

WATER PERMIT NO. 7450-3

Name of Applicant: **Fischer Farms**

Address: **c/o Lynn Fischer, PO Box 787, Wagner SD 57380**

Phone: **605 491-0325**

Amount of Water Claimed: **3.56 cfs**

Total Acres: **450 acres**

Source of Water Supply: **groundwater (two wells)**

Water to be used for: **irrigation**

County: **Charles Mix**

Type of Waste Disposal System:

Location: **1/2 miles south of Wagner**

PRIORITY

Date Received: **10-4-12**

Application/License Fee: **\$ 1550**

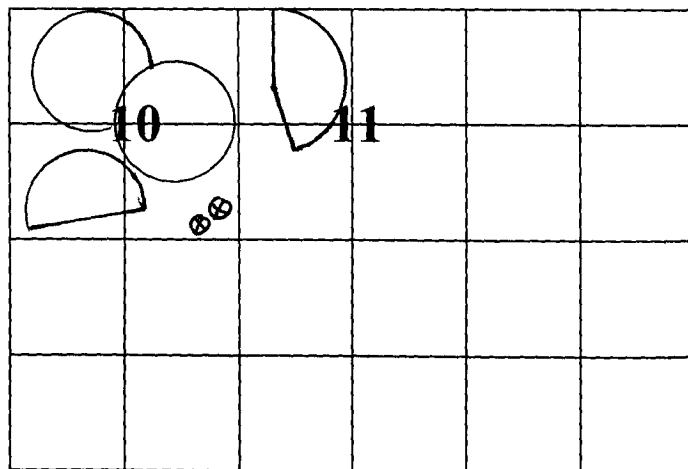
Corrected Application Received:

Period of Annual Use: **April 1 – October 31**

Remarks: **Proposing to pump well water to an existing lagoon then diverted from lagoon to center pivots.**

Diversion Point: **s 1/2 SE 1/4 Sec 10-T95N-R63W**

Land to be Irrigated: **Section 10 and NW 1/4, N**
1/2 SW 1/4 Sec 11; all in T95N-R63W



Depth of Well: **265 feet deep**

Well Driller: **Grosz Drilling Co.**

Remarks:

Type of Map: **aerial**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **10-4-12**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

FORM 2: Application for irrigation in South Dakota

(type or print)

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

No. 7450-3 (office use only)
Hydrologic Unit 10170101
Basin Missouri River 605-384-5616
Newspaper Wagner Post PO Box 187 57380
Press-Dakota 319 Walnut Yankton 57078

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OCT - 4 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 Fischer Farms c/o Lynn Fischer Phone 605 491-0325

(check one) ☒ Owner ☐ Tenant/lessee

Mailing Address PO Box 787 Wagner SD 57380
(Address) (City) (State) (Zip Code)

2. Amount of water claimed 3.56 *CFS or 1600 **GPM ***AF Total Acreage 450
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply one existing well and potentially a replacement/additional well

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Charles Mix
both existing and additional well in the S 1/2 SE 1/4 Section 10, T95N, R63W

5. County or counties where water will be used Charles Mix County

6. Annual period during which water is to be used April 1 - October 31

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
See attached sheet			

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

STATE OF SOUTH DAKOTA)
County of _____) SS

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

I, _____, 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

Subscribed and sworn to before me this 4th day of October 20 12

Notary Public signature

SOUTH DAKOTA
WATER PERMIT NO. 7450-3

Date of first receipt of application October 4, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7450-3 to Fischer Farms, c/o Lynn Fischer, PO Box 787, Wagner SD 57380 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. 7450-3 appropriates 3.56 cubic feet of water per second from one existing well and one well to be completed into the Choteau West Aquifer (265 feet deep) located in Lot 1388 Section 10 for irrigation of 450 acres located in the Section 10 including Lots 1345, 1346, 1347, 1348, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1399, 1400, 1401 and Section 11 including Lots 1349, 1350, 1366, 1367, 1376, 1377; all in T95N, R63W of Yankton Reservation Survey. The permit holder is authorized to divert water from the wells to an existing lagoon (55 acre feet of water storage) and then pump from the lagoon to the center pivots.
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 – October 31.
3. The date from which applicant may claim right is October 4, 2012.
4. The date of approval of Permit No. 7450-3 is December 17, 2012.
5. One-fifth of the construction is to be completed on or before June 17, 2015.
6. All construction is to be completed on or before December 17, 2017.
7. Water is to be put to beneficial use on or before December 17, 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 wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The new well authorized by Permit No. 7450-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JAN 14 2013
date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 6 inches Depth 265 feet
- b) Casing Type plastic Diameter 6 Thickness _____
- c) Screen Type _____ Diameter 6 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) 90 feet
- g) Distance to nearest existing domestic well:

On applicant's 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

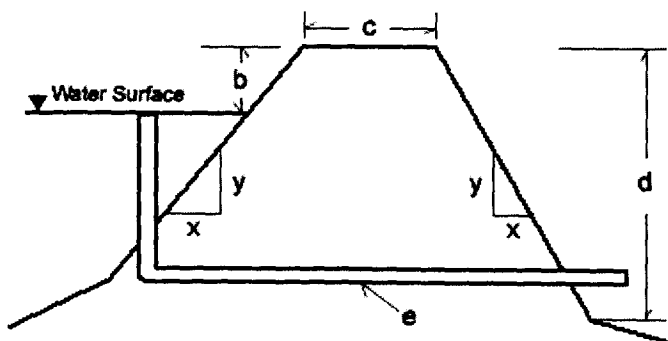
3. Dugout Information

- 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 (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

Approximate Acreage Breakdown for Fischer Farms' Water Permit Application

(AMENDED to designate Lots of Yankton Reservation Survey)

Legal	Acres		Legal	Acres
NW ¼ NW ¼ Section 10, T95N, R63W (Lot 1345)	13		NW ¼ SE ¼ Section 10, T95N, R63W (Lot 1374)	37
NE ¼ NW ¼ Section 10, T95N, R63W (Lot 1346)	35		NE ¼ SE ¼ Section 10, T95N, R63W (Lot 1375)	36
SW ¼ NW ¼ Section 10, T95N, R63W (Lot 1371)	18		SW ¼ SE ¼ Section 10, T95N, R63W (Lot 1399)	7
SE ¼ NW ¼ Section 10, T95N, R63W (Lot 1370)	20		SE ¼ SE ¼ Section 10, T95N, R63W	
NW ¼ NE ¼ Section 10, T95N, R63W (Lot 1347)	24		NW ¼ NW ¼ Section 11, T95N, R63W (Lot 1349)	24
NE ¼ NE ¼ Section 10, T95N, R63W (Lot 1348)	26		NE ¼ NW ¼ Section 11, T95N, R63W (Lot 1350)	22
SW ¼ NE ¼ Section 10, T95N, R63W (Lot 1369)	35		SW ¼ NW ¼ Section 11, T95N, R63W (Lot 1366)	20
SE ¼ NE ¼ Section 10, T95N, R63W (Lot 1368)	35		SE ¼ NW ¼ Section 11, T95N, R63W (Lot 1367)	31
			NW ¼ SW ¼ Section 11, T95N, R63W (Lot 1376)	1
NW ¼ SW ¼ Section 10, T95N, R63W (Lot 1372)	4		NE ¼ SW ¼ Section 11, T95N, R63W (Lot 1377)	8
NE ¼ SW ¼ Section 10, T95N, R63W (Lot 1373)	13			
SW ¼ SW ¼ Section 10, T95N, R63W (Lot 1401)	16			
SE ¼ SW ¼ Section 10, T95N, R63W (Lot 1400)	25			

TOTAL 450 Acres



United States Department of Agriculture
Farm Service Agency

March 09, 2011

PLSS: 11_95N_63W
Farm: 2838

Charles Mix County, SD

1:8,040

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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.

WATER RIGHTS PROGRAM



Wetland Determination Identifiers

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

- Common Land Units
- Non Cropland

2010 Ortho-Photography - Not to Scale

2013 CROP YEAR



United States Department of Agriculture
Farm Service Agency

March 09, 2011

PLSS: 10_95N_63W
Farm: 2838

Charles Mix County, SD

OCT - 4 2012

1:8,195

WATER RIGHTS

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.

Wetland Determination Identifiers

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

Common Land Units

Non Cropland



2010 Ortho-Photography - Not to Scale

2013 CROP YEAR

Fischer Farms Water Permit Application



1,500 750 0 1,500 Feet

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WATER RIGHTS
PROGRAM

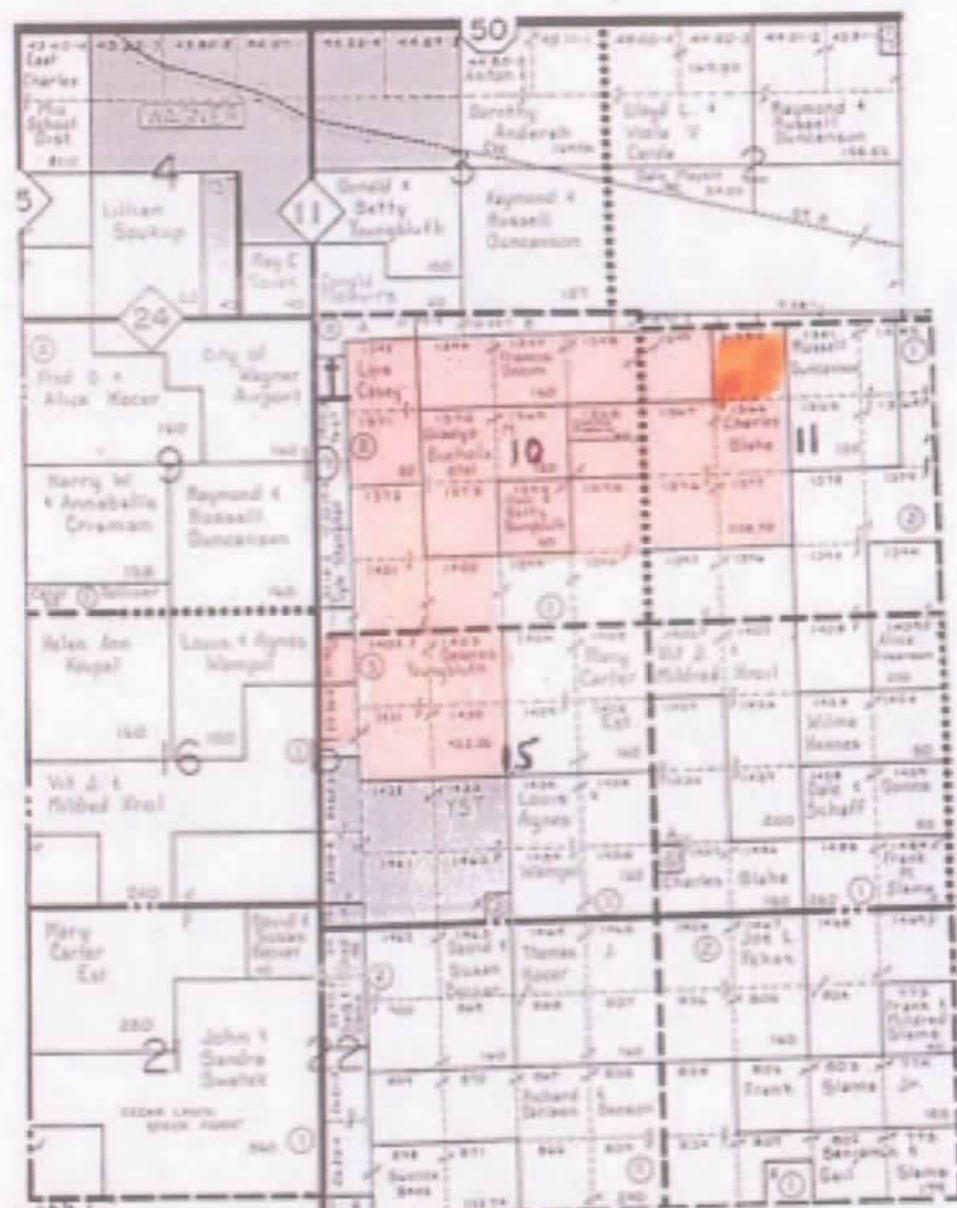
Eric Gronlund

Eric Gronlund
Water Rights Program, DENR
based on representation of
Seth Fischer



*To the following described Real Estate situated in
Charles Mix County, South Dakota*

Lots thirteen hundred forty-five (1345) and thirteen hundred seventy-one (1371), in the Yankton Reservation Survey, in Section ten (10), in Township ninety-five (95) North, Range sixty-three (63) West of the 5th P. M., Charles Mix County, South Dakota.



CHARLES MIX COUNTY ABSTRACT COMPANY

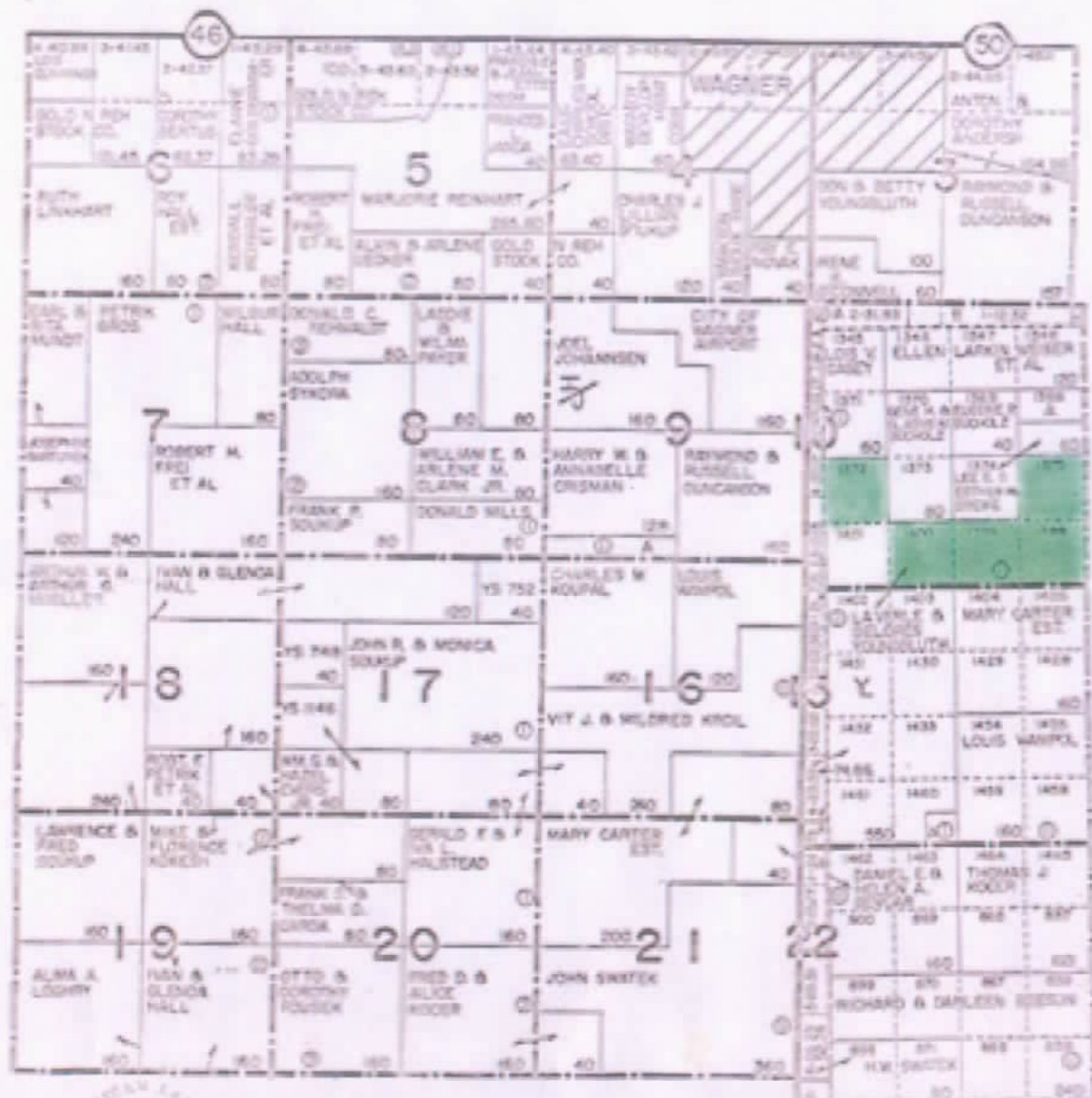
LAKE ANDES, SOUTH DAKOTA

For Seth Fischer Sect 15
Fischer Farms Sect 10-11

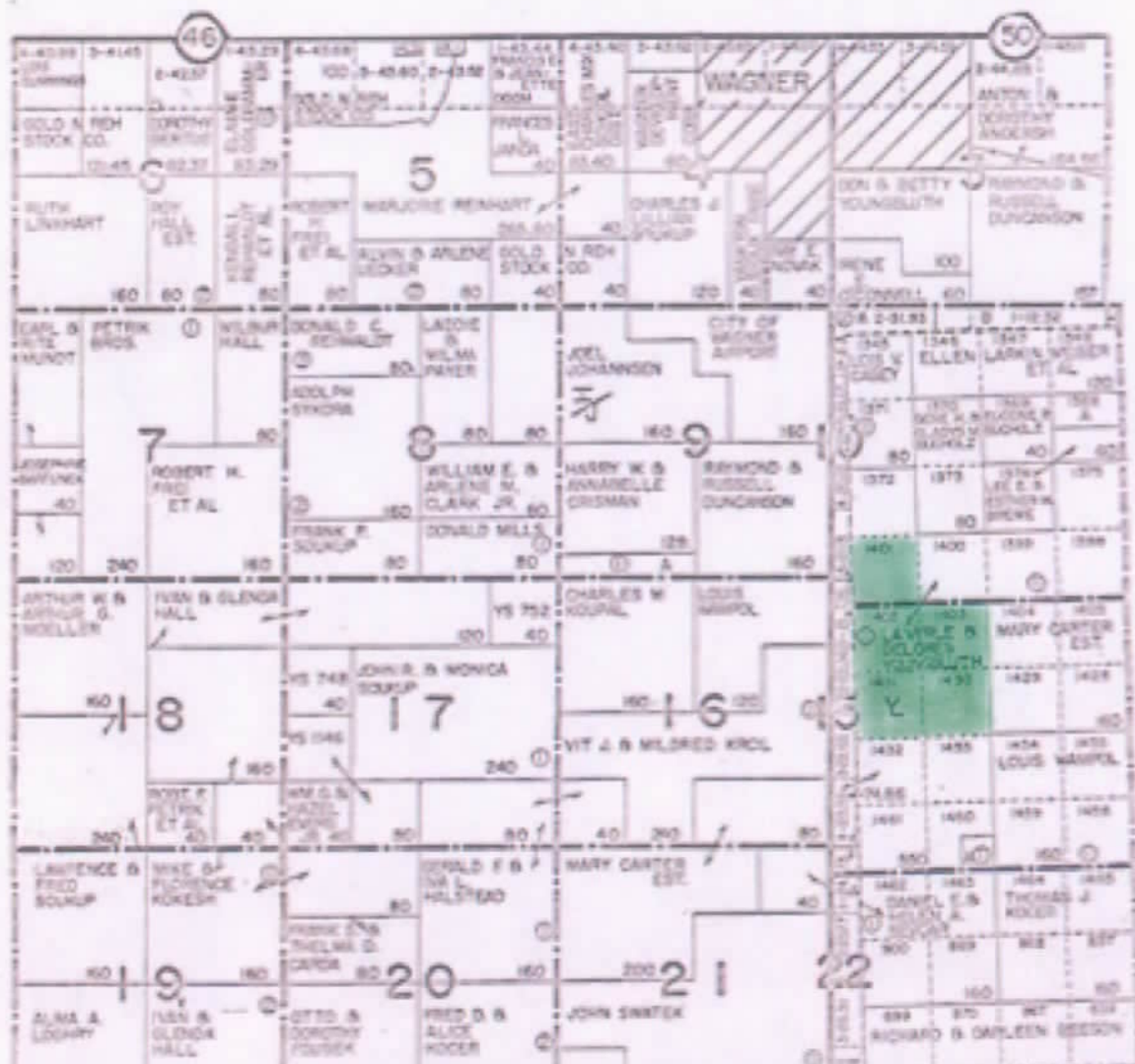
ABSTRACT OF TITLE

*To the following described Real Estate situated in
Charles Mix County, South Dakota*

Lots 1372, 1375, 1398, 1399 and 1400, according to the
survey of Yankton Reservation, in Charles Mix County,
South Dakota.



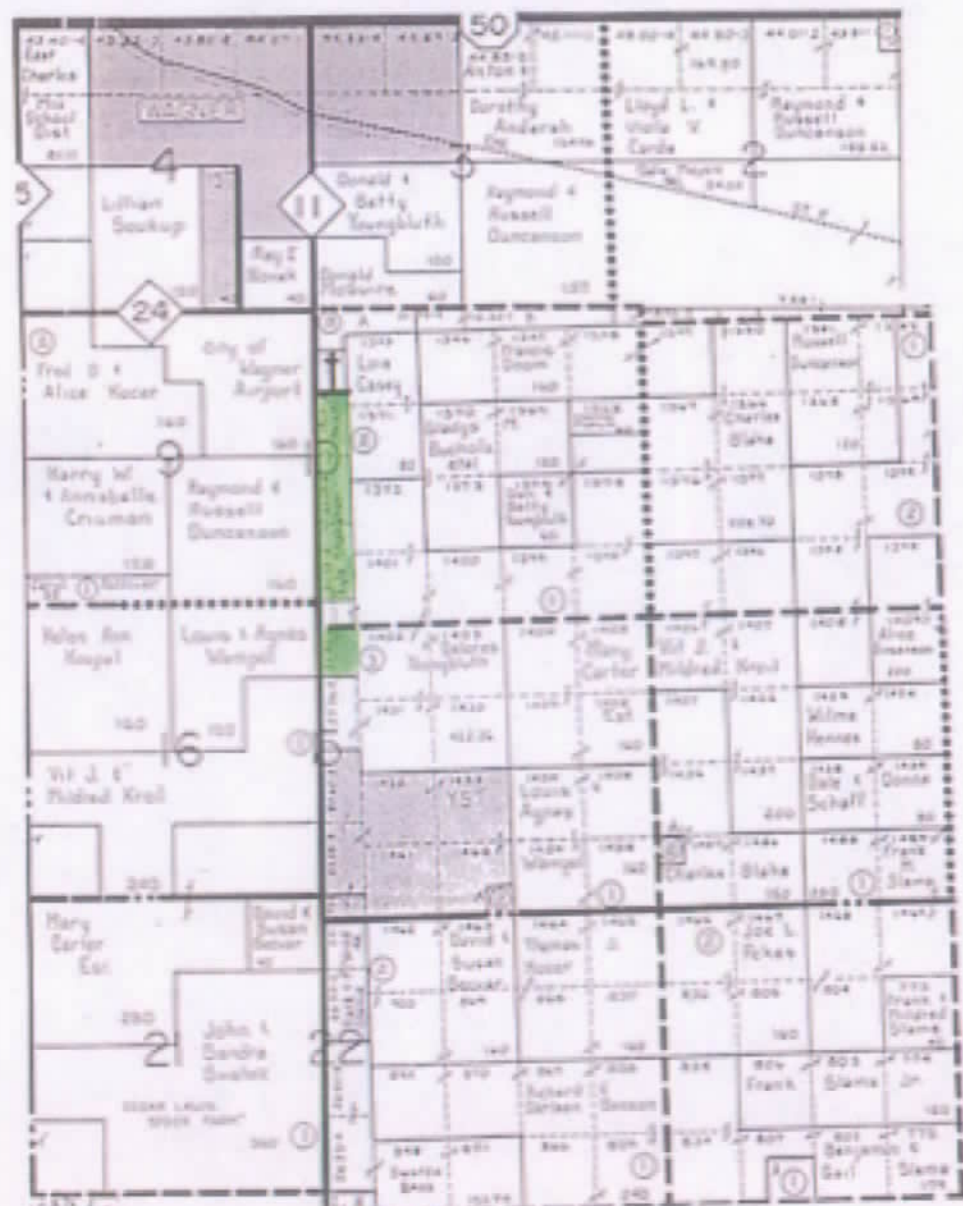
Lots numbered 1401, 1402, 1403, 1430 and 1431, according to survey of the Yankton Reservation, in Charles Mix County, South Dakota.



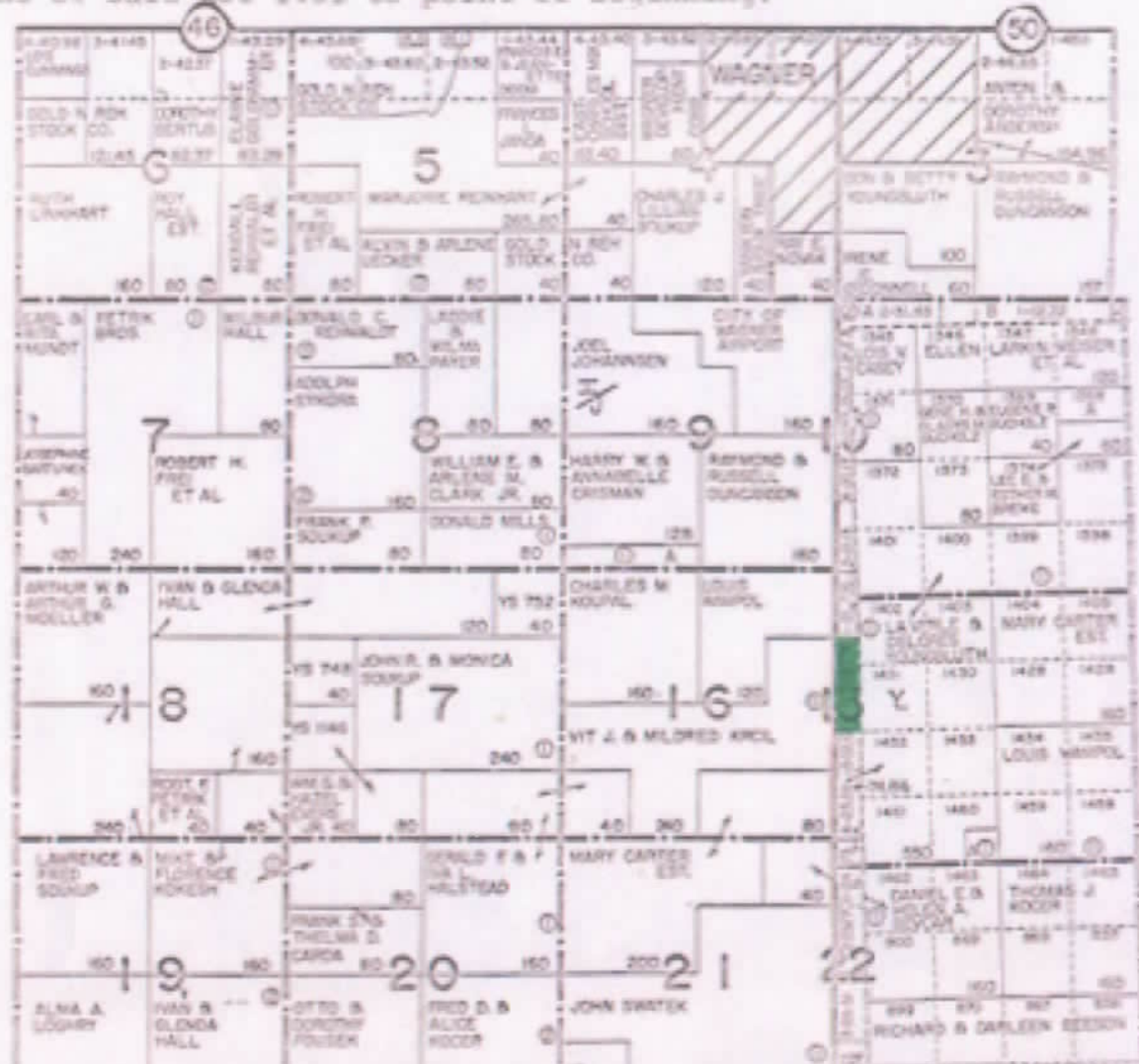
ABSTRACT OF TITLE

*To the following described Real Estate situated in
Charles Mix County, South Dakota*

Lots three (3), four (4), and five (5), except the north 6.17 chains of Lot 3, in Section ten (10), Lot one (1) in Section fifteen (15); all in Township ninety-five (95) North, Range sixty-three (63) West of the Fifth Principal Meridian, Charles Mix County, South Dakota.



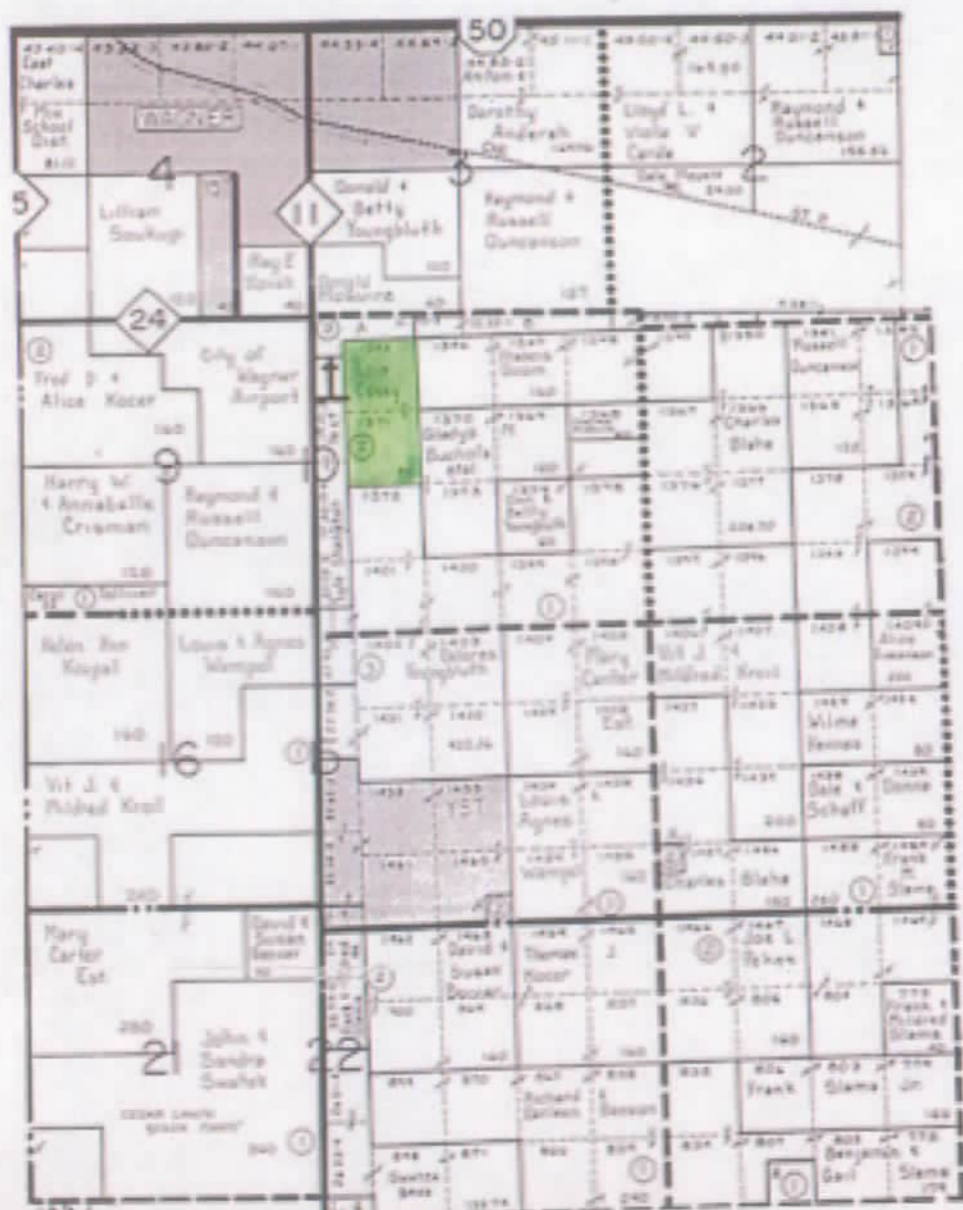
Lot 2 and north part of Lot 3, Section 15, Township 95 North, Range 63 West of 5th P. M., more fully described as follows: Beginning at a point on northwest corner of Lot 1432, Section 15, Township 95 North, Range 63, thence west across said Lot 3 of said section to west boundary line thereof, thence due north on west boundary line of said Lot 3 to point of northwest corner thereof, thence due east to point of intersection of west boundary line of Lot 1431, Section 15, Township 95 North, Range 63, thence due south on west boundary line of said Lot 1431 to point of beginning.



ABSTRACT OF TITLE

*To the following described Real Estate situated in
Charles Mix County, South Dakota*

Lots thirteen hundred forty-five (1345) and thirteen hundred seventy-one (1371), in the Yankton Reservation Survey, in Section ten (10), in Township ninety-five (95) North, Range sixty-three (63) West of the 5th P. M., Charles Mix County, South Dakota.



CHARLES MIX COUNTY ABSTRACT COMPANY

LAKE ANDER, SOUTH DAKOTA

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

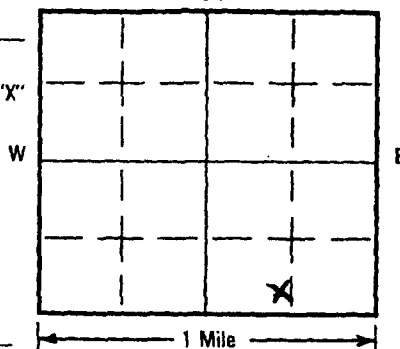
Location SW 1/4 SE 1/4 Sec 10 Twp 95N Rg 63W

County

Charles Mix

North

Please mark well location with an "X"



Well-Completion Date

Nov. 07

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 300 ft. from Feed Lot (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

RotaryCASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>7.00</u> LB/FT	<u>6"</u> IN	<u>0</u> FT	<u>225</u> FT	<u>12</u> IN
<u>9.50</u> LB/FT	<u>6"</u> IN	<u>225</u> FT	<u>265</u> FT	<u>12</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>	<u>12</u>	<u>5.7</u> lb./gal	<u>220</u> ft.	<u>8</u> ft.
<u>2 1/2" WDS</u>		_____ lb./gal	_____ ft.	_____ ft.

Describe grouting procedure Trimmy PipeSCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 6 IN Length 40 FEETMaterial 250# PlasticSlot Size 10/16 Set From 225 Feet to 265 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☒ YES ☐ NOIf so, what material? Bentite GroutDescribe packer(s) and location? Bone Pumped App. 220

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: Chlorine Pallets

_____ NO, Why Not? _____

Laboratory sent to for water quality analysis

State & Sioux FallsWell Owner: Brian Sik

Business Name: _____

Address: 39574 299th St
Wagner SD 57380

WELL LOG:

FORMATION	DEPTH <u>265</u>	
	FROM	TO
<u>Yellow clay</u>	<u>0</u>	<u>29</u>
<u>Blue clay</u>	<u>29</u>	<u>150</u>
<u>Blue clay Small Rocks</u>	<u>150</u>	<u>220</u>
<u>to some sand</u>		
<u>Fine-medium sand</u>	<u>220</u>	<u>264</u>
<u>Fine Small rocks</u>		
<u>muddy sand</u>	<u>264</u>	<u>265</u>

STATIC WATER LEVEL 90 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: 10 HP Sub pump☐ Bailed _____☐ Other _____

Pumping Level Below Land Surface

135 ft. After 24 Hrs. pumped 100 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate APP 120 GPM

REMARKS

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MAY 14 2008

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This well was drilled under license # 42

And this report is true and accurate.

Drilling firm Gray Drilling Co.Signature of License Representative: [Signature]

Signature of Well Owner or Equitable Property Holder: _____

Date: 5-11-08

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WATER RIGHTS PROGRAM

80-11-5

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WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

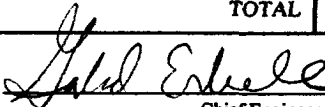
Date 10/4, 20 12

RECEIVED OF Fischer Farms PO Box 787 Wagner SD 57380

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

Fee for Application for Permit No. <u>7450-3</u> to Appropriate Water, to construct and to put water to beneficial use	1350	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>7450-3</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	1550 00

No. **05606**

By 
Chief Engineer

Fischer Farms intends to develop irrigation in Sections 10 and 11 of T95N, R63W. There currently exists a well that was used for a feedlot that is no longer in operation. A copy of the well completion report is attached. It is Fischer Farms intention to use this well and divert water to an 18 million gallon lagoon in the SE ¼ SE ¼ Section 10. Water will then be diverted from the lagoon to the center pivots proposed for irrigation. The application rate from the lagoon to the acres may be at the statutory limit for irrigation of 450 acres which is 2,880 acres. The feedlot is no longer in operation and the lagoon has been cleaned out.

Portion of the acres will be rented from Matthew Thorton from Wagner SD and David Jennings from Bancraft SD. The wells and systems will be located on Fischer Farms but the pivots will be allowed to rotate for irrigation of these properties primarily in the S ½ NE ¼ and SE ¼ NW ¼ and NE ¼ SW ¼ Section 10.

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**WATER RIGHTS
PROGRAM**



**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. 7450-3, Fischer Farms**

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. 7450-3, Fischer Farms, c/o Lynn Fischer, PO Box 787, Wagner SD 57380.

The Chief Engineer is recommending APPROVAL of Application No. 7450-3 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 wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The new well authorized by Permit No. 7450-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
November 27, 2012

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7450-3
FISCHER FARMS
C/O LYNN FISCHER
NOVEMBER 27, 2012

Water Permit Application No. 7450-3 proposes to appropriate up to 900 acre-feet annually (ac-ft/yr) at a maximum diversion rate of 3.56 cubic feet of water per second (cfs) from an existing well completed into the West management unit of the Choteau aquifer and one well to be completed into the West management unit of the Choteau aquifer. The existing well is 265 feet deep and the proposed well is expected to be 265 deep. The wells are located in Lot 1388 Section 10-T95N-R63W of Yankton Reservation Survey. The water will be used to irrigate 450 acres located in Lots 1345, 1346, 1347, 1348, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1399, 1400, and 1401 of Section 10 and Lots 1349, 1350, 1366, 1367, 1376, and 1377 Section 11; all in T95N-R63W of Yankton Reservation Survey in Charles Mix County. The applicant is proposing to divert water from the wells to an existing lagoon (55 ac-ft of water storage) and then pump from the lagoon to the center pivots.

AQUIFER: West management unit of the Choteau aquifer (CH: W)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Choteau: West aquifer is a buried aquifer consisting of glacial outwash (sand and gravel) and western derived stream deposits that were deposited as several layers within the glacial till in the Choteau bedrock valley (Kume, 1977). The Choteau: West underlies approximately 169,600 acres of Charles Mix County and extends into Bon Homme and Douglas Counties (Hedges et. al, 1982). The aquifer contains and estimated 1,225,370 ac-ft of recoverable water in storage in Charles Mix County (Hedges et. al, 1982). Kume (1977) estimated the saturated thickness to range from five to 89 ft with an average of 35 ft. The Choteau: West aquifer is under confined conditions with a water generally moving from the northwest to the southeast (Kume, 1972). The well log submitted with this application for the existing well indicates yellow clay from 0 to 28 ft below grade, blue clay from 28 to 220 ft below grade, and sand from 220 to 265 ft below grade, with a static water level of 90 ft below grade. The existing well meets SD Well Construction Standards.

SDCL 46-2A-9

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

WATER AVAILABILITY:

This application proposes to appropriate 900 ac-ft/yr from the Choteau: West aquifer. Actual water use, if this application is approved, will likely be less than 900 ac-ft/yr. The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1

which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

Recharge versus Discharge:

Recharge:

Recharge to the Choteau: West aquifer is primarily from the adjacent till (Kume, 1977). According to Kume (1977),

“Water is available in the till and from the numerous saturated lenticular outwash bodies. Perhaps some recharge also comes from the Niobrara Marl where the aquifer lies directly upon the marl.”

Hedges and others (1985) stated,

“Some aquifers in surficial deposits are or may be receiving significant recharge from this source. An example is the Choteau: West aquifer which is directly underlain by Niobrara Formation and/or Codell Sandstone throughout much of its areal extent.”

Discharge:

Discharge from the Choteau: West aquifer is from natural losses to springs and seepage to surrounding drift or bedrock (Kume, 1977), but is primarily through well withdrawals. There are 41 water rights/permits appropriating water from the Choteau: West aquifer, with 33 of those in Charles Mix County (Water Rights, 2012b). Most of the water rights/permits are authorized for irrigation purposes. Water rights/permits authorized for non-irrigation purposes appropriate water for commercial use (one water permit), municipal use (two water rights), and recreational use (two water rights). The municipal water rights, Water Right Nos. 569-3 and 1782-3, are for the town of Wagner. Wagner is currently on rural water (Buhler, 2012), and is unlikely to withdraw much water from the Choteau: West aquifer. Annual water withdrawal from the Choteau: West aquifer by non-irrigation appropriations is estimated to be 333 ac-ft. This estimation is based on pumping 60 percent of the time at the maximum allowed diversion rate. Irrigation water use as reported to the DENR-Water Rights Program through annual irrigation questionnaires is shown in table 1.

Year	No. Permits Reporting	Appropriation (ac-ft/yr)	Pumpage (ac-ft/yr)
2011	35	19324.12	1872.77
2010	35	19324.12	614.83
2009	35	19492.12	1163.81
2008	34	19212.12	2443.95
2007	34	19108.12	3363.59
2006	34	19943.8	3598.83
2005	36	19563.8	2896.82
2004	34	18843.8	2819.08
2003	33	15696	2526.26
2002	33	15995.8	3223.92
2001	33	16475.8	1625.24
2000	33	16475.8	3009.11
1999	40	19675.8	1248.07
1998	42	18975.8	697.51
1997	42	19087.8	1509
1996	42	19087.8	1795.61
1995	42	20410.8	999.46
1994	41	20146.8	2026.03
1993	45	21835.8	334.2
1992	46	23224.8	1682.6
1991	45	23080.8	4056.5
1990	45	23400.8	3716
1989	45	23565.8	3984.1
1988	44	23245.8	4537.4
1987	42	23080.8	2198
1986	42	23108.8	2986
1985	43	23810.8	2377
1984	44	24770.8	1692
1983	40	21761.8	1368.89
1982	39	20935.8	1647.15
1981	48	21657	3132
1980	47	21477	2644
1979	49	21477	2933
Min	33	15696.0	334.20
Max	49	24770.8	4537.40
Avg.	40.1	20523.4	2324.93

Table 1- Irrigation water use from the Choteau: West aquifer; modified from Buhler (2012)

Estimated average annual withdrawal from the Choteau: West aquifer is 2,658 ac-ft. The recharge rate to the aquifer required to equal that withdrawal is 0.188 in/yr. That recharge rate is very reasonable; especially when considering that Hedges and others (1985) concluded, "... for management and development programs the recharge rate to confined aquifers is estimated to be 0.15 to 0.60 inches per year." Therefore, there is a reasonable probability that unappropriated water is available from the Choteau: West aquifer.

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 25 observation wells completed into the Choteau: West aquifer with 19 of the observation wells being in Charles Mix County. There are four observation wells (CM-60B, CM-68F, CM-72C, and CM-80D) completed into the Choteau:

West within approximately 5.25 miles of the proposed well locations. Water levels in all four observation wells respond to climatic conditions; rising (recharging) during wet periods, and declining during dry periods. The Choteau: West is an artesian aquifer and well withdrawals from 2012 have lowered water levels to record lows. But, the hydrographs for CM-68F, CM-72C, and CM-80D already show recovery in the water levels. Therefore, there is a reasonable probability that unappropriated water is available for this proposed appropriation. Figures 1, 2, 3, and 4 show the hydrographs for observation wells CM-60B, CM-68F, CM-72C, and CM-80D, respectively.

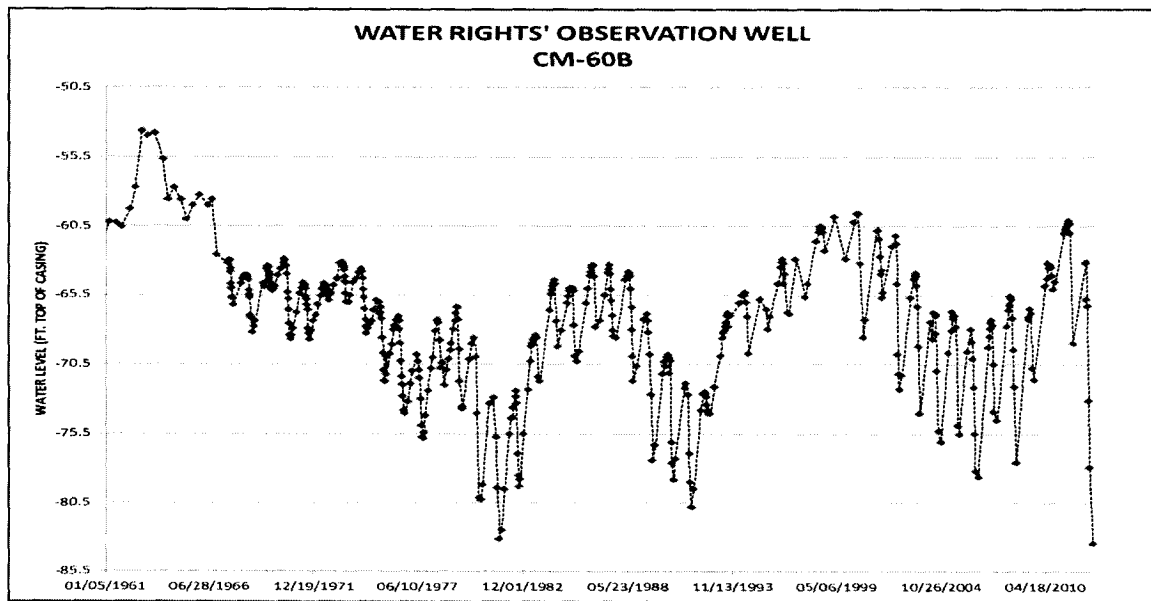


Figure 1- Hydrograph of CM-60B approximately 5.25 miles southeast of the proposed well locations (Water Rights, 2012a).

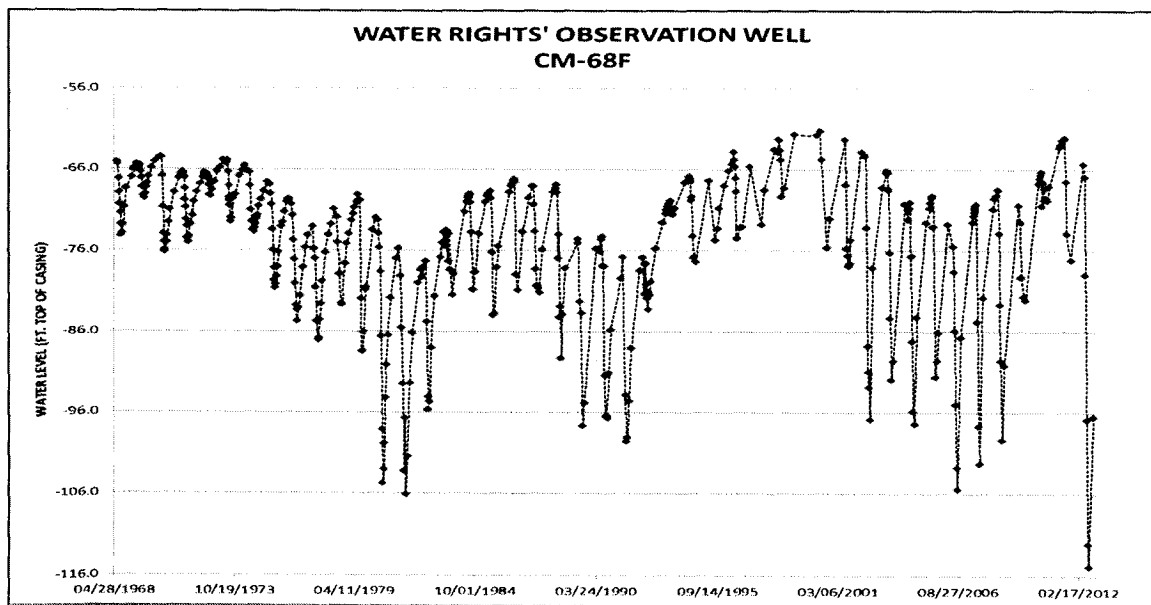


Figure 2- Hydrograph of CM-68F approximately 3.2 miles northeast of the proposed well locations (Water Rights, 2012a).

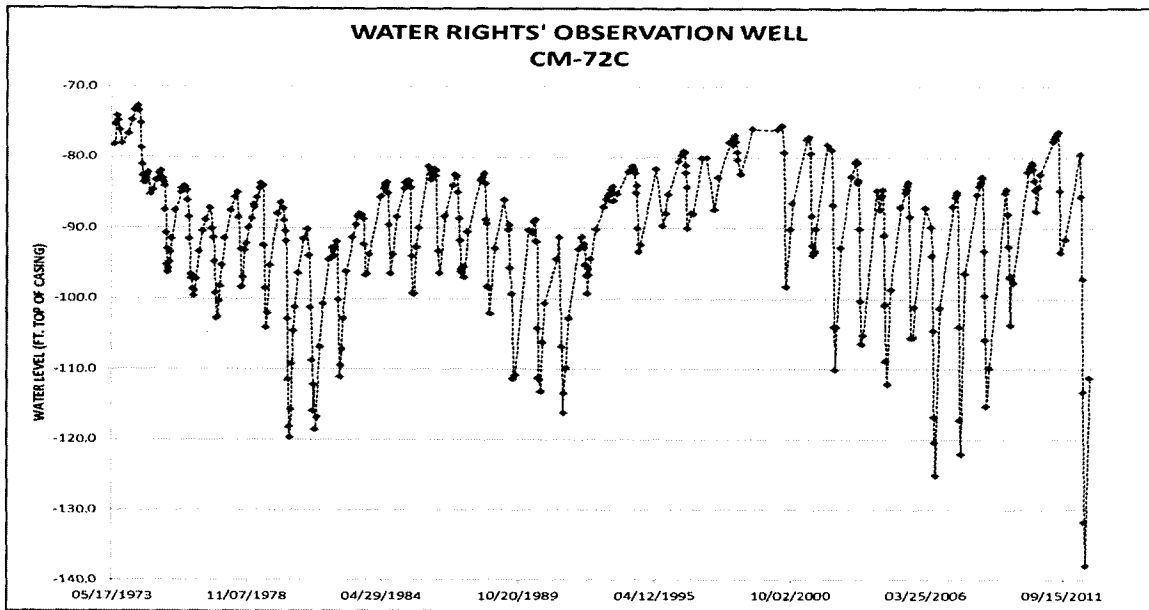


Figure 3- Hydrograph of CM-72C, approximately 5.0 miles north-northeast of the proposed well locations (Water Rights, 2012a).

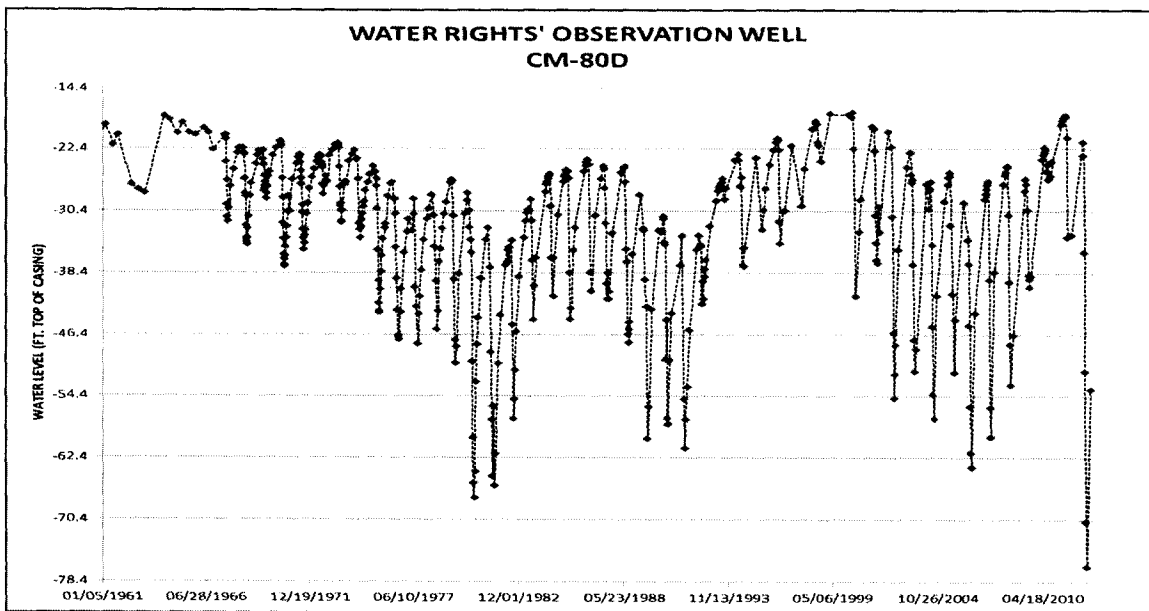


Figure 4- Hydrograph of CM-80D approximately 5.25 miles northwest of the proposed well locations (Water Rights, 2012a).

EXISTING WATER RIGHTS:

There are two water rights and one water permit authorizing wells (Water Rights, 2012b), one domestic well (Water Rights, 2012c), and one currently pending water permit within approximately two miles of proposed well locations. The two water rights, Water Right Nos. 569-3 and 1782-3, are for the town of Wagner which is on rural water and maintains the wells in standby capacity only. Water Permit No. 7385-3 is approximately 1.5 miles south of the

proposed well locations. Observation well CM-80D is within approximately two miles of six domestic wells and nine water rights/permits authorizing wells. The hydrograph for CM-80D shows the seasonal effects of pumping have not been adverse over the period of record and water levels are recovering from record lows earlier in 2012. At these distances, impacts from this proposed appropriation are not expected to be adverse.

Irrigation development in the 1950's in this area was very controversial. Irrigation pumping caused changes in the water levels in domestic wells that resulted in wells that no longer were free flowing at the surface and caused other wells to have pumps lowered. The early controversies were resolved and there have not been issues in this area for several years. A change in SD Water Law was made so that artesian head pressure is no longer protected as a means of water delivery. The early controversies would not have been issues with the change in water law.

CONCLUSIONS:

1. This application proposes to appropriate up to 900 ac-ft annually for the irrigation of 450 acres at a maximum diversion rate of 3.56 cfs. The amount of water that will actually be used is expected to be less than the 900 ac-ft annually.
2. This application proposes to withdraw water from the Choteau: West aquifer.
3. There is a reasonable probability that unappropriated water is available from the Choteau: West aquifer for this proposed appropriation.
4. There is a reasonable probability that the diversion requested by this application can be made without adversely impacting existing water rights or domestic wells.



Adam Mathiowetz
Natural Resources Engineer

REFERENCES:

- Buhler, K. 2012. "Water Permit Application No. 7385-3 Report". SD DENR-Water Rights Program. Joe Foss Bldg., Pierre, South Dakota.
- Hedges, L.S., S.L. Burch, D.L. Iles, R.A. Barari, and R.A. Schoon. 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.
- Kume, J. 1972. Major Aquifers in Charles Mix and Douglas Counties, South Dakota. South Dakota Geological Survey Information Pamphlet No. 2 SD DENR-Geological Survey, Vermillion, South Dakota.
- Kume, J. 1977. Geology and Water Resources of Charles Mix and Douglas Counties, South Dakota; Part II: Water Resources. S.D. Geological Survey Bulletin 22. SD DENR-Geological Survey, Vermillion, South Dakota.
- 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 Report. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Affidavit of Publication

RECEIVED

STATE OF SOUTH DAKOTA)

)SS

DEC - 7 2012

COUNTY OF CHARLES MIX)

WATER RIGHTS
PROGRAM

Stacy Irwin, of said County and State being first duly sworn on her oath says: That **The Wagner Post** is a legal newspaper of general circulation, printed and published in Wagner, in said County and State, by Stacy Irwin, and has been such newspaper during the time herein mentioned; and that I, Stacy Irwin, the undersigned, am Assistant Editor of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in supplement, once each week for ONE successive weeks.

1st publication made on 5th day of December, 2012
2nd publication made on _____ day of _____, 2012
3rd publication made on _____ day of _____, 2012
4th publication made on _____ day of _____, 2012
5th publication made on _____ day of _____, 2012

That said newspaper is a legal newspaper, and has a bonafide circulation of more than two hundred copies weekly, and has been published within the County of Charles Mix for more than fifty-two successive weeks prior to the first publication of said notice, and is printed in an office maintained in Wagner, South Dakota, the place of publication of said newspaper. That the full amount of the fee for the publication of the annexed notice is

\$ 25.84

Stacy Irwin

Subscribed and sworn before me this 5th day of December, 2012.

Burke

Notary Public

My commission expires 10/22/16

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 \$25.84

Pub: December 5, 2012

2

PUBLIC NOTICE

NOTICE OF APPLICATION NO. 7450-3 TO

APPROPRIATE WATER

Notice is given that Fischer Farms, c/o Lynn Fischer, PO Box 787, Wagner SD 57380 has filed an application for a water permit to appropriate 3.56 cubic feet of water per second from one existing well and one well to be completed into the Choteau West Aquifer (265 feet deep) located in Lot 1388 Section 10 for irrigation of 450 acres located in the Section 10 including Lots 1345, 1346, 1347, 1348, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1399, 1400, 1401 and Section 11 including Lots 1349, 1350, 1366, 1367, 1376, 1377; all in T95N, R63W of Yankton Reservation Survey. The applicant is proposing to divert water from the wells to an existing lagoon (55 acre feet of water storage) and then pump from the lagoon to the center pivots.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7450-3 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 17, 2012.

RECEIVED

DEC 10 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. 7450-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 5th DAY OF December 2012
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$28.79 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: 12/5/2012

FILED ON: 12/5/2012

SUBSCRIBED AND SWORN TO BEFORE ME THIS 5th DAY OF December

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

12+5
NOTICE OF APPLICATION
NO. 7450-3 to Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7450-3 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.

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Published once at the total approximate cost of \$28.79.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

November 28, 2012

Wagner Post
PO Box 187
Wagner SD 57380

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7450-3 to Appropriate Water. Please publish the notice once on December 5, 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 Fischer Farms, c/o Lynn Fischer, PO Box 787, Wagner SD 57380 (Ph # 605-491-0325).

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

November 28, 2012

Daily Press & Dakotan
319 Walnut
Yankton SD 57078

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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.

November 28, 2012

Fischer Farms
Lynn Fischer
PO Box 787
Wagner SD 57380

Dear Mr. Fischer:

Water Permit Application No. 7450-3 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 Wagner Post printed at Wagner SD (Ph # 605-384-5616) 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 December 5, 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. 7450-3 to Appropriate Water

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Published once at the total approximate cost of_____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

JAN 14 2013

Fischer Farms
Lynn Fischer
PO Box 878
Wagner SD 57380

Dear Mr. Fischer:

Enclosed is Water Permit No. 7450-3 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



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2023

NOTICE

TO: FISCHER FARMS, LYNN FISCHER, PO BOX 787, WAGNER, SD 57380 0787

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7450-3 & 7952-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7450-3 & 7952-3 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 7450-3 & 7952-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: BSZBPB**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 25, 2023

7450-3
7952-3

Lynn Fischer
Fischer Farms
PO Box 787
Wagner SD 57380

Dear Mr. Fischer:

I am writing to acknowledge receipt of your 2022 irrigation questionnaire.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit Nos. 7450-3 & 7952-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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