East James aquifer. No test holes were drilled but this application is within the area mapped as aquifer and the applicants estimated for well depth is reasonable.

The Water Rights Program does monitor observation wells in this immediate area. SP-66C is located about one mile east of this application, SP-79B is located about one mile north of this application, SP-77R is located about one and one-half miles southeast of this application and SP-66B is located about two miles northeast of this application. Water levels for these wells show good response to climatic conditions. Water levels rise during wet years (recharge) and gradually decline during dry years. Also there is some evidence of pumping which cause annual fluctuation of water levels especially where there is slight artesian pressure at the observation well site. Note the hydrograph for SP-66C. In general the water level record indicates the aquifer is sustaining existing withdrawals and water levels at this time some of the highest for the period of record (Water Rights, 2012).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

The nearest existing water right is about one mile to the east. Interference would not be a concern. Drawdown created by pumping does not appear to be significant in this area and would not affect water availability from the aquifer.

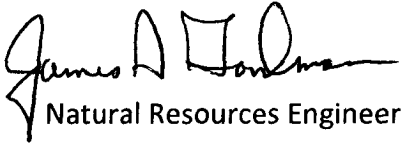
This site was at one time permitted for irrigation under water permit No. 988-3 which was cancelled because it was not constructed.

At this time there are water permits issued for the Tulare East James aquifer that are not licensed. A review of the reported irrigation on these permits indicates the potential for additional available water resulting from the licensing process. Until licensing is completed this cannot be determined. Based upon reported water use and acreage reported irrigated licensing may "free up" additional acreage and water for this application. However, that amount would not be sufficient to issue this application in total.

CONCLUSIONS

1. The source of water for this application would be the Tulare East James aquifer.
2. The aquifer is considered to be fully appropriated by the Water Management Board.
3. There have been no changes in existing permits/rights such as abandonments or cancellations that would result in water being made available.
4. The water level record does indicate that aquifer does recharge and that the aquifer is sustaining the existing level of development.
5. Because all the permits have not been licensed and the completion construction date was in 2011, it appears there may be excess permitted acres over and above the developed acres. Until these permits are licensed nothing is officially available.

James A Goodman



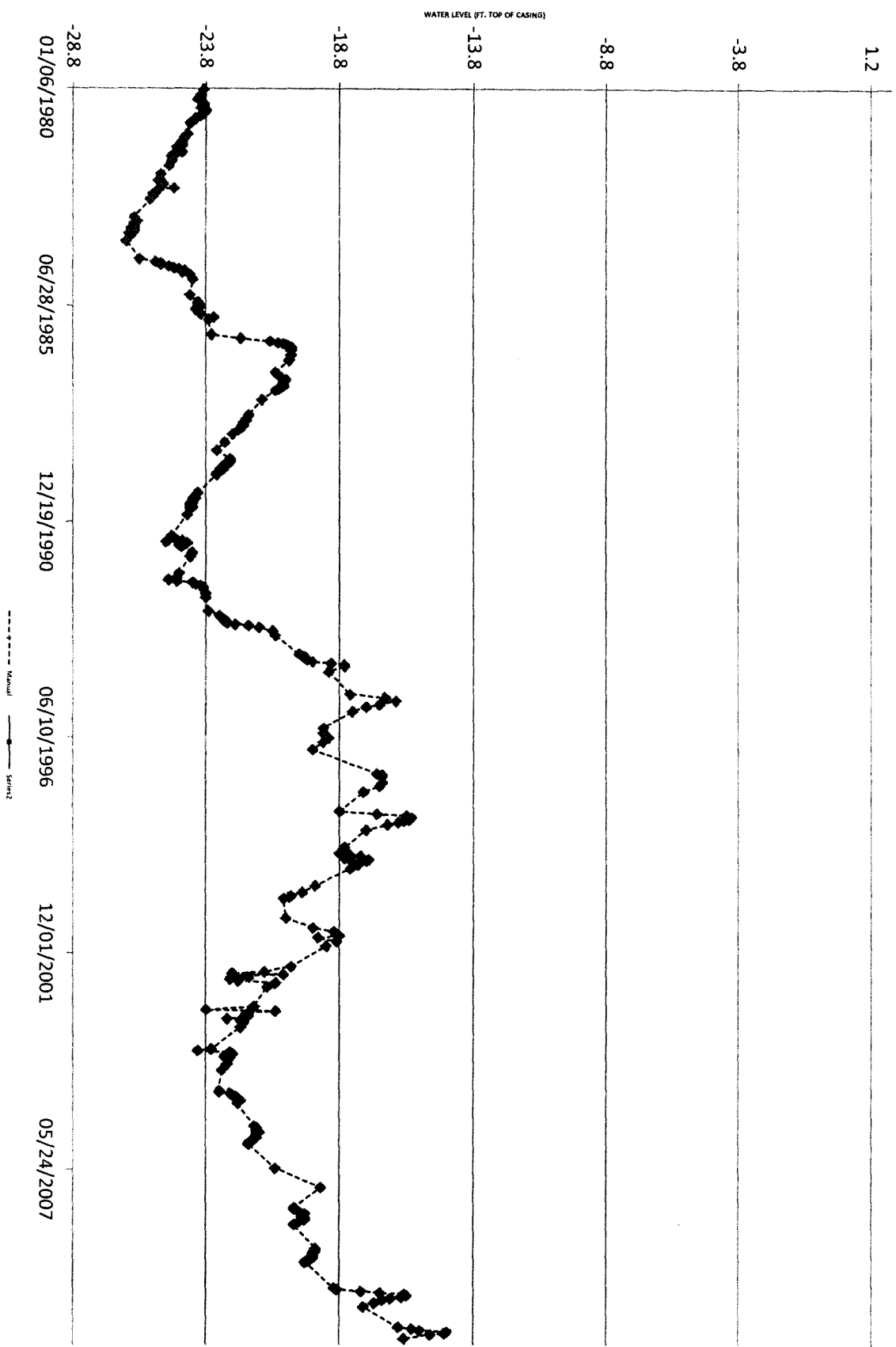
Natural Resources Engineer

BIBLIOGRAPHY

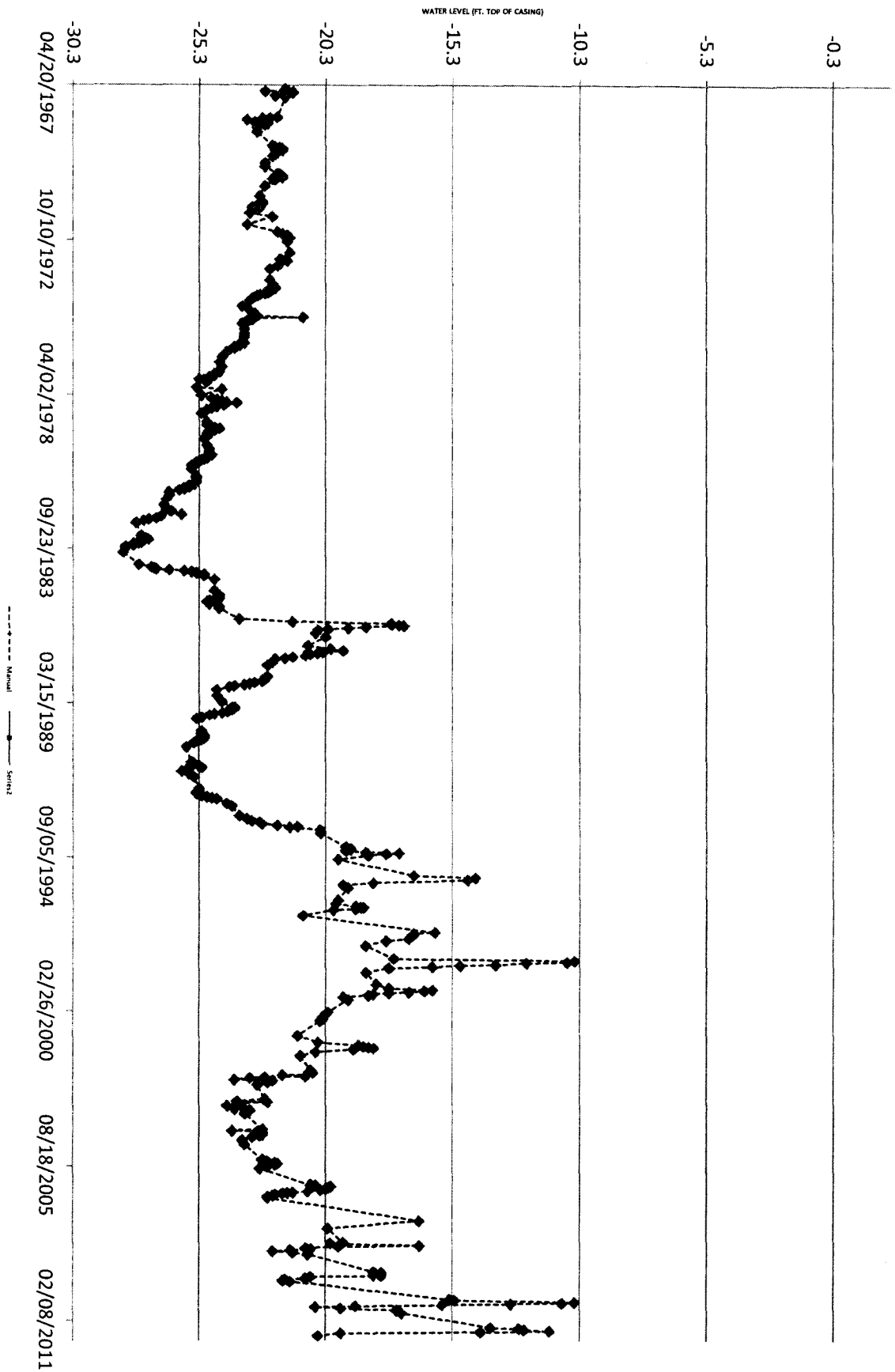
Goodman, J.A., 2006, Report on Water Permit Applications No. 6711-3 for Oscar Inc. and Nos. 6712-3 and 6713-3 for Peterson Farms, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

Water Rights, 2012, Unpublished Observation Well Records for the Tulare East James Aquifer, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

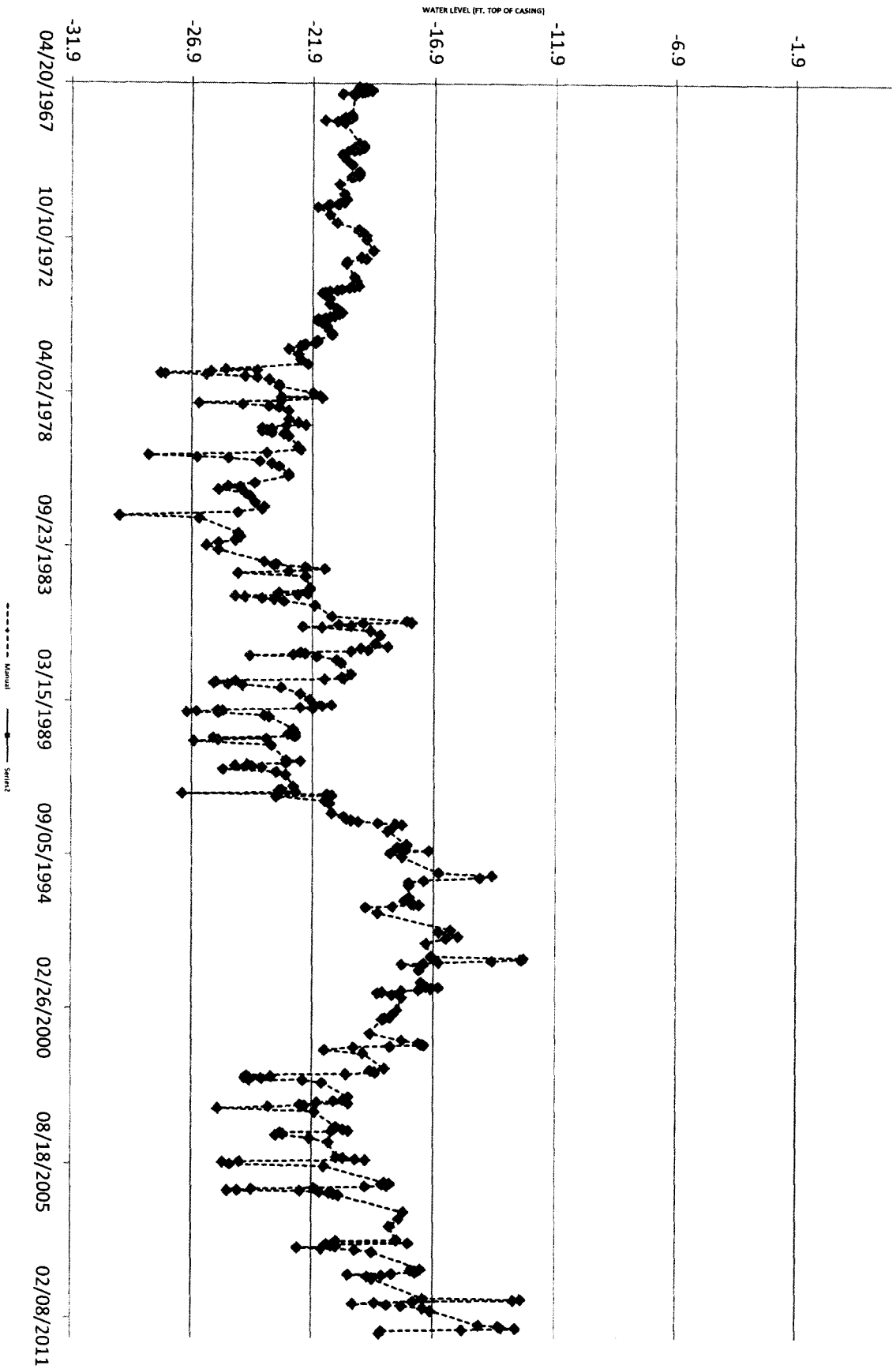
WATER RIGHTS' OBSERVATION WELL SP-79B



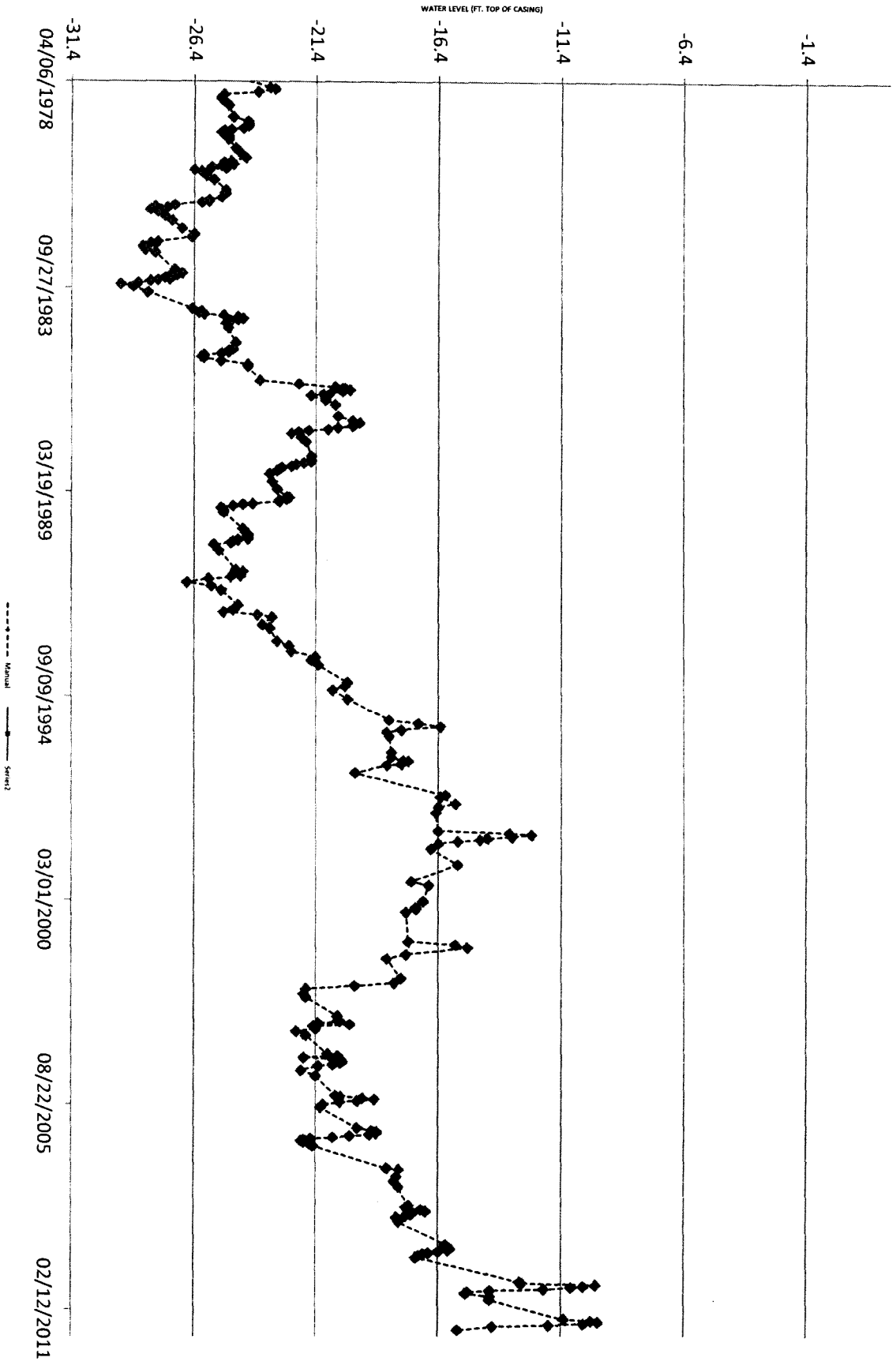
WATER RIGHTS' OBSERVATION WELL SP-66B



WATER RIGHTS' OBSERVATION WELL SP-66C



WATER RIGHTS' OBSERVATION WELL SP-77R





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER
PERMIT APPLICATION NO. 7295-3, William St. Clair**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 7295-3, William St. Clair, 37644 184th Street Tulare SD 57476.

The Chief Engineer is recommending APPROVAL of Application No. 7295-3 because 1) the Water Rights Program evaluated the availability of water in the aquifer and determined that there is a reasonably probability that there is unappropriated water available from the Tulare:East James Aquifer, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest to put water resources of the state to the fullest extent of which they are capable 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. 7295-3 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
September 6, 2012

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7295-3, WILLIAM F. ST. CLAIR
NO. 7316-3, VAN BUSKIRK FARMS LLP
NO. 7348-3, MICHAEL SENTELL
NO. 7364-3, WIPF ACRES LP
NO. 7365-3, HURON COLONY
NO. 7366-3, HURON COLONY
NO. 7367-3, HURON COLONY
NO. 7368-3, HURON COLONY
NO. 7369-3, HURON COLONY
AND
NO. 7370-3, HURON COLONY
AUGUST 23, 2012

Water Permit Application No. 7295-3 proposes to appropriate water at a maximum diversion rate of 1.78 cubic feet of water per second (cfs) from one well approximately 90 feet deep, to be completed into the Tulare: East James aquifer. The well is to be located in the NW¼ of Section 30, T117N-R61W and the water is to be used to irrigate 120 acres located in the NW¼ of Section 30, T117N-R61W. This application was deferred by the Water Management Board on March 7, 2012 to allow time to determine the availability of water from the Tulare: East James aquifer.

Water Permit Application No. 7316-3 proposes to appropriate water at a maximum diversion rate of 4.5 cfs from two wells, approximately 80 feet deep, to be completed into the Tulare: East James aquifer. The wells are to be located in the W½ of Section 12, T114N-R62W and the water is to be used to irrigate 272 acres located in the W½ of Section 12, T114N-R62W. This application was deferred by the Water Management Board on May 2, 2012 to allow time to determine the availability of water from the Tulare: East James aquifer.

Water Permit Application No. 7348-3 proposes to appropriate water at a maximum diversion rate of 5.33 cfs from a gravel pit completed into the Tulare: East James aquifer located in the NE¼ SW¼ of Section 14, T114N-R62W. The water is to be used to irrigate 440 acres located in the NW¼ of Section 13, and the NW¼, W½ SE¼, SE¼SW¼ of Section 14; all of T114N-R62W. The Chief Engineer originally recommended deferral of this application to allow time to determine the availability of water from the Tulare: East James aquifer.

Water Permit Application No. 7364-3 proposes to appropriate water at a maximum diversion rate of 1.93 cfs from one well, approximately 100 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the SE¼ of Section 7, T115N-R61W and the water is to be used to irrigate 135 acres located in the SE¼ of Section 7, T115N-R61W.

Water Permit Application No. 7365-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the SW¼ of Section 20, T113N-R61W and the water is to be used to irrigate 132 acres located in the SW¼ of Section 20, T113N-R61W.

Water Permit Application No. 7366-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the NW¼ of Section 20, T113N-R61W and the water is to be used to irrigate 132 acres located in the NW¼ of Section 20, T113N-R61W.

Water Permit Application No. 7367-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the NE¼ of Section 19, T113N-R61W and the water is to be used to irrigate 132 acres located in the NE¼ of Section 19, T113N-R61W.

Water Permit Application No. 7368-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the NW¼ of Section 19, T113N-R61W and the water is to be used to irrigate 132 acres located in the NW¼ of Section 19, T113N-R61W.

Water Permit Application No. 7369-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the SW¼ of Section 19, T113N-R61W and the water is to be used to irrigate 132 acres located in the SW¼ of Section 19, T113N-R61W.

Water Permit Application No. 7370-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the SE¼ of Section 19, T113N-R61W and the water is to be used to irrigate 132 acres located in the SE¼ of Section 19, T113N-R61W.

AQUIFER: East James management unit of the Tulare aquifer (T:EJ)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Tulare East James aquifer is a system of interconnected sand and gravel layers that were deposited as outwash by meltwater from receding glaciers. The sands and gravels that make up the Tulare: East James aquifer were deposited on bedrock (Pierre Shale or Niobrara Formation), or on glacial till, and generally occur between 1,130 - 1,270 feet above mean sea level (msl). Wells completed into the aquifer are typically less than 130 feet deep (Water Rights 2012b; Water Rights 2012c). Although the saturated thickness of the Tulare: East James aquifer is estimated to be 37 feet in Spink County (Hamilton and Howells, 1996), the thickness of this outwash deposit is variable with a maximum exceeding 75 feet ("Lithologic Logs Database"; Water Rights, 2012b; Water Rights, 2012c). The aquifer underlies approximately 123,578 acres of Spink and Beadle Counties. Assuming an average thickness of 37 feet and a specific yield of 0.15, the aquifer contains approximately 685,857 acre-feet of recoverable water in storage. The Tulare: East James aquifer is buried over most of its area and is predominately under confined conditions. The water levels of wells completed into the Tulare: East James aquifer range from more than 50 feet below grade to above ground surface (i.e. free flowing wells). Based on the SD DENR-Water Rights Program observation well water level data (Water Rights, 2012a), groundwater movement in the aquifer is generally from east to west although there is northwest to southeast flow component in the northwest portion of the aquifer.

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest.

WATER AVAILABILITY:

The probability of unappropriated water being available from the Tulare: East James aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source."

In applying SDCL 46-6-3.1, the Sixth Judicial Circuit Court ruled in 2005 that if the Water Management Board uses average annual recharge, then it should also use average annual withdrawals to determine if unappropriated water is available from the aquifer (*Hines v. South Dakota Dept. of Environ. and Nat'l. Resources, Hughes County 04-37* (Memorandum Decision, April 29, 2005)).

The availability of unappropriated water from the Tulare: East James aquifer was evaluated based on observation well data and through consideration of a hydrologic budget for the aquifer.

OBSERVATION WELL DATA:

The analysis of observation well data provides a qualitative means of assessing the aquifer and provides the best information available to evaluate the Tulare: East James aquifer. In addition, Administrative Rule of South Dakota Section 74:02:05:07 requires that "the Water Management Board shall rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer."

The DENR-Water Rights Program monitors 34 observation wells completed into the Tulare: East James aquifer (Water Rights, 2012a) (see figure 1). Hydrographs for four of these observation wells are shown in Figures 2-5. The hydrographs are representative for the Tulare: East James aquifer and show that the aquifer readily responds to climatic conditions, with rising water levels during wet years and declining water levels during dry years.

The analysis of the DENR-Water Rights Program observation well data provides the best information reasonably available to evaluate withdrawals from an aquifer as compared with recharge to the aquifer. Observation well data showing a steady, continual decline of the aquifer's water level or artesian pressure could indicate that withdrawals from an aquifer were exceeding recharge. In addition, water level fluctuations in an aquifer dominated by the influences of well withdrawals, or a change in the configuration of the potentiometric surface could indicate that well withdrawals are a significant component in the system relative to recharge and/or natural discharge. Examination of the observation well data to consider long term water level trends, any influences of well withdrawals and the configuration of the potentiometric surface of the aquifer are discussed below.

Observation well water level trends:

A rising water level in an aquifer indicates that recharge to the aquifer exceeds withdrawals from the aquifer and conversely a declining water level is indicative of withdrawals exceeding recharge. An equation for this relationship is:

$$\Delta S = R - D$$

Where: ΔS = change in the volume of water in storage in the aquifer

R= Recharge

D= Discharge

The observation well data for the Tulare: East James aquifer has documented upward trending water levels throughout the aquifer. The average slope of linear trend lines for observation well hydrographs over each well's period of record has been +0.000726 feet per day (+0.265 feet per year). The period of record extends back to 1967 for six observation wells and back to 1963 for two observation wells. With the exception of SP-82A and SP-82B which were installed in 1982, all of the observation wells have records from 1980 to present. The average slope of linear trend lines for observation well hydrographs for the 32 wells with records from 1980-2012 is +0.0008844 feet per day (+0.323 feet per year). The upward trending water levels indicate recharge to the Tulare: East James aquifer has likely been greater than the total of the discharges from the aquifer over the period of record.

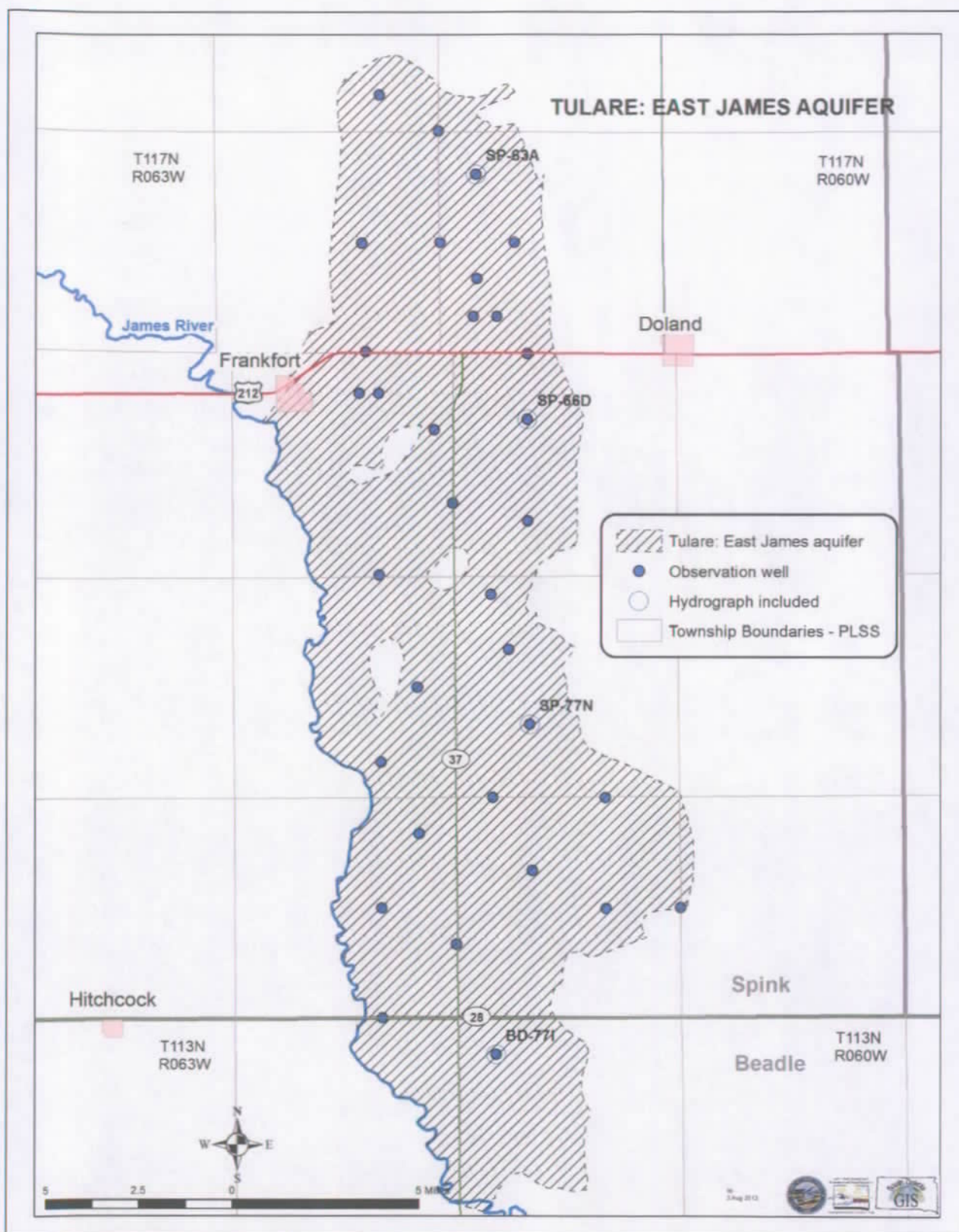


Figure 1. Location of the Tulare: East James aquifer

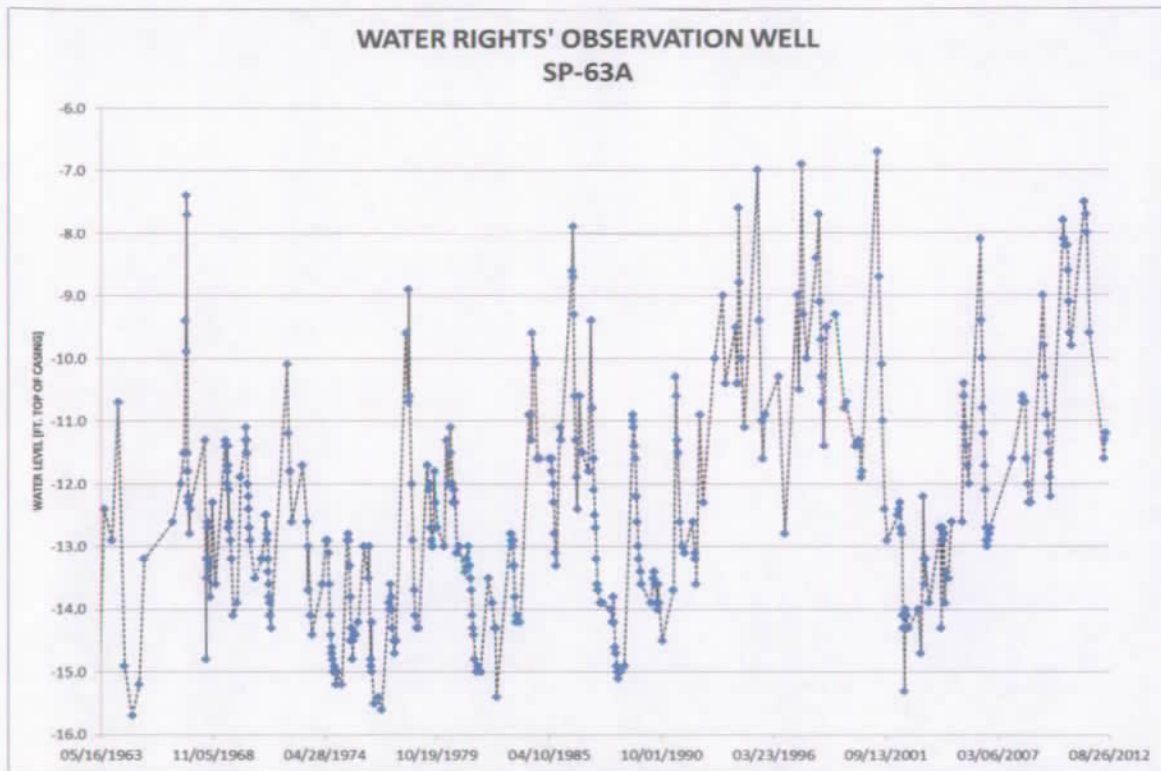


Figure 2. Hydrograph of DENR-Water Rights' observation well SP-63A. (see Figure 1 for location)

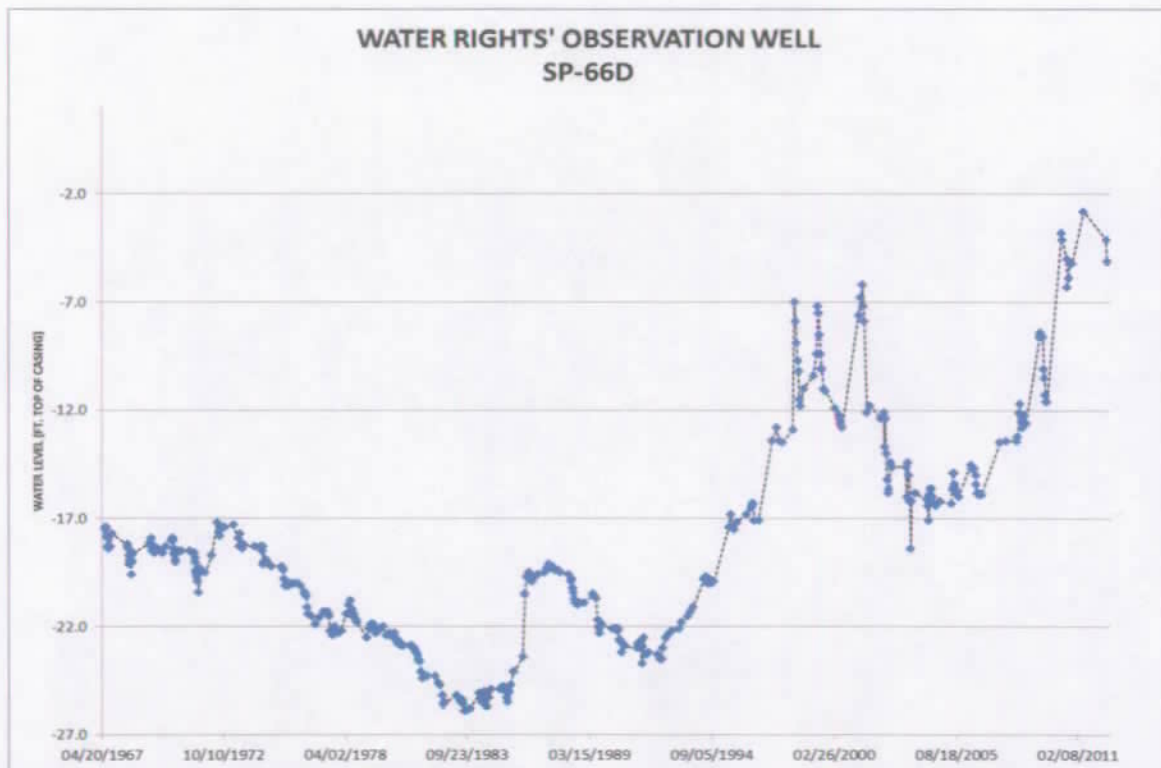


Figure 3. Hydrograph of DENR-Water Rights' observation well SP-66D (see Figure 1 for location)

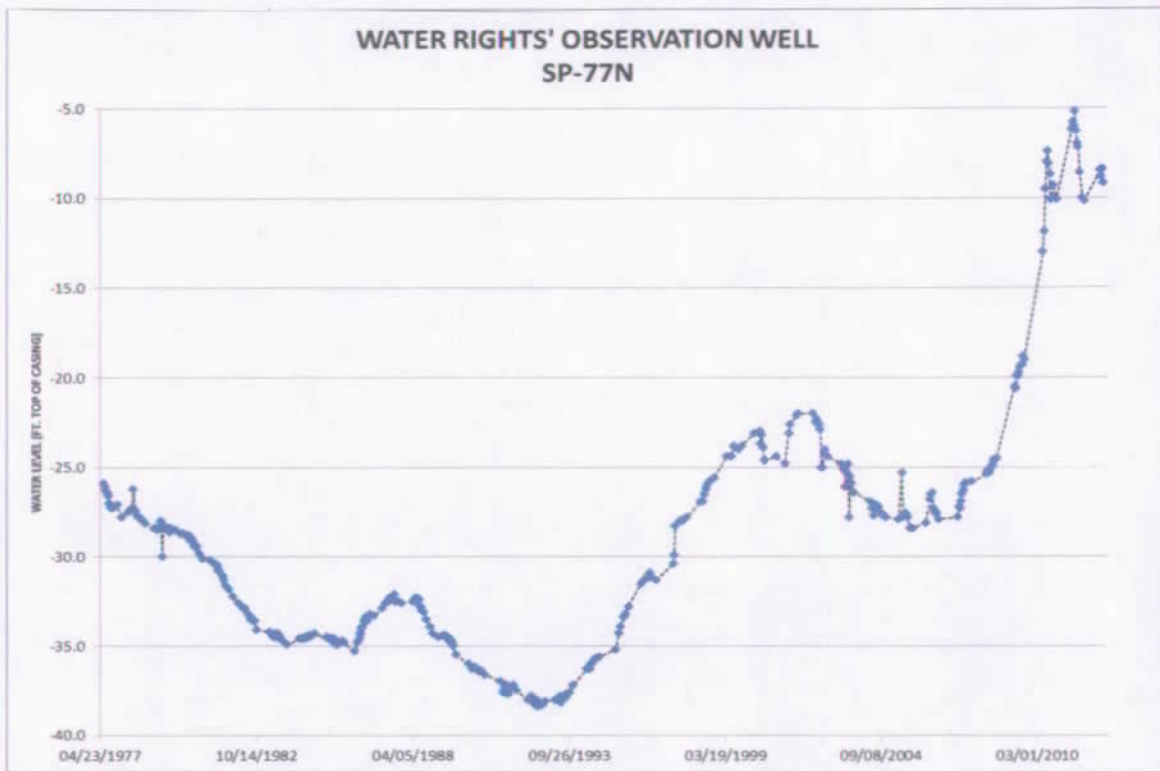


Figure 4. Hydrograph of DENR-Water Rights' observation well SP-77N (see Figure 1 for location)

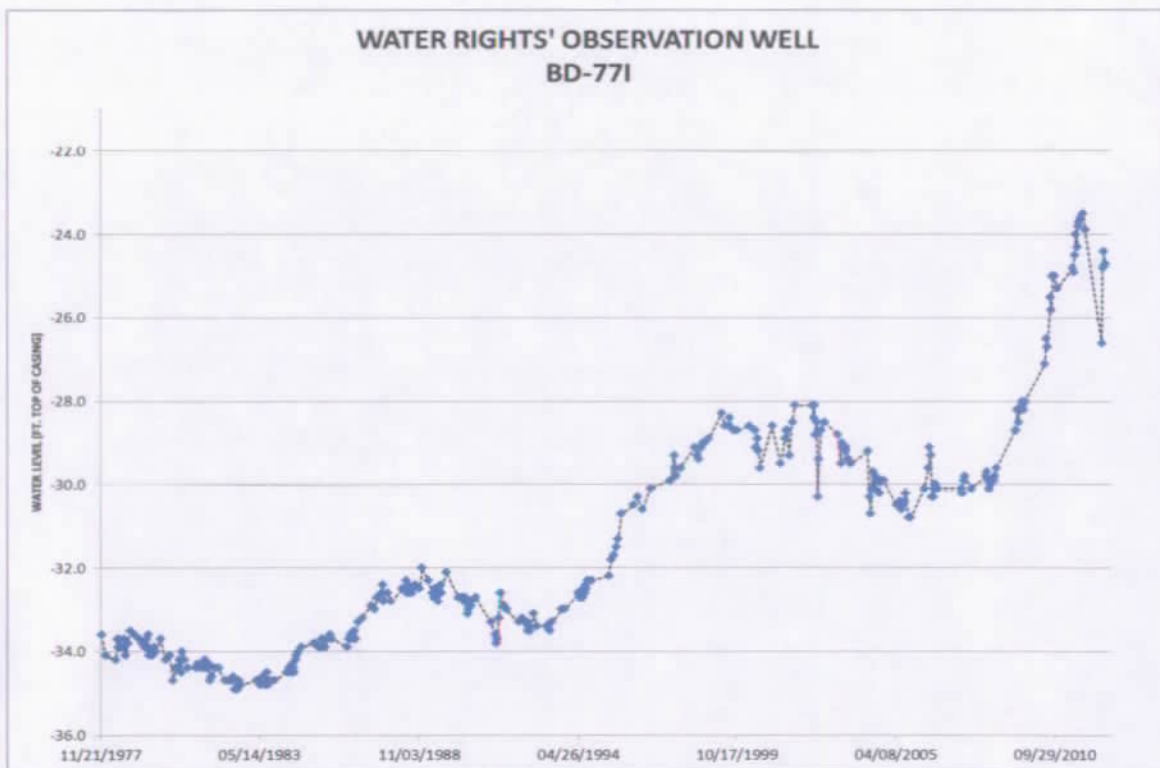


Figure 5. Hydrograph of DENR-Water Rights' observation well BD-77I (see Figure 1 for location)

An analysis of observation well hydrographs was used to quantify the change in volume of water in storage in the aquifer. The analysis involved identifying observation wells completed into the unconfined portion of the Tulare: East James aquifer and determining the change of the water level in each well for every year. The amount of water represented by a change in water level was determined by multiplying the water level change by the aquifer's specific yield (0.15) (Kuiper, 1984). The average change in storage was applied over the portion of the aquifer that is under unconfined conditions to determine the volume in acre-feet per year of the change in storage.

This analysis is restricted to observation wells completed into an area where the aquifer is under unconfined conditions. The hydrograph shown in Figure 6, for an observation well that is completed in a portion of the Tulare: East James aquifer that was under unconfined conditions from 1977-2009 but became confined in 2009 when the water level was -22.1 feet from the top of the casing. The hydrograph shows fairly well the difference between changes in the amount of water in storage in the aquifer (pre-2009) and changes of the "pressure" of the aquifer (post-2009).

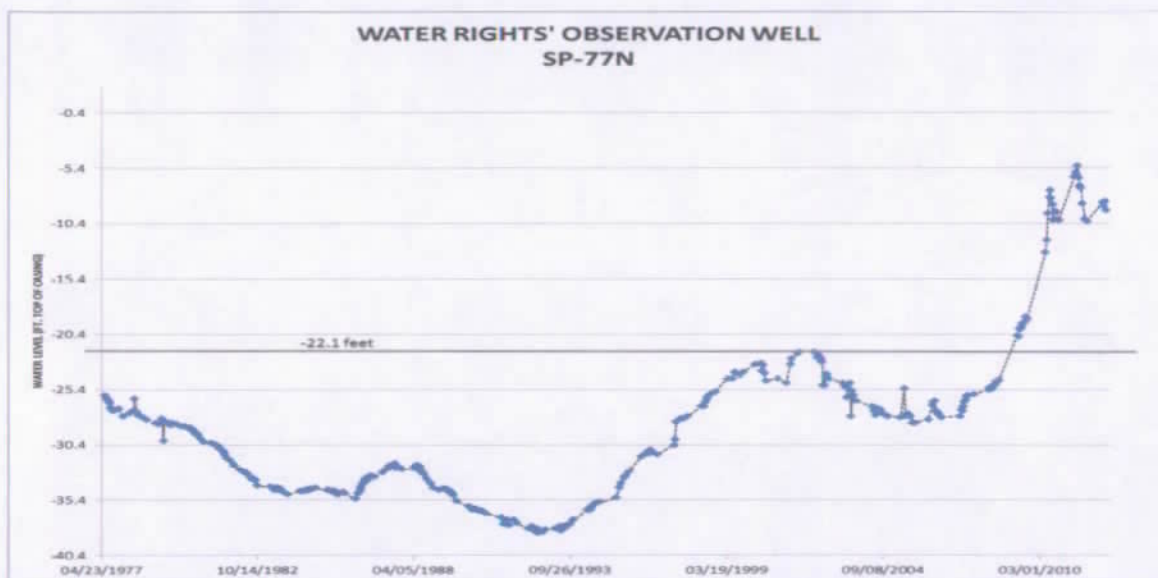


Figure 6. Hydrograph showing the difference between an unconfined aquifer and a confined aquifer.

Seven DENR-Water Rights' observation wells were used to analyze the Tulare: East James aquifer. These wells were chosen because they were in portions of the aquifer that remained unconfined for their entire period of record and the wells were determined to accurately reflect aquifer conditions. Although three of these observation wells have data older than 1980, the time period used for analysis was 1980-2011 to maximize the record-years of data. The results of the analysis are shown in Table 1.

WATER YEAR	ANNUAL WATER LEVEL CHANGE (ft) per OBSERVATION WELL							AVERAGE (ft/yr)
	SP-77J	SP-77P	SP-79G	SP-79H	SP-79K	SP-79O	SP-80K	
1980	-0.4	-0.3	-2.0	-0.8	-0.5	-0.1	-0.8	-0.7
1981	-0.9	-0.4	-1.3	-1.0	-0.3	-0.2	-0.9	-0.7
1982	-0.9	-0.4	0.7	-0.4	-0.3	0.3	-1.4	-0.3
1983	-0.5	0.0	0.6	-0.4	0.0	0.2	-0.9	-0.1
1984	0.6	0.6	1.4	0.7	0.7	0.8	-0.2	0.7
1985	0.7	0.1	0.0	0.3	0.0	-0.5	-0.2	0.1
1986	1.4	0.5	1.9	1.6	1.0	1.0	1.1	1.2
1987	0.5	0.2	-0.5	0.1	-0.4	-0.7	0.5	0.0
1988	-0.6	-0.1	-1.8	-0.6	-0.2	-0.2	-0.1	-0.5
1989	-1.0	-0.2	-0.4	-0.7	-0.2	0.0	-1.4	-0.6
1990	-0.9	-0.4	-0.4	-0.4	-0.4	-0.3	-1.2	-0.6
1991	-0.4	-0.2	0.5	-0.1	-0.1	0.1	-0.6	-0.1
1992	-0.5	-0.4	-0.1	-0.2	-0.1	-0.2	0.1	-0.2
1993	0.6	0.3	2.0	0.6	0.5	1.3	1.5	1.0
1994	0.4	0.4	1.2	1.3	0.4	-0.3	-0.3	0.4
1995	1.6	1.8	1.5	1.6	2.3	1.1	1.4	1.6
1996	1.0	1.0	-0.6	0.4	-0.4	-0.5	0.5	0.2
1997	1.9	1.5	2.8	2.2	2.0	1.1	2.2	2.0
1998	1.9	0.9	-0.4	0.9	0.1	-0.8	1.5	0.6
1999	1.9	0.5	0.0	0.9	0.2	-0.3	0.6	0.5
2000	-1.0	-1.2	-1.7	-0.1	-0.5	-2.2	-0.4	-1.0
2001	1.8	2.3	1.7	1.5	1.9	2.5	1.0	1.8
2002	-1.3	-0.1	-1.8	-0.8	-1.0	-1.1	-0.6	-1.0
2003	-0.9	-0.8	-1.9	-1.5	-0.8	-0.2	-0.4	-0.9
2004	-0.8	-0.8	0.1	-0.9	-0.6	-0.2	-0.3	-0.5
2005	-0.4	-0.5	-0.2	-0.9	-0.2	0.1	-0.5	-0.4
2006	-0.4	0.5	0.4	1.1	0.4	0.1	-0.2	0.3
2007	0.4	0.3	1.6	1.5	0.9	0.8	0.9	0.9
2008	0.2	0.2	0.3	0.6	-0.3	-0.3	0.5	0.2
2009	1.0	1.5	2.6	1.8	1.2	0.5	0.5	1.3
2010	2.6	3.8	2.6	5.0	4.4	1.5	2.0	3.1
2011	3.4	2.3	1.5	1.9	1.0	-0.1	1.4	1.6
<i>AVE</i>	<i>0.34</i>	<i>0.40</i>	<i>0.32</i>	<i>0.48</i>	<i>0.33</i>	<i>0.10</i>	<i>0.17</i>	<i>0.31</i>

Table 1. Water Level change per year per observation well

The average annual water level change for the seven observation wells for the period of 1980-2011 is +0.31 feet. Therefore, the water level for the unconfined portion of the aquifer increased an average of 0.31 feet per year from 1980-2011.

The areal extent of the Tulare: East James aquifer that has remained unconfined throughout the entire period of record was delineated by examining the logs of test holes ("Lithologic Logs Database"), domestic and irrigation wells (Water Rights, 2012b; Water Rights, 2012c) and observation wells (Water Rights, 2012a) as compared to a September 2011 potentiometric surface derived from DENR-Water Rights Observation Well Network. Approximately 22,477 acres were determined to be under unconfined conditions in September 2011.

Since 22,477 acres of the aquifer had an average annual water level rise of 0.31 feet, assuming a specific yield of 0.15, the annual change in volume of:

$$(22,477 \text{ acres} \times 0.31 \text{ feet} \times 0.15) = 1,045 \text{ acre feet}$$

Therefore the observation well data indicates that the annual recharge to the aquifer exceeded discharge from the aquifer by an average of 1,045 acre-feet per year for the period of 1980-2011.

Water level fluctuations due to well withdrawals:

Observation well data documents that the development that has occurred from the Tulare: East James aquifer has had an inconsequential effect on the aquifer over the long term. Figure 7 is a hydrograph for DENR-Water Rights Program observation well SP-66C. The water level record for this well extends back to June 9, 1967; a time span that includes most of the period of irrigation development from the aquifer. The observation well is located a short distance from several high capacity irrigation wells and the drawdown from the irrigation withdrawals is obvious. However, over the period of record of the hydrograph, the number of appropriations from the Tulare: East James aquifer increased from 25 to 113 and the number of acres authorized for irrigation increased from 4,210 to 15,571. The increased development is not apparent in the hydrograph.

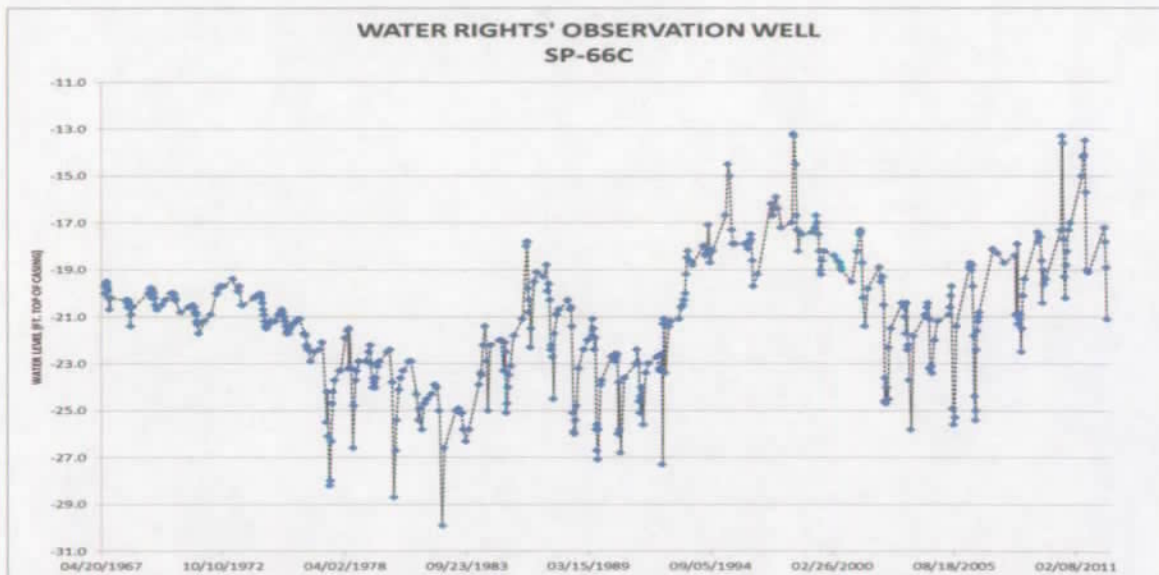


Figure 7. DENR-Water Rights' Observation well completed into the Tulare: East James aquifer, located near irrigation development

All of the observation well data shows that at the current level of development, climatic conditions greatly mask any temporal effects of well withdrawals. Therefore, the data shows that the combined recharge to and natural discharge from the Tulare: East James aquifer significantly exceeds long term well withdrawals.

Potentiometric Surface:

The potentiometric surface of the Tulare: East James aquifer was determined for two time periods based on the observation well measurements for September 1980 and for September 2011. A map showing the two potentiometric surfaces is shown in Figure 8.

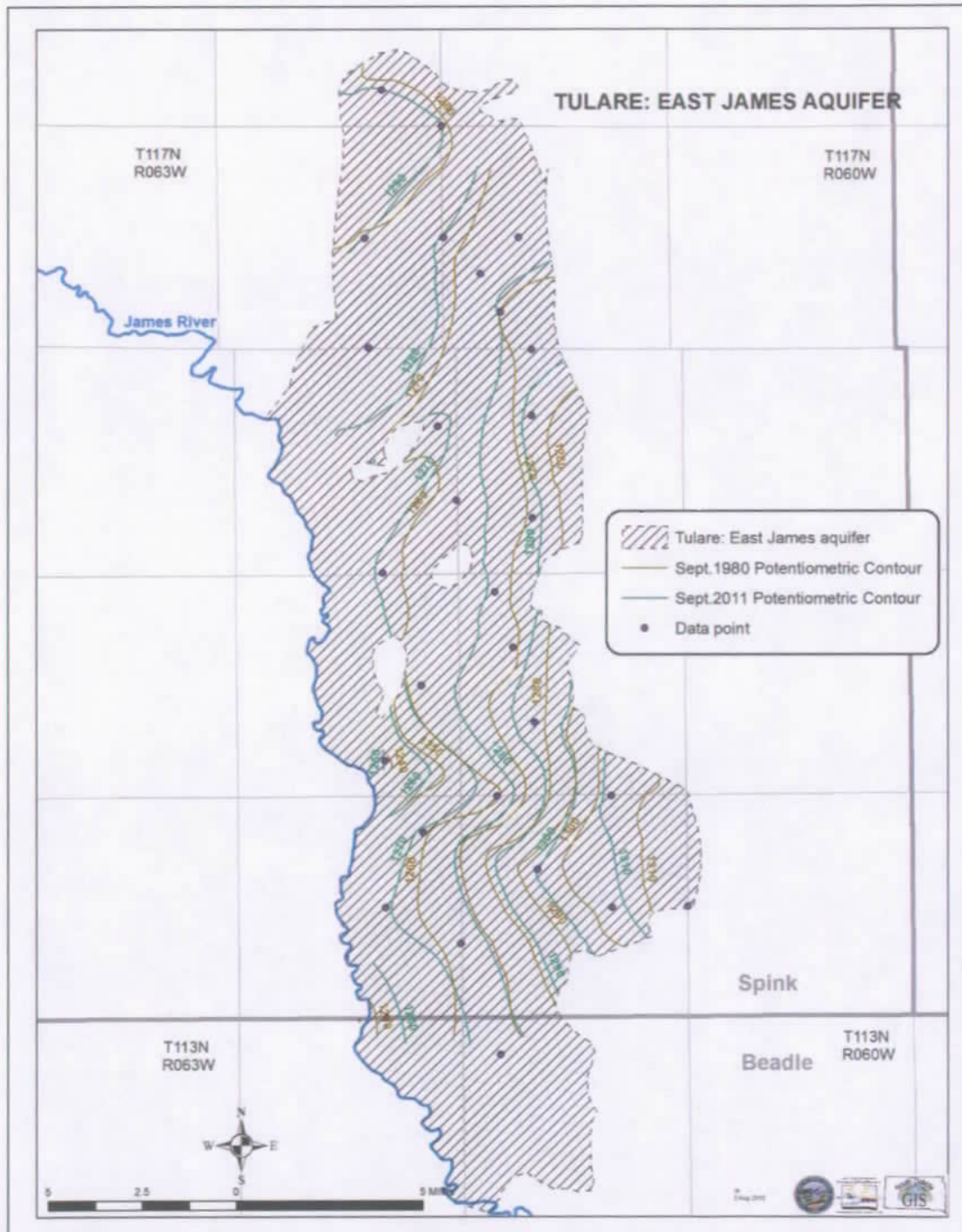


Figure 8. Comparison of the potentiometric surface of the Tulare: East James aquifer (September 1980 to September 2011)

Although the September 1980 water levels were generally lower than the September 2011 water levels, the configuration of the potentiometric surface has not changed significantly over time. It is clear that the amount of water in transient storage in the aquifer has not been significantly affected by increased appropriations and well withdrawals from the aquifer. The stress on the aquifer over time with increased appropriations is not evident in the records of water levels, therefore recharge to the aquifer and natural discharges from the aquifer significantly exceed well withdrawals.

HYDROLOGIC BUDGET:

SDCL 46-6-3.1 and the availability of unappropriated water from the Tulare: East James aquifer can be evaluated by considering a hydrologic budget for the aquifer which compares the recharge to and discharge from the aquifer.

Recharge:

Recharge to the Tulare: East James aquifer is primarily through infiltration of precipitation where the aquifer is at or near the surface. Timber Creek and some of its tributaries have incised into the Tulare: East James aquifer and streamflow provides recharge to the aquifer especially in the northern portion of the aquifer (Goodman, 1984). In addition, "...leakage through ruptured well casings or infiltration of uncontrolled discharge from flowing wells completed in bedrock may recharge aquifers in the glacial deposits" (Hamilton and Howells, 1996).

Recharge Estimates:

Previous Estimates:

Recharge to the Tulare: East James aquifer was estimated by Hedges and others (1985) using an observation well analysis to be 2.5 inches per year for the unconfined portion of the aquifer. Hedges and others (1985) used a regional flow-net analysis to estimate a recharge rate of 0.72 inches per year for the unconfined portion of the aquifer and 0.30 inches per year for the confined portion of the Tulare: East James aquifer. Average annual recharge to the Tulare: East James aquifer was also estimated by Kuiper (1984), using a digital groundwater model to be 0.38-1.52 inches per year with a "best fit" of 0.76 inches per year.

In the past the Water Management Board has accepted 0.76 inches per year as the best available recharge rate estimate, an areal extent equal to 125,600 acres and an average annual recharge volume of 7,950 acre-feet per year for the Tulare: East James aquifer (Water Management Board Findings dated 26 October, 2006 (Paragraph 8)). Assuming an areal extent of the aquifer 123,578 acres (see Figure 1), the average annual recharge to the Tulare: East James aquifer 7,827 acre-feet per year.

Regional Flow Net Analysis:

The recharge potential of the Tulare: East James aquifer was evaluated by interpreting a regional flow net analysis based on the September 2011 water level data from the DENR-Water Rights' Observation Well Network. A flow net analysis is a calculation of the amount of water flowing through the aquifer according to the equation:

$$Q = TIL$$

Where:

Q = flow in gallons per day

T= Transmissivity in gallons per day per foot
I= Hydraulic gradient in feet per mile
L= Cross sectional length in miles

The average hydraulic conductivity for the Tulare: East James aquifer was estimated based on the specific capacities of the 12 irrigation wells completed into the aquifer for which the data to allow these calculations was available (Water Rights, 2012b; Water Rights, 2012c). Transmissivity was calculated at each well using the wells' specific capacity ("Transmissivity from Specific Capacity"), and the transmissivity was divided by the aquifer thickness at the well. The average hydraulic conductivity was calculated to be 1,512.9 gallons per day per square foot (gpd/ft²). The average transmissivity of the Tulare: East James aquifer of a cross section through which all of the flow of the aquifer must flow was determined by multiplying the average thickness of the cross section (38.4 feet) times the average hydraulic conductivity for the aquifer (1,512.9 gallons per day per square foot) to be 58,095 gallons per day per foot.

The hydraulic gradient for the Tulare: East James aquifer was estimated to average 7.5 feet per mile based on data from the DENR-Water Rights' Observation Well Network.

The cross section length of the Tulare: East James aquifer was determined to be approximately 17 miles based on the current aquifer delineation.

The amount of water moving through the Tulare: East James aquifer is estimated as follows:

$$\begin{aligned} Q &= ((58,095 \text{ gpd/ft}) \times (7.5 \text{ ft/mile}) \times (17 \text{ miles})) / (325,851 \text{ gallons/ac-ft}) \\ &= 22.7 \text{ ac-ft/day} \\ &= \underline{8,285 \text{ ac-ft/yr}} \end{aligned}$$

In order to sustain this estimated volume of groundwater moving through the aquifer, the recharge rate in inches per acre per year based on an area of the aquifer of 123,578 acres would be 0.80 inches. This recharge rate cannot be considered "average annual recharge" since it used only 2011 data; however the estimate does show the reasonableness of the average annual recharge estimate from Kuiper (1984).

Discharge:

Discharge from the Tulare: East James aquifer is both natural (i.e. evapotranspiration and discharge to the James River) and through well withdrawals.

Well withdrawals:

Well withdrawals from the Tulare: East James aquifer occur through domestic use which does not requiring a water permit or right and uses from appropriative rights/permits.

Domestic water use:

There are 55 domestic water supply wells on file with the DENR-Water Rights (Water Rights, 2012c) that appear to be completed into the Tulare: East James aquifer. The volume of water used by these wells was estimated based on the average rural use for Mid Dakota RWS (i.e. 7,000 gallons per tap per month), (SD-Department of Environment and Natural Resources, 2012) to be approximately 14 acre-feet per year.

Appropriative water use

All of the water rights/permits appropriating water from the Tulare: East James aquifers are for irrigation use. The history of the development of irrigation in the Tulare: East James aquifer can be seen in Figures 9 and 10.

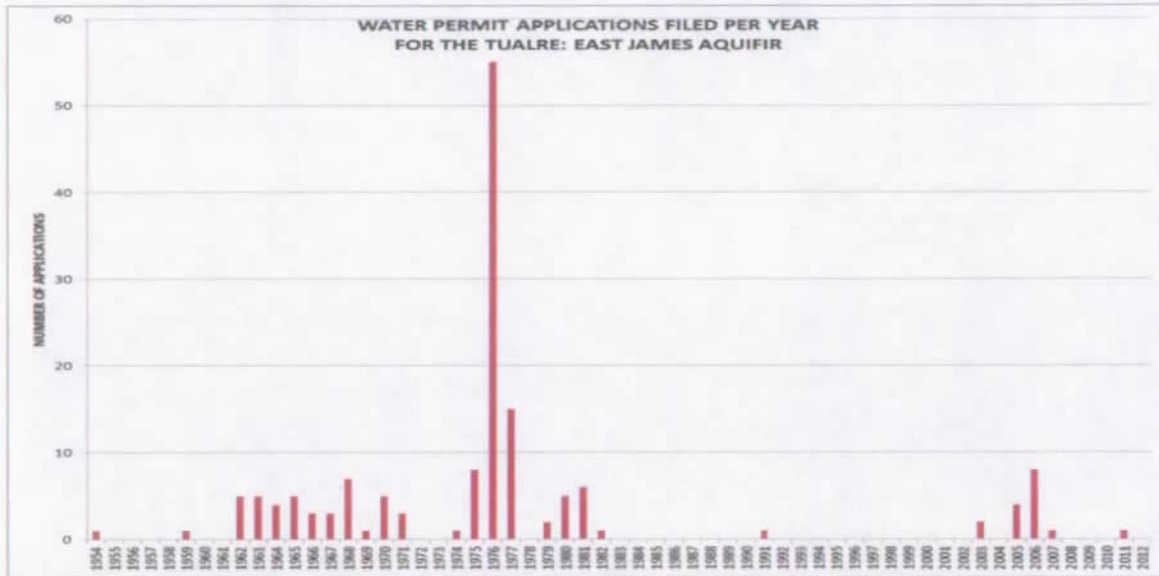


Figure 9. Water permit applications filed per year for the Tulare: East James aquifer

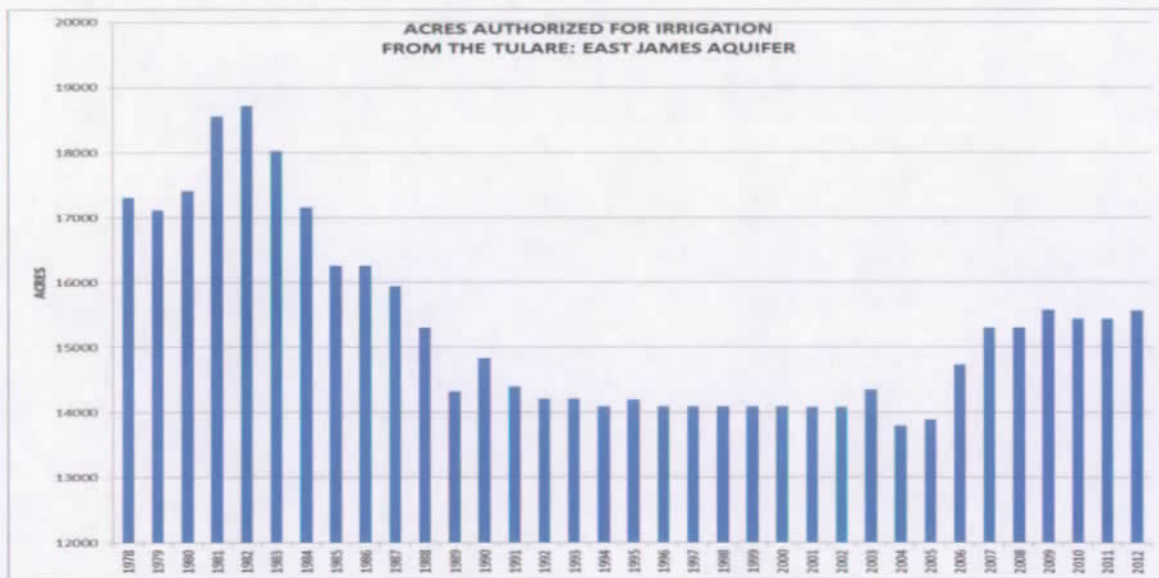


Figure 10. Acres authorized for Irrigation from the Tulare: East James aquifer

Examination of Figures 9 and 10 show that for practical purposes, irrigation development was essentially complete by 1979 or 1980. The number of appropriations and amount of water reported pumped from the aquifer (see Table 2) also suggest that the Tulare: East James aquifer should be considered fully developed as of about 1979 or 1980.

YEAR	NO. PERMITS	APPROPRIATION (acre-feet/year)	PUMPED (acre-feet/year)
1979	81	46,062.00	5,321.00
1980	82	46,326.00	7,348.00
1981	92	48,404.00	12,935.00
1982	80	44,931.30	6,873.68
1983	82	45,395.60	5,951.32
1984	81	42,131.20	4,236.80
1985	79	41,777.20	4,251.00
1986	80	41,741.20	4,940.00
1987	76	39,978.20	8,481.00
1988	75	41,043.20	11,106.20
1989	76	40,971.20	11,281.50
1990	75	40,716.20	6,928.00
1991	76	40,772.20	7,890.10
1992	76	40,220.20	3,224.40
1993	75	40,164.20	1,089.00
1994	76	40,510.35	3,897.29
1995	75	40,498.20	2,932.31
1996	75	40,498.20	7,389.13
1997	75	40,498.20	2,676.00
1998	75	40,498.20	3,475.85
1999	75	40,498.20	5,011.51
2000	75	40,498.20	7,690.37
2001	77	41,324.20	10,287.41
2002	78	42,020.20	13,668.09
2003	75	39,811.20	11,864.48
2004	77	39,288.20	7,372.58
2005	79	39,322.20	8,491.16
2006	84	40,986.20	11,746.21
2007	86	41,498.20	7,204.13
2008	85	40,974.20	3,900.71
2009	87	41,510.20	3,908.42
2010	88	41,246.20	2,414.41
2011	87	40,766.20	4,675.06
<i>MAX</i>	92	48,404.00	13,668.09
<i>MIN</i>	75	39,288.20	1,089.00
<i>AVE</i>	79.24	41,602.44	6,680.67

Table 2. Irrigation water use statistics for the Tulare: East James aquifer (Water Rights, 1980-2012)

The total well withdrawal from the aquifer including domestic use is expected to average less than 6,700 acre-feet/year. This total withdrawal from the Tulare: East James aquifer due to pumping is around 0.98% of the estimated recoverable water in storage in the aquifer (6,700 acre-feet pumped per year versus 685,857 acre-feet of recoverable water in storage).

A comparison of the estimated average well withdrawals from the Tulare: East James aquifer (6,700 acre-feet/year) with the estimated average annual recharge rate for the aquifer (7,827 acre-feet/year) shows that approximately 1,127 acre-feet of unappropriated water is available from the Tulare: East James aquifer.

In the past, the Water Management Board has considered the number of additional acres that can be permitted for irrigation given a volume of unappropriated water, as a function of the average irrigation application rate (i.e. inches of water applied per acre) for the aquifer.

The average annual application rate calculated from the total volume of water reported pumped and the total acres reported irrigated for the Tulare: East James aquifer for the period of 1979-2011 is 7.68 inches per year (see Table 3).

Year	Acres Permitted	Acres Irrigated	Irrigated/Permitted Percentage	Total Permits Reporting	Permits Pumping Water	Total Pumped (ac-ft)	Average Application Rate (in/ac/yr)
1979	17113.7	9231	53.94	84	56	5388.25	7.00
1980	17412.7	*	*	*	*	*	*
1981	18561.7	*	*	*	*	*	*
1982	18721.7	*	*	*	*	*	*
1983	18030.7	8441.5	46.82	87	55	6208.44	8.83
1984	17158.7	9032	52.64	87	58	4828.48	6.42
1985	16264.7	8863	54.49	83	56	4638.54	6.28
1986	16264.7	9123	56.09	80	63	5065.92	6.66
1987	15944.7	9385	58.86	77	62	8565.77	10.95
1988	15304.7	10023.5	65.49	76	68	11294.18	13.52
1989	14325	10317.8	72.03	76	59	11491.67	13.37
1990	14835	8969	60.46	75	50	6958.00	9.31
1991	14399	9612.6	66.76	77	60	7797.19	9.73
1992	14215	10717.8	75.40	77	64	3328.84	3.73
1993	14215	5614	39.49	77	34	1122.85	2.40
1994	14095	8113	57.56	67	49	3888.01	5.75
1995	14195	6118	43.10	67	31	2302.63	4.52
1996	14095	10059	71.37	67	59	7180.73	8.57
1997	14095	6885	48.85	67	40	2664.00	4.64
1998	14095	8321.8	59.04	67	51	3473.86	5.01
1999	14095	9610.8	68.19	67	58	4949.86	6.18
2000	14089	10274	72.92	68	62	7524.65	8.79
2001	14087	9984	70.87	69	61	9593.02	11.53
2002	14087	10760.8	76.39	71	62	12767.30	14.24
2003	14351	11684.8	81.42	75	66	11448.20	11.76
2004	13796	11999	86.97	75	71	7168.92	7.17
2005	13887	12083.4	87.01	82	67	8379.21	8.32
2006	14731	12718.8	86.34	86	72	11487.25	10.84
2007	15307	11518.4	75.25	83	66	7116.63	7.41
2008	15307	13533	88.41	84	73	3900.71	3.46
2009	15575	11547.3	74.14	87	63	3908.42	4.06
2010	15443	8161.2	52.85	88	46	2379.06	3.50
2011	15443	8789	56.91	87	49	4675.06	6.38
2012*	15571*						
MAX	18721.70	13533.00	88.41	88.00	73.00	12767.30	14.24
MIN	13796.00	5614.00	39.49	67.00	31.00	1122.85	2.40
AVE	15258.79	9716.38	65.34	77.10	57.70	6383.19	7.68

Table 3. Irrigation development from the Tulare: East James aquifer (*data not available), ((modified from Mathiowetz, 2012a)

The analysis of observation well data indicates that the recharge to the Tulare: East James aquifer exceeded the withdrawals from the aquifer by an average of 1,045 acre feet per year from 1980-2011. A comparison of the estimated average annual recharge to the aquifer with the estimated average annual well withdrawals from the aquifer from 1979-2011 shows that 1,127 acre-feet of unappropriated water is available from the Tulare: East James aquifer. Assuming an average irrigation application rate of 7.68 inches per year, an average of 1,633 additional acres could have been irrigated based on the observation well analysis and an average of 1,761 additional acres could have been irrigated based on estimated average annual recharge.

EXISTING WATER RIGHTS:

There have been a total of 164 applications to appropriate water from the Tulare: East James aquifer. The status of the applications is shown in Table 4.

STATUS	NUMBER OF APPLICATIONS
LICENSED	69
PERMITTED	24
INCORPORATED	27
CANCELLED	29
DENIED	9
WITHDRAWN	6

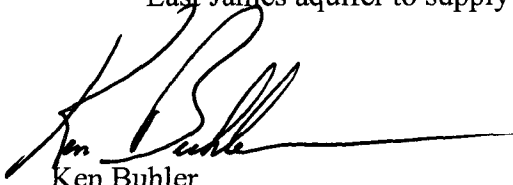
Table 4. Status of water permit applications from the Tulare: East James aquifer

Development from the Tulare: East James aquifer dates back to the mid 1950's and there are currently at least 137 irrigation wells producing from the aquifer. Well interference has never been an issue from the aquifer and it is likely that additional irrigation wells could be completed without unlawfully impairing existing water rights.

CONCLUSIONS:

1. The Tulare: East James aquifer is an extensive, primarily buried, generally confined glacial outwash aquifer.
2. The best information currently available indicates that the Tulare: East James aquifer underlies approximately 123,578 acres of Spink and Beadle Counties.
3. The best information currently available identifies an average annual recharge rate to the Tulare: East James aquifer as approximately 0.76 inches per year.
4. The volume of average annual recharge to the Tulare: East James aquifer based on an area of 123,578 acres and a recharge rate of 0.76 inches per year is approximately 7,827 acre-feet per year.
5. The average annual well withdrawal from the Tulare: East James aquifer is from 1979-2011 estimated to be 6,700 acre-feet per year.
6. The SD DENR-Water Rights Program observation well data documents that over the period of record the potentiometric surface of the Tulare: East James aquifer has averaged an upward trend.
7. The SD DENR-Water Rights Program observation well data documents that well withdrawals from the Tulare: East James aquifer have not had a long term effect on the amount of water in storage in the aquifer.
8. The SD DENR-Water Rights Program observation well data documents that the configuration of the potentiometric surface of the Tulare: East James aquifer has not changed significantly with time or increased development.

9. The SD DENR-Water Rights Program observation well data documents that recharge to the Tulare: East James aquifer has exceeded the discharge from the aquifer by an average of 1,045 acre-feet per year.
10. The average annual irrigation application rate for the Tulare: East James aquifer from 1979-2011 has been 7.68 inches per year.
11. Assuming an average application rate of 7.68 inches per year, an average of 1,761 additional acres could have been irrigated based on a comparison of average annual recharge and average annual well withdrawals
12. Assuming an average application rate of 7.68 inches per year, an average of 1,633 additional acres could have been irrigated based on the observation well analysis of the aquifer.
13. Well interference has never been a problem from the Tulare: East James aquifer and there is a reasonable probability that additional irrigation wells could be completed into the aquifer without adversely impacting existing users.
14. Water permit application Nos. 7295-3, 7316-3, 7348-3, 7364-3, 7365-3, 7366-3, 7367-3, 7368-3, 7369-3, 7370-3 propose to appropriate water to irrigate 1759 acres from the Tulare: East James aquifer.
15. There is a reasonable probability that unappropriated water is available from the Tulare: East James aquifer to supply water for these appropriations.



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Goodman, J.A., 1984, Report on Applications No. 5009-3 Duane Muxen, No. 3178A-3 M.J.T. Inc., and No. 2235A-3 Gary D. Wipf, DENR-Water Rights Program unpublished report in Water Permit Application File No. 5009-3
- Hamilton L.J., and Howells, L.W., 1996, Water Resources of Spink county, South Dakota, U.S. Geological Survey Water-Resources Investigations Report 96-4056, 68 p.
- Hines v. South Dakota Dept. of Environ. and Nat'l. Resources, Hughes County 04-37 (Memorandum Decision, April 29, 2005)
- Kuiper, L.K. 1984, Appraisal of the Water Resources of The Eastern Part of the Tulare Aquifer, Beadle, hand, and Spink Counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 84-4078, 52 p.
- Mathiowetz, A.W. 2012. Unpublished data. Pierre, SD.: South Dakota Department of Environment and Natural Resources Water Rights Programs.

SD-Department of Environment and Natural Resources, 2012, 2011 Regional Water Rate Survey, SD-DENR, Joe Foss Bldg. Pierre, SD

“Transmissivity from Specific Capacity.” Aquifer Test Forum sponsored by HydroSOLVE, Inc.
1 August.2012< <http://www.aqtesolv.com/forum/transcap.asp>

Water Permit Application Nos. 6711-3, 6713-3, 6715-3 and 6728-3 (Water Management Board Findings of Fact, Conclusions of Law and Final Decision issued 26 October, 2006)

Water Rights, 1980-2012a, Irrigation Questionnaires 1980-2011, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 1980-2012b, “Annual Irrigation Summary by Aquifer”: SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD

Water Rights, 2012a, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2012b, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2012c, Well Completion Report Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JAN 25 2013

William St Clair
37644 184th St
Tulare SD 57476

Dear Mr. St Clair:

Enclosed is Water Permit No. 7295-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

The water permit will be subject to cancellation if necessary works are not constructed within the five year period listed under Item No. 5 of the permit (December 6, 2017). In addition, water rights law provides that if one fifth (1/5) of the works authorized by this permit are not completed within 2 1/2 years of approval of the permit, the Water Management Board may accept and approve an application for the use of any water included in this water permit and the right to use the water under this permit be subject to cancellation for forfeiture. Since the Tulare:East James Aquifer is deemed fully appropriated by DENR, one fifth of construction will need to be completed by June 6, 2015 or the permit maybe subject to cancellation for forfeiture before the Board.

A 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 information 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

7295-3

RECEIVED

AUG - 5 2013

WATER RIGHTS
PROGRAM

8/1/2013

DENR
PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SD. 57501-3182

RE: REQUEST FOR MOVING THE DIVERSION POINT FOR WATER PERMIT 7295-3.

DEAR SIR,

ENCOUNTERED IN OUR ATTEMPT TO COMPLETE THIS IRRIGATION PROJECT WE STARTED WITH A PROMISING TEST HOLE IN THE MIDDLE OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 30-117-61. IT WAS DRILLED TO A DEPTH OF 60 FEET WHERE THE ACQUIFER ENDED.

THE DRILLERS REPORT LOOKED DECEPTIVELY GOOD. A PRODUCTION WELL WAS DRILLED IN THE MIDDLE OF JULY. PREVIOUSLY A CENTER PIVOT MACHINE WAS ERECTED, UNDERGROUND CABLE DITCHED IN, AND A 800 GPM SUBMERSIBLE PUMP INSTALLED, THE COMPLETED SYSTEM WAS ACTIVATED WITH THE HOPE FOR AN 800 GPM OUTPUT, IN REALITY IT WAS 500 GPM, THEN 400 GPM, NOW MAYBE 300 GPM

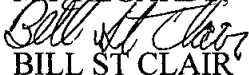
MY REQUEST OF 7/26/2013 HAS ALL BUT BECOME A MOOT POINT. FURTHER TEST WORK, AND ANOTHER PRODUCTION WELL INSTALLED IN THE NORTHEAST CORNER OF THE $\frac{1}{4}$ HAS RESULTED IN AN EXCELLENT WELL THAT WILL PRODUCE 800 GPM. PUMPING WITH A LIFT OF ONLY 35 FEET TO GROUND SURFACE.

WE INTEND TO PULL THE WELL CASING IN THE MIDDLE OF THE $\frac{1}{4}$ AND RETRIEVE THE 35 FEET OF JOHNSON STAINLESS WELL SCREEN, AND BACKFILL THE DRILL HOLE ACCORDING TO CODE

THIS NEW REQUEST NOW IS FOR THE MOVING OF THE DIVERSION POINT TO THE NORTH EAST CORNER OF THE NORTH WEST $\frac{1}{4}$ OF SECTION 30-117-61.

MAP ENCLOSED

MY REGARDS,


BILL ST CLAIR

37644 184TH ST.

TULARE, SD 57476

605-450-000

E-MAIL wllm_stclr@yahoo.com

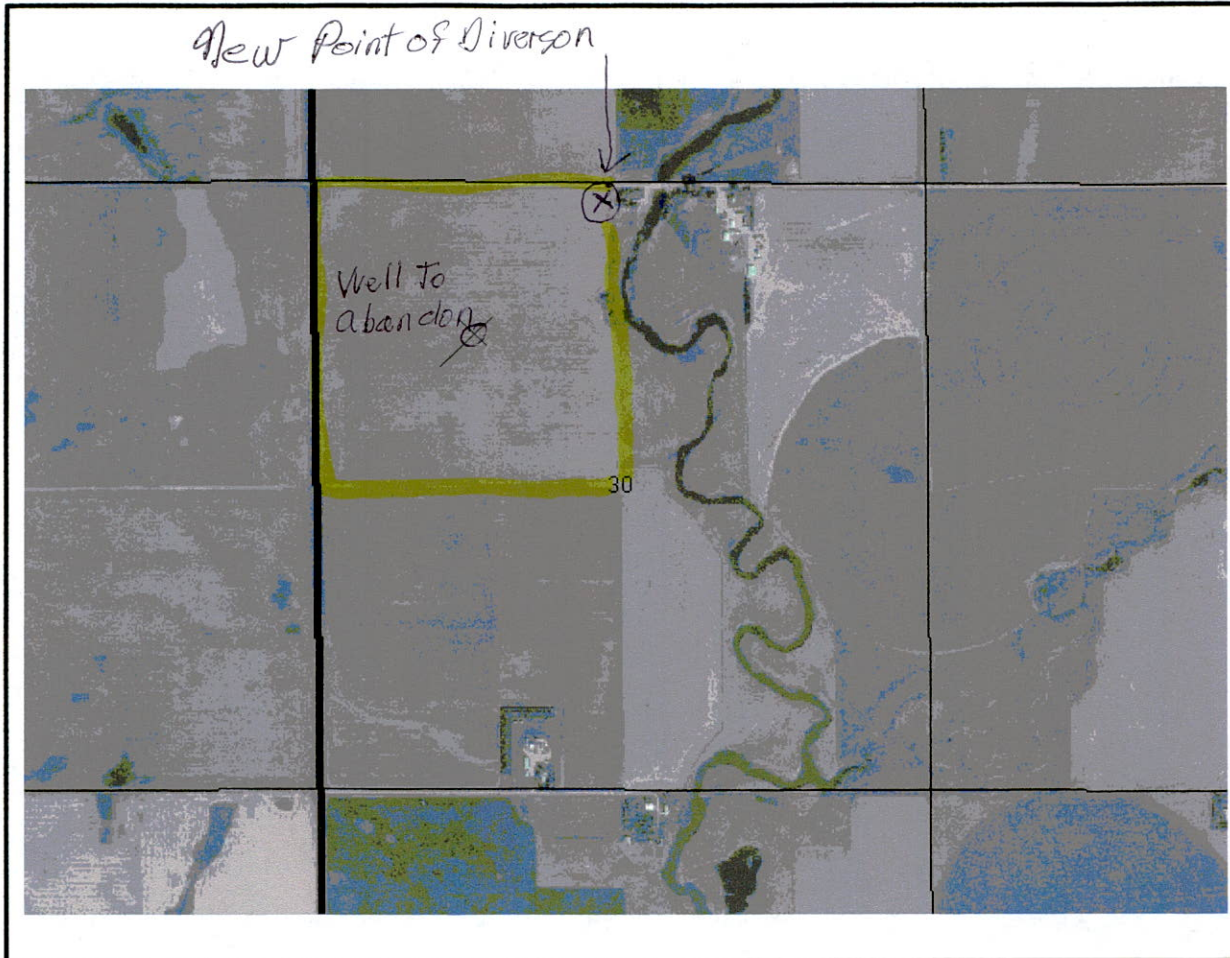
AUG - 5 2013

WATER RIGHTS
PROGRAM

ESRI ArcExplorer 2.0

NW 1/4 SEC 30-117-61

-  townships
-  Sections (SECTION)
-  Towns



Thursday, Aug 1 2013

File No. 7295-3

Approval of a Change of Diversion Point

NAME: Bill St Clair

ADDRESS: 37644 184th St.

DATE: August 9, 2013

COUNTY: Spink

TELEPHONE: (605) 596-4262

BACKGROUND:

Water Permit No. 7295-3 appropriates 1.78 cubic feet per second (cfs) from one well completed into the Tulare: Eastern James aquifer (approximately 60 feet deep) in order to irrigate approximately 120 acres of the NW ¼ of Sec 30, T117N R61W in Spink County. The permit has a priority date of December 20, 2011 and is conditioned with well interference, well construction, and irrigation questionnaire qualifications.

Mr. St Clair has requested to move the well location from the center of the NW ¼ of Sec 30 to the NE ¼ NW ¼ of the same section. The basis behind this request is that the existing well location is providing diminishing returns and is not able to supply the permitted 1.78 cfs. Mr. St Clair intends to retrieve 35 feet of screen from the existing well for use in the new well, which will be drilled to approximately to the same depth. He also intends to backfill the existing hole according to code.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changes or additional 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 is the same as permitted source and no additional water is appropriated.**

The water source authorized by Water Permit No. 7295-3 is the Tulare: East James Aquifer. The original well depth was estimated to be 60 feet. The test hole at the new site found water at a depth of 35 feet. However, the total formation is estimated to extend to 60 feet deep and the new well if expected to be drilled to the bottom of the formation.

No additional appropriation of water is authorized. Water Permit No. 7295-3 appropriates 1.78 cfs and no additional diversion rate authority is being requested.

Review of Existing Diversions

The well completion report and water rights databases were reviewed for the nearest domestic wells and water rights on file. The nearest water rights are located approximately 0.5 miles to

the north (1724A-3) and 0.65 miles to the east (3114-3) of the current well location. Relocation of the well will change these distances to approximately 1,800 and 2,400 feet, respectively. Although these numbers do reflect a closer proximity, it is not expected that adverse interference will occur at these distances. The closest domestic wells will be at distances of 2,200 and 1,400 feet from the new well location. Similarly, flow from these domestic wells is not expected to be negatively impacted by the relocation of the diversion point associated with Permit No. 7295-3.

Observation Well Data

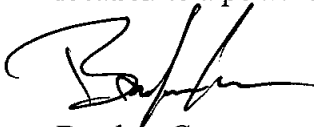
The Water Rights Program monitors several observation wells located in the Tulare: East James aquifer. The closest observation well (SP-66C) is located in the north east corner of section 30 approximately 0.8 miles to the north east of the existing diversion point. Data from this well shows drawdowns as a result of pumping but indicates that overall water levels are controlled predominately by seasonal climactic effects and that pumping has not prevented a full annual recovery of the water level within the aquifer.

CONCLUSION:

- The change in well location does not propose to appropriate additional water.
- The new well is to be completed into the same formation as the existing well, the Tulare: East James aquifer.
- Given the distance from domestic wells and existing water rights, interference is not expected to be a concern.
- The well in the center of the NW ¼ of Sec 30, T117N R61W shall be plugged in accordance with South Dakota well construction standards.

RECOMMENDED ACTION:

Based on the above criteria, it is recommended that the request for a change of diversion point location to a point located in the NE ¼ NW ¼ of Sec 30, T117N R61W be approved.



Bracken Capen
Natural Resources Engineer

The Chief Engineer makes a finding pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14:01 that:

This change in the diversion point does not increase the potential for adverse effects to existing diversions.



Jeanne Goodman, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 27, 2013

7295-3

Bill St Clair
37644 184th St
Tulare, SD 57476

Dear Mr. St Clair:

Water Permit No. 7295-3 appropriates 1.78 cubic feet per second (cfs) from one well completed into the Tulare: East James aquifer (60 feet deep) located in the center of the NW $\frac{1}{4}$ of Sec 30, T117N R61W for the irrigation of 120 acres in the same quarter of Sec 30.

You requested authorization to change the well location to the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 30, T117N R61W approximately 1,800 feet to the north east of the existing well. The basis for this request was diminishing returns in flow from the existing well.

Upon review of the request and pursuant to SDCL 46-5-13.1, the change in well location is authorized without application or publication of a notice of hearing pursuant to SDCL 45-2A-4. No increase in the authorized diversion rate of 1.78 cfs (800 gallons per minute) or the number of acres irrigated (120 acres) from the Tulare: East James aquifer is authorized. If the total diversion rate or the number of acres irrigated increases, a new water right permit will need to be obtained.

The existing well in the center of the NE $\frac{1}{4}$ of Sec 30 shall be plugged in accordance with South Dakota well construction standards.

If you have any questions, please contact Bracken Capen at (605) 773-3352.

Sincerely,

A handwritten signature in black ink that reads 'Jeanne Goodman'. The signature is fluid and cursive, with the first name 'Jeanne' being more prominent.

Jeanne Goodman
Chief Engineer
Water Rights Program

7295-3
RECEIVED

NOV 24 2014

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 11/20/14TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

(name)

William F. St. Clair
37641 184th Street
Tulare, SD 57476-7007
605-593-1262

(address)

(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.

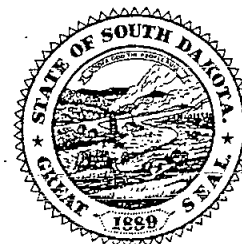
Water Permit No. 7295-3 states that the water use system is to be constructed by 12/6/17 (date), and water is to be put to beneficial use by 12/6/21 (date).

The water use system was completed on 7/15/14 (date)

Applying the water to beneficial use was completed on 7/15/14 (date)

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

William F. St. Clair
(signature)





**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



December 18, 2014

4586C-3
7295-3

William F St Clair
37644 184th St
Tulare SD 57476-7007

Dear Mr. St Clair:

I am writing to acknowledge receipt of the "Notice of Completion of Works" forms that you sent submitted for Water Permit Nos. 4586C-3 and 7295-3. The forms were received on November 24th.

The systems are now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between completion of the projects and the staff inspection has no bearing on your water permits.

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

Sincerely,

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

Permit No. 7295-3

Contact Person & Address: **William F St. Clair, 37644 184th St., Tulare, SD 57476**

Report of Examination of Works

On, **October 24, 2019**, I made a thorough examination of the water use system constructed by **William F St. Clair** holder of Permit No. **7295-3**, bearing the priority of **December 20, 2011** authorizing the diversion of **1.78** cu. ft. per second of the waters of **Tulare: East James Aquifer** for **irrigation** purposes, in **Spink** County.

The system is in the following condition **good**. The point of diversion is located **from the NW corner of Section 30, T117N, R61W 2,620' East and 60' South** with latitude of **44.92306** and a longitude of **-98.21738** as determined using **GPS**. 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**. Water has been put to beneficial use to the maximum extent as follows:

All land is located in **Sec 30, T117N, R61W**

NW ¼ NW ¼ - 30 ac NE ¼ NW ¼ - 30 ac SE ¼ NW ¼ - 30 ac SW ¼ NW ¼ - 30 ac
comprising a total of **120** acres of land and the license should be issued for **1.78** cfs.

Review of Permit Qualifications and Regulations:

- 1) Special qualifications to permit being abided by **yes**
- 2) All structures, wells and lands on map **yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period **yes**.
- 4) Exceptions to compliance are: **none**.

Report On the Specifics of the System

Diversion Point Information:

Well Information:

- 1) Well Drilling Firm: **Manikowski Well Drilling, Inc.**
- 2) No. of Wells **1**
- 3) Depth(s) **68** feet
- 4) Well log is available **yes**

Casing:

- 1) Diameter **12** inches
- 2) Length **38** feet
- 3) Type **PVC**

Screen:

- 1) Type **PVC**
- 2) Length **30** feet
- 3) Static water level **18** feet

Pump:

- 1) Make **Submersible**
- 2) Model **na**
- 3) Size **na**
- 4) Capacity **800** GPM

Motor:

- 1) Make **na**
- 2) Model No. **na**
- 3) Horsepower rating **40** hp

DISTRIBUTION LINES OR CANALS:

- 1) Type **PVC**
- 2) Size **8** inches
- 3) Length **1,790** feet

SYSTEM TYPE:

Center pivot:

- 1) Make **Valley**
- 2) Overall length **1,300** feet

- 3) Number of towers 7
- 5) High or low pressure low
- 4) End gun yes
- 6) Capacity 800 GPM

CHEMIGATION EQUIPMENT:

- 1) Does chemigate yes
- 3) Inspection port/air relief yes
- 5) Discharge is 20' from source na
- 7) Injection pump type na
- 9) Injection line check valve or positive displacement pump na
- 10) All chemigation equipment appears to be installed in the proper position and complies with chemigation laws and rules: **NOTE, CHEMIGATION EQUIPMENT WAS NOT ON SITE. Permit holder shall make sure the low pressure drain outlets at least 20' from the water**
- 2) Main line check valve yes
- 4) Low pressure drain yes
- 6) Interlock type na
- 8) Injection check valve na

Comments: **During my site inspection, Kevin Dettler, a renter of Mr. St. Clair, stopped and provided some of the information contained in this report.**

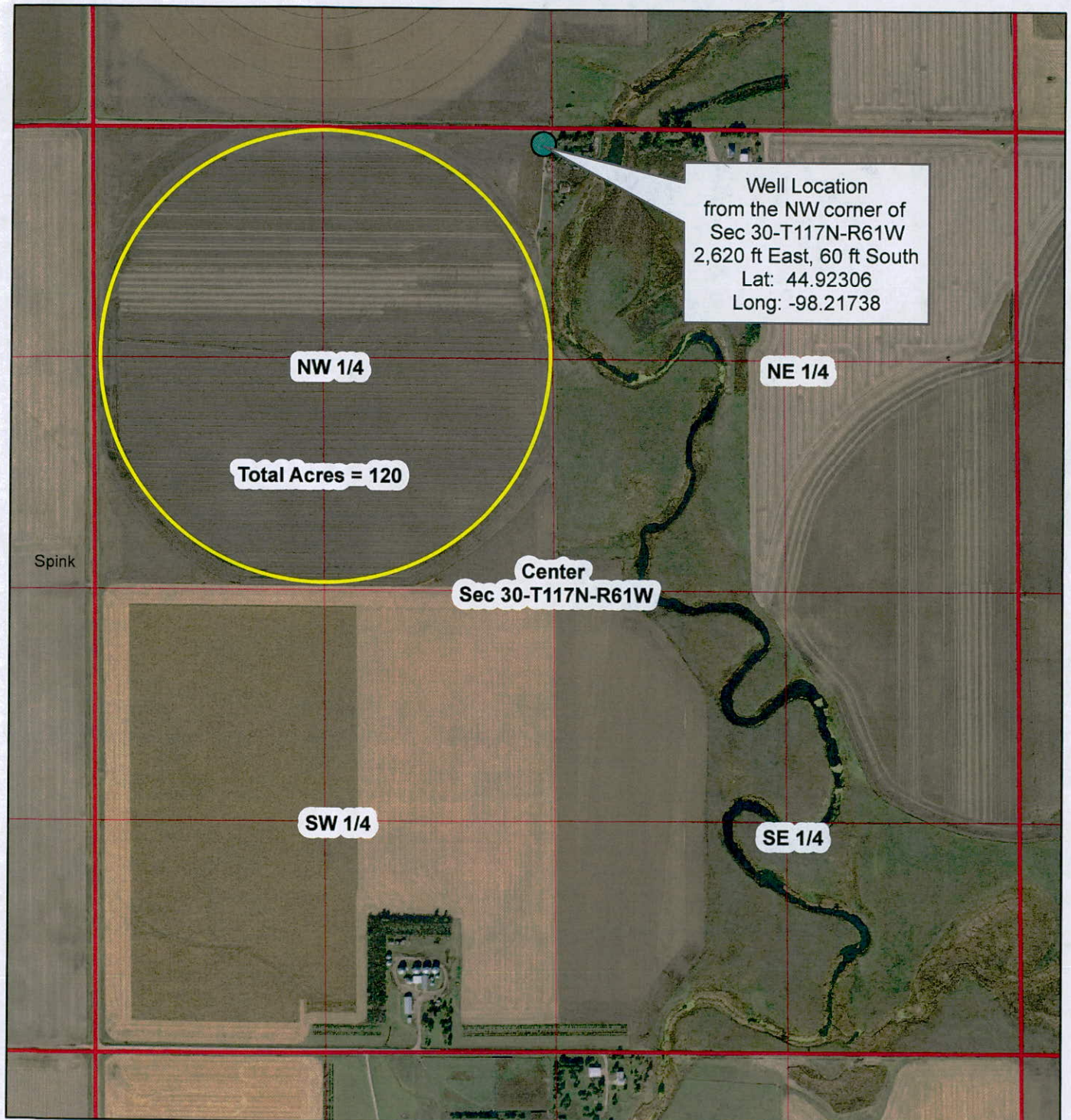
Dated: November 21, 2019



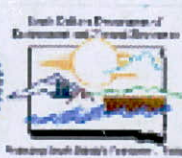
Terry D Helms

Water Rights Inspector

Water Right No. 7295-3, William F St. Clair



0 305 610 1,220 1,830 2,440 Feet



Terry D Helms

Terry D Helms, PE
Water Rights Inspector
DENR, Water Rights Program
October 28, 2019

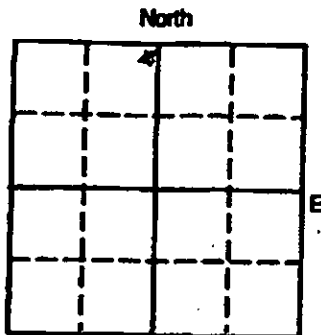
SOUTH DAKOTA WATER WELL COMPLETION REPORT

72953

11-02

Location NE 1/4 NW 1/4 Sec 30 Twp 11N Rg 6E

County SPINK



Please mark well location with an 'X'

Well completion Date
8-1-13

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

PROPOSED USE:

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

METHOD OF DRILLING:

Forward Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>SDR21</u>	<u>12 IN</u>	<u>11 FT</u>	<u>38 FT</u>	<u>17 1/2 IN</u>
<u>LB/FT</u>	<u>IN</u>	<u>FT</u>	<u>FT</u>	<u>IN</u>
<u>LB/FT</u>	<u>IN</u>	<u>FT</u>	<u>FT</u>	<u>IN</u>

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>High Strength</u>	<u>3</u>	<u>10.2 lb/sack</u>	<u>0 R</u>	<u>10 R</u>
<u>Solids</u>		<u>lb/sack</u>	<u>R</u>	<u>R</u>

Describe grouting procedure Inert line Bottom
To Top

SCREEN:

☐ Perforated pipe ☒ Manufactured

Diameter 12 inches Length 30 Feet

Material PVC

Slot Size 1080 Set From 38 Feet to 48 Feet

Other information 1085 48 68

Per Rock Pack

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? chlorine

Lab sample sent to for water quality analysis ☐ No, Why Not? _____

Well Owner: Bill

Business Name: St Clair Ranch

Address1: 37644 184th St

Address2: _____

City, State, Zip: Tulane, SD 57476

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Top Soil</u>	<u>0</u>	<u>2</u>
<u>Yellow clay</u>	<u>2</u>	<u>9</u>
<u>Oxidized Sand</u>	<u>9</u>	<u>25</u>
<u>Medium Sand</u>	<u>25</u>	<u>30</u>
<u>fine To Medium Sand</u>	<u>30</u>	<u>38</u>
<u>Medium To Coarse sand</u>	<u>38</u>	<u>68</u>
<u>Shale</u>	<u>68</u>	<u>70</u>

STATIC WATER LEVEL 18 FEET

If flowing, closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: Submersible Pump

☐ Bailed

☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

THURS: First James 100

This well was drilled under license # 285

And this report is true and accurate.

Drilling firm: Max Kowski Well Drilling, Inc.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Please return White Copy to DENR Water Rights

523 E. Capitol Ave., Pierre SD 57501

RECEIVED

DEC - 5 2016

WATER RIGHTS PROGRAM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

FEB 24 2020

7295-3

William F St Clair
37644 184th St
Tulare SD 57476

Dear Mr. St Clair:

Enclosed is Water License No. 7295-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeanne Goodman'.

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

enclosures

Note: The August 2013 authorization to change the well location included an order to plug the existing well in the center of the NW ¼ Section 30, T117N, R61W. To date, a plugging report has not been received from the driller. If the well has not been plugged yet, please ensure that it is plugged as soon as possible and a copy of the report forwarded to the Water Rights Program.

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7295-3**

(1) William F St. Clair, 37644 184th St, Tulare SD 57476 made Application No. 7295-3, December 20, 2011 for a water permit to divert 1.78 cubic feet of water per second from ground water, one well (Tulare: East James Aquifer), Spink County, South Dakota for irrigation purposes. Permit No. 7295-3, with a priority date of December 20, 2011 was approved December 6, 2012 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before December 6, 2017 and for the application to beneficial use of water on or before December 6, 2021.

In August 2013 the permit holder requested a change in the location of the authorized well from the center of the NW ¼ Section 30, T117N, R61W to the NE ¼ NW ¼ Section 30, T117N, R61W. Pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14:01, the Chief Engineer made a finding that the change in diversion point location did not increase the potential for adverse effects to existing diversions.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion 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:

- 2,620'E and 60'S of the NW corner of Section 30, T117N, R61W (NE ¼ NW ¼)
Latitude: 44.92306, Longitude: -98.21738

(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:

T117N, R61W Section 30	NW ¼ NW ¼	30 acres
	NE ¼ NW ¼	30 acres
	SE ¼ NW ¼	30 acres
	SW ¼ NW ¼	30 acres
	Total	120 acres

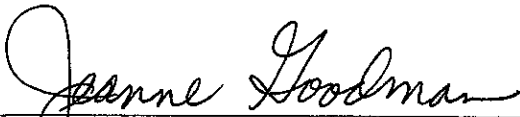
(4) Pursuant to South Dakota Water Law 46-5-30.1 William F St. Clair, 37644 184th St, Tulare SD 57476 the holder and/or owner of Water Right No. 7295-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from ground water, one well (Tulare: East James Aquifer) with a priority date of December 20, 2011 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 7295-3 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 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.

continued

- The well authorized by Permit No. 7295-3 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 in August, 2013 by Manikowski Well Drilling Inc. 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.



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

FEB 24 2020

date



11-22-2024

Please note, William F. St. Clair passed away 4 May 2024. JoAnn St. Clair (wife of William F.) has been appointed personal representative of his estate. Therefore I believe JoAnn St. Clair is the new owner of the permits and the current address of 37644 184 St. Tulare SD, 57476 remains the same. JoAnn's cell phone number is 605-450-0327.

For further questions and concerns, please call me or JoAnn.

Sincerely

William E. St. Clair (son of William F. and Joann)

605-450-0114

bstclair420@gmail.com

Permit Nos.

971-3	839-3
1725-3	970-3
6675-3	45860-3
7295-3	4158-3
987-3	6676-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 6, 2024

839-3, 970-3, 971-3, 987-3, 1725-3
3860-3, 3861-3, 4158-3, 4553-3
4586C-3, 6675-3, 6676-3, 7295-3

JoAnn St Clair
37644 184th St
Tulare SD 57476

Dear Ms. St Clair:

Each year, the State of South Dakota sends out Water Management Irrigation Questionnaires to collect information based on annual water use from our state's waters.

This year we received word from your son, William E St Clair, that due to the unfortunate death of your husband, William F St Clair, the water rights held in his name should be transferred to you, the property owner. For your convenience I have enclosed partially completed "Transfer of Ownership" forms for you to review, complete, and return in the pre-paid envelopes.

Please return the forms with a check for \$500.00 (\$50.00/transfer) made payable to "SD Water Rights Program" to cover the transfer fees. If you would prefer to pay by card, you may call our Fiscal Office at 605.773.5559. These forms will still need to be returned even if you are submitting payment over the phone.

Should you decide you wish to discontinue the irrigation on any of these pieces of land, we would ask that you let us know.

If you have any questions or concerns, please give me a call. My direct number is 605.910.5187

Sincerely,

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

enclosures

7295-3
PAID

FEB 18 2025

Ck# 119168

Rec't# _____

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. 7295-3

Date: 2-10-2025

I/We request that Water Right/Permit No. 7295-3 formerly owned by:
Willaim F St Clair - Tulare SD

be transferred to:

New Owner Name: JoAnn St. Clair
Address: 37644 184TH ST mobile: 605-450-0327
City, State, Zip Tulare SD 57476 email: willm-stclair@yahoo.com

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

NW 1/4 Section 30 T117N, R61W - 120 acres

☒ I understand that the validity of Water Right/Permit No. 7295-3 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, JoAnn St. Clair, the new owner, certify that the above information is true and correct.

JoAnn St Clair
(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 18 2025

OFFICE OF
WATER

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date February 24th 2025

RECEIVED OF JoAnn St Clair 37644 184th St Tulare SD 57476

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	\$ _____
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 <u>4158-3, 1725-3, 987-3, 971-3, 970-3, 839-3, 7295-3, 4586C-3, 6676-3, 6675-3</u>	<u>\$500.00</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>\$500.00</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 24, 2025

4158-3, 1725-3, 987-3,
971-3, 970-3, 839-3,
7295-3, 4586C-3, 6676-3, 6675-3

JoAnn St Clair
37644 184th St
Tulare, SD 57476

Dear Ms. St Clair:

The South Dakota Water Rights Program is in receipt of the "Notice of Transfer of Ownership" form and the required fees you submitted for Water Right Nos. 4158-3, 1725-3, 987-3, 971-3, 970-3, 839-3, 7295-3, 4586C-3, 6676-3, and 6675-3. Enclosed is a receipt of payment for your records.

Water Right Nos. 4158-3, 1725-3, 987-3, 971-3, 970-3, 839-3, 7295-3, 4586C-3, 6676-3, and 6675-3 previously held by William F St Clair and St Clair Ranch are now listed under yourself. 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 Water Rights (copies enclosed), 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 Right Nos. 4158-3, 1725-3, 987-3, 971-3, 970-3, 839-3, 7295-3, 4586C-3, 6676-3, and 6675-3 have not been determined by this transfer action. Only the Water Management Board has the authority to determine if a water permit/right is valid.

enclosures