

WATER PERMIT NO. 7347-3

Name of Applicant: Michael Sentell

Address: 18690 398th Ave, Hitchcock SD 57348 Phone: 605 266-2780

Amount of Water Claimed: 1.49 cfs Total Acres: 120

Source of Water Supply: Lake Dudley

Water to be used for: irrigation County: Spink

Type of Waste Disposal System:

Location: 6 miles northeast of Hitchcock

PRIORITY Date Received: 4-11-2012 Application/License Fee: \$ 950

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

Remarks:

Diversion Point: SE ¼ NW ¼ Sec 21-T114N-R62W

Land to be Irrigated: NW ¼ Sec 21-T114N-R62W

Depth of Well: NA

Well Driller:

Remarks:

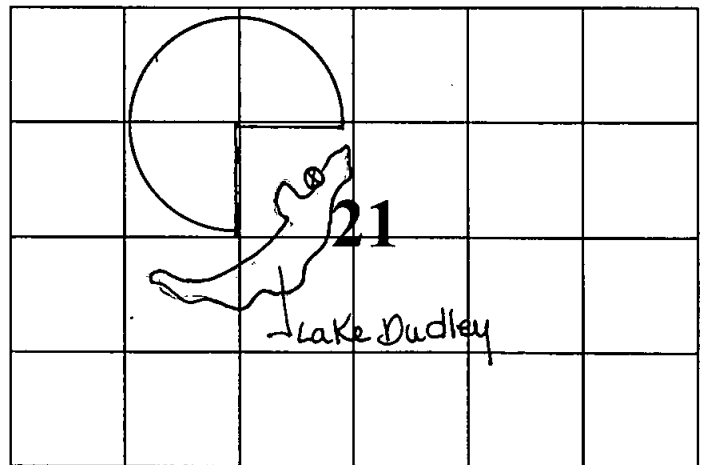
Type of Map: aerial

Prepared by: Russell Simon, Spink Co. FSA

Reviewed and the Number Assigned on: 4-11-2012

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>7347-3</u>	(office use only) Hydrologic Unit <u>1016 0006</u>
	Basin <u>James River</u>	<u>605-472-0822</u>
	Newspaper <u>Redfield Press, P.O. Box 440, 57469</u>	
	<u>Plumman, P.O. Box 1278, Huron 57350</u>	<u>605-352-6481</u>

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APR 11 2012
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 MICHAEL SENTELL Phone 605-266-2780
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 18690 398TH AVE HITCHCOCK State SD 57348
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed 1.49*CFS or 670 **GPM ***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 LAKE DUDLEY
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County SPINK
SE 1/4 NW 1/4 21-114N-62W
5. County or counties where water will be used SPINK
6. Annual period during which water is to be used MAY 1 - SEPTEMBER 30
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

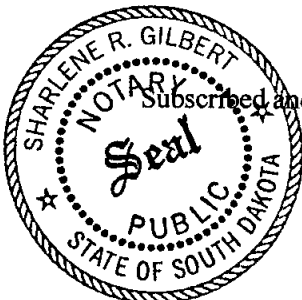
Land Description	Acres	Land Description	Acres
SW 1/4 NW 1/4 21-114N-62W	40		
NW 1/4 NW 1/4 21-114N-62W	40		
NE 1/4 NW 1/4 21-114N-62W	40		

8. Give a description of the project. (Attach sheet if more space is needed)
Pump + motor to deliver water through buried pipeline to center pivot

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, Michael Sentell, 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 Michael Sentell
Subscribed and sworn to before me this 9th day of April 20 12

Sharlene R. Gilbert
Notary Public signature

my commission expires: 8-4-2012

SOUTH DAKOTA
WATER PERMIT NO. 7347-3 FOR IRRIGATION

Date of first receipt of application April 11, 2012.

The Water Management Board approved Water Permit No. 7347-3 on October 22, 2014 for Michael Sentell, 18690 398th Ave, Hitchcock SD 57348 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7347-3 appropriates 1.49 cubic feet of water per second (cfs) from Lake Dudley located in the SE 1/4 NW 1/4 Section 21 for irrigation of 120 acres located the W1/2 NW 1/4, NE 1/4 NW 1/4 Section 21; all in T114N-R62W.
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 April 11, 2012.
4. One-fifth of the construction is to be completed on or before April 22, 2017.
5. All construction is to be completed on or before October 22, 2019.
6. Water is to be put to beneficial use on or before October 22, 2023.
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. Diversion of water from Lake Dudley shall be in accordance with the following criteria:
 - a) This permit authorizes diversion of water from Lake Dudley only when water is discharging over the primary spillway elevation when pumping is occurring.
 - b) This permit does not authorize diversion of water from the Lake Dudley after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - c) This permit does not authorize diversions from Lake Dudley when there is less than 20 cfs bypassing the James River USGS gaging station at Huron SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: *Jeanne Goodman*

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

NOV 13 2014

date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
On applicants property _____ 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 _____

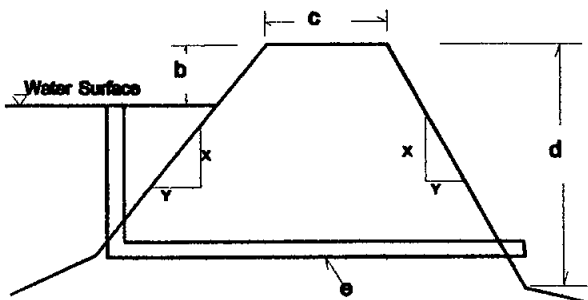
3. Dugout Information - *EXISTING POND (NAMED Lake dudley)*

- 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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 4-11, 20 12

RECEIVED OF Michael Sertell, 18690 398th Ave, Hitchcock SD 57348

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

Fee for Application for Permit No. <u>7347-3</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>7347-3</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. **05409**

By Harland Erbeley
Chief Engineer 1/65

7347-3 Michael Sentell

Lynn Beck
Mar. 20, 2013

Water availability:

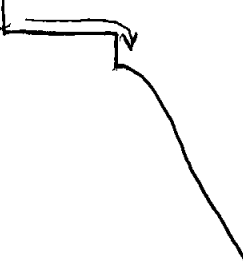
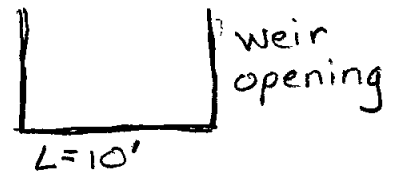
School and Public Lands Dam inspected every 3 years. Small size category 3.

9.11.87 - Spilling
7.18.89 - Spilling
6.10.92 - Beaver dam in spillway entrance
8.30.95 - Spilling 1-2" noted
6.3.98 - Spilling 2"
6.5.01 - Spilling
4.14.04 - Spilling
5.2.07 - Spilling 1"

- In 1978 locals indicated that the dam was spring fed.
- Original WR for Lake Dudley Dam indicates water source is spring fed dry draw.

In pictures primary spillway appears to be a combination of broad crested weir and ogee weir.

for most rectangular broad
& sharp crested weirs


$$Q = CLH^{3/2}$$
$$C = \frac{2}{3} \sqrt{\frac{2}{3}g} = 3.087$$
$$g = 32.17$$


The permit application is for 1.49 cfs. In order for a constant 1.49 cfs to be available 1.49 cfs or better needs to be flowing over the spillway.

$$1.49 = 3.087 (10') (H)^{1.5} \quad H = .1326' \text{ or } 1.59''$$

Water Rights: within 1.5 miles d.s. of confluence

VR 1636-3 GFP 150 ac.ft or to the outlet Dudley Dam

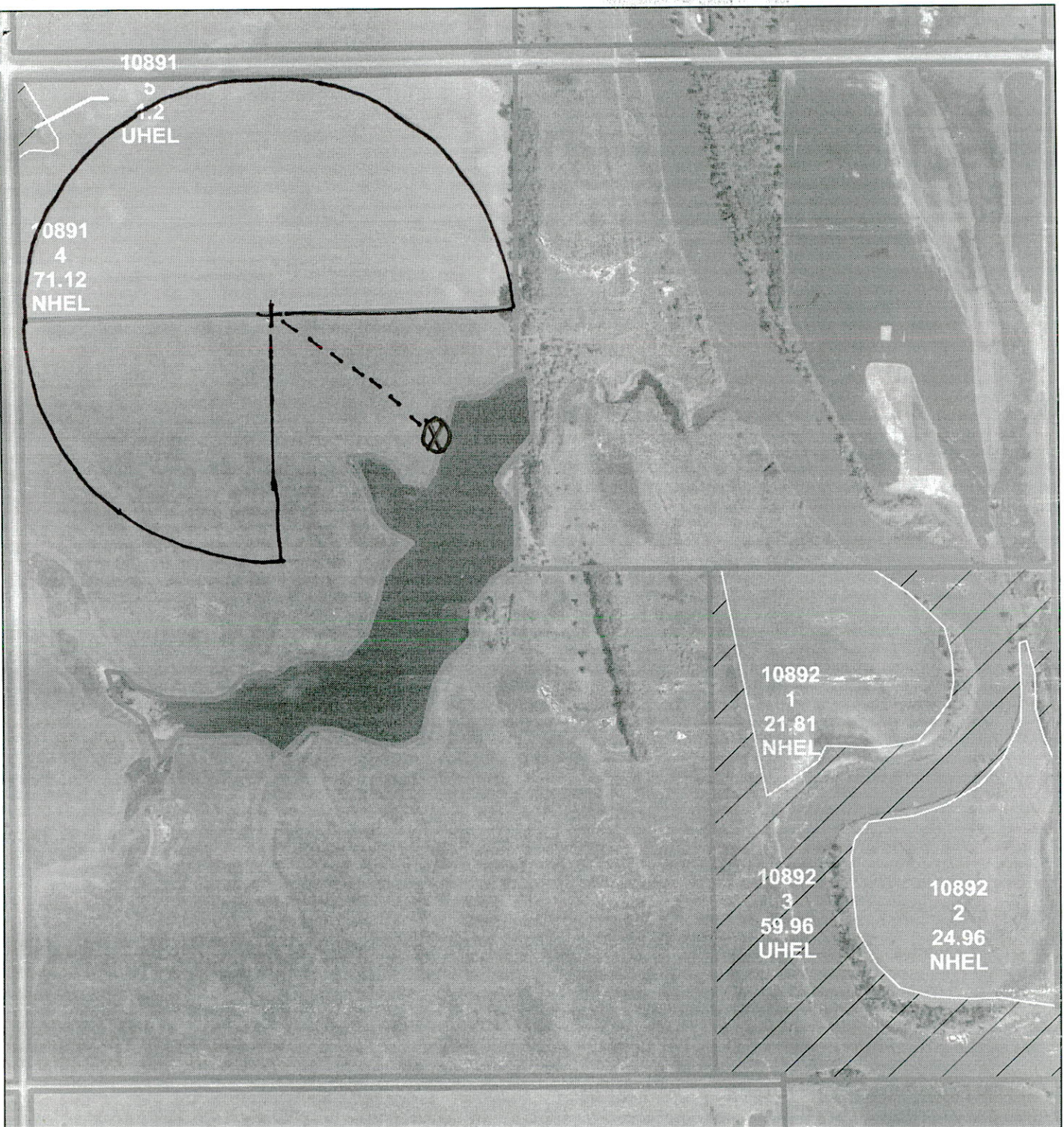
WR 616-3 Oscar Inc. 1.14 cfs JR for irr.

WR 6183-3 Oscar Inc. 7.83 cfs JR for irr.

PE 7183-3 Oscar Inc. 0.75 cfs JR for irr.

PE 7234-3 Peterson Farms 2.28 cfs JR for irr.

Deferred permit appl. 4092-3 Floyd Peterson 1.21 cfs of Dudley overflow to be stored in small dam for irr.



United States Department of Agriculture
Farm Service Agency

November 17, 2010

PLSS: 21_114N_62W
Farm: 6107

Spink County, SD
1:8,309

Russell Simon



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.

3-26-12

2008 Ortho-Photography - Not to Scale

Common Land Units
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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 12, 2012

Michael Sentell
18690 398th Avenue
Hitchcock SD 57348

Dear Mr. Sentell:

The Department of Environment and Natural Resources (DENR) is in receipt of the three water permit applications you filed for irrigation in Spink County. One of the applications proposes to divert from Lake Dudley. I am writing to inform you that Lake Dudley is owned by SD School and Public Lands and a water right held by the SD Department of Game, Fish and Parks (SDGFP) for impoundment of water in the lake. The water license is enclosed:

Two of the criteria for issuing a new water permit are whether unappropriated water is available and if the proposed use can be developed without unlawful impairment of existing rights. Have you had any discussion with SDGFP regarding diversion of water from the lake for irrigation? If not, I encourage you to contact SDGFP to discuss the proposed irrigation project. DENR will need to carefully assess the application and we will be unable to make a favorable recommendation if the two criteria cited above are not met.

Please contact me if you have any questions regarding the water permitting process include the standard of review.

Sincerely,

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

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 30, 2012

Michael Sentell
18690 398th Avenue
Hitchcock SD 57348

Dear Mr. Sentell:

I am writing in regard to your water right permit application to divert from Lake Dudley for irrigation.

There is a deferred water permit application proposing to incorporate a small dam below the spillway to capture Lake Dudley overflow before it confluences with the James River and use that water for irrigation. To assess your application, the matter of the deferred application becomes a critical issue in order to determine water availability. DENR can not move forward on your new application until the issue of this deferred application below Lake Dudley is resolved.

DENR has given the applicant of the deferred application 60 days to provide specifications for the dam. Therefore, it is DENR's intent to hold your application from Lake Dudley for this period of time. After 60 days, if the applicant provides the necessary information, we will proceed with processing both applications. If the applicant does not provide the information requested, DENR will schedule the deferred application before the Water Management Board for cancellation and proceed with your application on its own merit.

Please feel free to contact me if you have questions.

Sincerely,

Copy

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

September 6, 2012

Michael Sentell
18690 398th Avenue
Hitchcock SD 57348

Dear Mr. Sentell:

As I spoke with you on the phone, Mr. Peterson rescinded his withdrawal of his deferred application to irrigate from a small dam below Lake Dudley. Enclosed is the letter Mr. Peterson submitted. This has the potential to impact DENR's recommendation on your application to irrigate from Lake Dudley.

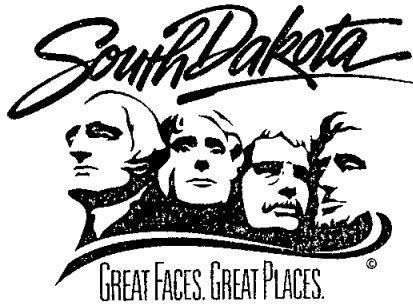
Mr. Peterson has had an engineer provide us with as built specifications for his dam. DENR will now review Mr. Peterson's application for the purpose of making a recommendation. I anticipate that Mr. Peterson's application and your application will be brought before the Board at the same time. However, it will not be at the October Board meeting. I will keep you updated as we proceed through this process.

If you have any questions, please feel free to contact me.

Sincerely,

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

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 14, 2012

Michael Sentell
18690 398th Avenue
Hitchcock SD 57348

Dear Mr. Sentell:

Deferred Water Permit Application No. 4092-3 filed by Floyd Peterson proposes to appropriate water from a small dam located downstream of Lake Dudley for irrigation of 85 acres. As you are aware this application has been deferred since the late 1970's.

Based on the survey conducted by Clark Engineering, DENR became aware that a portion of the small dam may be on land held in fee title by the Bureau of Reclamation that was obtained when the James River diversion dam was constructed. The Bureau is currently looking into this matter. DENR intends to hold the deferred application and your upstream application from Lake Dudley until such time as the ownership matter is resolved.

During a phone conversation with me you expressed concern over recent alteration made to the dam. DENR intends to have DENR's dam safety staff engineer conduct an on-site visit at the dam.

Sincerely,

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

Gronlund, Eric

From: Gronlund, Eric
Sent: Wednesday, May 28, 2014 1:38 PM
To: Murphy, Leslie
Subject: Peterson and Sentell applications
Attachments: 7347-3report.pdf; 4092-3report.pdf

I spoke with you long ago Mr. Sentell's application from Lake Dudley in Spink Cty. GFP holds a water right but my recollection is GF&P did not manage this as a fishery. Only had bullheads in the lake.

Our hold-up was on deferred application just below Lake Dudley. But that was found to be on Bureau of Rec land and they required it to be removed.

Let us know if you have questions.

Lynn Beck is the point person on these applications.



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7347-3, Michael Sentell**

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. 7347-3, Michael Sentell, 18690 398th Avenue, Hitchcock SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 7347-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) as conditioned 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. Diversion of water from Lake Dudley shall be in accordance with the following criteria:
 - a) This permit authorizes diversion of water from Lake Dudley only when water is discharging over the primary spillway elevation when pumping is occurring.
 - b) This permit does not authorize diversion of water from the Lake Dudley after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - c) This permit does not authorize diversions from James River when there is less than 20 cfs bypassing the USGS gaging station at Huron SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
May 28, 2014

NOTE: The recommendation on your application is for approval and will be brought before the Water Management Board for hearing. The Chief Engineer has recommended DENIAL of deferred Application No. 4092-3 filed by Floyd Peterson to irrigate from a small dam below Lake Dudley. This dam has been removed by order of the Bureau of Reclamation. Mr. Peterson will have an opportunity to oppose the recommendation for denial of his application. The final Board decision on Application No. 4092-3 may impact the recommendation for Application No. 7347-3. If Application No. 4092-3 is approved, by the Board the recommendation on your application may need to be revised to denial because of senior water rights.

The domestic use of water for livestock watering below Lake Dudley takes precedence over the irrigation use under the water permit. As long as the outlet for Lake Dudley is spilling, this domestic right should be satisfied. However, if either Game Fish and Parks' water right for Lake Dudley or domestic uses are impaired, DENR will take appropriate action to protect these prior rights.

REPORT ON WATER PERMIT APPLICATION NO. 7347-3

Michael Sentell

May 13, 2014

Michael Sentell has filed Water Permit Application No. 7347-3 to appropriate 1.49 cubic feet of water per second (cfs) from Lake Dudley Dam to irrigate 120 acres of land.

PROPOSED PROJECT

Water Application No. 7347-3 is located six miles northeast of the town of Hitchcock, SD in Spink County. This project proposes to divert 1.49 cubic feet per second (cfs) of water from a point on Lake Dudley located in the SE¼ NW¼ Section 21-T114N-R62W. The annual period of use requested is from May 1 through September 30. The 120 acres of land to be irrigated are located in the NW¼ Section 21-T114N-R62W.

REVIEW OF THE WATER SOURCE

The water source for the proposed project is Lake Dudley Dam in Spink County. The dam is located on a tributary to the James River. SD School and Public Lands hold the easement for Lake Dudley Dam. The dam was constructed in 1936 and is capable of storing a maximum of 200 acre feet of water at the top of the embankment while normal storage is 140 acre feet at the spillway elevation.

According to locals the dam is also spring fed and often discharging over the spillway. As a State owned dam it is inspected every three years. In all inspections since 1987, except one, it is noted that water was discharging over the spillway. The inspections have taken place during spring and early summer as well as late summer and indicate 1 to 2 inches of flow over the spillway. The overflow of Lake Dudley contributes to the flow of the James River approximately 1500 feet downstream of the spillway.

Water is available for this project when Lake Dudley is spilling. The project proposes to divert 1.49 cfs for irrigation, which equates to approximately 1.5 inches of flow over the spillway. Pumping can take place until Lake Dudley ceases to spill over the primary spillway; at that time all pumping should cease. During extended dry periods the water source may not be reliable.

REVIEW OF EXISTING WATER RIGHTS

There is one existing water right for Lake Dudley. The Department of Game, Fish, and Parks holds Vested Water Right Claim 1636-3 which appropriates 150 acre feet or sufficient water to fill the lake annually to the outlet elevation for recreational purposes. In order to protect Game, Fish, and Parks vested water right claim for stored water in Lake Dudley, no pumping can take place when the water level is at or below the primary spillway elevation.

There are four water rights on the James River within 1.5 miles downstream of the confluence of the Lake Dudley outlet channel. Oscar Inc. holds three water rights 616-3, 6183-3, and 7183-3 with a combined diversion of 9.72 cfs. Peterson Farms holds water right 7234-3 for diversion of

2.28 cfs. To protect water rights on the James River this project should meet the same qualifications found on the existing James River water rights.

There was a small dam of less than 25 acre-feet just downstream of Lake Dudley Dam. The dam has been the subject of deferred Permit Application No. 4092-3. This dam was not an authorized structure and was illegally located on Bureau of Reclamation federal fee title lands. The Bureau ordered this structure removed and the land restored to its original condition. The dam has been removed in accordance with the Bureau's order.

If approved, with qualifications, the applicant's diversion of water would not be expected to adversely impact existing Water Rights or domestic use on the James River.

Review of Qualifications

In 2007, Water Rights staff reviewed all of the shut-off and by-pass qualifications on the existing James River water rights/permits. Based on this review, the Chief Engineer recommended amending the existing qualifications in order to standardize them. The Water Management Board adopted the standardized qualifications and amended the existing water rights/permits. In addition, it was the intent that future appropriations of water from the James River be administered with the same amended qualifications.

Due to Lake Dudley's close proximity to and contribution to the flow in the James River, if approved, Application No. 7347-3 should contain the following qualifications.

- This permit authorizes diversion of water from Lake Dudley when water is discharging over the primary spillway elevation after pumping.
- This permit does not authorize diversion of water from Lake Dudley after August 10th of each calendar year, or at any time James River flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from Lake Dudley when there is less than 20-cfs by-passing the James River gage at Huron, SD after pumping.

Conclusions

1. Water Application No. 7347-3 proposes to appropriate 1.49 cubic feet per second of water from Lake Dudley to irrigate 120 acres of land.
2. Though water levels in Lake Dudley commonly exceed the outlet level, during extended dry periods the water source may not be reliable.
3. If approved, with qualifications, this permit should not impair existing water rights.
4. If Application No 7347-3 is approved, the following qualifications should be included:

- This permit authorizes diversion of water from Lake Dudley when water is discharging over the primary spillway elevation after pumping.
- This permit does not authorize diversion of water from Lake Dudley after August 10th of each calendar year, or at any time the James River flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from Lake Dudley when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

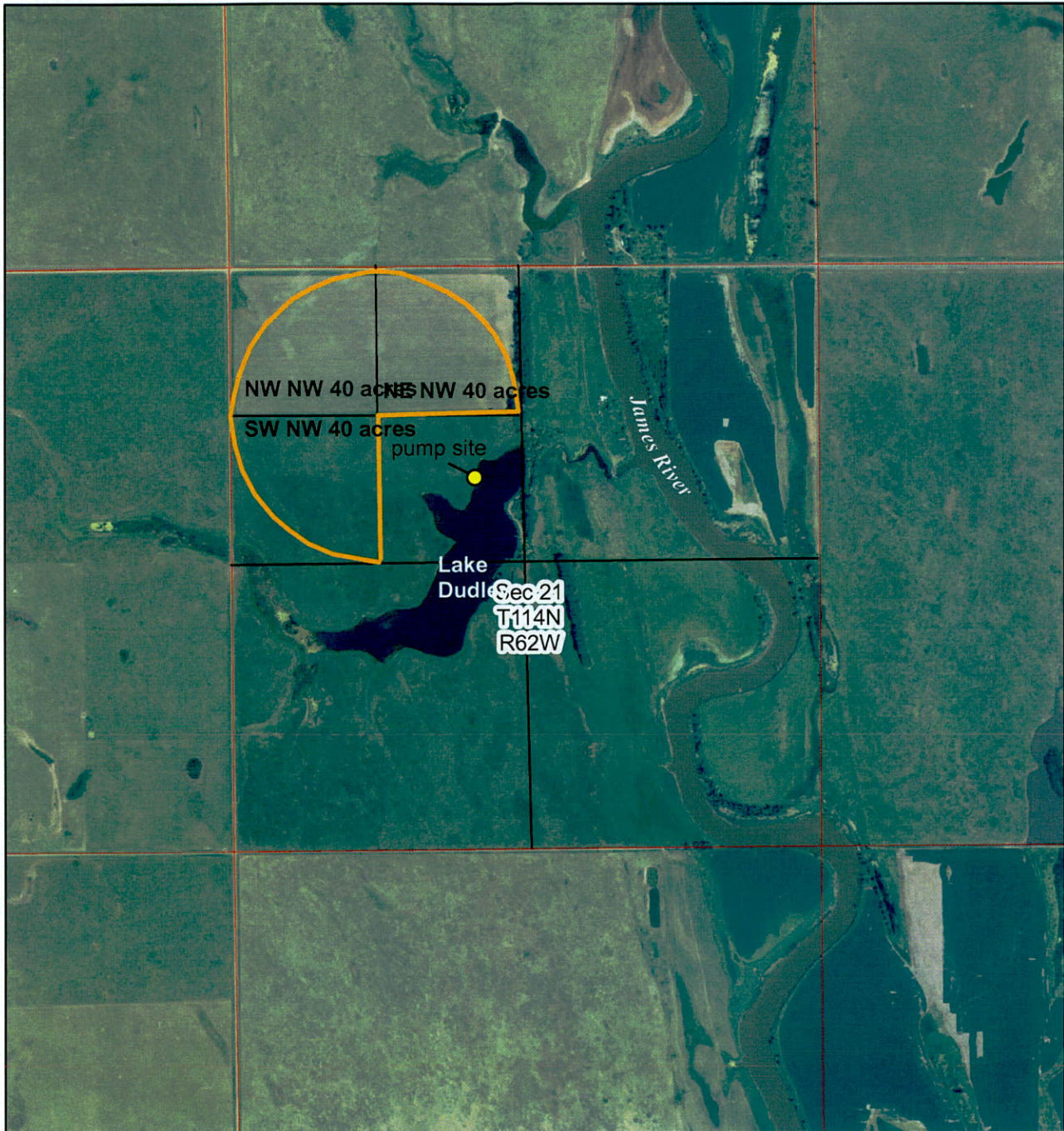
A handwritten signature in cursive script, reading "Lynn Beck". The signature is written in black ink and is positioned above the printed name and title.

Lynn Beck
Natural Resources Engineer III

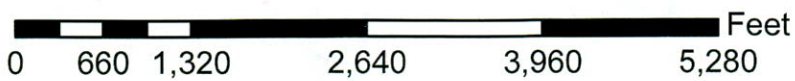
WATER PERMIT APPLICATION NO. 7347-3

Michael Sentell

July 20, 2012



SCALE



Lynn Beck
Lynn Beck
Natural Resources Engineer III
DENR - Water Rights Program

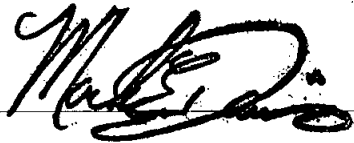
Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

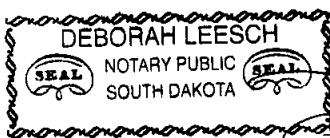
I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, 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:

#918 NOTICE OF HEARING

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 June 11th 2014, that Fifty-two and .15/100 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 11th day of June, 2014.



Notary Public, South Dakota

My commission expires 10/09/2019

RECEIVED

JUN 19 2014

WATER RIGHTS
PROGRAM

Notice

#918

NOTICE OF HEARING on Application No. 7347-3 to Appropriate Water

Notice is given that Michael Sentell, 18690 398th Ave, Hitchcock, SD 57348 has filed Application No. 7347-3 proposing to appropriate 1.49 cubic feet of water per second from Lake Dudley located in the SE 1/4 NW 1/4 Section 21 for irrigation of 120 acres located the W1/2 NW 1/4, NE 1/4 NW 1/4 Section 21; all in T114N-R62W.

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 this application presents important issues of public interest that should be heard by

the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7347-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

The Water Management Board will consider this application at 10:30 a.m. on July 10, 2014 in the Matthew Training Center, Joe Foss Bldg, 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.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed 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 June 30, 2014. The petition may be informal, but shall be in writing and shall 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 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 July 10, 2014 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 the application. The request for an automatic delay must be filed by June 30, 2014. 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 June 30, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendation, application 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 June 23, 2014. However, since this particular matter is a water permit application 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.

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; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

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

Published once at the total approximate cost of \$52.15. (June 11)

PRINTER'S AFFIDAVIT

RECEIVED

JUN 20 2014

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss

I, ELDON JACOBS, 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 – WATER RIGHTS
- SENTELL

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 11TH day JUNE 2014. That the full amount of the fee charged for publishing is: **SEVENTY-FIVE & 55/00** 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.



Subscribed and sworn to me before this 11TH day
of JUNE 2014.



Notary Public, South Dakota

My term expires 10/25/2017
Legal #1314

F.P. 06-11-14

**NOTICE OF HEARING
on Application No.
7347-3 to Appropriate
Water**

Notice is given that Michael Sentell, 18690 398th Ave, Hitchcock SD 57348 has filed Application No. 7347-3 proposing to appropriate 1.49 cubic feet of water per second from Lake Dudley located in the SE 1/4 NW 1/4 Section 21 for irrigation of 120 acres located the W1/2 NW 1/4, NE 1/4 NW 1/4 Section 21; all in T114N-R62W.

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 this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7347-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

The Water Manage-

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

No. 1314 (adv.)
Published once at the
total approximate cost of
\$75.55.



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



May 28, 2014

Redfield Press
PO Box 440
Redfield SD 57469

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7347-3 to Appropriate Water. Please publish the notice once on June 11, 2014. 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 and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Michael Sentell, 18690 398th Ave, Hitchcock SD 57348 (Ph # 605-266-2780).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

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



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov



May 28, 2014

Plainsman
PO Box 1278
Huron SD 57350

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Natural Resources Engineer
605 773-3352

enclosures



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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(S) RIGHT AWAY.**

May 28, 2014

Michael Sentell
18690 398th Ave
Hitchcock SD 57348

Dear Mr. Sentell:

Water Permit Application No. 7347-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Redfield Press printed at Redfield SD (Ph # 605-472-0822) and the Plainsman printed at Huron SD (Ph # 605-352-6401). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
enclosures

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

Instruction to Newspaper – Publish the Notice on June 11, 2014. 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.

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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 June 23, 2014. However, since this particular matter is a water permit application 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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Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of_____.

LAW OFFICES
RICHARDSON, WYLY, WISE, SAUCK & HIEB, LLP
ONE COURT STREET
POST OFFICE BOX 1030
ABERDEEN, SOUTH DAKOTA
57402-1030

RECEIVED
JUN 25 2014
WATER RIGHTS
PROGRAM

ROY A. WISE
WILLIAM K. SAUCK, JR.
JACK H. HIEB
ZACHARY W. PETERSON
KIMBERLY A. DORSETT
STACY M. JOHNSON
JOSHUA K. FINER

E-MAIL: jfiner@rwwsh.com

DWIGHT CAMPBELL (1887 - 1964)
STANLEY R. VOAS (1909 - 1972)
JAMES A. WYLY (1939 - 2009)
LLOYD C. RICHARDSON, JR. (1924 - 2012)
RICHARD L. RUSSMAN (1967 - 2014)

TELEPHONE (605) 225-6310
FACSIMILE (605) 225-2743

June 24, 2014

Water Rights Program
Chief Engineer
Foss Building
523 East Capitol
Pierre, SD 57501

Dear Chief Engineer:

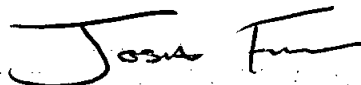
Re: Petition to Support Application No. 7347-3
to Appropriate Water

Please accept this letter as a petition to support the application of Michael Sentell, Application No. 7347-3, to appropriate water. Mr. Sentell has retained me as legal counsel to represent him at the hearing. I, as a representative of Mr. Sentell, support this application as it is necessary for Mr. Sentell to appropriate water from Lake Dudley. Also, it is clear based on the chief engineer's findings that there is unappropriated water available in Lake Dudley, existing rights will not be unlawfully impaired, it is a beneficial use of the water, and it is in the public interest.

If you have any questions or need anything further from me, please do not hesitate to contact me.

Best regards.

Sincerely,



Joshua K. Finer

JKF/kkt

cc: Mike Sentell



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov



July 16, 2014

NOTICE

TO: Joshua K. Finer
Richardson, Wyly, Wise, Sauck & Hieb
PO Box 1030
Aberdeen SD 57402-1030

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed Joshua Finer, counsel for Michael Sentell to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of the approval of Water Permit Application No. 7347-3. The Board will consider adoption of Findings, Conclusions and Final Decision at 9:00 AM, on Wednesday, October 22, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD. Notice will be provided if there is a change in the hearing date or time.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and counsel for the Water Rights Program by October 2, 2014. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney (mailing list enclosed) and Water Rights Program counsel by October 12, 2014. Board counsel requests that the draft findings or alternative findings be provided in a WORD format file via email to jeff.hallem@state.sd.us.

At the Board's discretion, oral arguments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on October 22, 2014. The public hearing was completed on July 10, 2014. No additional testimony will be received.

If you have questions about the findings process, please contact Eric Gronlund at (605) 773-3352.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Matt Naasz, Assistant Attorney General

2014 WATER MANAGEMENT BOARD MEMBERS

Chad Comes - Chairman
116 W Center
Madison SD 57042

Leo Holzbauer - Secretary
PO Box 877
Wagner SD 57380

Rodney Freeman Jr Hearing Officer
PO Box 176
Huron SD 57350

Peggy Dixon – Vice Chairman
3311 Hogan Court
Rapid City SD 57702

Everett Hoyt
4422 Carriage Hills Dr
Rapid City SD 57702

Tim Bjork
112 W Oak St
Pierre SD 57501

Jim Hutmacher
802 E 7th Street
Oacoma SD 57365

BOARD ATTORNEY

Jeff Hallem, Assistant Attorney General
Natural Resources Section
Office of Attorney General
George S Mickelson Criminal Justice Center
1302 E Hwy 14, Suite 1
Pierre, SD 57501

WATER RIGHTS PROGRAM

Department of Environment and
Natural Resources
Jeanne Goodman, Chief Engineer
Water Rights Program
523 East Capitol Ave
Pierre, SD 57501

STAFF ATTORNEYS

Matt Naasz & Ann Mines
Office of Attorney General
Natural Resources Section
George S Mickelson Criminal Justice Center
1302 E Hwy 14, Suite 1
Pierre SD 57501

CERTIFICATION

I hereby certify that on July 16, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 16, 2014, regarding preparation of findings for Water Right Permit Application No. 7347-3, as addressed below:

Joshua K. Finer
Richardson, Wylie, Wise, Sauck & Hieb
PO Box 1030
Aberdeen SD 57402-1030

Sent Inter-office to:

Matt Naasz, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Jeff Hallem, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

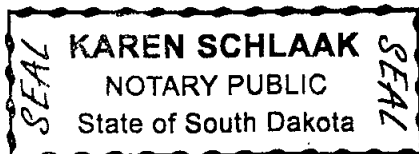


Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of July, 2014


Karen Schlaak
Notary Public
My Commission expires April 1, 2019



LAW OFFICES
RICHARDSON, WYLY, WISE, SAUCK & HIEB, LLP
ONE COURT STREET
POST OFFICE BOX 1030
ABERDEEN, SOUTH DAKOTA
57402-1030

368821
Attorney General
AUG 14 2014

ROY A. WISE
WILLIAM K. SAUCK, JR.
JACK H. HIEB
ZACHARY W. PETERSON
KIMBERLY A. DORSETT
STACY M. JOHNSON
JOSHUA K. FINER

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LLOYD C. RICHARDSON, JR. (1924 - 2012)
RICHARD L. RUSSMAN (1967 - 2014)

TELEPHONE (605) 225-6310
FACSIMILE (605) 225-2743

August 13, 2014

Mr. Matt Naasz
Ms. Ann Mines
Office of Attorney General
Natural Resources Section
1302 East Highway 14, Suite 1
Pierre, SD 57501

Dear Mr. Naasz and Ms. Mines:

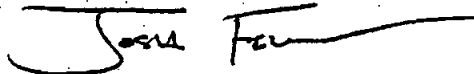
Re: Water Permit Application No. 7347-3; Mike Sentell
Proposed Findings of Fact, Conclusions of Law
and Final Decision

Enclosed please find a copy of the proposed Findings,
Conclusions, and Final Decision regarding Water Permit Applica-
tion No. 7347-3.

If you have any questions, please contact me at my
office.

Best regards.

Sincerely,



Joshua K. Finer

JKF/kkt
Enclosure

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

* * * * *

IN THE MATTER OF	*	FINDINGS OF FACT
WATER PERMIT	*	AND
APPLICATION NO. 7347-3	*	CONCLUSIONS OF LAW
Michael Sentell	*	
	*	

* * * * *

This matter having come on for hearing before the South Dakota Water Management Board on the 10th day of July, 2014, and the Applicant appearing personally and by and through his attorney Joshua K. Finer of Richardson, Wyly, Wise, Sauck & Hieb, LLC. of Aberdeen, South Dakota, and Assistant Attorney General Matt Naasz appearing on behalf of the South Dakota Department of Environment and Natural Resources, Water Rights Program, and the Board having considered the evidence presented, all records and documents on file herein, having entered its oral decision and rulings on the parties submissions and good cause appearing therefore, now enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Michael Sentell filed application No. 7347-3 (hereinafter "Application") for a water permit for irrigation purposes.
2. The Application proposes to appropriate 1.49 cubic feet of water per second ("CFS") from the Lake Dudley Dam, located in

the northwest quarter and southwest quarter of Section 21 to irrigate one hundred and twenty (120) acres located in the northwest quarter of Section 21, specifically, the northwest northwest 40 acres, the northeast northwest 40 acres, and the southwest northwest 40 acres of the northwest quarter of Section 21; all in Township 114 North, Range 62 West, Spink County.

3. The Lake Dudley Dam is located on a tributary to the James River. The dam is capable of storing a maximum of 200 acre feet of water at the top of the embankment, while normal storage is 140 acre feet at the spillway elevation.

4. Water is available for irrigation purposes when Lake Dudley is spilling.

5. The project proposes to divert 1.49 CFS for irrigation, which equates to approximately 1.5 inches of flow over the spillway.

6. Pumping can take place until Lake Dudley ceases to spill over the primary spillway; at that time all pumping should cease.

7. DENR witness, Lynn Beck, a natural resources engineer, reviewed the permit application, reviewed existing water rights, and examined information obtained from local residents.

8. The Department of Game, Fish, and Parks holds a Vested Water Right Claim 1636-3 for Lake Dudley.

9. Witness and Natural Resources Engineer III Lynn Beck testified that the Lake Dudley Dam is capable of sustaining

additional withdrawals and, further, that interference with other existing water rights, specifically, the Department of Game, Fish, and Parks' Vested Water Right Claim 1636-3, is not expected as long as no pumping takes place when the water level is at or below the primary spillway elevation.

10. There are four water rights on the James River within 1.5 miles downstream of the confluence of the Lake Dudley outlet channel. These are Water Rights No. 616-3, Water Rights No. 6183-3, Water Rights No. 7183-3 and Water Rights No. 7234-4.

11. The applicant's diversion of water would not be expected to adversely impact existing Water Rights or domestic use on the James River.

12. Water Permit Application 7347-3 should meet the same qualifications found on the existing James River water rights, specifically, this permit authorizes diversion of water from Lake Dudley when water is discharging over the primary spillway elevation after pumping; this permit does not authorize diversion of water from Lake Dudley after August 10th of each calendar year, or at any time James River flow is obviously low, unless written orders have been issued by the Chief Engineer; diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer; this permit does not authorize diversions from Lake Dudley when there is less than 20 CFS by-passing the James river gage at Huron, SD after pumping.

7

13. No person or entity intervened in opposition to the granting of the Application as proposed.

14. This Board's conclusion that the proposed diversion can be developed without unlawful impairment of existing water rights relies on Natural Resource Engineer III Lynn Beck's conclusions for the proposed permit. The permit would be qualified so as to protect all existing water rights on Lake Dudley, as well as all existing water rights and domestic use on the James River. The proposed qualifications provide that Water Permit Application 7347-3 must control the amount and date of the withdrawals.

15. The Board finds that the testimony presented by the applicant and Natural Resources Engineer III Lynn Beck, when fully considered in light of all the evidence in the record, weighs in favor of determining that there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, and also weighs in favor of finding that the proposed diversion can be developed and used without unlawful impairment of existing rights.

16. The proposed Water Permit is for use for irrigation. This Board has previously found on several occasions that the use of water for irrigation for farm crops is a beneficial use and is in the public interest. This use is beneficial to the appropriator insofar as the appropriator desires to increase its capacity to grow agriculture crops. The use is also consistent

with the interest of the public of this state and the best utilization of water supplies in that it provides for use of water to support the State's agricultural economy. Further, it is in the public interest to promote the maximum beneficial use of water. Accordingly, the proposed use is beneficial within the meaning of SDCL 46-1-6(3).

17. The proposed use is in the public interest insofar as it provides water for irrigation which would, in turn, benefit the general economic development of the area in question.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of the matter. The present application falls within the Board's responsibility over water appropriation and regulation in SDCL 46-2A-9.

2. Publication was properly made in THE REDFIELD PRESS and the PLAINSMAN under SDCL 46-2A-23 and SDCL 46-2A-4.

3. Notice of Hearing was sent to the applicant. The Notice of Hearing was proper under SDCL 46-2A-4 and SDCL 1-26-17.

4. There is a reasonable probability that there is unappropriated water available for the applicant's proposed use.

5. The proposed diversion can be developed without unlawful impairment of existing water rights.

6. The proposed use is a beneficial use.

7. It is in the public interest to grant the application subject to the qualifications set forth in the Final Decision below.

From the foregoing Findings of Fact and Conclusions of Law,
the Board now enters the following:

FINAL DECISION AND ORDER

The Application for Water Permit No. 7347-3 is hereby
granted with the following qualifications:

1. Diversion of water from Lake Dudley shall be in
accordance with the following criteria:

a. This permit authorizes diversion of water from Lake
Dudley only when water is discharging over the primary spillway
elevation when pumping is occurring.

b. This permit does not authorize diversion of water
from Lake Dudley after August 10th of each calendar year, unless
written orders have been issued by the Chief Engineer.
Diversions under this permit are subject to senior water rights
and any written orders issued by the Chief Engineer.

c. This permit does not authorize diversions from the
James River when there is less than 20 cfs bypassing the USGS
gaging station at Huron, SD after pumping.

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

Dated this _____ day of _____, 2014.

BY THE BOARD:

Chad Comes
Chairman
South Dakota Water Management Board

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Mike Sentell, hereby certifies that on the 13th day of August, 2014, a true and correct copy of **FINDINGS OF FACT AND CONCLUSIONS OF LAW** was mailed by first-class mail to:

Mr. Chad Comes, Chairman
Water Management Board
116 West Center
Madison, SD 57042

Mr. Leo Holzbauer, Secretary
Water Management Board
Post Office Box 877
Wagner, SD 57380

Mr. Rodney Freeman, Jr.
Hearing Officer
Post Office Box 176
Huron, SD 57350

Ms. Peggy Dixon, Vice-Chairman
Water Management Board
3311 Hogan Court
Rapid City, SD 57702

Mr. Everett Hoyt
4422 Carriage Hills Drive
Rapid City, SD 57702

Mr. Tim Bjork
112 West Oak Street
Pierre, SD 57501

Mr. Jim Hutmacher
802 East 7th Street
Oacoma, SD 57365

Mr. Matt Naasz
Ms. Ann Mines
Office of Attorney General
Natural Resources Section
1302 East Highway 14, Suite 1
Pierre, SD 57501

and a true and correct copy of the same was sent via e-mail to:

(jeff.hallem@state.sd.us)
Mr. Jeff Hallem
Assistant Attorney General
Natural Resources Section
1302 East Highway 14, Suite 1
Pierre, SD 57501



STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
www.state.sd.us/atg

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

September 5, 2014

Chad Comes – Chairman
116 W. Center
Madison, SD 57042

Leo Holzbauer-Secretary
PO Box 877
Wagner, SD 57380

Rodney Freeman, Jr. – Hearing Officer
PO Box 176
Huron, SD 57350

Peggy Dixon – Vice Chairman
3311 Hogan Court
Rapid City, SD 57702

Everett Hoyt
4422 Carriage Hills Dr
Rapid City, SD 57702

Tim Bjork
112 W Oak St
Pierre, SD 57501

Jim Hutmacher
802 E. 7th Street
Oacoma, SD 572365

Re: Water Permit Application No. 7347-3; Applicant Michael Sentell's Proposed Findings of Fact, Conclusions of Law, and Final Decision

Dear Board Members:

As directed by the Water Management Board, Joshua Finer, attorney for Applicant Michael Sentell submitted Proposed Findings of Fact, Conclusions of Law, and Final Decision. DENR supports the substance of the Proposed Findings of Fact, Conclusions of Law, and Final Decision, with the following comments.

In Proposed Finding of Fact #5, the "t" was left off of the word "divert."

In Finding of Fact #10, the "s" behind "Right," referring to other water rights should be removed. The second sentence of that Finding should read: "These are Water Right No. 616-3, Water Right No. 6183-3, Water Right No. 7183-3 and Water Right No. 7234-4."

In Proposed Finding of Fact #12, at the bottom of page 3, "river" should be capitalized when referring to the "James River."

DENR acknowledges that section 1(c) of the recommendation of the Chief Engineer erroneously included a reference to "diversions from James River." The record is clear that this application is for a diversion from Lake Dudley and not the James River. A correction should therefore be made to the Proposed Final Decision and Order. Proposed Final Decision and Order 1(c), "diversions from the James River" should be changed to "diversion from Lake Dudley" and "James River" should be inserted before "USGS." This sentence should read: "This permit does not authorize diversion from Lake Dudley when there is less than 20 cfs bypassing the James River USGS gaging station at Huron, SD after pumping." DENR respectfully requests this correction be made.

With these corrections made, DENR has no objection to the Proposed Findings of Fact, Conclusions of Law, and Final Decision being entered.

Respectfully,



Matt Naasz
Attorney for DENR

MN/jm

cc: Jeff Hallem, Board Attorney
Water Rights Program – DENR
Joshua Finer, Attorney for Applicant



RECEIVED

OCT 10 2014

WATER RIGHTS
PROGRAM

OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

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www.state.sd.us/atg

MARTY J. JACKLEY

ATTORNEY GENERAL

CHARLES D. McGUIGAN

CHIEF DEPUTY ATTORNEY GENERAL

October 9, 2014

Jeanne Goodman
DENR - Water Rights Program
523 E. Capitol Ave.
Pierre, SD 57501-3181

Joshua K. Finer
Richardson, Wylie, Wise, Sauck & Hieb
P.O. Box 1030
Aberdeen, SD 57402

Matthew Naasz
Ann Mines-Bailey
Assistant Attorneys General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501

Re: *In the Matter of Water Permit Application No. 7347-3*
Michael Sentell

Dear Counsel and Chief Engineer:

Enclosed please find the proposed Water Management Board Rulings on Parties' Submissions and proposed Findings of Fact, Conclusions of Law, and Final Decision and Order I have prepared in the above matter. The documents were prepared consistent with statements made at the July 10, 2014 meeting of the Water Management Board. The Board will consider proposals at its October meeting. It is within the Board's discretion whether oral arguments by the parties will be afforded prior to consideration of the matter.

Yours truly,

A handwritten signature in black ink, appearing to read "Jeffrey P. Hallem".

Jeffrey P. Hallem

Assistant Attorney General

JPH/rar

Enclosures

cc w/encl: Water Management Board

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	FINDINGS OF FACT,
PERMIT APPLICATION No. 7347-3,	)	CONCLUSIONS OF LAW, AND
MICHAEL SENTELL	)	FINAL DECISION AND ORDER

This matter having come on for hearing before the South Dakota Water Management Board on the 10th day of July, 2014, and the Applicant appearing personally and by and through his attorney, Joshua K. Finer of Richardson, Wyly, Wise, Sauck & Hieb, LLC. of Aberdeen, South Dakota, and Assistant Attorney General Matt Naasz appearing on behalf of the South Dakota Department of Environment and Natural Resources, Water Rights Program, and the Board having considered the evidence presented, all records and documents on file herein, having entered its oral decision and rulings on the parties submissions and good cause appearing therefore, now enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Michael Sentell filed Application No. 7347-3 (hereinafter "Application") for a water permit for irrigation purposes.
2. The Application proposes to appropriate 1.49 cubic feet of water per second ("CFS") from the Lake Dudley Dam, located in the northwest quarter and southwest quarter of Section 21 to irrigate one hundred and twenty (120) acres located in the northwest quarter of Section 21, specifically, the northwest northwest 40 acres, the northeast northwest 40 acres, and the

southwest northwest 40 acres of the northwest quarter of Section 21; all in Township 114 North, Range 62 West, Spink County.

3. The Lake Dudley Dam is located on the tributary to the James River. The dam is capable of storing a maximum of 200 acre feet of water at the top of the embankment, while normal storage is 140 acre feet at the spillway elevation.

4. Water is available for irrigation purposes when Lake Dudley is spilling.

5. The project proposes to divert 1.49 CFS for irrigation, which equates to approximately 1.5 inches of flow over the spillway.

6. Pumping can take place until Lake Dudley ceases to spill over the primary spillway; at that time all pumping should cease.

7. DENR witness, Lynn Beck, a natural resources engineer, reviewed the permit application, reviewed existing water rights, and examined information obtained from local residents.

8. The Department of Game, Fish, and Parks holds a Vested Water Right Claim 1636-3 for Lake Dudley.

9. Witness and Natural Resources Engineer III Lynn Beck testified that the Lake Dudley Dam is capable of sustaining additional withdrawals and, further, that interference with other existing water rights, specifically, the Department of Game, Fish, and Parks' Vested Water Right Claim 1636-3, is not expected as long as no pumping takes place when the water level is at or below the primary spillway elevation.

10. There are four water rights on the James River within 1.5 miles downstream of the confluence of the Lake Dudley outlet channel. These are Water Right No. 616-3, Water Right No. 6183-3, Water Right No. 7183-3 and Water Right No. 7234-4.

11. The Applicant's diversion of water would not be expected to adversely impact existing Water Rights or domestic use on the James River.

12. Water Permit Application 7347-3 should meet the same qualifications found on the existing James River water rights, specifically, this permit authorizes diversion of water from Lake Dudley when water is discharging over the primary spillway elevation after pumping; this permit does not authorize diversion of water from Lake Dudley after August 10 of each calendar year, or at any time James River flow is obviously low, unless written orders have been issued by the Chief Engineer; diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer; this permit does not authorize diversions from Lake Dudley when there is less than 20 CFS by-passing the James River gage at Huron, SD after pumping.

13. No person or entity intervened in opposition to the granting of the Application as proposed.

14. This Board's conclusion that the proposed diversion can be developed without unlawful impairment of existing water rights relies on Natural Resource Engineer III Lynn Beck's conclusions for the proposed permit. The permit would be qualified so as to protect all existing water rights

on Lake Dudley, as well as all existing water rights and domestic use on the James River. The proposed qualifications provide that Water Permit Application 7347-3 must control the amount and date of the withdrawals.

15. The Board finds that the testimony presented by the Applicant and Natural Resources Engineer III Lynn Beck, when fully considered in light of all the evidence in the record, weighs in favor of determining that there is a reasonable probability that there is unappropriated water available for the Applicant's proposed use, and also weighs in favor of finding that the proposed diversion can be developed and used without unlawful impairment of existing rights.

16. The proposed Water Permit is for use for irrigation. This Board has previously found on several occasions that the use of water for irrigation for farm crops is a beneficial use and is in the public interest. This use is beneficial to the appropriator insofar as the appropriator desires to increase its capacity to grow agriculture crops. The use is also consistent with the interest of the public of this state and the best utilization of water supplies in that it provides for use of water to support the State's agricultural economy. Further, it is in the public interest to promote the maximum beneficial use of water. Accordingly, the proposed use is beneficial within the meaning of SDCL 46-1-6(3).

17. The proposed use is in the public interest insofar as it provides water for irrigation which would, in turn, benefit the general economic development of the area in question.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of the matter. The present Application fails within the Board's responsibility over water appropriation and regulation in SDCL 46-2A-9.
2. Publication was properly made in *The Redfield Press* and the *Plainsman* under SDCL 46-2A-23 and SDCL 46-2A-4.
3. Notice of Hearing was sent to the Applicant. The Notice of Hearing was proper under SDCL 46-2A-4 and SDCL 1-26-17.
4. There is a reasonable probability that there is unappropriated water available for the Applicant's proposed use.
5. The proposed diversion can be developed without unlawful impairment of existing water rights.
6. The proposed use is a beneficial use.
7. It is in the public interest to grant the Application subject to the qualifications set forth in the Final Decision below.

From the foregoing Findings of Fact and Conclusions of Law, the Board now enters the following:

FINAL DECISION AND ORDER

The Application for Water Permit No. 7347-3 is hereby granted with the following qualifications:

1. Diversion of water from Lake Dudley shall be in accordance with the following criteria:

a. This permit authorized diversion of water from Lake Dudley only when water is discharging over the primary spillway elevation when pumping is occurring.

b. This permit does not authorize diversion of water from Lake Dudley after August 10 of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.

c. This permit does not authorize diversions from Lake Dudley when there is less than 20 CFS by-passing the James River USGS gaging station at Huron, SD after pumping.

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

Dated this _____ day of October, 2014.

BY THE BOARD:

Chad Comes, Chairman
S.D. Water Management Board

RECEIVED

OCT 10 2014

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	WATER MANAGEMENT BOARD'S
PERMIT APPLICATION NO. 7347-3	)	RULINGS ON PARTIES SUBMISSIONS
MICHAEL SENTELL	)	

Pursuant to the direction of the Water Management Board, counsel for Applicant Michael Sentell submitted Findings of Fact and Conclusions of Law, Final Decision and Order in the above-entitled matter. Subsequently, counsel for Department of Environment and Natural Resources, Water Rights Program (DENR) submitted a letter with certain proposed modifications to Applicant's submission. The Board, upon review of the submissions received, the administrative record, and having orally entered its decision, enters the following rulings:

A. Applicants propose Findings of Fact Nos. 1-4, 6-9, 11, 13-17 are accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision, with the following minor grammatical revisions: capitalizing references to the Applicant and Application where appropriate.

B. Applicants proposed Finding of Fact No. 5 is accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision with the following minor grammatical correction: modifying "diver" to "divert."

C. Applicants proposed Finding of Fact No. 10 is substantially accepted by the Board as consistent with and supported by the administrative

record and the Board's oral decision with the following grammatical corrections: all references to the four referenced Water Rights from "Water Rights" to "Water Right."

D. Applicants proposed Finding of Fact No. 12 is accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision as modified to grammatically correct the reference to the "James River."

E. Applicants proposed Conclusions of Law Nos. 1-7 are accepted by the Board as consistent with and supported by the administrative record, the Board's oral decision and the Findings of Fact adopted by the Board in the above rulings with the following minor grammatical revisions: capitalizing references to the Applicant and Application where appropriate.

F. Applicants proposed Final Decision and Order is substantially accepted by the Board as consistent with and supported by the administrative record, the Board's oral decision and Findings of Fact and Conclusions of Law adopted above with modification of 1.c. to properly reflect the qualification on diversion from Lake Dudley involving the flows in the James River as follows:

c. This permit does not authorize diversions from Lake Dudley when there is less than 20 cfs bypassing the James River USGS gaging station at Huron, SD after pumping.

G. That DENR's proposed modifications to Applicants proposed Findings of Fact, Conclusions of Law, Final Decision and Order as set forth in the September 5, 2014 letter from DENR counsel are accepted to the extent set forth in the above rulings.

The Board's attorney is directed to prepare Findings of Fact, Conclusions of Law and Final Decision and Order consistent with the above rulings to be executed by the Chair of the Board or the Board's designee without further notice of hearing.

Dated this _____ day of October, 2014.

BY THE BOARD

By: _____
Chad Comes, Chair
South Dakota Water Management Board

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
PERMIT APPLICATION NO. 7347-3
MICHAEL SENTELL

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of proposed Water Management Boards Rulings on Parties Submissions and proposed Findings of Fact, Conclusions of Law and Final Decision and Order in the above matter were served by U.S. mail, first class, postage prepaid upon:

Chad Comes - Chair
116 W. Center
Madison, SD 57042

Leo Holzbauer - Secretary
P.O. Box 877
Wagner, SD 57380

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350

Peggy Dixon - Vice Chairman
3311 Hogan Court
Rapid City, SD 57702

Everett Hoyt
4422 Carriage Hills Dr.
Rapid City, SD 57702

Tim Bjork
112 W. Oak St.
Pierre, SD 57501

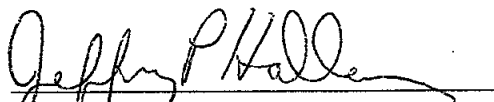
Jim Hutmacher
802 E. 7th St.
Oacoma, SD 57365

Joshua K. Finer
Attorney at Law
P.O. Box 1030
Aberdeen, SD 57402

Matthew Naasz
Ann Mines-Bailey
Assistant Attorneys General
Hand Delivered

And that on the same date the original was filed with Chief Engineer Jeanne Goodman, Water Rights Program, Dept. of Environment and Natural Resources, at 523 East Capitol Avenue, Pierre, SD 57501-3181.

Dated this 9th day of October, 2014.


Jeffrey P. Hallem
Assistant Attorney General



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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

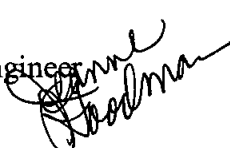
denr.sd.gov



October 24, 2014

NOTICE

TO: Joshua K. Finer
Richardson, Wyly, Wise, Sauck & Hieb
PO Box 1030
Aberdeen SD 57402-1030

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Adoption of Finding of Fact, Conclusion of Law and Final Decision in the matter
of Water Permit Application No. 7347-3

This is to notify you that the Water Management Board's Ruling and the Final Decision, including Findings of Fact and Conclusions of Law, were adopted October 22, 2014, by the Water Management Board in the matter of Water Permit No. 7347-3, Michael Sentell. The Board ruling and signed Findings of Fact, Conclusions of Law and Final Decision are enclosed.

DENR will proceed with issuance of the water right permit to Mr. Sentell.

Enclosures

c: Jeff Hallem, Assistant Attorney General
Ann Mines-Bailey, Assistant Attorney General

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	FINDINGS OF FACT,
PERMIT APPLICATION No. 7347-3,	)	CONCLUSIONS OF LAW, AND
MICHAEL SENTELL	)	FINAL DECISION AND ORDER

This matter having come on for hearing before the South Dakota Water Management Board on the 10th day of July, 2014, and the Applicant appearing personally and by and through his attorney, Joshua K. Finer of Richardson, Wyly, Wise, Sauck & Hieb, LLC. of Aberdeen, South Dakota, and Assistant Attorney General Matt Naasz appearing on behalf of the South Dakota Department of Environment and Natural Resources, Water Rights Program, and the Board having considered the evidence presented, all records and documents on file herein, having entered its oral decision and rulings on the parties submissions and good cause appearing therefore, now enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Michael Sentell filed Application No. 7347-3 (hereinafter "Application") for a water permit for irrigation purposes.
2. The Application proposes to appropriate 1.49 cubic feet of water per second ("CFS") from the Lake Dudley Dam, located in the northwest quarter and southwest quarter of Section 21 to irrigate one hundred and twenty (120) acres located in the northwest quarter of Section 21, specifically, the northwest northwest 40 acres, the northeast northwest 40 acres, and the

southwest northwest 40 acres of the northwest quarter of Section 21; all in Township 114 North, Range 62 West, Spink County.

3. The Lake Dudley Dam is located on the tributary to the James River. The dam is capable of storing a maximum of 200 acre feet of water at the top of the embankment, while normal storage is 140 acre feet at the spillway elevation.

4. Water is available for irrigation purposes when Lake Dudley is spilling.

5. The project proposes to divert 1.49 CFS for irrigation, which equates to approximately 1.5 inches of flow over the spillway.

6. Pumping can take place until Lake Dudley ceases to spill over the primary spillway; at that time all pumping should cease.

7. DENR witness, Lynn Beck, a natural resources engineer, reviewed the permit application, reviewed existing water rights, and examined information obtained from local residents.

8. The Department of Game, Fish, and Parks holds a Vested Water Right Claim 1636-3 for Lake Dudley.

9. Witness and Natural Resources Engineer III Lynn Beck testified that the Lake Dudley Dam is capable of sustaining additional withdrawals and, further, that interference with other existing water rights, specifically, the Department of Game, Fish, and Parks' Vested Water Right Claim 1636-3, is not expected as long as no pumping takes place when the water level is at or below the primary spillway elevation.

10. There are four water rights on the James River within 1.5 miles downstream of the confluence of the Lake Dudley outlet channel. These are Water Right No. 616-3, Water Right No. 6183-3, Water Right No. 7183-3 and Water Right No. 7234-4.

11. The Applicant's diversion of water would not be expected to adversely impact existing Water Rights or domestic use on the James River.

12. Water Permit Application 7347-3 should meet the same qualifications found on the existing James River water rights, specifically, this permit authorizes diversion of water from Lake Dudley when water is discharging over the primary spillway elevation after pumping; this permit does not authorize diversion of water from Lake Dudley after August 10 of each calendar year, or at any time James River flow is obviously low, unless written orders have been issued by the Chief Engineer; diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer; this permit does not authorize diversions from Lake Dudley when there is less than 20 CFS by-passing the James River gage at Huron, SD after pumping.

13. No person or entity intervened in opposition to the granting of the Application as proposed.

14. This Board's conclusion that the proposed diversion can be developed without unlawful impairment of existing water rights relies on Natural Resource Engineer III Lynn Beck's conclusions for the proposed permit. The permit would be qualified so as to protect all existing water rights

on Lake Dudley, as well as all existing water rights and domestic use on the James River. The proposed qualifications provide that Water Permit Application 7347-3 must control the amount and date of the withdrawals.

15. The Board finds that the testimony presented by the Applicant and Natural Resources Engineer III Lynn Beck, when fully considered in light of all the evidence in the record, weighs in favor of determining that there is a reasonable probability that there is unappropriated water available for the Applicant's proposed use, and also weighs in favor of finding that the proposed diversion can be developed and used without unlawful impairment of existing rights.

16. The proposed Water Permit is for use for irrigation. This Board has previously found on several occasions that the use of water for irrigation for farm crops is a beneficial use and is in the public interest. This use is beneficial to the appropriator insofar as the appropriator desires to increase its capacity to grow agriculture crops. The use is also consistent with the interest of the public of this state and the best utilization of water supplies in that it provides for use of water to support the State's agricultural economy. Further, it is in the public interest to promote the maximum beneficial use of water. Accordingly, the proposed use is beneficial within the meaning of SDCL 46-1-6(3).

17. The proposed use is in the public interest insofar as it provides water for irrigation which would, in turn, benefit the general economic development of the area in question.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of the matter. The present Application fails within the Board's responsibility over water appropriation and regulation in SDCL 46-2A-9.
2. Publication was properly made in *The Redfield Press* and the *Plainsman* under SDCL 46-2A-23 and SDCL 46-2A-4.
3. Notice of Hearing was sent to the Applicant. The Notice of Hearing was proper under SDCL 46-2A-4 and SDCL 1-26-17.
4. There is a reasonable probability that there is unappropriated water available for the Applicant's proposed use.
5. The proposed diversion can be developed without unlawful impairment of existing water rights.
6. The proposed use is a beneficial use.
7. It is in the public interest to grant the Application subject to the qualifications set forth in the Final Decision below.

From the foregoing Findings of Fact and Conclusions of Law, the Board now enters the following:

FINAL DECISION AND ORDER

The Application for Water Permit No. 7347-3 is hereby granted with the following qualifications:

1. Diversion of water from Lake Dudley shall be in accordance with the following criteria:

a. This permit authorized diversion of water from Lake Dudley only when water is discharging over the primary spillway elevation when pumping is occurring.

b. This permit does not authorize diversion of water from Lake Dudley after August 10 of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.

c. This permit does not authorize diversions from Lake Dudley when there is less than 20 CFS by-passing the James River USGS gaging station at Huron, SD after pumping.

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

Dated this 22 day of October, 2014.

BY THE BOARD:

A handwritten signature in black ink, appearing to read "Chad Comes", is written over a horizontal line.

Chad Comes, Chairman
S.D. Water Management Board

RECEIVED

OCT 10 2014

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	WATER MANAGEMENT BOARD'S
PERMIT APPLICATION NO. 7347-3	)	RULINGS ON PARTIES SUBMISSIONS
MICHAEL SENTELL	)	

Pursuant to the direction of the Water Management Board, counsel for Applicant Michael Sentell submitted Findings of Fact and Conclusions of Law, Final Decision and Order in the above-entitled matter. Subsequently, counsel for Department of Environment and Natural Resources, Water Rights Program (DENR) submitted a letter with certain proposed modifications to Applicant's submission. The Board, upon review of the submissions received, the administrative record, and having orally entered its decision, enters the following rulings:

A. Applicants propose Findings of Fact Nos. 1-4, 6-9, 11, 13-17 are accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision, with the following minor grammatical revisions: capitalizing references to the Applicant and Application where appropriate.

B. Applicants proposed Finding of Fact No. 5 is accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision with the following minor grammatical correction: modifying "diver" to "divert."

C. Applicants proposed Finding of Fact No. 10 is substantially accepted by the Board as consistent with and supported by the administrative

record and the Board's oral decision with the following grammatical corrections: all references to the four referenced Water Rights from "Water Rights" to "Water Right."

D. Applicants proposed Finding of Fact No. 12 is accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision as modified to grammatically correct the reference to the "James River."

E. Applicants proposed Conclusions of Law Nos. 1-7 are accepted by the Board as consistent with and supported by the administrative record, the Board's oral decision and the Findings of Fact adopted by the Board in the above rulings with the following minor grammatical revisions: capitalizing references to the Applicant and Application where appropriate.

F. Applicants proposed Final Decision and Order is substantially accepted by the Board as consistent with and supported by the administrative record, the Board's oral decision and Findings of Fact and Conclusions of Law adopted above with modification of 1.c. to properly reflect the qualification on diversion from Lake Dudley involving the flows in the James River as follows:

c. This permit does not authorize diversions from Lake Dudley when there is less than 20 cfs bypassing the James River USGS gaging station at Huron, SD after pumping.

G. That DENR's proposed modifications to Applicants proposed Findings of Fact, Conclusions of Law, Final Decision and Order as set forth in the September 5, 2014 letter from DENR counsel are accepted to the extent set forth in the above rulings.

The Board's attorney is directed to prepare Findings of Fact, Conclusions of Law and Final Decision and Order consistent with the above rulings to be executed by the Chair of the Board or the Board's designee without further notice of hearing.

Dated this 22 day of October, 2014.

BY THE BOARD

By: Chad A Comes
Chad Comes, Chair
South Dakota Water Management Board

CERTIFICATION

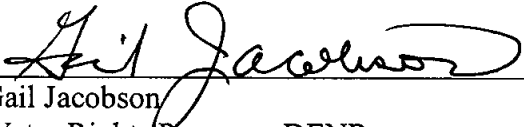
I hereby certify that on October 24, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 24, 2014, regarding adoption of findings for Water Right Permit Application No. 7347-3, as addressed below:

Joshua K. Finer
Richardson, Wyly, Wise, Sauck & Hieb
PO Box 1030
Aberdeen SD 57402-1030

Sent Inter-office to:

Ann Mines-Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Jeff Hallem, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



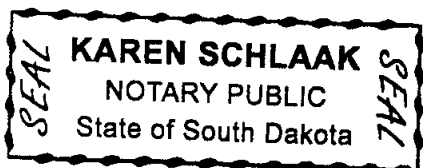
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 24th day of October, 2014



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



NOV 13 2014

Michael Sentell
18690 398th Ave
Hitchcock SD 57348

Dear Mr. Sentell:

Enclosed is Water Permit No. 7347-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

Nos. 7347-3, 7348-3 & 7349-3

Water Rights Program - DENR Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7347-3, 7348-3 & 7349-3, Michael Sentell

ADDRESS: COUNTY: Spink County

DATE: November 3, 2015 TELEPHONE:

RE: licensing investigation of water permits held by Mr. Sentell

On November 3, 2015, Whitney Kilts and myself met with Michael Sentell for the purpose of conducting licensing investigation.

Water Permit No. 7347-3 appropriates up to 1.49 cfs from Lake Dudley to irrigate 120 acres. At the time of the on-site visit the center pivot was in place and the pipeline to convey water from the lake to the pivot was in the process of being constructed. No pump was in place or on-site. Mr. Sentell did state that it was likely that he'd move the pump from the existing pump site at the dugout authorized by Water Permit No. 7349-3 to Lake Dudley. Water Permit No. 7347-3 has a date to complete construction of October 22, 2019. Based on the fact that construction was not yet complete, it was determined not move forward with licensing at this time.

Water Permit No. 7348-3 appropriates 5.33 cfs from the Tulare:East James aquifer for irrigation of 440 acres. At the time of the on-site visit, pivots and wells were in place in the NW ¼ Section 13 and NW ¼ Section 14, T114N, R62W. The well was constructed in the S ½ of Section 14 and a pivot had been in place in the S ½ of Section 14 that had been blown over is a wind storm. The wrecked pivot had been removed from the field and its remnants were located in the SE ¼ SW ¼ of the section and a new pivot was off-loaded in the field awaiting construction. Mr. Sentell indicated that the gravel pit in the NE ¼ SW ¼ of Section 14 was in the process of being reclaimed and it was his intent to allow the pivot to make full rotation. I pointed out Permit No. 7348-3 authorized this pivot to make ¾ rotation in the SE ¼ SW ¼ and W ½ SE ¼ of the section and not in the NE ¼ SW ¼. Mr. Sentell indicated that must have been a mistake when Inman Irrigation helped him fill out the application back in 2012. He reiterated his desire to allow the pivot to make full rotation once reclamation was complete. The slope appeared to be significant in the transition area where reclamation was occurring but Mr. Sentell assured us that a center pivot could make full rotation. I explained that he is still within his construction period and since the other pivots appear to be standard 132 – 136 acre quarter section pivot, his permit may have enough acres to allow for him to transfer acres to cover the acres in the NE ¼ SW ¼ Section 14. Given the replacement pivot was not in place and his intention to allow the pivot in the S ½ Section 14 to make full rotation if the transfer of acres is granted, DENR will not proceed with licensing at this time. I reiterated the date to complete construction is December 6, 2017.

Water Permit No. 7349-3 appropriates 3.33 cfs from a dugout completed into alluvium along the James River alluvium to irrigate 240 acres. A pump station was in place along with two center pivots and underground pipeline to each pivot. Whitney and I took the pertinent information for licensing. Mr. Sentell did indicate he would likely move the pump at this site to Lake Dudley. He has installed a PVC casing at an incline with the intent of placing a submersible pump in the casing to supply the two pivots. Regardless the system is constructed and the decision was made to proceed with licensing.

NAME: Eric Trumble

NOTICE OF TRANSFER OF OWNERSHIP
RECEIVED

PAID
AUG 14 2020
Ck# 504

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

AUG 14 2020

WATER RIGHTS
PROGRAM

No. 7347-3

Date: 8/14/2020

I/We request that Water Permit No. 7347-3

formerly owned by: Michael Sentell, 18690 398th Ave, Hitchcock SD 57348

be transferred to: (name & address) Oscar Inc, 209 27th St NW, Huron SD 57350

Telephone No. _____

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

120 acres - W 1/2 NW 1/4 and NE 1/4 NW 1/4 Section 21, T114N, R62W

I/We understand that the validity of Water Permit No. 7347-3 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 _____, the new owner, certify that the above information is true and correct.

Oscar Inc by Roy A. Peterson Pres.
(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.

7347-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Environment and Natural Resources

Date August 14, 2020RECEIVED OF Oscar Inc. 209 27th St. NW Huron SD 57350

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>7347-3</u>	\$50.00
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	\$50.00

By Eric Gronlund
Chief Engineer

DM

7347-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 17, 2020

Floyd Peterson
Oscar Inc
209 27th St NW
Huron SD 57350

RE: Water Right/Permit Nos. 7234-3, 7235A-3, 7347-3, 7348-3, 7348A-3, 7349-3 & 7444-3

Dear Mr. Peterson:

I am writing in reference to the transfer forms and filing fees you completed while in the office last Friday.

The ownership changes have been completed. The above listed water rights and water permits, formerly held by Michael Sentell, Twisted Land & Cattle or Jeb, Shane & Brad Peterson are now listed in your name.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Genny McMath".

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 16, 2021

Permit No. 7347-3

Oscar Inc.
Floyd Peterson
209 27th St NW
Huron SD 57350

Dear Mr. Peterson:

I am writing to inform you Water Rights staff drove along the James River last week after the August 10 shutoff date to spot-check whether water right holders from the river and tributaries were complying with the August 10 shutoff date qualification. This spot-check found you were irrigating in violation of this qualification.

Water rights containing this qualification require mandatory compliance and pumping under your permit must cease unless you contact the Water Rights Program and receive permission to continue to divert water. Permission may be granted based upon water availability.

This is only a warning, but I expect your cooperation in following any requirements that have been placed on your water rights. If you have any questions, please contact Mark Rath, Blaise Hansen, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

cc: Brad Peterson - Operator

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7347-3

I have this day, November 5, 2025, made a thorough examination of the water use system constructed by Oscar, Inc., 209 27th St NW, Huron, SD 57350 of Permit No. 7347-3, bearing the priority of April 11, 2012 authorizing the diversion of 1.49 cu. ft. per second of the waters of Lake Dudley for Irrigation purposes, in xxx County.

A. Works used to divert the water:

Pump:

- 1) Make Unknown on Floating platform
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 800 GPM

Motor:

- 1) Make Baldor
- 2) Model No. Unknown
- 3) Horsepower rating 30 hp

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

- 1) Type Buried PVC pipe
- 2) Size 8 inches
- 3) Length 835 feet

Comments: xx

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make T & L
- 2) Overall length 1300 feet
- 3) Number of towers 8
- 4) End gun Y
- 5) Capacity 800 GPM

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by N

If no, describe: **Pumping at 1.78 cfs but authorized for 1.49 cfs (for more permitted acres than currently being irrigated).**

- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y
- 3) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: PUMPING PLANT LOCATION From the NW corner Sec 21 T114N R62W, 2000 ft S & 1775 ft E, Lat 44.67082 Long - 98.29512 (SE 1/4 NW 1/4).
2. The works are capable of diverting and conveying to the place of use 1.78 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

<u>legal description/acreage</u>	<u>legal description/acreage</u>
<u>All land in Sec 21 T114N R62W</u>	
<u>NW 1/4 NW 1/4 - 32 acres</u>	
<u>NE 1/4 NW 1/4 - 31 acres</u>	

comprising a total of 63 acres of land and the license should be issued for 0.90 cfs.
3. All structures, wells and lands on map Y

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

Used FSA photos and ArcGPS to construct map and estimate irrigated acreage.

Used Irrigation Questionnaire reported pump flow rate as system flow capacity

Visited with Mr. Floyd "Oscar" Peterson during field visit.

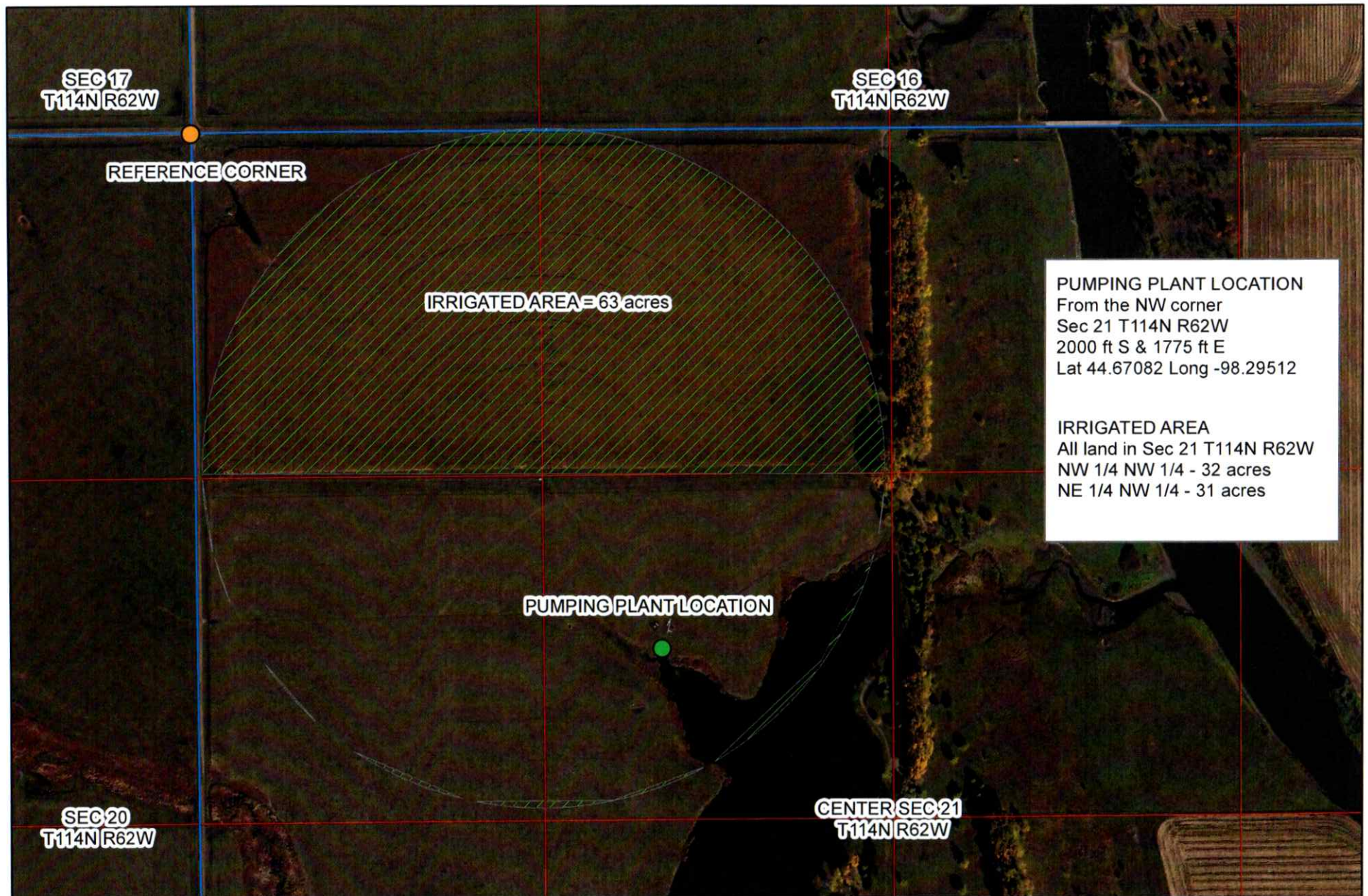
Change in ownership from Michael Sentell to Floyd "Oscar" Peterson with a mailing address of 209 27th St SW, Huron, SD 57350 and phone numbers of 605/350-4892 (cell) and 605/352-2728 (Home). His daughter, Adele Flanery, is also a contact person at 605/354-4605.



Darrell DeBoer
Water Rights Inspector
DANR, Water Rights Program

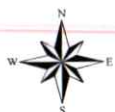
Date report completed: November 13, 2025

7347-3



PUMPING PLANT LOCATION
From the NW corner
Sec 21 T114N R62W
2000 ft S & 1775 ft E
Lat 44.67082 Long -98.29512

IRRIGATED AREA
All land in Sec 21 T114N R62W
NW 1/4 NW 1/4 - 32 acres
NE 1/4 NW 1/4 - 31 acres



0 425 850 1,700 2,550 3,400 Feet

Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

APR 09 2026

Oscar Inc.
C/O Floyd Peterson
209 27th St NW
Huron, SD 57350

7347-3

Dear Mr. Peterson:

Enclosed is Water License No. 7347-3. 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.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact Amanda Dewell, Permitting Administrator (605) 773-3352.

Sincerely,

Adam Mathiowetz, PE
Acting Chief Engineer
(605) 773-3352

- **NOTE:** The investigation found your irrigation system is capable of diverting 1.78 cubic feet of water per second (cfs) which is equivalent to approximately 800 gallons per minute. The statutory limit for 63 acres is 0.9 cfs (Approximately 400 gpm).

enclosures

STATE OF SOUTH DAKOTA WATER LICENSE NO. 7347-3

(1) Michael Sentell, 18690 398th Ave, Hitchcock, SD 57348, made Application No. 7347-3, April 11, 2012, for a water permit to divert 1.49 cubic feet of water per second from Lake Dudley, Spink County, for irrigation purposes. Permit No. 7347-3, with a priority date of April 11, 2012, was approved on October 22, 2014, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before October 22, 2019, and for the application to beneficial use of water on or before October 22, 2023.

Ownership of Water Permit No. 7347-3 was transferred to Oscar Inc., 209 27th St NW, Huron SD 57350, on August 14, 2020.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.90 cubic feet of water per second for beneficial use. The location of the diversion point is:

- Pumping Location: 2,000 ft S & 1,775 ft E of the NW corner Section 21-T114N-R62W (SE $\frac{1}{4}$ NW $\frac{1}{4}$) (Latitude 44.67082 & Longitude -98.29512)

(3) The amount of appropriation may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation purposes. The water is to be used during the following described annual period: May 1 – September 30.

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

Section 21-T114N-R62W
NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 32 acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 31 acres
TOTAL: 63 acres

(5) Pursuant to South Dakota Water Law 46-5-30.1, Oscar Inc., the holder and/or owner of Water Right No. 7347-3, is issued a license to appropriate water, the right to use 0.90 cubic feet of water per second from Lake Dudley, with a priority date of April 11, 2012, 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. 7347-3 and subject to the following qualifications:

1. Diversion of water from Lake Dudley shall be in accordance with the following criteria:
 - a) This permit authorizes diversion of water from Lake Dudley only when water is discharging over the primary spillway elevation when pumping is occurring.
 - b) This permit does not authorize diversion of water from Lake Dudley after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.

continued

- c) This permit does not authorize diversions from Lake Dudley when there is less than 20 cfs bypassing the James River USGS gaging station at Huron SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



Adam Mathiowetz, PE
Acting Chief Engineer
Department of Agriculture and Natural Resources

APR 09 2026

date

