

WATER PERMIT NO. 7451-3

Name of Applicant: **Seth Fischer**

Address: **PO Box 1132, Wagner SD 57380**

Phone: **605 491-0326**

Amount of Water Claimed: **1.89 cfs**

Total Acres: **105**

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

Water to be used for: **irrigation**

County: **Charles Mix**

Type of Waste Disposal System:

Location: **1 mile south of Wagner**

PRIORITY

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

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

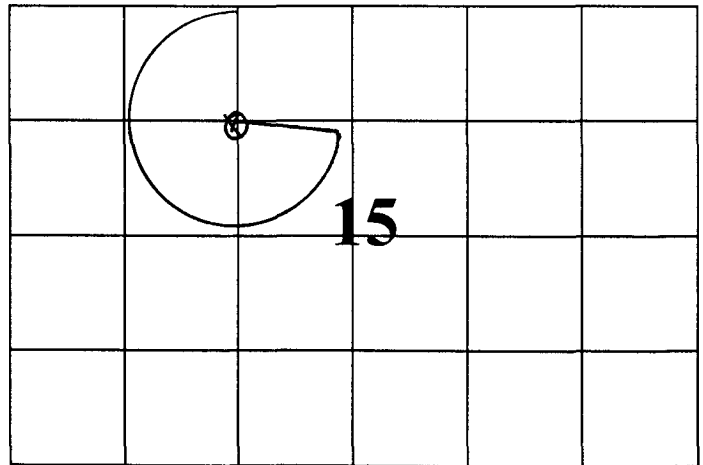
Corrected Application Received:

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

Remarks:

Diversion Point: **center of NW 1/4 Sec 15-T95N-R53W**

Land to be Irrigated: **W 1/2 NW 1/4, SE 1/4 NW 1/4 Sec 15-T95N-R53W**



Depth of Well: **265 feet deep**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **10-5-12**

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

(office use only)
No. 7451-3 Hydrologic Unit 10170101
Basin Missouri River 605-384-5616
Newspaper Wagner Post Po Box 187 57380
Press & Dakotan 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 Seth Fischer Phone 605 491-0326
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address PO Box 1132 Wagner SD 57380
(Address) (City) (State) (Zip Code)

2. Amount of water claimed 1.89 *CFS or 850 **GPM ***AF Total Acreage 105
(*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 new well

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Charles Mix
Lot 1431 Section 15, 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
<u>Lot 1431</u> Section 15, T95N, R63W	<u>35</u>		
<u>Lot 1430</u> Section 15, T95N, R63W	<u>35</u>		
<u>Lot 1431</u> Section 15, T95N, R63W	<u>35</u>		

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

Develop irrigation of the NW 1/4 Section 15, T95N, R63W. Pivot will make 3/4 rotation. The center pivot will require approximately 850 gpm to operate but will not make full rotation. Therefore, I am requesting greater than the statutory limit.

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 Seth Fischer

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

Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 7451-3**

Date of first receipt of application October 4, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7451-3 to Seth Fischer, PO Box 1132, 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. 7451-3 appropriates 1.89 cubic feet of water per second (cfs) from one well to be completed into the Choteau:West Aquifer (265 feet deep) located in Lot 1431 for irrigation of 105 acres located in the Lots 1, 2, north portion of Lot 3 and Lots 1402, 1430 and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey.
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. 7451-3 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 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. 7451-3 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 16 inch Depth 265 feet
- b) Casing Type plastic Diameter 16 Thickness _____
- c) Screen Type _____ Diameter 16 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) approx. 90 feet (based on nearby well)
- 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

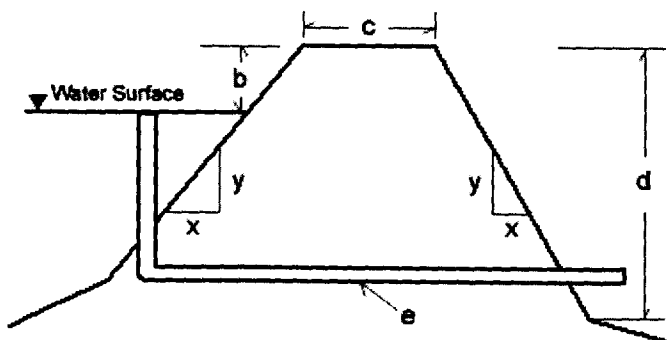
3. Dugout Information

- 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



United States Department of Agriculture
Farm Service Agency

PLSS: 15_95N_63W
Farm: 8215

Charles Mix County

1:8,628

December 28, 2011



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OCT - 4 2012

WATER RIGHTS
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Wetland Determination Identifiers

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

Common Land Units

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.

2010 Ortho-Photography - Not to Scale

2013 CROP YEAR

Seth Fischer Water Permit Application



1,000 500 0 1,000 Feet



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WATER RIGHTS
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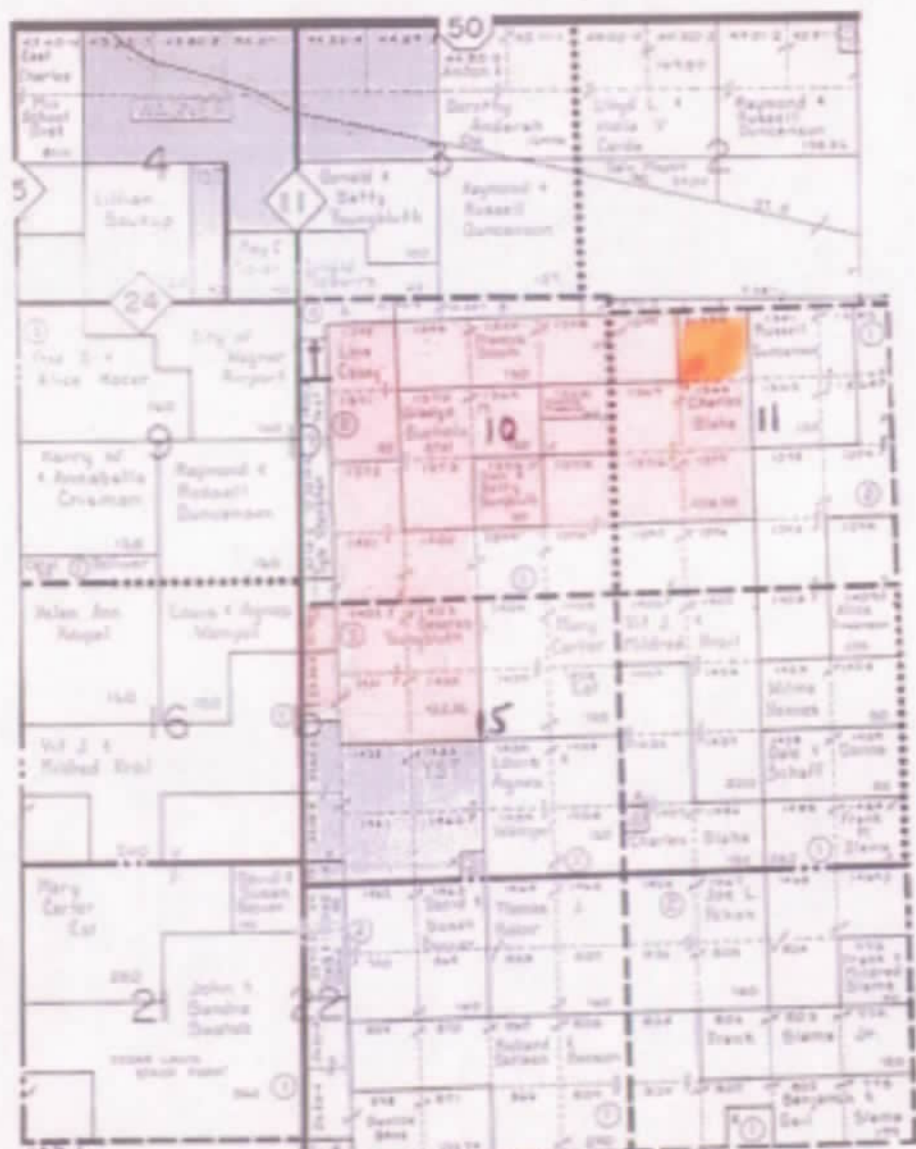
Eric Gronlund

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.

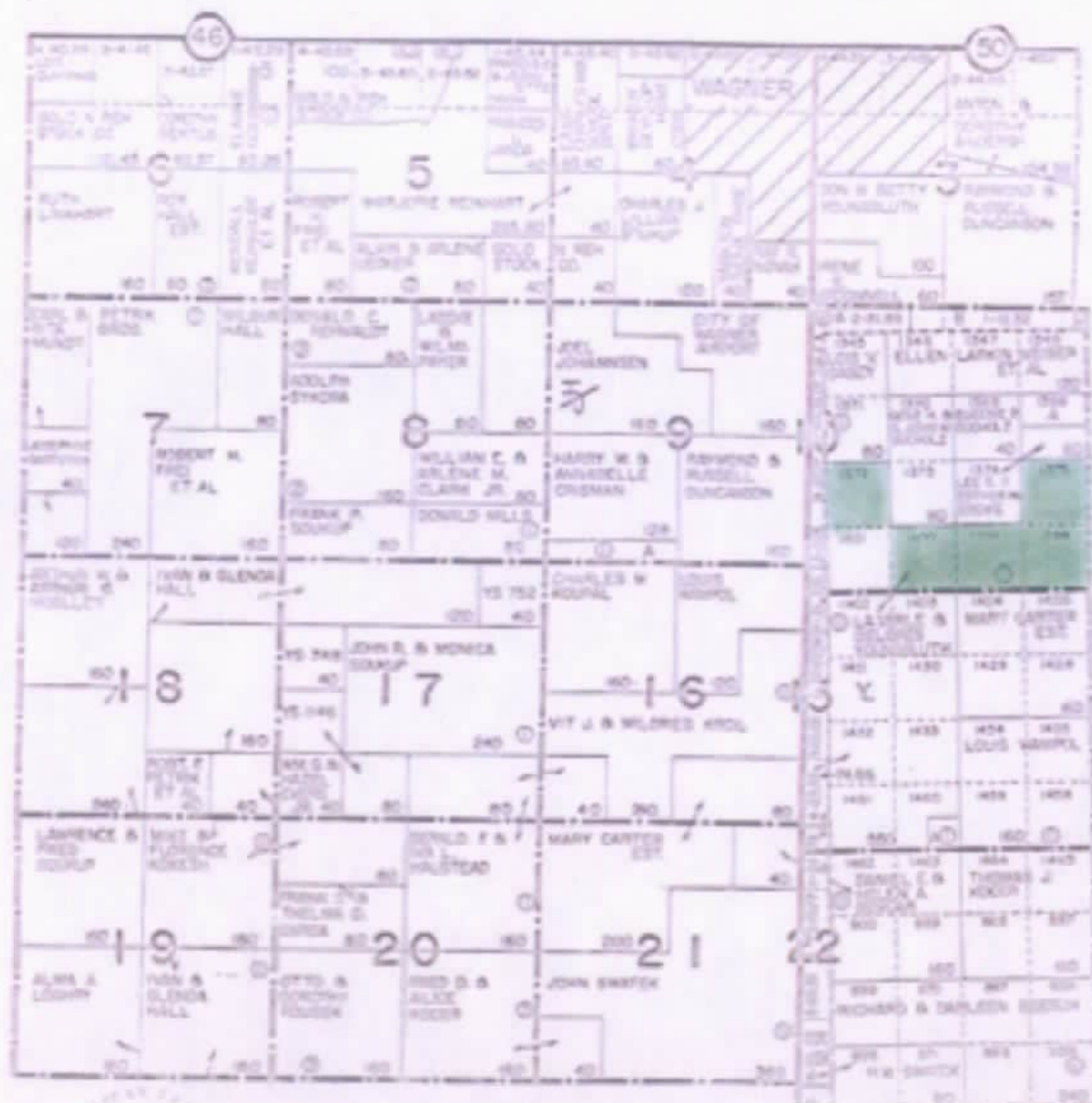


CHARLES MIX COUNTY ABSTRACT COMPANY

LAKE ANDES, SOUTH DAKOTA

*For Seth Fischer Sect 15
Fischer farms Sect 10-11*

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

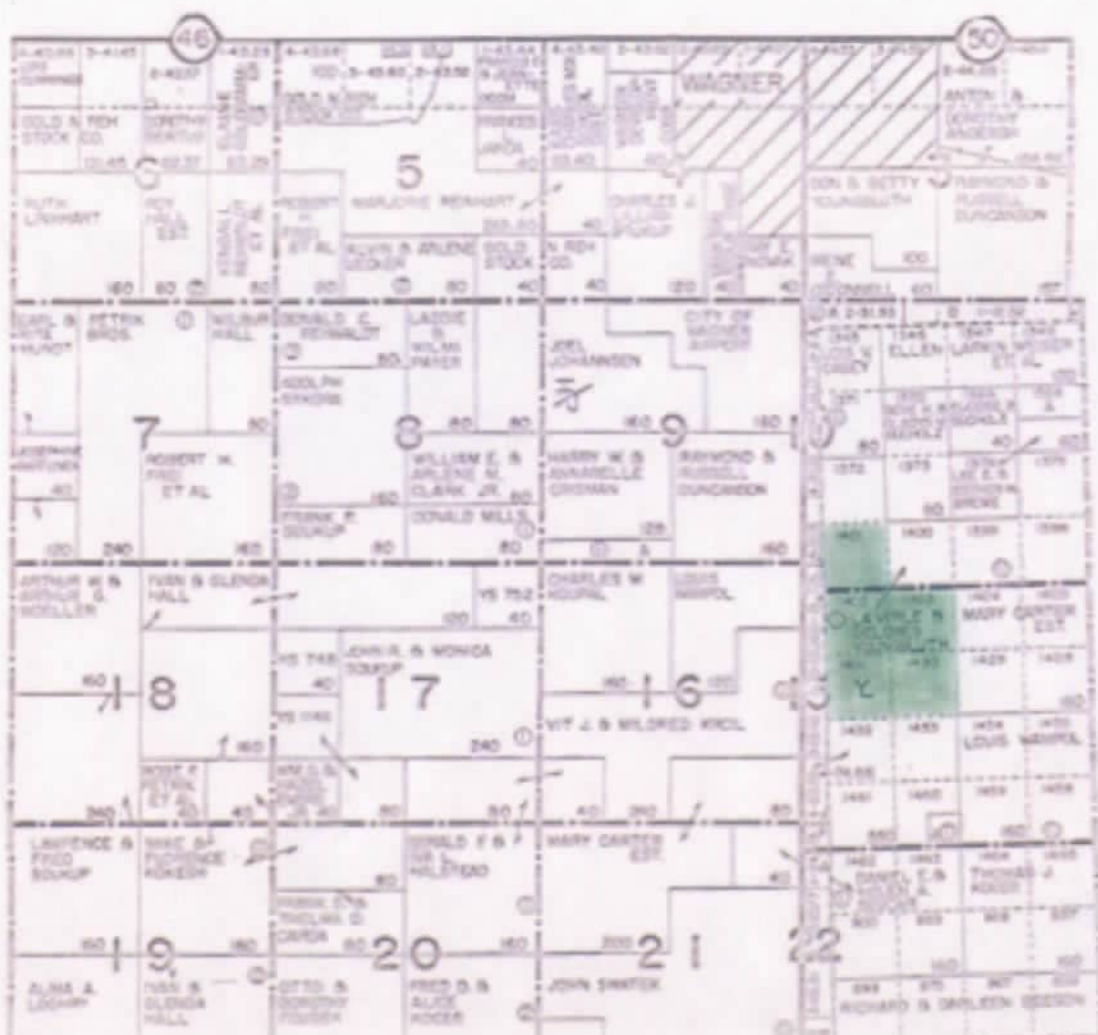


NY F02939

ABSTRACT OF TITLES

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

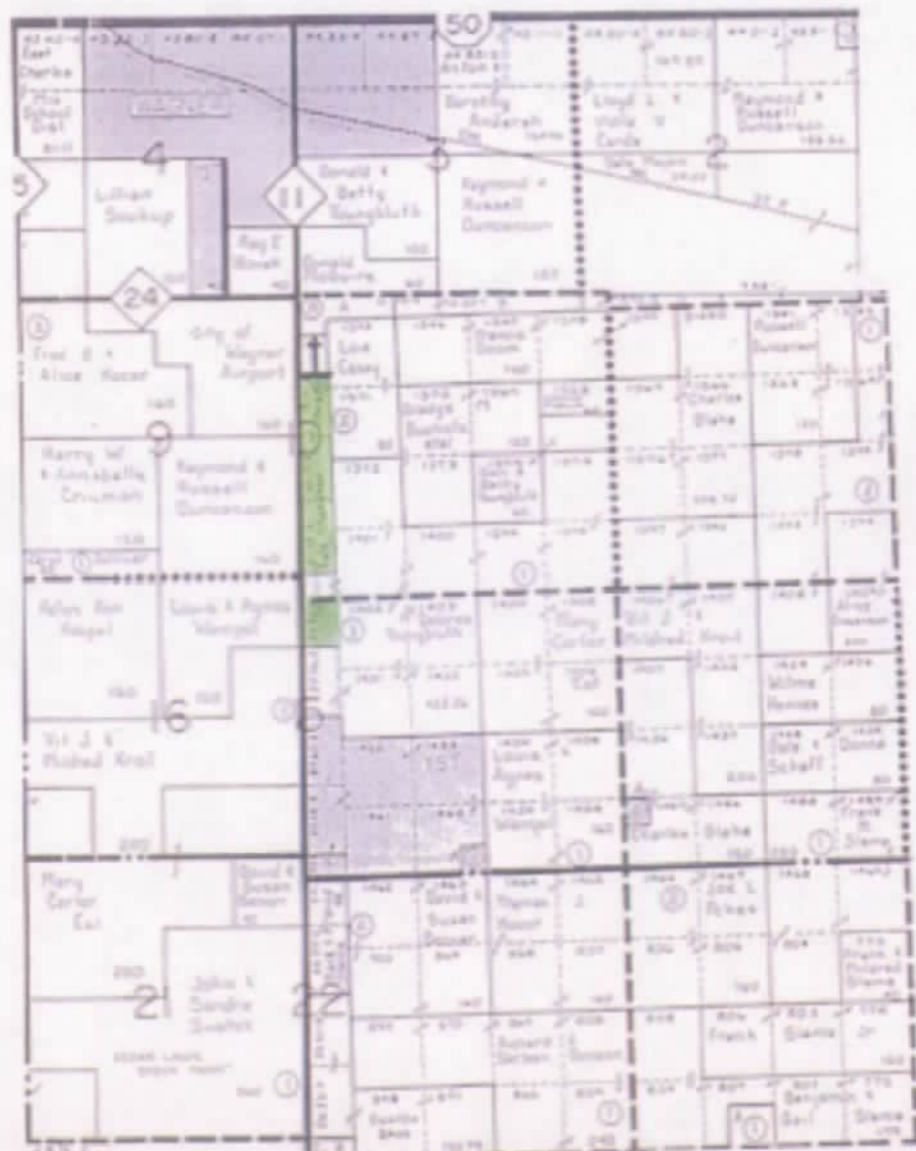
Lots numbered 1401, 1402, 1403, 1430 and 1431,
according to survey of the Yankton Reservation,
in Charles Mix County, South Dakota.



ABSTRACT OF TITLE

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

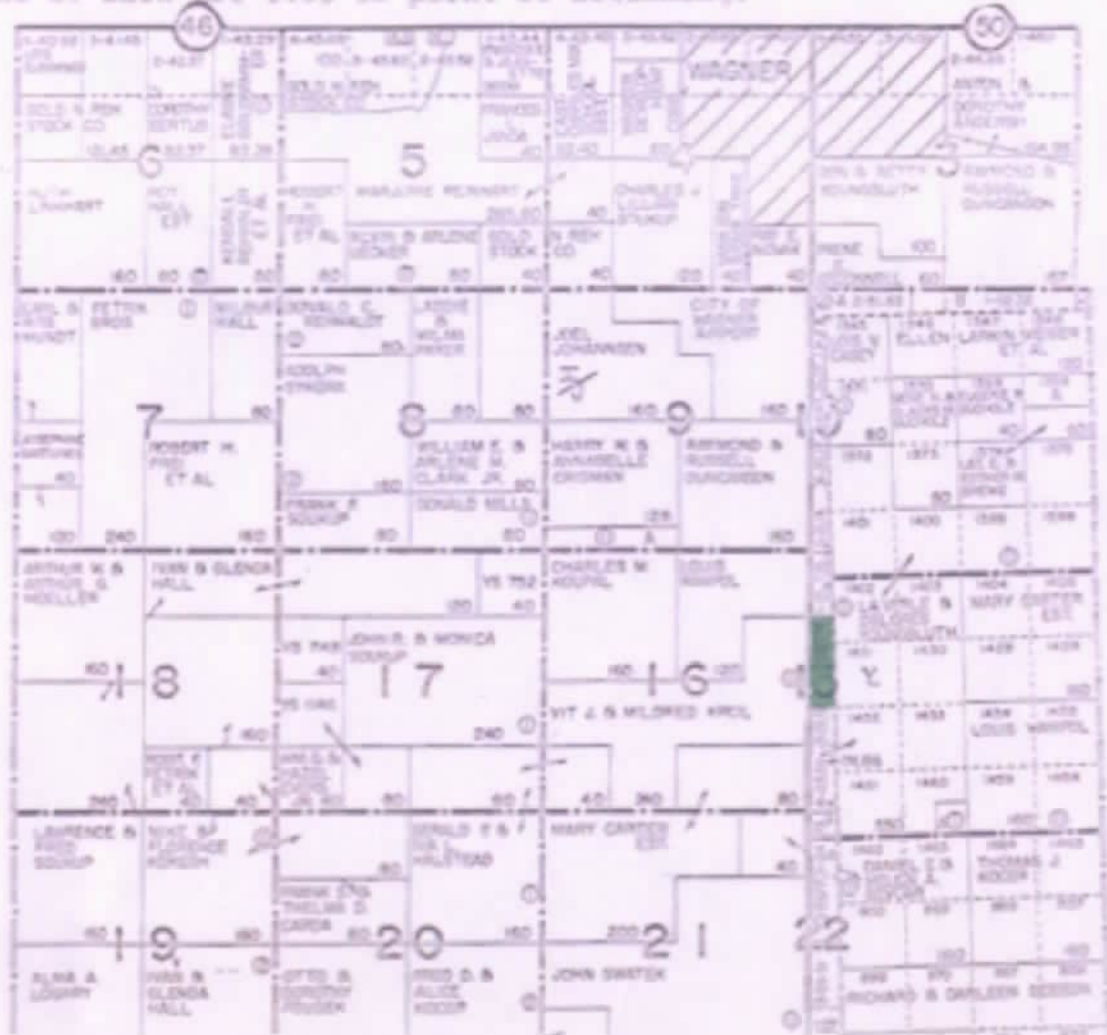
Lots three (3), four (4), and five (5), except the north 6.17 chains of Lot 3, in Section ten (10), Lot one (1) in Section fifteen (15); all in Township ninety-five (95) North, Range sixty-three (63) West of the Fifth Principal Meridian, Charles Mix County, South Dakota.



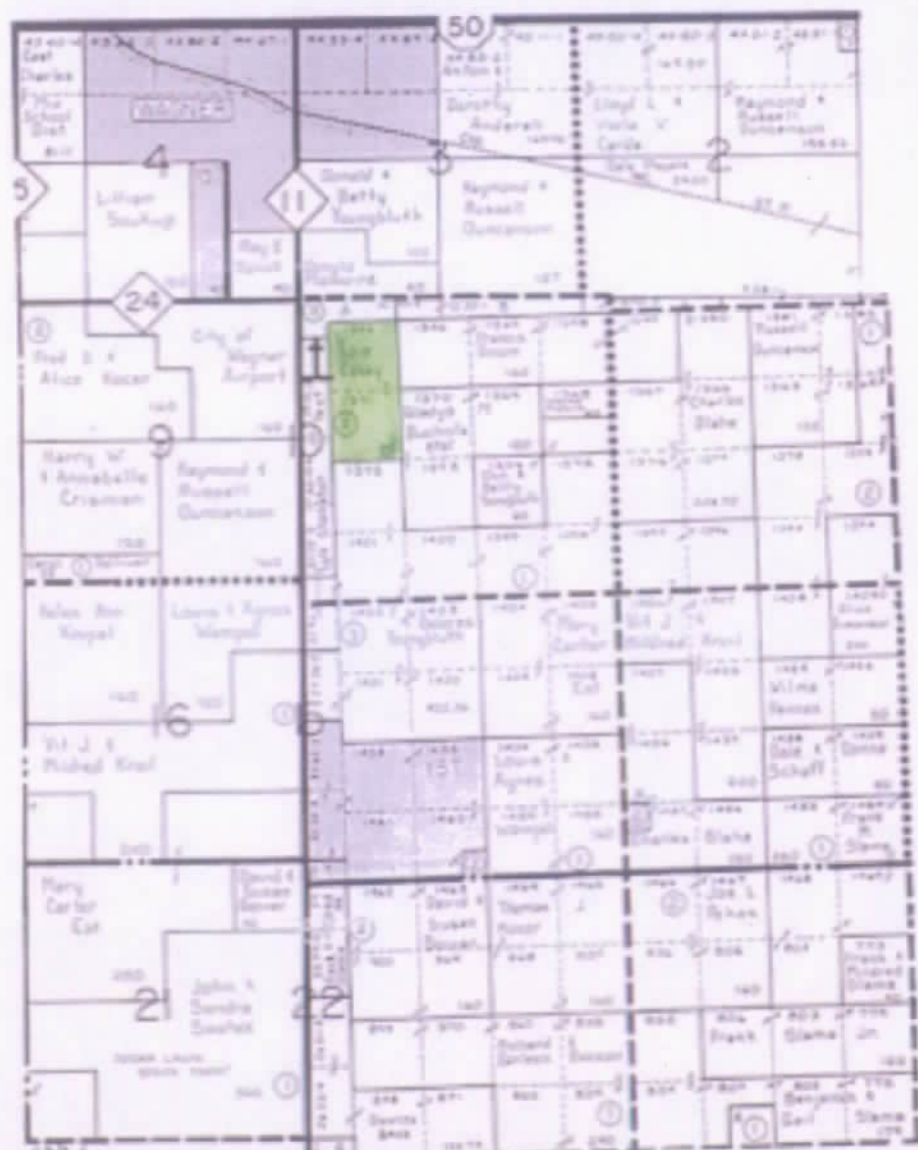
9/10/1915

To the following described Real Estate situated in
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.



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.



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/4/, 20 12

RECEIVED OF Seth Fischer PO Box 1132 Wagner SD 57380

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

Fee for Application for Permit No. <u>7451-3</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>7451-3</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. **05607**

By

John E. Mule
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. 7451-3, Seth Fischer**

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. 7451-3, Seth Fischer, PO Box 1132, Wagner SD 57380.

The Chief Engineer is recommending APPROVAL of Application No. 7451-3 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. 7451-3 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. 7451-3
SETH FISCHER
NOVEMBER 27, 2012

Water Permit Application No. 7451-3 proposes to appropriate up to 210 acre-feet annually (ac-ft/yr) at a maximum diversion rate of 1.89 cubic feet of water per second (cfs) from one well to be completed into the West management unit of the Choteau aquifer. The well is expected to be 265 deep. The well is expected to be located in Lot 1431 Section 15-T95N-R63W of Yankton Reservation Survey. The water will be used to irrigate 105 acres located in Lots 1, 2, north portion of Lot 3, and Lots 1402, 1403, 1430, and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey in Charles Mix County. The applicant is proposing to divert water at a rate greater than the statutory limit of 1.0 cfs per 70 acres.

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

GEOLOGY AND AQUIFER CHARACTERISTICS:

A test hole log was not included with the application, but from existing well logs (Water Rights, 2012c) and lithologic logs (SDGS, 2012) it was possible to determine that this application will most likely be withdrawing water from the West management unit of the Choteau aquifer. 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 an 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).

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 210 ac-ft/yr from the Choteau: West aquifer. Actual water use, if this application is approved, will likely be less than 210 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 5.6 miles of the proposed well location. 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.

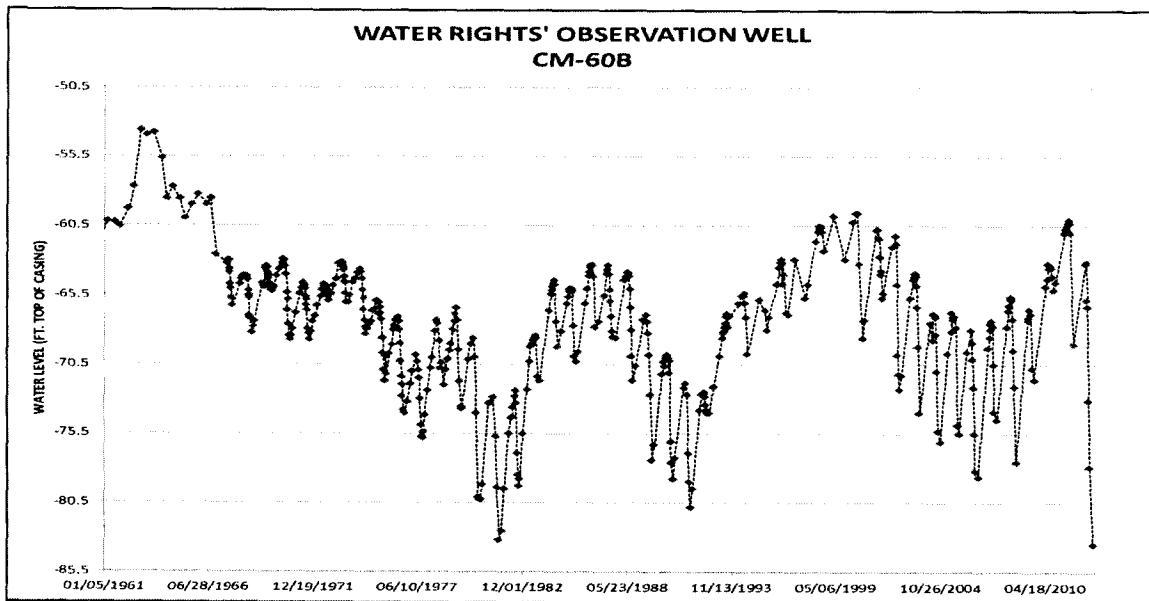


Figure 1- Hydrograph of CM-60B approximately 5.6 miles southeast of the proposed well location (Water Rights, 2012a).

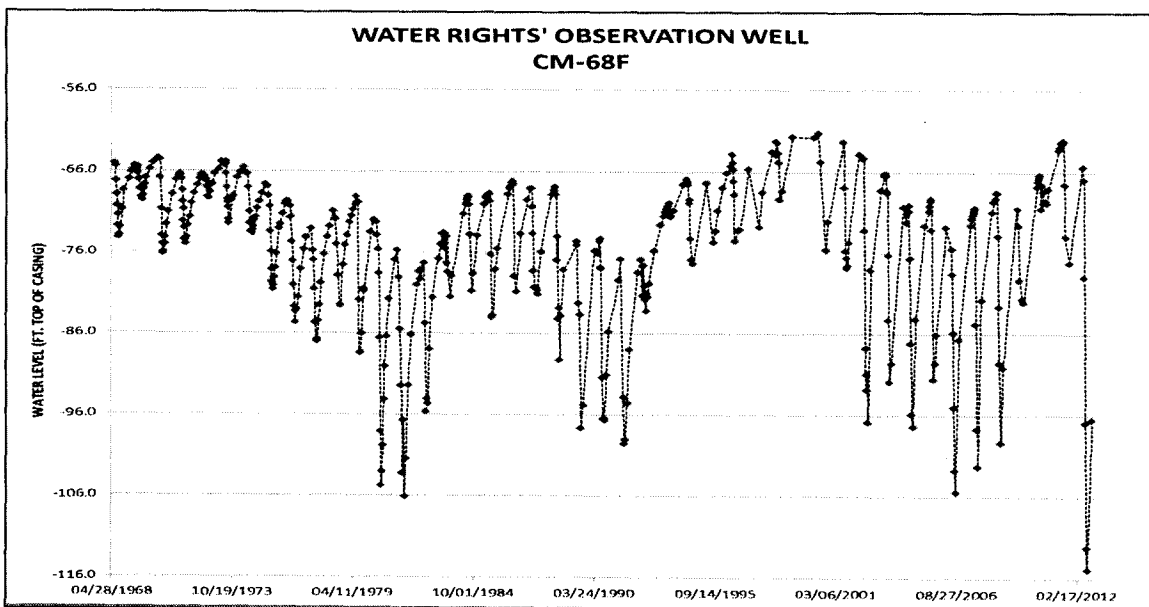


Figure 2- Hydrograph of CM-68F approximately 3.7 miles northeast of the proposed well location (Water Rights, 2012a).

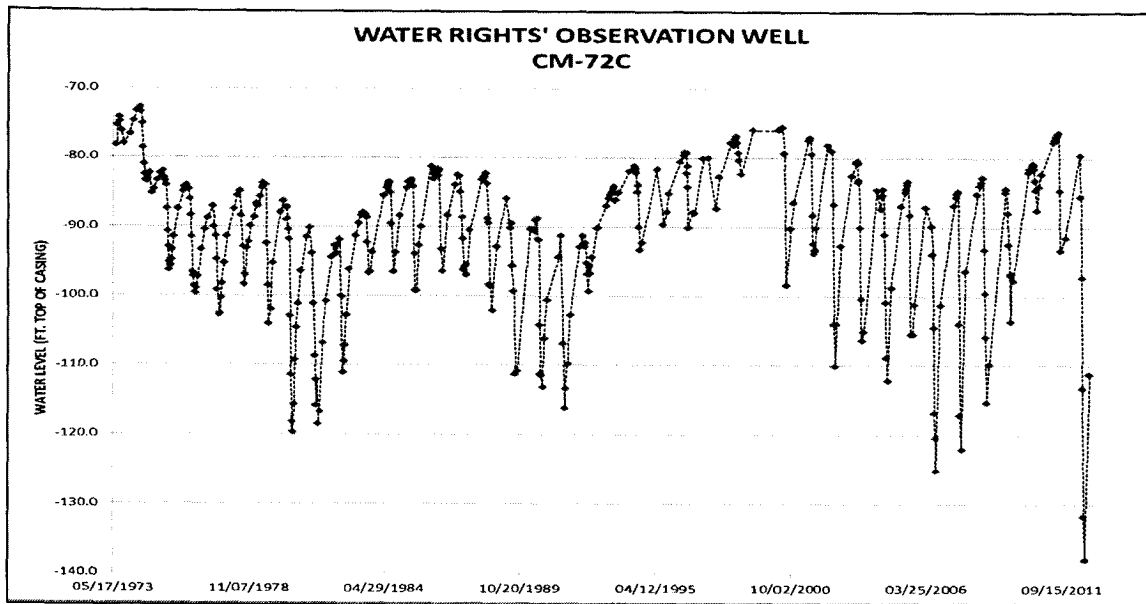


Figure 3- Hydrograph of CM-72C, approximately 5.5 miles north-northeast of the proposed well location (Water Rights, 2012a).

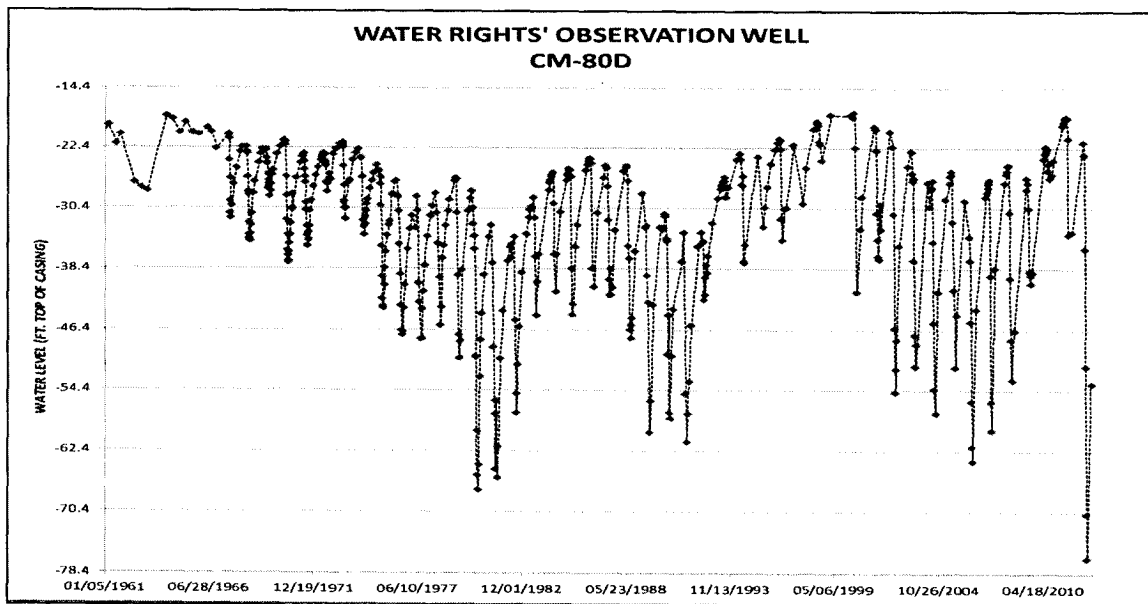


Figure 4- Hydrograph of CM-80D approximately 5.5 miles northwest of the proposed well location (Water Rights, 2012a).

EXISTING WATER RIGHTS:

There are two water rights and one water permit authorizing wells (Water Rights, 2012b), two domestic wells (Water Rights, 2012c), and one currently pending water permit within approximately 2.5 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 1.1 miles southeast of the proposed well location. 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 been no 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.

SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs per second for every 70 acres, or "the equivalent thereof." The statute does provide that the Water Management Board may allow a greater diversion if the method of irrigation so requires. Water Permit Application 7451-3 proposes to divert at a rate of 1.89 cfs to irrigate 105 acres, or the equivalent of 1.26 cfs per 70 acres. The applicant stated that the center pivot to be installed will make a $\frac{3}{4}$ rotation and will require approximately 850 gallons per minute (1.89 cfs) to operate properly. This is a reasonable justification for the request.

CONCLUSIONS:

1. This application proposes to appropriate up to 210 ac-ft annually for the irrigation of 105 acres at a maximum diversion rate of 1.89 cfs. The amount of water that will actually be used is expected to be less than the 210 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.
5. The applicant is requesting a diversion rate greater than the statutory limit. Justification for the request is that the diversion rate is required to properly operate the center pivot.



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.
- SDGS. 2012. Lithologic Logs Database. < <http://sddenr.net/lithdb/>>. SD DENR-Geological Survey, Vermillion, 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 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

\$ 24.24

Stacy Irwin

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

[Signature]

Notary Public

My commission expires 10/22/16

NOTICE OF APPLICATION

NO. 7451-3 TO

APPROPRIATE WATER

Notice is given that Seth Fischer, PO Box 1132, Wagner SD 57380 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second (cfs) from one well to be completed into the Choteau: West Aquifer (265 feet deep) located in Lot 1431 for irrigation of 105 acres located in the Lots 1, 2, north portion of Lot 3 and Lots 1402, 1430 and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey. 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. 7451-3 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.

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 \$24.24

Pub: December 5, 2012

RECEIVED

DEC 10 2012

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

12+5

NOTICE OF APPLICATION
NO. 7451-3 to Appropriate Water

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. 7451.3

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 \$26.15 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

2012

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

Notice is given that Seth Fischer, PO Box 1132, Wagner SD 57380 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second (cfs) from one well to be completed into the Choteau:West Aquifer (265 feet deep) located in Lot 1431 for irrigation of 105 acres located in the Lots 1, 2, north portion of Lot 3 and Lots 1402, 1430 and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey. 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. 7451-3 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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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 \$26.15.



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. 7451-3 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 Seth Fischer, PO Box 1132, Wagner SD 57380 (Ph # 605-491-0326).

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

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7451-3 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 Seth Fischer, PO Box 1132, Wagner SD 57380 (Ph # 605-491-0326).

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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.

November 28, 2012

Seth Fischer
PO Box 1132
Wagner SD 57380

Dear Mr. Fischer:

Water Permit Application No. 7451-3 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,

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

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. 7451-3 to Appropriate Water

Notice is given that Seth Fischer, PO Box 1132, Wagner SD 57380 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second (cfs) from one well to be completed into the Choteau:West Aquifer (265 feet deep) located in Lot 1431 for irrigation of 105 acres located in the Lots 1, 2, north portion of Lot 3 and Lots 1402, 1430 and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

~~1403~~
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7451-3 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 _____.



**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

Seth Fischer
PO Box 1132
Wagner SD 57380

Dear Mr. Fischer:

Enclosed is Water Permit No. 7451-3 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



7451-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

May 16, 2013

Seth Fischer
PO Box 1132
Wagner SD 57380

Dear Mr. Fischer:

A request has been filed to change the location of the well authorized by Water Permit No. 7451-3. This request for a change in well location is because a test hole as the original site intended found little to no formation.

Water Permit No. 7451-3 appropriates 1.89 cubic feet of water per second from one well to be completed into the Choteau West Aquifer (approximately 265 feet deep) to be located in Lot 1431 for irrigation of 105 acres located in Lots 1, 2, north portion of Lot 3, Lots 1402, 1430 and 1431 of Section 15: all in T95N, R63W of the Yankton Reservation Survey. The permit has an October 4, 2012, priority date and is conditioned with the well interference, well construction and irrigation questionnaire qualifications.

Upon review of the request and pursuant to SDCL 46-5-13.1, the change in well location to Lot 1405 Section 15, T95N, R63W is authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. No increase in the authorized diversion rate from the Choteau West Aquifer is authorized.

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

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program

Approval of a Change of Diversion Point

NAME: Seth Fischer

ADDRESS: PO Box 1132, Wagner SD 57380

DATE: May 13, 2013 **COUNTY:** Charles Mix **TELEPHONE:** 605 491-0326

BACKGROUND:

Water Permit No. 7451-3 appropriates 1.89 cubic feet of water per second from one well to be completed into the Choteau West Aquifer (approximately 265 feet deep) to be located in Lot 1431 for irrigation of 105 acres located in Lots 1, 2, north portion of Lot 3, Lots 1402, 1430 and 1431 of Section 15: all in T95N, R63W of the Yankton Reservation Survey. The permit has an October 4, 2012, priority date and is conditioned with the well interference, well construction and irrigation questionnaire qualifications.

Mr. Fischer has requested to move the well location approximately 2,750 feet to the east of the originally intended well site to Lot 1405. The basis for the request is that a test hole at the original well site and a test hole 1,800 feet to the east encountered little to no formation. The third test hole at the site 2,750 feet east was very successful.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The water source authorized by Water Permit No. 7451-3 is the Choteau West Aquifer. The original well was estimated to be 265 feet deep. The test hole at the new site is 270 feet deep which is in the Choteau West Aquifer.

No additional appropriation of water is authorized. Water Permit No. 7451-3 appropriates 1.89 cfs and no additional diversion rate authority is being requested.

Review of Existing Diversions

The well completion report and water right databases were reviewed for the nearest domestic wells and water rights on file.

The nearest domestic well is located approximately 0.65 miles south from the original well location. The new well location will have the irrigation well 0.9 miles north east of this domestic well.

The nearest water right for wells completed into the Choteau West Aquifer is approximately one quarter of a mile north in the name of Fischer Farms (No. 7451-3). Lynn Fischer was contacted to discuss whether he has concerns with the well being moved into closer proximity to his permitted wells. Mr. Fischer is Seth Fischer's grandfather and indicated this is not a problem as Seth Fischer will own the property in the future. The next closest permit for irrigation is Water Permit No. 7385-3 held by Sam Fousek for a well approximately one mile south of the Fischer well. Finally, the city of Wagner has wells completed into the Choteau West Aquifer located over 1 ½ miles northwest of the Fischer well. The city of Wagner is on rural water and maintains their wells for standby use. See map for location of existing domestic and permitted wells.

Observation Well Data

The Water Rights Program monitors numerous observation wells that are located in the Choteau West Aquifer. This is an artesian aquifer that shows the effects of climatic conditions and pumping. An observation well located within two miles of six domestic wells and nine water rights/permits from this aquifer shows the seasonal effects of pumping have not been adverse over the period of record and water levels do recover. At the distances involved with the Fischer well, impacts from pumping are not expected to be adverse.

CONCLUSION

- The change in well location does not propose to appropriate additional water.
- The well is completed into the Choteau West Aquifer.
- Given the distance from domestic and existing water rights, interference is not expected to be a concern.

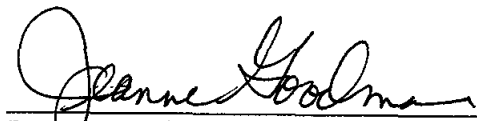
RECOMMENDED ACTION

Based on the above criteria, it is recommended that the change of diversion point location to a point located in Lot 1405 of Section 15: all in T95N, R63W

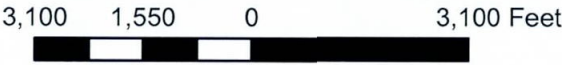
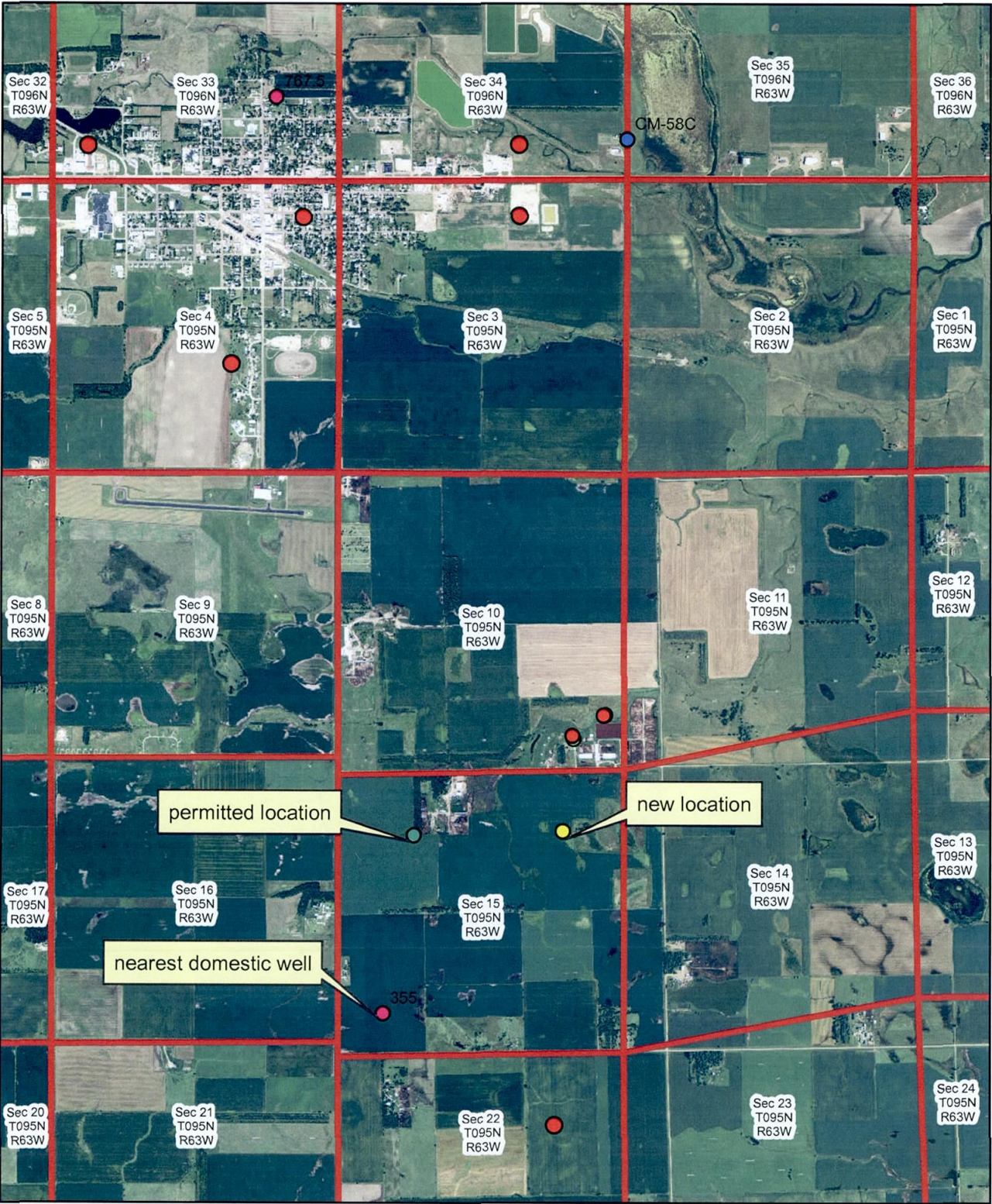

Eric Gronlund
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

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


Jeanne Goodman, Chief Engineer
Water Rights Program

Seth Fischer Farms Water Permit No. 7451-3



● Water Rights

Eric Gronlund

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

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7450-3, Fischer Farms c/o Lynn Fischer

ADDRESS: COUNTY: Charles Mix

DATE: May 14, 2013 TELEPHONE: cell – 605 491-0325

RE: Seth Fischer's request for change of diversion point under Water Permit No. 7451-3

I contacted Mr. Lynn Fischer regarding Seth Fishcer's request for change of well location under Water Permit No. 7450-3. I indicated that authorizing this change would put the well under No. 7451-3 within approximately one quarter mile of the wells authorized by his Water Permit No. 75450-3. Lynn Fischer indicated he had no problem with Seth Fischer's well being moved to this location. Seth Fischer is his grandson who will ultimately own this property some day in the future.

NAME: Eve Hunter

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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only) No. _____ Hydrologic Unit _____
	Basin _____
	Newspaper _____

RECEIVED
MAR 27 2013
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 7451-3
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

Request to move well location

1. Name to Appear on Irrigation Permit Seth Fischer

(check one) ☐ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address PO Box 1132 Hwy SD 57380
(Address) (City) (State) (Zip Code)

Home Phone _____ Cell 605-491-0228 Email _____

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

3. Source of water supply _____

4. Location of point of diversion _____

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County _____

5. County or counties where water will be used _____

6. Annual period during which water is to be used _____

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
<u>Section 15</u>			

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

Irrigated acres and pivot placement stay the same.
requesting to move well. Tried ~~two~~ three test holes and the
first two had little to no formation. The third try to the
East was very successful. * see map

I, Seth Fischer, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)

- a) If new wells, how many 1 Have test holes been drilled ☒ Yes ☐ No Drilled by _____
(if yes, please provide copies of logs)
- b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by Stretch's Well Drilling
- c) Well Depth 270' Depth to Top of Water Bearing Material 200' Depth to Water from Surface _____
- d) Distance to nearest existing domestic well:
On applicant's property 1/2 mile On property owned by others 1/2 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

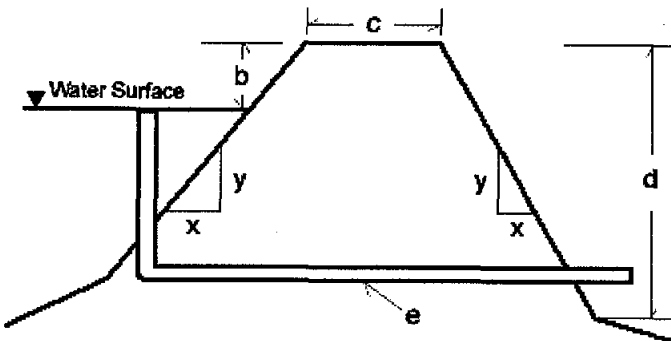
3. Dugout Information

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

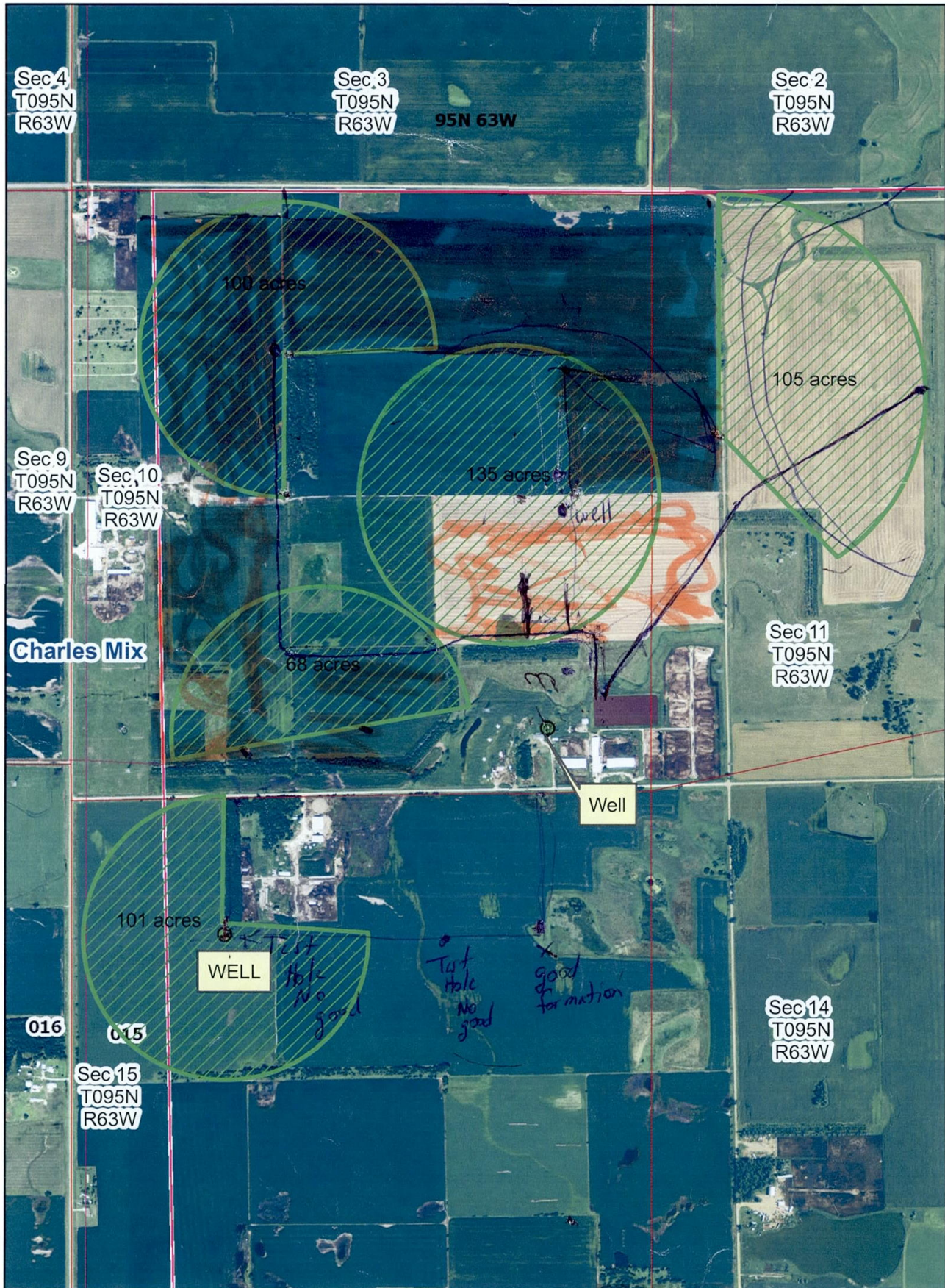
4. Water Storage Dams

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 (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



RECEIVED

MAR 27 2013

WATER RIGHTS
PROGRAM

**SOUTH DAKOTA
WATER PERMIT NO. 7451-3**

Date of first receipt of application October 4, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7451-3 to Seth Fischer, PO Box 1132, 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. 7451-3 appropriates 1.89 cubic feet of water per second (cfs) from one well to be completed into the Choteau:West Aquifer (265 feet deep) located in Lot 1431 for irrigation of 105 acres located in the Lots 1, 2, north portion of Lot 3 and Lots 1402, 1430 and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey.
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. 7451-3 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 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. 7451-3 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



**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



REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7451-3
SETH FISCHER
NOVEMBER 27, 2012

Water Permit Application No. 7451-3 proposes to appropriate up to 210 acre-feet annually (ac-ft/yr) at a maximum diversion rate of 1.89 cubic feet of water per second (cfs) from one well to be completed into the West management unit of the Choteau aquifer. The well is expected to be 265 deep. The well is expected to be located in Lot 1431 Section 15-T95N-R63W of Yankton Reservation Survey. The water will be used to irrigate 105 acres located in Lots 1, 2, north portion of Lot 3, and Lots 1402, 1403, 1430, and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey in Charles Mix County. The applicant is proposing to divert water at a rate greater than the statutory limit of 1.0 cfs per 70 acres.

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

GEOLOGY AND AQUIFER CHARACTERISTICS:

A test hole log was not included with the application, but from existing well logs (Water Rights, 2012c) and lithologic logs (SDGS, 2012) it was possible to determine that this application will most likely be withdrawing water from the West management unit of the Choteau aquifer. 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 an 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).

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 210 ac-ft/yr from the Choteau: West aquifer. Actual water use, if this application is approved, will likely be less than 210 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 5.6 miles of the proposed well location. 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.

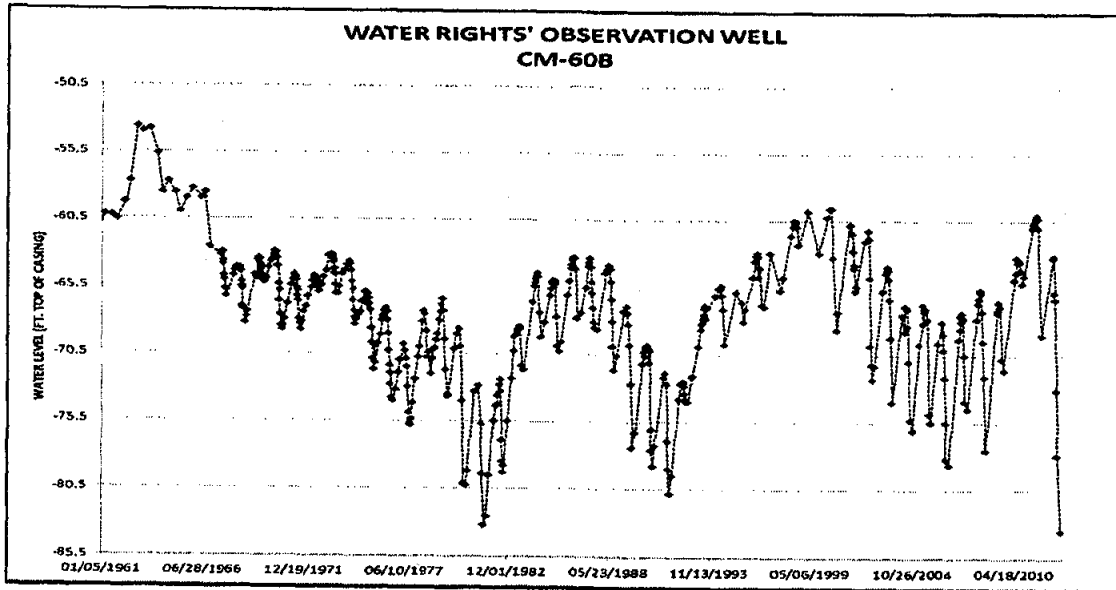


Figure 1- Hydrograph of CM-60B approximately 5.6 miles southeast of the proposed well location (Water Rights, 2012a).

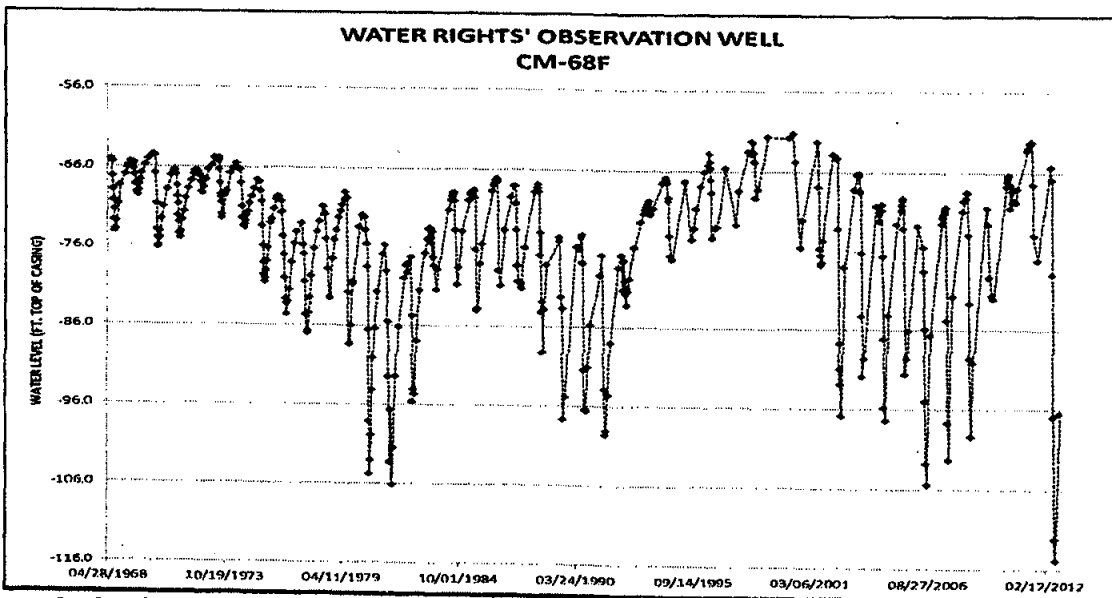


Figure 2- Hydrograph of CM-68F approximately 3.7 miles northeast of the proposed well location (Water Rights, 2012a).

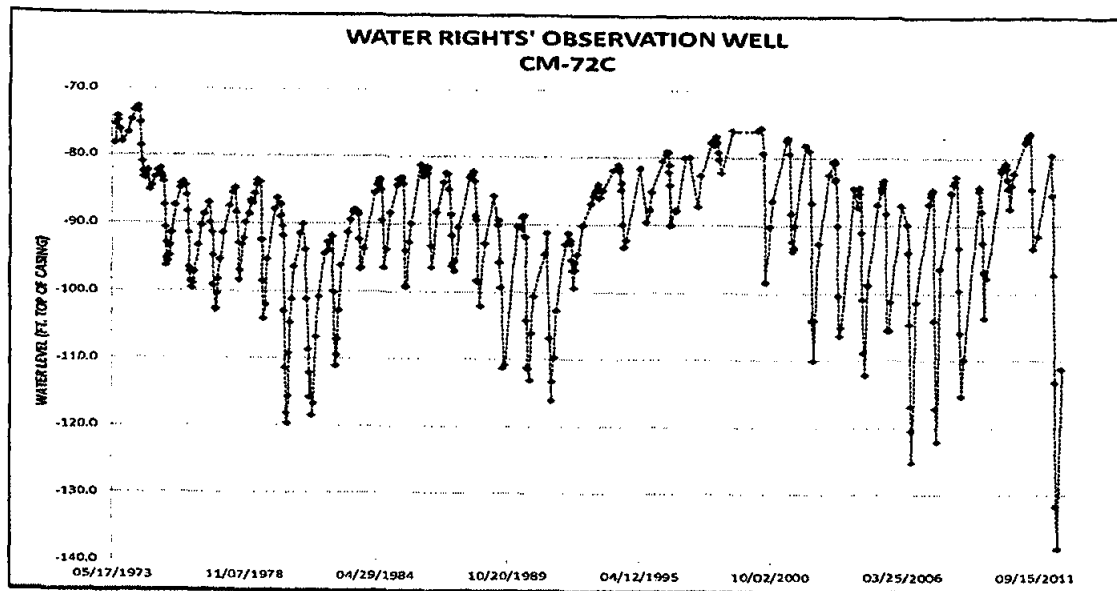


Figure 3- Hydrograph of CM-72C, approximately 5.5 miles north-northeast of the proposed well location (Water Rights, 2012a).

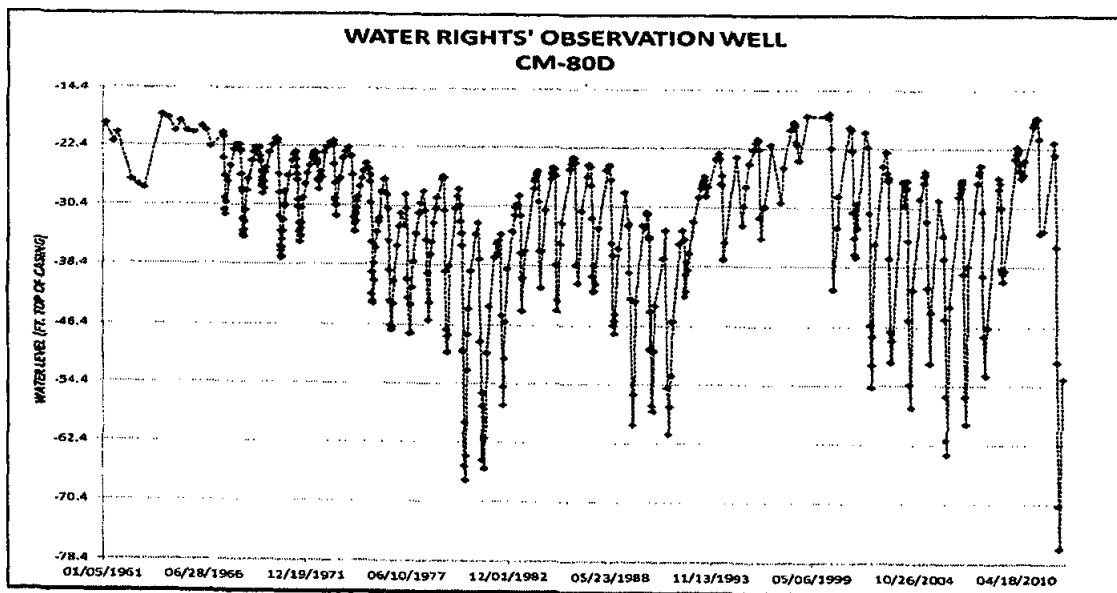


Figure 4- Hydrograph of CM-80D approximately 5.5 miles northwest of the proposed well location (Water Rights, 2012a).

EXISTING WATER RIGHTS:

There are two water rights and one water permit authorizing wells (Water Rights, 2012b), two domestic wells (Water Rights, 2012c), and one currently pending water permit within approximately 2.5 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 1.1 miles southeast of the proposed well location. 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.

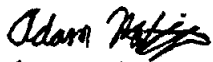
Irrigation development in the 1950's in this area was very controversial. Irrigation pumping caused changes in the water levels in domestic wells that resulted in wells that no longer were free flowing at the surface and caused other wells to have pumps lowered. The early controversies were resolved and there have been no 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.

SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs per second for every 70 acres, or "the equivalent thereof." The statute does provide that the Water Management Board may allow a greater diversion if the method of irrigation so requires. Water Permit Application 7451-3 proposes to divert at a rate of 1.89 cfs to irrigate 105 acres, or the equivalent of 1.26 cfs per 70 acres. The applicant stated that the center pivot to be installed will make a $\frac{3}{4}$ rotation and will require approximately 850 gallons per minute (1.89 cfs) to operate properly. This is a reasonable justification for the request.

CONCLUSIONS:

1. This application proposes to appropriate up to 210 ac-ft annually for the irrigation of 105 acres at a maximum diversion rate of 1.89 cfs. The amount of water that will actually be used is expected to be less than the 210 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.
5. The applicant is requesting a diversion rate greater than the statutory limit. Justification for the request is that the diversion rate is required to properly operate the center pivot.


Adam Mathiowetz
Natural Resources Engineer

SOUTH DAKOTA WATER WELL COMPLETION REPORT

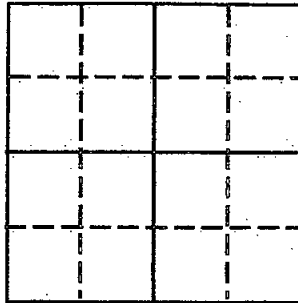
11-02

Location NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 15 Twp 95 Rg 63

County

Charles Mix

North



Please mark well location with an "X"

Well Completion Date

5/14/2014

1 Mile

Distance to nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

? ft. from (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Reverse Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
37.0 LB/FT	16.00 IN	0.0 FT	200.0 FT	30.00 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Bentoniet		14.0 Lb/gal	20.0 Ft	200.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

Tremmie

SCREEN:

☒ Perforated pipe ☐ Manufactured
Diameter 16.00 Inches Length 60.0 FeetMaterial 26 SDR PVCSlot Size .085 Set From 200.0 Feet to 260.0 Feet

Other information

Gravel

WAS A PACKER OR SEAL USED?

☒ Yes ☐ No
If so, what material? Concrete

Describe packer(s) and location

20' to Surface

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? HTH
☐ No, Why Not?

Lab sample sent to for water quality analysis

Well Owner: Fischer Farms

Business Name:

Address:

P.O. Box 1132

City, State, Zip:

WagnerSD57380

WELL LOG:

DEPTH

FORMATION

FROM

TO

See attached paper behind for test hole

STATIC WATER LEVEL

96.0 FEET

If flowing: closed in pressure

PSI

GPM flow

950.0

through

8.62

Inch pipe

Controlled by

☐ Valve☐ Reducers☒ OtherSprinkler System

Reduced flow rate

GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped

Describe:

☐ Bailed☐ Other

Pumping Level Below Land Surface

167.0

Ft. After

1.0

Hrs. pumped

700.0

GPM

217.0

Ft. After

1.0

Hrs. pumped

1,200.0

GPM

If pump installed, pump rate:

950.0

GPM

REMARKS

RECEIVED

JAN 20 2015

WATER RIGHTS PROGRAM

This well was drilled under license #

273

And this report is true and accurate.

Drilling firm:

Sargent Irrigation Co.

Signature of License Representative:

Sargent Irr Co. B. J. Dale Schindler

Signature of Well Owner or Equitable Property Holder:

Date:

GL-2	TOP SOIL	BLACK
2-3		
3-5	DARK YELLOW CLAY	
5-20	YELLOW SANDY CLAY WITH PEBBLES	
20-62	BLUE SILTY CLAY	
62-68	BLUE SILTY CLAY WITH SAND LONIES	
68-74	BLUE SILTY CLAY WITH SAND	
74-94	BLUE SILTY CLAY WITH PEBBLES	
94-99	BLUE SILTY CLAY WITH SAND	
99-160	BLUE SILTY CLAY WITH STONES	
160-167	BLUE SILTY CLAY SOME SAND	
167-169	BLUE SILTY CLAY	
169-172	SAND	
172-179	SILTY CLAY	
179-181	SAND	
181-185	SILTY CLAY	
185-189 ¹	CLAY WITH SAND LONIES	
189-195 ²	SAND FAIRLY COARSE. BOTTOM	LITTLE
195-200 ³	SAND WITH CLAY LAYERS	TOOK H ₂ O +
200-205 ⁴	CLAY VERY LITTLE SAND	
205-210	SAND COARSE DRILLED GOOD	TOOK H ₂ O
210-215	SAND COARSE	TOOK H ₂ O
215-220	COARSE	TOOK A LOT OF H ₂ O
220-225 ¹	COARSE WITH LOTS OF FINE OF CLAY	
225-230 ²	COARSE	
230-235 ³	COARSE	2 ¹ / ₂ BOTTOM LITTLE DRILLED CLAY
235-240 ⁴	DRILLED LOTS OF CLAY	BOTTOM 1/2 DRILLED COARSE
240-245 ⁵	DRILLED GOOD LITTLE COARSE	
245-250	DRILLED LITTLE COARSE	FINE SAND CLAY
250-255	DRILLED GOOD	TOOK H ₂ O
255-260	DRILLED - DIRTY SAND	
260-265	CLAY	
265-270	CLAY	
270-275	CLAY	



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 25, 2017

7451-3

Seth Fischer
39574 299th St
Wagner SD 57380-7112

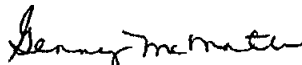
Dear Mr. Fischer:

Enclosed is a "Notice" dated October 20, 2017 concerning the 2017 irrigation questionnaire.

The notice was originally mailed to PO Box 1132, Wagner SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,


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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

November 2, 2021

7451-3

Shannon Fischer
PO Box 1132
Wagner Sd 57380-1132

Dear Ms. Fischer:

Enclosed is the 2021 irrigation questionnaire sent to Seth Fischer for reporting water use for this year. The post office returned it to us with your address.

It is my understanding the permit will need to be transferred. Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change. Please review and complete as needed. Upon completion, please sign and return the form to our office with a required filing fee of \$50. The check or money order for the fee can be made payable to the Water Rights Program.

If I need to be contacting someone else regarding the transfer or the irrigation questionnaire, please give me a call. Thank you in advance.

Sincerely,

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

enclosures

PAID

NOV 16 2021

NOTICE OF TRANSFER OF OWNERSHIP

Ck# 24957

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

RECEIVED

NOV 16 2021

WATER RIGHTS
PROGRAM

No. 7451-3

Date: _____

I/We request that Water Permit No. 7451-3

formerly owned by: Seth Fischer

be transferred to: (name & address)

Sam Fousek + Angie Fousek
29972 396th Ave
Wagner SD 57384

Telephone No. 605 384 5258

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

105 acres – in portions of Lots 1, 2, 3, 1402, 1430 and 1431 Section 15, T95N, R63W

I/We understand that the validity of Water Permit No. 7451-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Sam Fousek + Angie Fousek, the new owner, certify that the above information is true and correct.



(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

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

7451-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date November 16, 2021RECEIVED OF Fousek Farm & Ranch LLC 29972 396th Ave Wagner SD 57380

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$_____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$_____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$_____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$_____
Fee for Filing Transfer Form <u>7451-3</u>	<u>\$50.00</u>
Fee for _____	\$_____
Fee for Issuing New Well Driller's License No. _____	\$_____
Fee for Renewal of Well Driller's License No. _____	\$_____
Fee for Issuing Well Pump Installer's License No. _____	\$_____
Fee for Renewal of Well Pump Installer's License No. _____	\$_____
(Any Other Work Provided by Law)	
TOTAL	<u>\$50.00</u>

By Eric Gronlund
Chief Engineerme



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

November 17, 2021

7451-3

Sam & Angie Fousek
29972 396th Ave
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

Thank you for sending in the transfer form and filing fee for changing ownership on Water Permit No. 7451-3.

The ownership change has been completed. The permit formerly held by Seth Fischer is now listed in your names. A receipt for the filing fee is enclosed.

Also enclosed is the 2021 irrigation questionnaire sent to Seth Fischer for reporting water use for this year. Please complete and return it along with your own questionnaires. Thank you in advance for your help.

Sincerely,

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

enclosures



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

January 20, 2023

NOTICE

TO: SAMUEL D & ANGELA M FOUSEK, 29972 396TH AVE, WAGNER, SD 57380

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) 2323A-3, 7385-3 & 7451-3. 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) 2323A-3, 7385-3 & 7451-3 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) 2323A-3, 7385-3 & 7451-3 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: ILEASJ**

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 31, 2023

2323A-3
7385-3
7451-3

Samuel & Angela Fousek
29972 396th Ave
Wagner SD 57380

Dear Mr. & Ms. Fousek:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Right or Permit Nos. 2323A-3, 7385-3 & 7451-3. 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



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

January 14, 2025

NOTICE

TO: SAM & ANGIE FOUSEK, 29972 396TH AVE, WAGNER, SD 57380

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2323A-3, 7385-3, 7451-3 & 7952-3. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 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) 2323A-3, 7385-3, 7451-3 & 7952-3 qualification:

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

The hearing will be held on **Wednesday, March 5, 2025, 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) 2323A-3, 7385-3, 7451-3 & 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 5, 2025**, 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 Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: LFOJPG or QFWVIF**

cc: ALLISON FISCHER, 9797 N SHORE DR, SPICER MN 56288

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 30, 2025

2323A-3, 7385-3, 7450A-3
7451-3 & 7952-3

Sam & Angie Fousek
29972 396th Ave
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 2323A-3, 7385-3, 7450A-3, 7451-3 & 7952-3. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

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