

WATER PERMIT NO. 7301-3

Name of Applicant: **Francis Heine**

Address: **412 Sterling, Vermillion SD 575069** Phone: **605 624-2405**

Amount of Water Claimed: **no add'l** Total Acres: **32 add'l acres**

Source of Water Supply: **one existing well**

Water to be used for: **irrigation** County: **Clay**

Type of Waste Disposal System:

Location: **1 mile south of Vermillion**

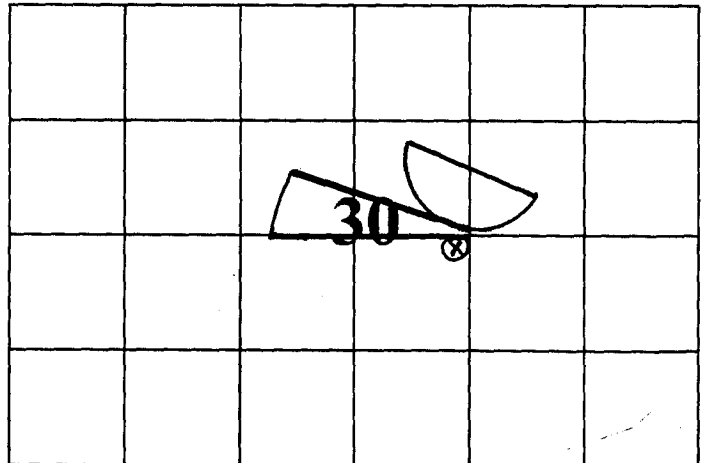
PRIORITY Date Received: **12-27-11** Application/License Fee: **\$ 500 (lic fee pd on 6679-3)**

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

Remarks:

Diversion Point: **NW ¼ SE ¼ Sec 30-T92N-R51W**

Land to be Irrigated: **SE ¼ NW ¼, S ¼ NE ¼ Sec 30-T92N-R51W**



Depth of Well: **100 feet deep**

Well Driller: **Wetmore-Hammond Drilling**

Remarks:

Type of Map: **aerial**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **12-27-11**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only)	
	No. <u>7301-3</u>	Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion River</u>	
	Newspaper <u>Plain Talk Vermillion</u> <u>57069</u>	

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DEC 27 2011
WATER RIGHTS
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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.)
additional acreage to Water Permit No. 6679-3

- Name of Applicant Francis Heine Phone 605 624 2405
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 412 Sterling Vermillion SD 57059
(Address) (City) (State) (Zip Code)
- Amount of water claimed _____ *CFS or _____ **GPM _____ ***AF Total Acreage 32 add'l
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply one existing well in the Missouri:Elk Point Aquifer authorized by WP No. 6679-3
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Clay
NW 1/4 SE 1/4 Sec. 30 T92N,R51W
- County or counties where water will be used Clay
- Annual period during which water is to be used May 1 - September 30
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres

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

Large pivot as shown on map makes more rotation than originally permitted requiring authorization for an additional acres of irrigation and a small windshield wipe pivot has been constructed.

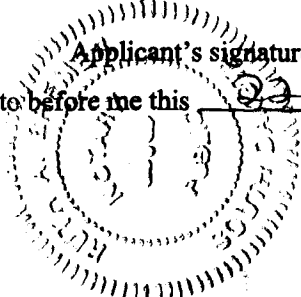
STATE OF SOUTH DAKOTA)

County of Clay) SS

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

I, Francis Heine, 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 Francis Heine
Subscribed and sworn to before me this 22 day of December 20 11



Rene A. Bremer
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 7301-3**

Date of first receipt of application December 27, 2011.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7301-3 to Francis Heine, 412 Sterling, Vermillion SD 57069 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7301-3 authorizes irrigation of an additional 32 acres. Water Right No. 6679-3 appropriates 2.23 cfs from one well completed into the Missouri:Elk Point Aquifer to irrigate 140 acres located in the SE 1/4, E 1/2 SW 1/4 Section 30 and NW 1/4 SW 1/4 Section 29; all in T92N-R51W. This permit authorizes irrigation of an additional 32 acres located in the Island Farm addition in Section 11 and 12, and Parcel B of Lot 1 Section 12; and E 1/2 Lot 1 Section 13; all in T32N, R04E, Vermillion Township. This permit does not increase the diversion rate authorized by Water Right No. 6679-3.
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 – October 31.
3. The date from which applicant may claim right is December 27, 2011.
4. The date of approval of Permit No. 7301-3 is April 30, 2012.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

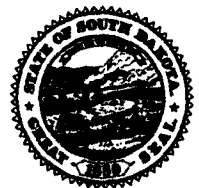
QUALIFICATIONS

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. 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

MAY 17 2012
date



WATER PERMIT APPLICATION FOR FRANCIS "BUD" HEINE



3,800 1,900 0 3,800 Feet



additional acres



Authorized by WP No. 6679-3 WATER RIGHTS PROGRAM

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DEC 27 2011



Eric Gronlund
Eric Gronlund
Water Rights Program, DENR
based on representation by Mr. Heine

6

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/27, 2011

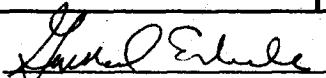
RECEIVED OF Francis J Heine 412 Sterling St Vermillion SD 57069

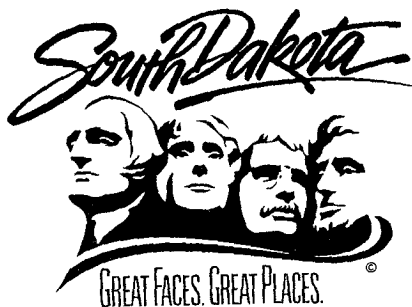
The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>7201-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	500 00

No. **05181**

By


Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 13, 2012

Francis Heine
412 Sterling
Vermillion SD 57069

Dear Mr. Heine:

The Water Rights Program has reviewed your eight water right permit applications for irrigation south of Vermillion. Two of the applications are for new irrigation to be development while the remaining intend to get proper permits in place to reflect existing irrigation as developed.

As you are undoubtedly aware, legal descriptions in this area do not follow normal quarter section designations due to the Missouri River. The sections are odd sizes and in the case of the old river channel there are not clear section designations.

A mainstay of the water right permitting process is public notice of the permit which includes the legal location of the diversion point and irrigated acres. Attached are two maps showing the section lines in the area the irrigation systems that are in question. One of the maps has the 2010 FSA aerial overlay while the other is just the section lines and outline of the irrigation systems.

The Water Rights Program needs you as the applicant to provide the proper legal descriptions for the irrigated acres shown and numbered 1 through 10. I assume these areas are listed with the Clay County Register of Deeds. Or another option is to use a local title company. I believe there is the Clay County Abstract and Meridan Title Company in your area.

Ultimately, these are your applications and there needs to be proper public notice to insure legal standing. If the legal descriptions are not correct in the public notice, at some future date someone could bring into question the validity of the water permit(s) due to inadequate notification in accordance with water rights law.

Please provide the proper legal descriptions for each referenced area and we'll proceed with public noticing the applications. If you have any questions, please contact me.

Sincerely,

COPY

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

enclosure

3/2/2012

PARCEL	OWNER	CARE OF	ADDRESS	CITY, STATE	ZIP_CODE
12000-09251-333-00	BURGESS LYMAN	%FRANCIS HEINE	314 STERLING	VERMILLION SD	57069-0000
PT NW 1/4 SW 1/4 33-92-51 FAIRVIEW TWP					
12000-09251-332-06	HEINE FRANCIS		412 STERLING	VERMILLION SD	57069-0000
ONLY THAT PORTION W OF VERMILLION RIVER OF LOT 1 NW 1/4 33-92-51 FAIRVIEW TWP					
11000-03204-130-00	HEINE FRANCIS ETAL		412 STERLING	VERMILLION SD	57069-
W 12 A OF LOT 2 & LOTS 3 & 4 13-32-04 VERMILLION TWP					
11000-03204-240-03	HEINE FRANCIS ETAL		412 STERLING	VERMILLION SD	57069-
LOT 1 IN NW 1/4 24-32-04 VERMILLION TWP					
11000-03204-130-06	HEINE FRANCIS ETAL		412 STERLING	VERMILLION SD	57069-
ACCRETION LYING E & S LOTS 2, 3 & 4 TO VERMILLION RIVER 13-32-04 VERMILLION TWP					
11000-03204-240-00	HEINE FRANCIS ETAL		412 STERLING	VERMILLION SD	57069-
ACCRETION TO SEC 24 LYING E & S OF LOT 1 TO SECTION LINE 24-32-04 VERMILLION TWP					
11000-03204-120-01	HEINE PARTNERSHIP		412 STERLING	VERMILLION SD	57069-
ISLAND FARM ADDN IN SEC 11 & 12-32-04 VERMILLION TWP					
11000-03204-130-18	HEINE TIMOTHY T & TODD F &	NICK J %BUD HEINE	412 STERLING	VERMILLION SD	57069-
PARCEL B OF LOT 1 SEC 12-32-04 & PARCEL C & E 1/2 LOT 1 SEC 13-32-04 VERMILLION TWP					
11000-03204-231-00	HEINE TIMOTHY T & TODD F &	NICK J %BUD HEINE	412 STERLING	VERMILLION SD	57069-
NE 1/4 NE 1/4 & LOT 1 23-32-04 VERMILLION TWP					
12000-09251-333-08	HEINE TIMOTHY T & TODD F &	NICK J %BUD HEINE	412 STERLING	VERMILLION SD	57069-
HECKENLIVELY TRACT 110 33-92-51 FAIRVIEW TWP					

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MAR - 7 2012

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CLAY COUNTY SD

The maps and data are provided "as is" without warranty or representation of accuracy, timeliness, or completeness. There are no warranties, expressed or implied, as to the appropriate use of the maps and data or the fitness for a particular purpose. The maps and associated data do not represent a survey and are compiled from official records, including plat, surveys, recorded deeds and contracts and only contain information required for government purposes. See the recorded documents for more detailed legal information.

RECEIVED

MAR - 7 2012

WATER RIGHTS
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CLAY COUNTY SD

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Depiction of legal description areas provided by Mr. Heine on March 7, 2012 overlaid on 2010 FSA aerial - prepared by Eric Gronlund





**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. 7301-3, Francis Heine**

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. 7301-3, Francis Heine, 412 Sterling, Vermillion SD 57069.

The Chief Engineer is recommending APPROVAL of Application No. 7301-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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
April 5, 2012

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7301-3
FRANCIS HEINE
FEBRUARY 1, 2012

This application proposes to irrigate an additional 32 acres using an existing well which is authorized by Water Right No. 6679-3. Water Right No. 6679-3 appropriates 2.23 cubic feet of water per second from one well completed into the Missouri: Elk Point Aquifer to irrigate 140 acres. This application does not propose to increase the diversion rate authorized by Water Permit No. 6679-3. The approximate location of the well that is to be used and the acreage to be irrigated as proposed by this application are shown in figure 1.

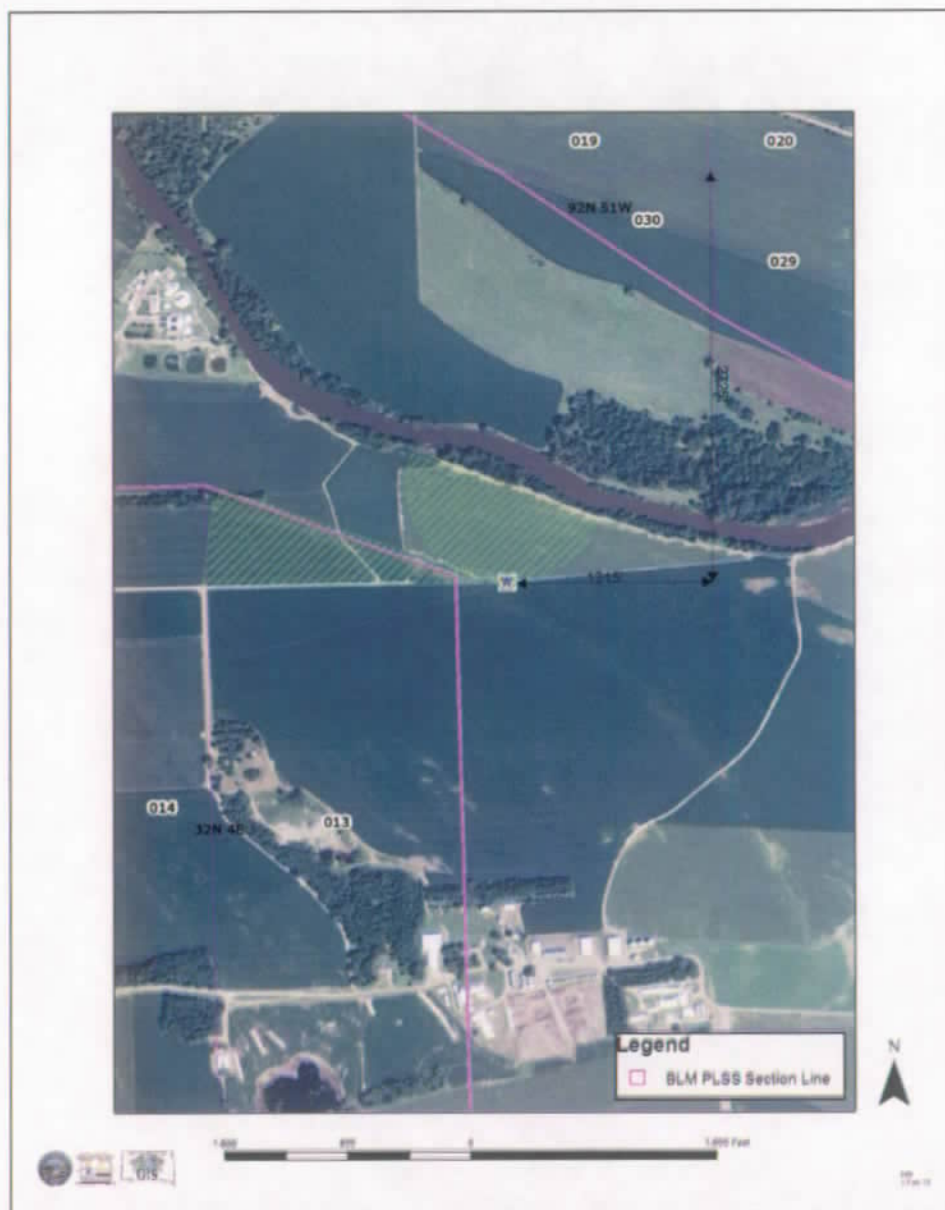


Figure 1. Location of the well to be used and acreage proposed for irrigation by this application.

AQUIFER: Elk Point Management Unit of the Missouri aquifer (M:EP)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Missouri aquifer is an alluvium mantled glacial outwash deposit that is estimated to be 75-100 feet thick in this area (Stevens, 1967). The Elk Point management unit of the Missouri aquifer underlies approximately 74,500 acres of Clay County and extends into neighboring Yankton and Union Counties (Hedges and others, 1982). The Missouri: Elk Point contains an estimated 1,117,500 ac-ft of recoverable water in storage in Clay County alone (Hedges and others, 1982). The aquifer is hydraulically connected to the Vermillion and Missouri Rivers. Ground water movement in the Elk Point management unit is from northwest to southeast and locally toward the rivers. A South Dakota Water Well Completion Report is not available for the existing well that this application proposes to use. The log for a test hole drilled by the SD Geological Survey approximately one-quarter mile east of this well is shown in table one.

Depth (below grade)	Material
0-10	Silt and sand
10-20	Till
20-90	Till
90-100	Sand and gravel
100-120	Till
120-220	Sand, very coarse

Table 1. Log of a test well drilled by the SD Geological Survey approximately one-quarter mile east of 7301-3

Another SD Geological Survey test hole located approximately one-half mile northeast of the well that Application No. 7301-3 proposes to use identifies sand between 10-104 feet below grade, and a third test hole located approximately one-half mile northwest of 7301-3 identifies sand between 0-112 feet below grade and that shale was encountered at 112 feet below grade. The Missouri: Elk Point aquifer is expected to be under unconfined conditions in this area.

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. This report will address water availability and existing rights issues only.

WATER AVAILABILITY:

This application proposes to appropriate an additional 64 acre-feet annually from the Missouri: Elk Point aquifer. The probability of unappropriated water available from an 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."

Recharge versus Withdrawals:**Recharge:**

Recharge to the Elk Point management unit in Clay County occurs through direct penetration of precipitation, streamflow losses, upward leakage from the Dakota aquifer and subsurface inflow from adjacent areas. The quantity of recharge from each source is variable as “stream discharge, ground-water discharge, local departures from normal precipitation, and long-term climatic fluctuations all influence the amount of recharge received” (Stevens, 1967). Average annual recharge has not been quantified for the Missouri: Elk Point aquifer.

The importance of the surface water/groundwater connection probably cannot be overstated. When the water levels in the aquifer are below the stage of the rivers, the aquifer is recharged by streamflow losses. In other words, groundwater levels are maintained by surface water. As Stephens (1967) states: “much of the discharge of the Missouri river is potentially available to recharge the aquifer. Increased ground-water discharge by wells would induce additional recharge from the river.” The Missouri: Elk Point aquifer in the Mulberry Point area is ideally suited for the maintenance of groundwater levels through recharge from the Missouri River.

Withdrawals:

The Missouri: Elk Point aquifer is heavily appropriated with 96 Water Permits, 50 Water Rights and five Future Use Permits appropriating water from the aquifer in Clay County alone. Non-irrigation appropriations include one domestic water permit (0.78 cfs); two water permits for Lewis & Clark RWS (22,165 ac-ft annually); and four Water Rights for the City of Vermillion (4.462 cfs plus 1,161 ac-ft annually). Future use permits from the Missouri: Elk Point reserve a total of 26,900 ac-ft annually. In 2010 there were 86 water rights/permits appropriating a total of 33,128.6 ac-ft annually for irrigation (Water Rights, 2011). The total amount of water pumped for irrigation from Clay County, in 2010 was reported to be 592.3 ac-ft (Water Rights, 2011).

Observation Well Data:

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 38 observation wells completed into the M:EP, including five in Clay County (Water Rights, 2012a). The nearest observation well to this irrigation project, CL-80C, is located approximately one mile southwest of the well that this application proposes to use. A hydrograph for observation well is shown in figure 2.

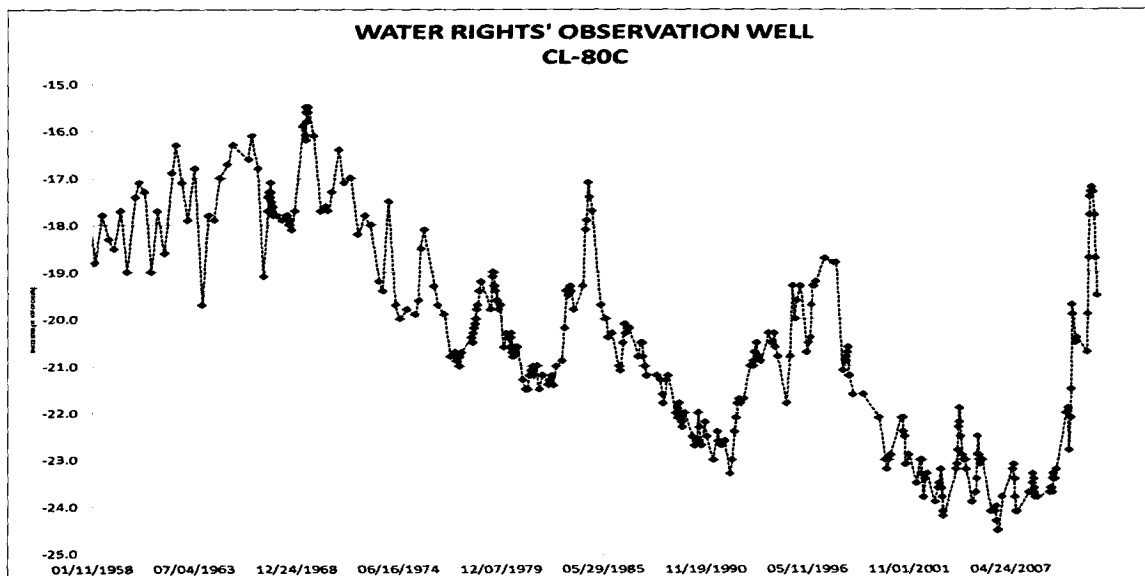


Figure 2. Hydrograph of DENR-Water Rights' Observation Well CL-80C which is located approximately nine-tenths of a mile south-southwest of the well Application No. 7301-3 proposes to use.

A general downward trend of the water table of the Elk Point Management Unit of the Missouri aquifer can be seen in the data for Observation Well CL-80C. Inserting a linear trend line to the hydrograph for the well (see figure 3) clearly demonstrates this decline.

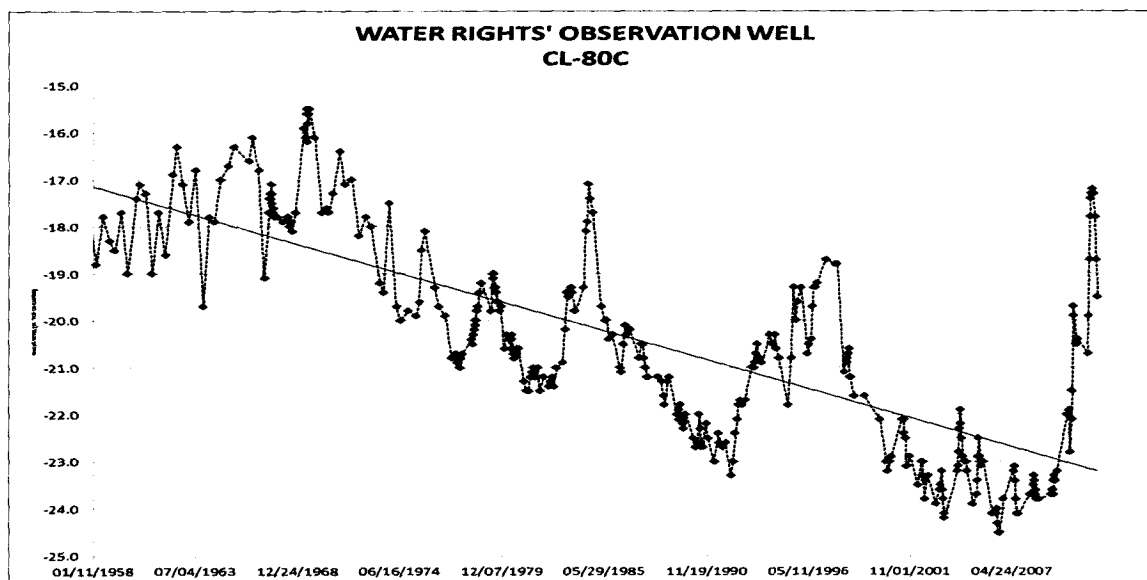


Figure 3. Hydrograph of DENR-Water Rights' Observation Well CL-80C, with linear trend line.

The lower water level documented by this observation well represents less water in storage in the aquifer. The gradual lowering of the water table has been attributed to: (a) the entrenching of the Missouri River (Goodman, 2007) or (b) controlled flows of the Missouri River eliminating flooding which used to inundate the entire floodplain and raise the water table to or above land surface (Stephens, 1967). The lower water levels that have occurred since the construction of

Gavins Point Dam are probably caused by a combination of both factors cited above. Regardless of the cause, the declining water levels demonstrate the hydraulic connection between the aquifer and the Missouri River. The high flows in the Missouri River during the summer of 2011 are also very evident from the hydrographs. As stated above, groundwater levels are maintained by surface water. Increased groundwater discharge by wells would induce additional recharge from the river. The minimum discharge from Gavins Point dam is approximately 9,000 cfs (Rath). Even if all of the water appropriated from the Missouri: Elk Point aquifer was induced from the Missouri River it would be only a small percentage of the Missouri River flows. Therefore unappropriated water can be considered available for this appropriation.

EXISTING WATER RIGHTS:

In addition to Water Permit No. 6679-3, of which this application is an extension, there are six existing water rights/permits

PERMIT NO	NAME	STATUS	USE	CFS	ACRES
2053-3	FRANCIS (BUD) HEINE	LC	IRR	10.22	922
5471-3	FRANCIS HEINE	PE	IRR	0.54	38
5538-3	NELS J SORENSEN	LC	IRR	3.34	276
5639-3	FRANCIS J HEINE	PE	IRR	1.5	105
6059-3	FRANCIS HEINE	PE	IRR	1.84	129
6354-3	CITY OF VERMILLION	LC	MUN	0.022	NA
6679-3	FRANCIS HEINE	LC	IRR	2.23	140
LC= Water Right, PE= Water Permit, IRR= Irrigation, MUN= Municipal					

Table 2. Water Rights/Permits within approximately one mile of 7301-3



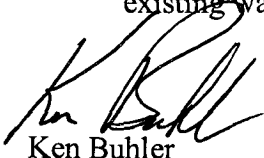
Figure 4. Groundwater water rights/permits within approximately one mile of 7301-3

Although this application does not request any additional diversion rate, the appropriation of an additional 64 ac-ft/yr from a well would be equivalent to an increased diversion rate of 0.2109 cfs over the 153 day irrigation season (May1-Oct 1). High specific capacity wells can be anticipated in this area and drawdown should not be substantial. Since the Missouri: Elk Point aquifer is under unconfined conditions, the drawdown cone will not be significant very far from the pumped well. The distance between the well that Application No. 7301-3 proposes to use and wells supplying existing water rights/permits is sufficient to ensure that any well interference will not be adverse.

CONCLUSIONS:

1. This application proposes to authorize the irrigation of 32 additional acres using an existing well authorized by Water Permit No. 6679-3.

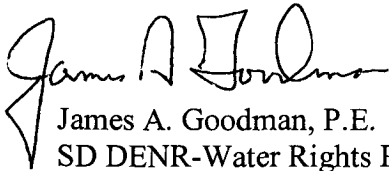
2. Approval of this application will result in the appropriation of an additional 64 ac-ft annually from the Missouri: Elk Point aquifer, although the actual amount of water that will be used will be much less than appropriated.
3. There is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer for this proposed appropriation.
4. The additional diversion represented by this appropriation should not adversely impact existing water rights.



Ken Buhler

SD DENR-Water Rights Program

Approved by



James A. Goodman, P.E.

SD DENR-Water Rights Program

REFERENCES:

Goodman, J.A., 2007, Report on Water Permit Application No. 6869-3 for Lewis and Clark RWS: SD DENR-Water Rights Program

Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., Schoon, R.A., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185

Rath, Mark. Natural Resources Engineering Specialist, SD DENR-Water Rights Program. Personal communication. 16 Aug. 2006

Stephens, J.C., 1967, Geology and Hydrology of Clay County South Dakota, South Dakota, Part II: Water Resources, SD Geological Survey Bulletin 19, 62 p.

Water Rights, 2011, "2010 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.

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APR 25 2012

WATER RIGHTS
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AFFIDAVIT OF PUBLICATION

PLAIN TALK

DENR
Division of Environmental Services
Office of Air Quality Program
523 East Capitol Ave, Joe Foss Building
Pierre, SD 57501

STATE OF SOUTH DAKOTA
COUNTY OF CLAY

HEATHER HEIMES BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE CLASSIFIED MANAGER OF YANKTON
MEDIA INC., A CORPORATION, THE PRINTER AND THE
PUBLISHER OF THE PLAIN TALK, A LEGAL
WEEKLY NEWSPAPER PRINTED AND PUBLISHED IN THE CITY OF VERMILLION,
SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF
THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE
ANNEXED NOTICE OF APPLICATIONS TO APPROPRIATE WATER

FRANCES HEINE - VERMILLION, SD

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 20 DAY OF APRIL 2012
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$138.35 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 4/13/12, 4/20/12

FILED ON: 4/13/12, 4/20/12

SUBSCRIBED AND SWORN TO BEFORE ME THIS

24th

DAY OF

April

NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES

8-19-2015

NOTICE OF APPLICATIONS
TO APPROPRIATE WATER

Notice is given that Francis Heine, 412 Sterling, Vermillion SD 57069 has filed the following applications for a water permit. The area is generally located south of Vermillion.

Application No. 6993-3 proposes to appropriate an additional 1.97 cfs, irrigate 135 additional acres and add two additional wells to what is currently authorized by Water Right No. 2947-3. Water Right No. 2947-3 appropriates 1.9 cubic feet of water per second (cfs) from one well located in the SE 1/4 SW 1/4 Section 23 to irrigate 136 acres located in the E 1/2 SW 1/4, W 1/2 SE 1/4 Section 23; all in T92N-R52W. This application proposes to appropriate an additional 1.97 cfs from two additional wells to be completed into the Missouri:Elk Point Aquifer (98 and 103 feet deep) located in the SW 1/4 NW 1/4 Section 23 and NW 1/4 NE 1/4 Section 26; all in T92N-R52W. The 135 additional acres to be irrigated are located in SW 1/4 NW 1/4, SW 1/4, W 1/2 SE 1/4 Section 23 and NE 1/4 NW 1/4, NW 1/4 NE 1/4 Section 26; all in T92N-R52W. This application, if approved and Water Right No. 2947-3 will authorize a total diversion rate of 3.87 cfs for irrigation of 271 acres and will allow all three pivots to operate simultaneously.

Application No. 6994-3 proposes to irrigate an additional 46 acres; one additional well to what is currently authorized by Water Right No. 2053-3 and clarifies legal descriptions. Water Right No. 2053-3 appropriates 10.22 cfs from five wells to irrigate 922 acres. The project as developed includes six wells completed into the Missouri: Elk Point Aquifer to irrigated a total of 968 acres all located in the W 12 A of Lot 2 and Lots 3 and 4, Accretion lying E & S Lots 2, 3 & 4 to Vermillion River Section 13; NE 1/4 NE 1/4 & Lot 1 Section 23; Lot 1 in NW 1/4 Section 24; Accretion to Section 24 lying E & S of Lot 1 to Section Line of Section 24; all in T32N, R04E Vermillion township; and Heckenlively Tract 110, only that portion W of Vermillion River of Lot 1 NW 1/4, and PT NW 1/4 SW 1/4; all in Section 33, T92N, R51W in Fairview Township. This application, if approved, and Water Right No. 2053-3 will authorize a total diversion rate of 10.22 cfs from 6 wells to irrigate 968 acres.

Application No. 7297-3 proposes to appropriate 1.11 cfs from one well to be completed into the Missouri Elk Point Aquifer (100 feet deep) located in SW 1/4 NW 1/4 Section 15 for irrigation of 80 acres located in the W 1/2 NW 1/4 Section 15; all in T92N-R52W.

Application No. 7298-3 proposes to appropriate 2.28 cfs from one well to be completed into the Missouri Elk Point Aquifer (175 feet deep) located in the center of the NE 1/4 Section 26 to irrigate 160 acres located in the NE 1/4 Section 26; all in T92N-R51W.

Application No. 7299-3 proposes to irrigate an additional 38 acres and specify the location of wells. Water Right No. 977A-3 appropriates 3.64 cfs from two wells completed into the Missouri Elk Point Aquifer to irrigate 255 acres located in the SE 1/4 Section 28 and the E 1/2 SE 1/4 SW 1/4 SE 1/4 Section 33; all in T92N-R51W. This application seeks to authorize the location of the wells currently used by Water Right No. 977A-3 and proposed to be used by Application No. 7299-3 as being located near the center of the SE 1/4 Section 28 and near the center of the SE 1/4 Section 33, T92N, R51W. This application also proposes to irrigate 38 additional acres located in the NW 1/4 SE 1/4 Section 33 which will allow the pivot in this quarter section to make a full rotation. This application, if approved, does not authorize any increase in the developed diversion rate from the existing well.

Application No. 7300-3 proposes to irrigate an additional 10 acres. Water Permit No. 6059-3 appropriates 1.84 cfs from two wells completed into the Missouri Elk Point Aquifer to irrigate 129 acres located in the NE 1/4 SE 1/4, SE 1/4 NE 1/4 Section 25-T92N-R52W and W 1/2 SW 1/4, SW 1/4 NW 1/4 Section 30-T92N-R51W. This application proposes to irrigate an additional 10 acres located in the Island Farm addition in Section 11 and 12, T32N, R04E, Vermillion Township. This application, if approved, does not increase the diversion rate authorized by Water Right No. 6059-3.

Application No. 7301-3 proposes to irrigate an additional 32 acres. Water Right No. 6679-3 appropriates 2.23 cfs from one well completed into the Missouri Elk Point Aquifer to irrigate 140 acres located in the SE 1/4, E 1/2 SW 1/4 Section 30 and NW 1/4 SW 1/4 Section 29; all in T92N-R51W. This application proposes to irrigate an additional 32 acres located in the Island Farm addition in Section 11 and 12, and Parcel B of Lot 1 Section 12; and E 1/2 Lot 1 Section 13; all

in T32N, R04E, Vermillion Township. This application, if approved, does not increase the diversion rate authorized by Water Right No. 6697-3.

Application No. 7302-3 proposes to appropriate 1.64 cfs from one well completed into the Missouri Elk Point Aquifer located in the SW 1/4 SE 1/4 Section 32-T92N-R51W to irrigate 115 acres located in the Accretion to Section 24 lying E & S of Lot 1 to Section line 24; T32N, R04E, Vermillion Township.

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

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605-773-3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 30, 2012.

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

Published twice at the total approximate cost of \$138.35.

Estimated publishing cost per published copy \$1487.

Published: April 13 & 20, 2012.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 5, 2012

Plain Talk
201 W Cherry St
Vermillion SD 57069

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 & 7302-3 to Appropriate Water to be published twice. Please publish the first notice on April 13, 2012 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Frances Heine, 412 Sterling, Vermillion SD 57069 (Ph # 605-624-2405).

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

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 & 7302-3

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

Date _____

We are in receipt of your letter of April 5, 2012 enclosing Notice to Appropriate Water by Application Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 & 7302-3 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

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

April 5, 2012

Frances Heine
412 Sterling
Vermillion SD 57069

Dear Mr. Heine:

Water Permit Application Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 & 7302-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Plain Talk printed at Vermilion SD (Ph # 605-624-2695). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

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

enclosures

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

Instruction to Newspaper - Publish first Notice on April 13, 2012 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATIONS TO APPROPRIATE WATER

Notice is given that Francis Heine, 412 Sterling, Vermillion SD 57069 has filed the following applications for a water permit. The area is generally located south of Vermillion.

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T32N, R04E, Vermillion Township. This application, if approved does not increase the diversion rate authorized by Water Right No. 6059-3.

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Application No. 7302-3 proposes to appropriate 1.64 cfs from one well completed into the Missouri:Elk Point Aquifer located in the SW ¼ SE ¼ Section 32-T92N-R51W to irrigate 115 acres located in the Accretion to Section 24 lying E & S of Lot 1 to Section line 24, T32N, R04E, Vermillion Township.

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

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 30, 2012.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications.

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

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

MAY 17 2012

Francis Heine
412 Sterling
Vermillion SD 57069

Dear Mr. Heine:

Enclosed are Water Permit Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 and 7302-3. The permits authorize construction of your water diversion systems and the beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed for the three systems that are not completed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued for each permit, thus completing the acquisition of a water right.

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

Sincerely,

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

enclosures



7301-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 16, 2015

NOTICE

TO: FRANCIS HEINE, 412 STERLING, VERMILLION, SD 57069

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

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaires

Our records indicate your 2014 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 671-3, 977A-3, 977B-3, 1624-3 2053-3 & 2947-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5435-3, 5471-3, 5639-3, 6057-3, 6059-3, 6679-3, 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3, 7302-3, 7577-3, 7578-3, 7579-3, 7580-3 & 7980-3 qualification:

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

The hearing will be held at **10:00 am, March 4, 2015** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5435-3, 5471-3, 5639-3, 6057-3, 6059-3, 6679-3, 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3, 7302-3, 7577-3, 7578-3, 7579-3, 7580-3 & 7980-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 671-3, 977A-3, 977B-3, 1624-3 2053-3 & 2947-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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

7301-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 24, 2015

Francis Heine
412 Sterling
Vermillion SD 57069

RE: Water Permit and Water Right Nos. 671-3, 977A-3, 977B-3, 1624-3 2053-3, 2947-3, 5435-3, 5471-3, 5639-3, 6057-3, 6059-3, 6679-3, 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3, 7302-3, 7577-3, 7578-3, 7579-3, 7580-3 & 7980-3

Dear Mr. Heine:

I am writing to acknowledge receipt of your 2014 irrigation questionnaires for the above listed water permits and water rights.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for your water permits and water rights. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

PAID

MAR 27 2023

Ck# 44663

Rec't# _____

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 7301-3

Date: _____

I/We request that Water Permit No. 7301-3

formerly owned by: Francis Heine

be transferred to: (name & address) see below

Telephone No.

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

32 acres – Island Farm addition in Section 11 and 12, Parcel B of Lot 1 in Section 12 and E ½ Lot 1

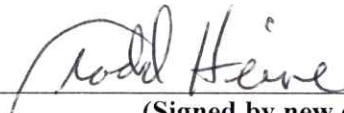
Section 13, T32N, R4E (Nebraska Survey) (SE ¼ NW ¼, S ½ NE ¼ Section 30, T92N, R51W)

I/We understand that the validity of Water Permit No. 7301-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Todd Heine
1020 E. 320th &
Vermillion, SD 5757, the new owner, certify that the above information is true and correct.



(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 and the water used, the permit becomes a right. A water right may be lost for three reasons:

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

RECEIVED

MAR 27 2023

OFFICE OF
WATER

7301-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date March 27, 2023RECEIVED OF Francis J Doris/Tim, Todd & Nick Heine 412 Sterling St., Vermillion SD 57069

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>7301-3</u>	<u>\$50.00</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>\$50.00</u>

By Eric Gronlund
Chief Engineer *vm*



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 14, 2023

Todd Heine
1020 E 320th St
Vermillion SD 57069

Dear Mr. Heine:

I am writing to acknowledge receipt of the transfer forms and filing fees for all water permits and water rights listed under Francis Heine.

The ownership changes have been completed. Water Permit/Right Nos. 671-3, 977A-3, 977B-3, 1006-3, 1034-3, 1624-3, 2053-3, 2947-3, 5435-3, 5471-3, 5639-3, 6057-3, 6059-3, 6679-3, 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3, 7302-3, 7577-3, 7578-3, 7579-3, 7580-3 & 7980-3 are now listed in your name.

Enclosed are receipts for the filing fees you paid. If you have any questions, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosures