

WATER PERMIT NO. 7407-3

Name of Applicant: **Pat Walsh**

Address: **47844 Co Rd 1B, Elk Point SD 57025**

Phone: **605 356-2762**

Amount of Water Claimed: **2.22 cfs**

Total Acres: **104**

Source of Water Supply: **groundwater (one well)**

Water to be used for: **irrigation**

County: **Union**
104 acres

Type of Waste Disposal System:

Location: **3 northeast of Elk Point**

PRIORITY

Date Received: **8-20-12**

Application/License Fee: **\$ 950**

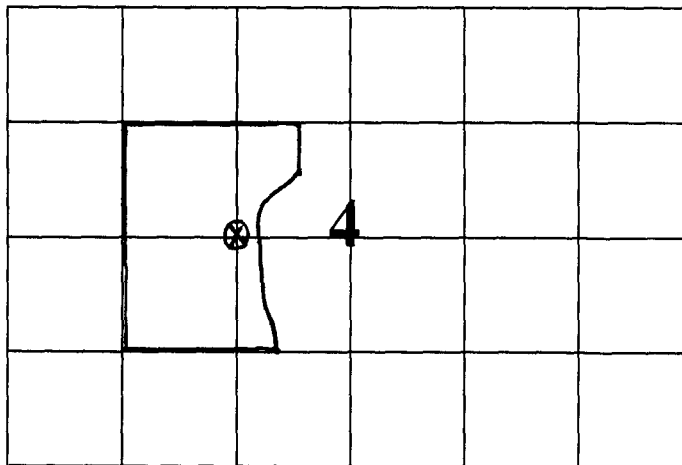
Corrected Application Received: **8/29/12** *fee*

Period of Annual Use: **April 1- Sept 30**

Remarks:

Diversion Point: **approximate center line between
the NW 1/4 and the SW 1/4 Sec 4-T91N-R49W**

Land to be Irrigated: **S 1/2 NW 1/4, N 1/2 SE 1/4
Sec 4-T91N-R49W**



Depth of Well: **120 feet**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Vickie Ahart, FSA**

Reviewed and the Number Assigned on: **8-29-12**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

8-24-12

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>7407-3</u> (office use only)	Hydrologic Unit <u>10170203</u>
	Basin <u>Sioux River</u>	<u>605-356-2632</u>
	Newspaper <u>Leader Courier Box 310 Elk Point 57025</u>	
	<u>Press Debater 319 Walnut Yankton 57078</u>	

RECEIVED
AUG 29 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.)

- Name of Applicant Pat Walsh Phone 605-356-2762
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 47844 Co. Rd. 1 B Elk Point State SD 57025
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 2.22*CFS or 1,000**GPM ***AF Total Acreage 104
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County UNION
1 well in the NE corner of the SW 1/4 section 4 91-49
(approximate center between NW 1/4 SW 1/4)
- County or counties where water will be used UNION
- Annual period during which water is to be used April 1 To September 30
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>NW 1/4 SW 1/4 section 4</u>	<u>40</u>		
<u>W 1/2 NE 1/4 SW 1/4 section 4</u>	<u>8</u>		
<u>SW 1/4 NW 1/4 section 4</u>	<u>40</u>		
<u>W 3/4 SE 1/4 NW 1/4 section 4</u>	<u>16</u>		

- Give a description of the project. (Attach sheet if more space is needed)
The water will be used to irrigate crop producing
farm ground. Requesting greater diversion Rate than Statutory Limit

STATE OF SOUTH DAKOTA)
County of UNION SS

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, Pat Walsh, 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 Pat Walsh

Subscribed and sworn to before me this 24th day of August 20 12

Vickie L. Ahart
Notary Public signature

My Commission Expires
9-10-2015

**SOUTH DAKOTA
WATER PERMIT NO. 7407-3**

Date of first receipt of application August 29, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7407-3 to Pat Walsh, 47844 County Rd 1B, Elk Point SD 57025 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. 7407-3 appropriates 2.22 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located on the approximate middle point between the NW 1/4 and SW 1/4 Section 4 for irrigation of 104 acres located in the N 1/2 SW 1/4 and S 1/2 NW 1/4 Section 4; all in T91N-R49W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – September 30.
3. The date from which applicant may claim right is August 29, 2012.
4. The date of approval of Permit No. 7407-3 is December 3, 2012.
5. One-fifth of the construction is to be completed on or before June 3, 2015.
6. All construction is to be completed on or before December 3, 2017.
7. Water is to be put to beneficial use on or before December 3, 2021.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

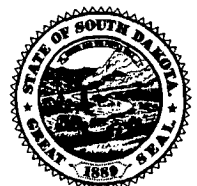
1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7407-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 7407-3 authorizes a maximum diversion rate of 2.22 cfs for the irrigation of 104 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele

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

JAN 17 2013
date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 24" Depth 120'
- b) Casing Type PVC Diameter 16" Thickness Sch 40
- c) Screen Type PVC Diameter 16" Thickness Sch 40
- d) Gravel Pack pea gravel Length of Gravel Pack 60'
- e) Depth to Top of Water Bearing Material 70'
- f) Depth to Water (ground surface to water level) 18'
- g) Distance to nearest existing domestic well:
On applicants property None On property owned by others 1 1/4 mile

2. Wastewater Disposal System Information

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

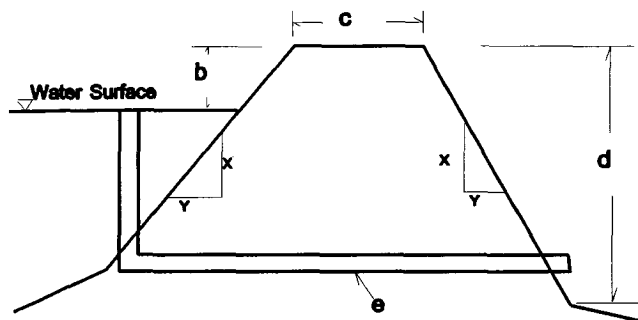
3. Dugout Information

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

4. Water Storage Dams

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

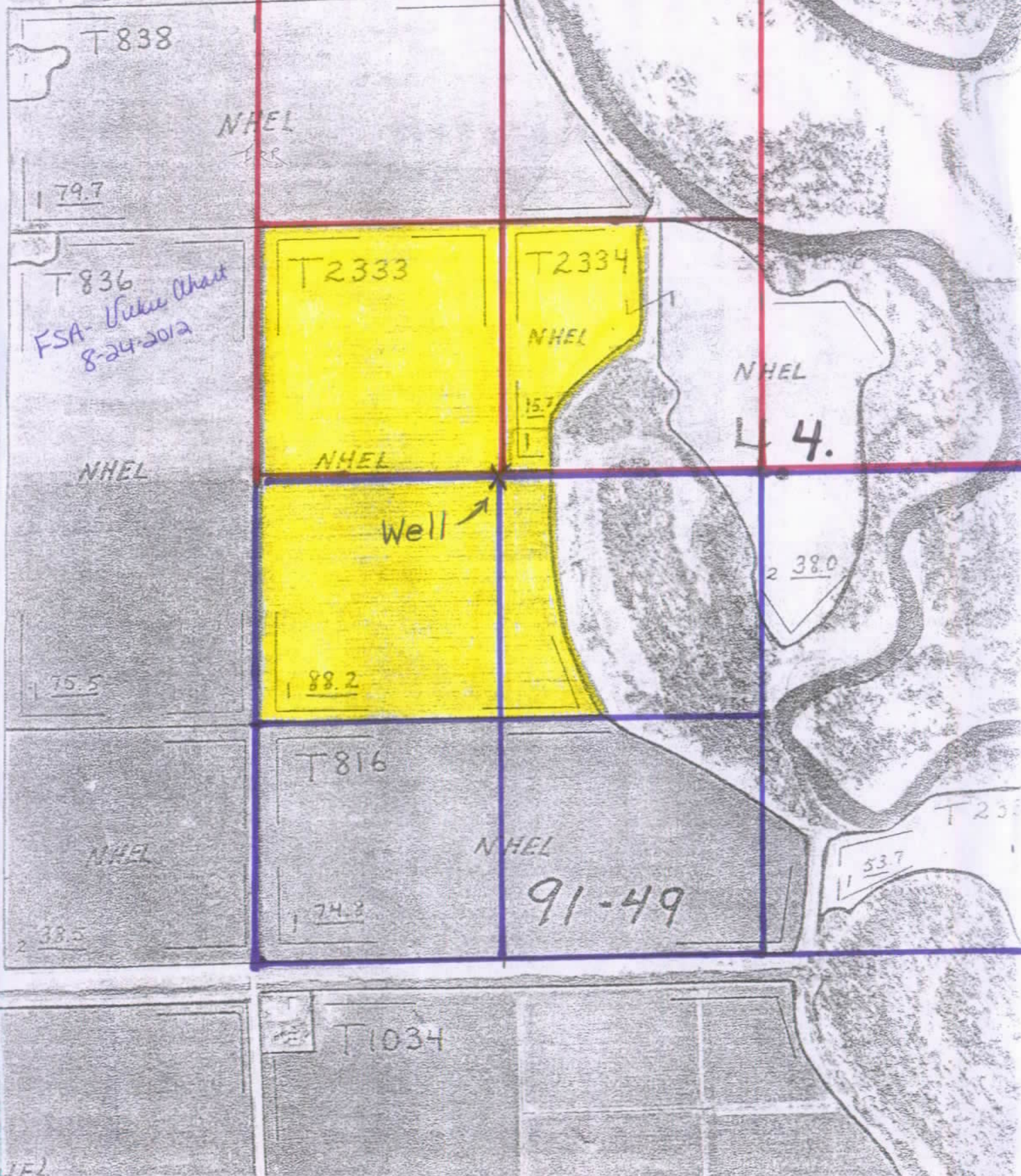
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



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

Pat Walsh 8-24-12

NOT TO SCALE
1993



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

Date 8/29, 20 12

RECEIVED OF Pat Walsh 47844 Co Rd 1B Elk Point SD 57025

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

Fee for Application for Permit No. <u>7407-3</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>7407-3</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. **05549**

By Linda Erbe
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7407-3, Pat Walsh**

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. 7407-3, Pat Walsh, 47844 County Rd 1B, Elk Point SD 57025.

The Chief Engineer is recommending APPROVAL of Application No. 7407-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7407-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 7407-3 authorizes a maximum diversion rate of 2.22 cfs for the irrigation of 104 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
October 26, 2012

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7407-3
PAT WALSH
OCTOBER 22, 2012

Water Permit Application No. 7407-3 proposes to appropriate 2.22 cubic feet of water per second (cfs) from one well to be completed into the Missouri Elk Point aquifer. The well is expected to be approximately 120 feet deep and is to be located 1320 feet east and 2640 feet north of the southwest corner of Section 4, T91N-R49W. This permit application proposes to irrigate 104 acres located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, T91N-R49W in Union County. The application proposes a diversion rate in excess of the statutory limit of one cfs per 70 acres.

AQUIFER: Elk Point management unit of the MISSOURI aquifer (M: EP)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Missouri Elk Point is a surficial outwash (i.e. sand and gravel) that is unconfined in the area of the proposed well site. Confined conditions of the aquifer do occur northwest of the proposed well site. In Union County, the aquifer underlies 115,200 acres and contains approximately 1.5 million acre-feet of water in storage (Hedges et al., 1982; Neihus, 1994). The Missouri Elk Point aquifer extends west into Clay County, and connects to the Lower Vermillion-Missouri aquifer to the northwest and the Big Sioux South aquifer to the northeast. The aquifer is hydraulically connected to both the Big Sioux and Missouri Rivers and overlies the Dakota Formation. Water in the aquifer generally moves to the southeast, with a gradient of 1.5 feet per mile (Neihus, 1994).

Lithologic logs of test holes and observation wells in the area of the proposed well site drilled by the SD DENR-Geological Survey show layers of clay and sand from ground surface to 50 feet below grade, layers of sand and gravel from 50 to 150 feet below grade, and layers of shale and sandstone, known as the Dakota Formation, at 150 feet below grade. Near the proposed well site, the static water level is 15 to 18 feet below grade ("Lithologic Logs Database").

SDCL 46-2A-9

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

WATER AVAILABILITY:

This application proposes to appropriate 208 acre-feet annually from the Missouri Elk Point aquifer. The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source."

HYDROLOGIC BUDGET:

Recharge:

Recharge to the Missouri Elk Point aquifer is by (1) infiltration of precipitation in areas where the aquifer is near land surface, (2) inflow from the Lower Vermillion-Missouri aquifer at the Missouri Elk Point aquifer's northern boundary, (3) inflow from the Missouri River during periods of high flow, and (4)

probable leakage from the underlying Dakota aquifer. Hedges et al. (1985) estimated recharge, based on observation well data, of the Missouri Elk Point aquifer to be 3.8 inches per year. Using this recharge rate and the total area of the aquifer cited previously, the estimated recharge to the aquifer is 36,500 acre-feet per year.

Discharge:

Discharge from the aquifer may occur due to (1) evapotranspiration in areas where the aquifer is near land surface, (2) outflow to the Big Sioux and Missouri Rivers during periods of low flow, (3) outflow into the underlying Dakota aquifer, and (4) well withdrawals (Neihus, 1994).

There are a total of 484 water rights, including permits, appropriating water from the Missouri Elk Point aquifer, with 290 of these water rights/permits in Union County. Water rights/permits from the Missouri Elk Point aquifer appropriate water for commercial use, industrial use, fish and wildlife propagation, municipal use, recreational use, rural water systems, suburban housing development, and irrigation. Water currently appropriated, excluding irrigation, totals 78.05 cubic feet per second, equaling 33,900 acre-feet per year if withdrawing at the maximum allowed diversion rate 60 percent of the time (Water Rights, 2012b). The Missouri Elk Point aquifer's historic irrigation data is shown in table 1. As of 2011, water appropriated by irrigation equals 159,700 acre-feet per year. Pumping reported equaled 12,107.55 acre feet per year, with 7,289.70 acre-feet per year pumped in Union County (Water Rights, 1979-2011). In addition, there are many domestic wells on file with the SD DENR-Water Rights Program in Union County that may also be withdrawing from the Missouri Elk Point aquifer (Water Rights, 2012c).

Table 1: Historic irrigation water use from the Missouri Elk Point aquifer (Water Rights, 1979-2011)

Year	Number of Permits Reporting	Appropriation (ac-ft/yr)	Pumpage (ac-ft/yr)
1979	265	124828	10377
1980	267	126362	15205
1981	302	136318	14233
1982	272	123559.28	18822.35
1983	274	121895.73	10834.04
1984	283	126743.35	9194.3
1985	284	125068.47	13983.5
1986	288	125842.47	6451.6
1987	282	124104.33	13439.7
1988	283	124014.13	28756.35
1989	294	126847.33	25941.9
1990	299	128458.33	19694.5
1991	301	126551.68	18798.6
1992	296	125336.68	1881.95
1993	299	125656.3	1475.2
1994	297	123656.75	10323.94
1995	292	121644.25	18320.24
1996	296	124606.2	9412.78
1997	305	126518.2	17182
1998	313	127862.6	11127.24
1999	308	125225.6	14748.02
2000	310	125532.2	27070.99
2001	314	126217.4	19451.93
2002	316	126235.8	24105.36
2003	315	126059.8	27161.56
2004	323	127635.8	24515.85
2005	337	130966.6	24176.62
2006	355	137411.6	28874.29
2007	368	140746.6	31052.03
2008	396	151130.4	16261.88
2009	410	155245.4	6120.97
2010	419	155905.4	2723.87
2011	431	159700.8	12107.55
Max	431	159700.80	31052.03
Min	265	121644.25	1475.20
Average	315	130420.83	16176.55

Hydrologic Budget:

The hydrologic budget, the difference between recharge and discharge, of the Missouri Elk Point aquifer determines that recharge greatly exceeds withdrawal and, therefore, indicates a reasonable probability that unappropriated groundwater is available from the Missouri Elk Point aquifer for the proposed appropriation of 208 acre-feet per year.

OBSERVATION WELL DATA:

Administrative Rule of South Dakota Section 74:02:05:07 requires that “the Water Management Board shall rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.”

The DENR-Water Rights Program monitors 37 observation wells located into the Missouri Elk Point aquifer, with 25 of these observation wells being in Union County (Water Rights, 2012a). The nearest of these wells are UN-87H and UN-87I, which are located 1.3 miles southwest and 0.5 miles south-southwest of the proposed well site, respectively. Hydrographs of these observation wells are shown in figures 1 and 2.

The observation well data documents cyclic conditions of water levels, recharging during wet years and declining during dry years, which may be greatly influenced by the aquifer’s connection to the Missouri River. The hydrographs also show the effects of nearby pumping on the aquifer. Observation well data indicates that temporal well withdrawal is masked by climatic conditions.

Therefore, recharge to and natural discharge from the Missouri Elk Point aquifer greatly exceeds withdrawal. Also, consider that natural discharge can be captured and instead used for well withdrawal. The hydrographs indicate that unappropriated water is available from the aquifer for the proposed appropriation.

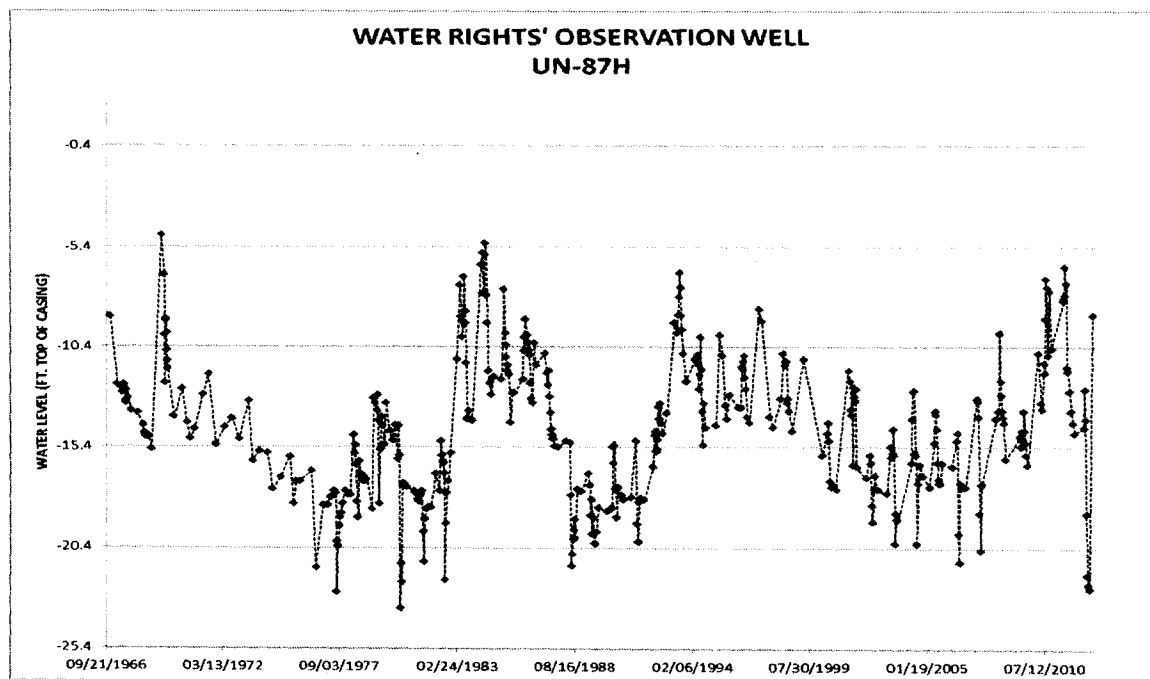


Figure 1: Hydrograph for DENR-Water Rights' observation well UN-87H (Water Rights, 2012a)

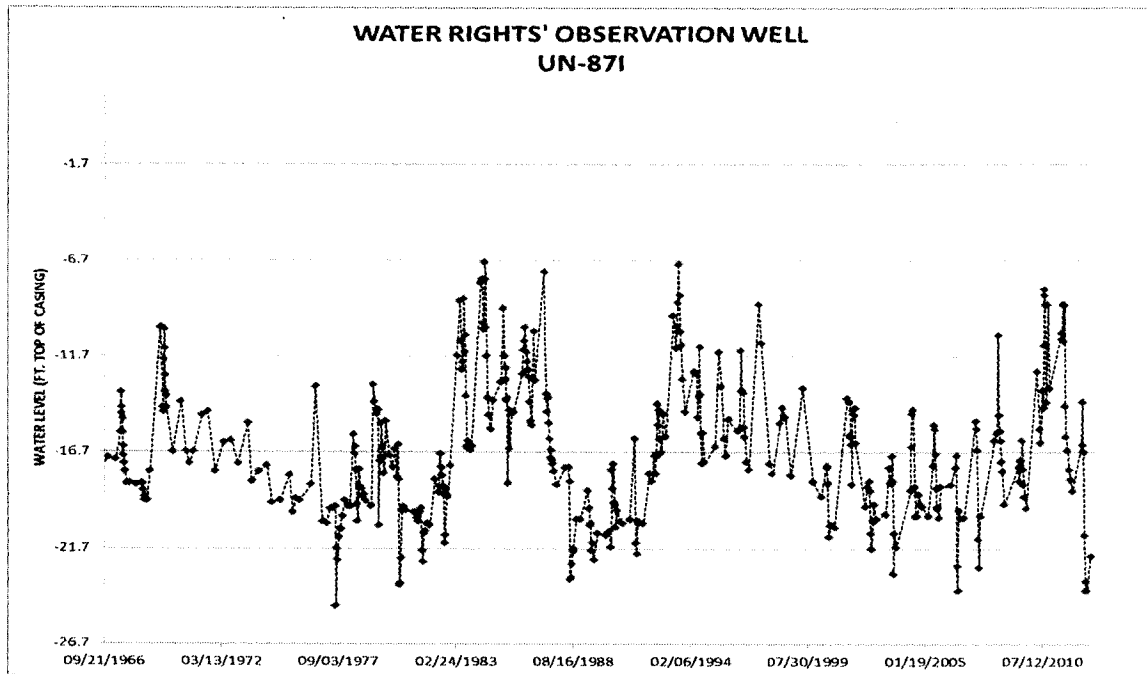


Figure 2: Hydrograph for DENR-Water Rights' observation well UN-87I (Water Rights, 2012a)

EXISTING WATER RIGHTS:

There are 290 water rights/permits appropriating water from the Missouri Elk Point aquifer in Union County; 18 water rights are located within two miles of the proposed well site and five water rights are located within one mile of the proposed well site. Sixteen of these water rights are licenses and two are permits; all are used for irrigation (Water Rights, 2012b). Water rights within one mile of the proposed well site are described in table 3.

An adversely impacted domestic well as defined in Administrative Rule of South Dakota Section 74:02:04:20(7) is "a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water from the well owner's needs."

There are five domestic wells on record with the SD DENR-Water Rights Program within two miles, but further than one mile, of the proposed well site (Water Rights, 2012c). The area of the proposed well is extensively irrigated using water from the Missouri Elk Point aquifer and water level records indicate that pumping does not cause significant drawdown. Interference is not expected to be a concern to surrounding wells due to the addition of the proposed well.

Table 3: Water rights within one mile of proposed well site (Water Rights, 2012b)

Permit Number	Rate (cfs)	Area (acres)	Distance from Proposed Well Site
2114-3	2.16	151	0.8 miles west-northwest
5652-3	2.22	160	0.8 miles west-southwest
5653-3	2.22	169	0.5 miles northwest
6519A-3	2.5	175	0.6 miles south-southwest
6519B-3	3.08	120	0.9 miles southwest

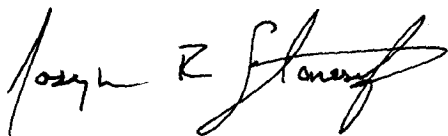
SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cubic foot of water per second for every seventy acres, or "the equivalent thereof." The statute provides that the Water Management Board may allow a greater diversion if the method of irrigation so requires.

Water Permit Application No. 7407-3 proposes to divert at a rate of 2.22 cfs per 104 acres, equaling 1.49 cfs per 70 acres. The application did not provide adequate justification for the additional diversion rate. Several other water rights near the proposed well site use a diversion rate exceeding one cfs per 70 acres. Therefore, there is a reasonable probability that the diversion rate requested by this application can be made without adversely effecting existing water rights.

CONCLUSIONS:

1. The application proposes to appropriate 208 acre-feet annually for irrigation.
2. There is a reasonable probability that unappropriated water is available from the Missouri Elk Point aquifer to supply the proposed diversion.
3. There is a reasonable probability that this proposed well will not cause inference in existing nearby wells.
4. This application has requested an additional diversion rate, but has not yet justified cause. However, there is a reasonable probability that the diversion rate requested by this application will not adversely affect existing water rights.
5. The well authorized by this application must be constructed in accordance with SD Well Construction Standards.



Joe Stonesifer
SD DENR-Water Rights Program

REFERENCES:

- Hedges, L.S., Durch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Allen, J., and Holly, D.E. 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 7: Ground Water Recharge. South Dakota DENR-Geological Survey, Vermillion, SD.
- “Lithologic Logs Database.” South Dakota Department of Environment & Natural Resources Geological Survey. 19 October 2012
- Neihus, C.A., 1994. Water Resources of Lincoln and Union Counties, South Dakota. USGS WRI Report 93-44195, United State Geological Survey, Rapid City, SD.
- Water Rights. 1979-2012. “Annual Irrigation Summary by Aquifer”: SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2012a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2012b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2012c. Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 25, 2012

Leader-Courier
PO Box 310
Elk Point SD 57025

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7407-3 to Appropriate Water. Please publish the notice once on November 1, 2012. 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 Pat Walsh, 47844 Co Rd 1B, Elk Point SD 57025 (Ph # 605-356-2762).

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**

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

October 25, 2012

Daily Press & Dakotan
319 Walnut
Yankton SD 57078

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Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATE, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.

October 25, 2012

Pat Walsh
47844 Co Rd 1B
Elk Point SD 57025

Dear Mr. Walsh:

Water Permit Application No. 7407-3 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 Leader-Courier printed at Elk Point SD (Ph # 605-356-2632) and the Daily Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). 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 November 1, 2012. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 7407-3 to Appropriate Water

Notice is given that Pat Walsh, 47844 Co Rd 1B, Elk Point SD 57025 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located on the approximate middle point between the NW 1/4 and SW 1/4 Section 4 for irrigation of 104 acres located in the N 1/2 SW 1/4 and S 1/2 NW 1/4 Section 4; all in T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7407-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 12, 2012.

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

Published once at the total approximate cost of _____.

RECEIVED

NOV - 7 2012

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE **MANAGING EDITOR** OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Application No. 7407-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE **1st** DAY OF **November** 2012
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID **NOTICE** TO WIT **\$27.14** ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: **11/1/2012**

FILED ON: **11/2/2012**

SUBSCRIBED AND SWORN TO BEFORE ME THIS **2nd** DAY OF **November**

NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES **8/19/2015**

614
11+1
NOTICE OF APPLICATION
NO. 7407-3 to Appropriate Water

Notice is given that Pat Walsh, 47844 Co Rd 1B, Elk Point SD 57025 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located on the approximate middle point between the NW 1/4 and SW 1/4 Section 4 for irrigation of 104 acres located in the N 1/2 SW 1/4 and S 1/2 NW 1/4 Section 4; all in T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7407-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 12, 2012.

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

Published once at the total approximate cost of \$27.14.

AFFIDAVIT OF PUBLICATION

RECEIVED

State of South Dakota)

:SS

NOV 13 2012

County of Union)

Kelly Kruithoff,

an employee of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

Notice of Application

No. 7407-3

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 8 day of November, 2012

and that the succeeding publications were

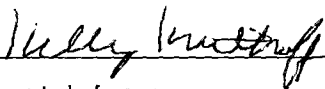
on Thursday, the _____ day of _____,

on Thursday, the _____ day of _____,

on Thursday, the _____ day of _____,

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 27.53, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.



Subscribed and sworn to before me

this 8 day of November, 2012

My commission expires 6-21-17



Notary Public

NOTICE OF APPLICATION NO. 7407-3 TO APPROPRIATE WATER

Notice is given that Pat Walsh, 47844 Co. Rd. 1B, Elk Point, SD 57025 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second (cfs) from one well to be completed into the Missouri: Elk Point Aquifer (120 feet deep) located on the approximate middle point between the NW1/4 and SW1/4 Section 4 for irrigation of 104 acres located in the N1/2SW1/4 and S1/2NW 1/4 Section 4; all in T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7407-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 12, 2012.

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

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

Publish November 8, 2012

Published once at the total approximate cost of \$27.53

45-1-74

Schlaak, Karen

From: G5 <leader1@iw.net>
Sent: Tuesday, November 13, 2012 1:52 PM
To: Schlaak, Karen
Subject: Re: Notices to be published again on November 22

Karen - I received all 4 notices and have them logged to run one time Nov. 22. Again, I apologize for my errors. I can only say the election and all the ads turned my brain to mush, but it's recovering!

Susan Odson
Southern Union County Leader-Courier

On Nov 13, 2012, at 1:31 PM, Schlaak, Karen wrote:

Susan,

Attached are the notices I talked with you about. The two notices for Pat Walsh (7399-3 and 7407-3) were published a week later than requested. The notices for Virgil Mollet (7409-3) and Eugene Mollet (7410-3) were published on the right day, but contained an error in the date listed at the end of the third paragraph.

These notices should be published next week, November 22, 2012. As usual, send me the affidavits ASAP.

Let me know if you have questions.

Thanks,

Karen Schlaak

Water Rights Program

Phone: 605 773-3352

Fax: 605 773-4068

<7399-3public.short.docx><7407-3public.short.docx><7409-3public.short.docx><7410-3public.short.docx>



**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

Pat Walsh
47844 Co Rd 1B
Elk Point SD 57025

Dear Mr. Walsh:

The Notice of Application No. 7399-3 and Application No. 7407-3 for irrigation published in the Elk Point Leader-Courier were published a week later than the date we requested. At the end of the third paragraph there is a date for any person to file a petition. Since the notice was published on November 8 instead of November 1, the petition date was incorrectly listed as November 12th. The date should have been a week later November 19th. Therefore, the notice needs to be readvertised to correct the error to ensure your water permits are free from any legal entanglements due to insufficient public notice.

The Leader-Courier has been instruction to publish the notices again on November 22, 2012 with the date for submittal of petitions being December 3, 2012. The notices in the Yankton Press & Dakotan were correct.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
(605) 773-3352

NOTICE OF APPLICATION NO. 7407-3 to Appropriate Water

Notice is given that Pat Walsh, 47844 Co Rd 1B, Elk Point SD 57025 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located on the approximate middle point between the NW 1/4 and SW 1/4 Section 4 for irrigation of 104 acres located in the N 1/2 SW 1/4 and S 1/2 NW 1/4 Section 4; all in T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7407-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 3, 2012.

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

Published once at the total approximate cost of _____.

AFFIDAVIT OF PUBLICATION

RECEIVED

State of South Dakota)

NOV 26 2012

:ss

County of Union)

WATER RIGHTS
PROGRAM

Kelly Kruithoff,

an employee of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

Notice of Application No. 7407-3

to Appropriate Water

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 22 day of November, 2012

and that the succeeding publications were

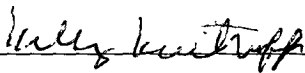
on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

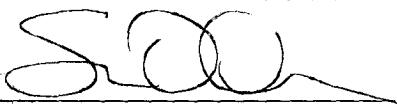
\$ 27.90, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.



Subscribed and sworn to before me

this 22 day of November, 2012

My commission expires 6-21-17



Notary Public

NOTICE OF APPLICATION NO. 7407-3 TO APPROPRIATE WATER

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Steven M. Pirner, Secretary,
Department of Environment and
Natural Resources.
Publish November 22, 2012
Published once at the total approximate cost of \$27.90
47-3-75



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JAN 17 2013

Pat Walsh
47844 County Rd 1B
Elk Point SD 57025

Dear Mr. Walsh:

Enclosed is Water Permit No. 7407-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

Big Ditch

7407-3
RECEIVED
DEC - 3 2015
WATER RIGHTS PROGRAM

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

Date 11-24-15

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

FROM: Pat Walsh
 (name)
47844 County Rd 1B
 (address)
Elk Point, SD 57025 605-356-2762
 (city, state, zip) (phone)

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

Water Permit No. 7407-3 states that the water use system is to be constructed by 12-3-17, and water is to be put to beneficial use by 12-3-21.
 (date) (date)

The water use system was completed on 3-5-13.
 (date)

Applying the water to beneficial use was completed on 9-1-13.
 (date)

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

Pat Walsh
 (signature)

