

WATER PERMIT NO. 7470-3

Name of Applicant: **Robert J Borchard**

Address: **14549 382nd Ave, Mansfield SD 57460**

Phone: **605 225-0893**

Amount of Water Claimed: **no add'l**

Total Acres: **46**

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

Water to be used for: **irrigation**

County: **Brown**

Type of Waste Disposal System:

Location: **about 15 miles southwest of Aberdeen**

PRIORITY

Date Received: **10-16-12**

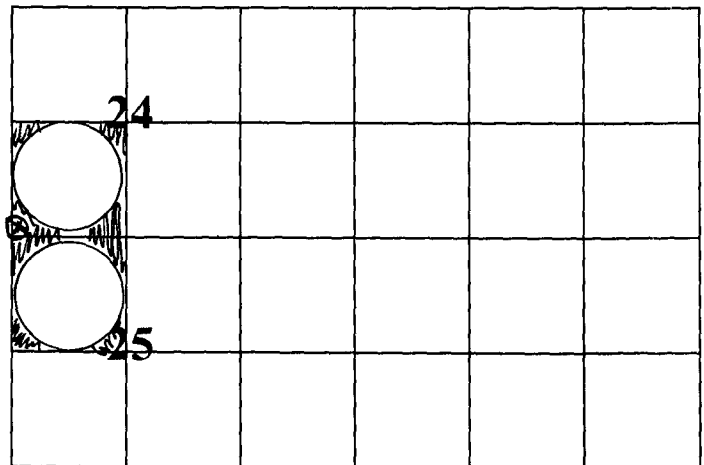
Application/License Fee: **\$ 700**

Corrected Application Received: **10/22/12** Period of Annual Use: **April 1 – October 31**

Remarks:

Diversion Point: **SW 1/4 SW 1/4 Sec 24-T121N-R65W**

Land to be Irrigated: **corners of NW 1/4 Sec 25**
and SW 1/4 Sec 24; all in T121N-R65W



Depth of Well: **108 feet deep**

Well Driller: **Huron Drilling**

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **10-23-12**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

RECEIVED
OCT 16 2012
WATER RIGHTS
PROGRAM

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7470-3</u> (office use only) Hydrologic Unit <u>10160003</u>
	Basin <u>James River</u>
	Newspaper <u>American News P.O. Box 4430</u>
	<u>Aberdeen 57402 605-225-4100</u>

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 to Appear on Irrigation Permit Robert J. Borchard(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 14549 382nd AVE MANSFIELD SD 57460
(Address) (City) (State) (Zip Code)Home Phone 605-225-0893 Cell 228-2374 Email _____2. Amount of water claimed No Add *CFS or ***GPM ***AF Total Acreage 46
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)3. Source of water supply groundwater (existing well under permit No. 2870-3)4. Location of point of diversion SW 1/4 of Section 24-121-65

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

(SW 1/4 SW 1/4)County BROWN5. County or counties where water will be used BROWN6. Annual period during which water is to be used April thru October 317. 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
SE 1/4 NW 1/4 25-121-65	7	SE 1/4 SW 1/4 24-121-65	7
SW 1/4 NW 1/4 25-121-65	7	SW 1/4 SW 1/4 24-121-65	7
NE 1/4 NW 1/4 25-121-65	2	NE 1/4 SW 1/4 24-121-65	7
NW 1/4 NW 1/4 25-121-65	2	NW 1/4 SW 1/4 24-121-65	7

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

Add Corner System to existing permit 2870-3 and 4681-3I, Robert J. Borchard, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

**SOUTH DAKOTA
WATER PERMIT NO. 7470-3**

Date of first receipt of application October 16, 2012.

Date of return to applicant for corrections, amendments or changes October 17, 2012.

Date of receipt of corrected application October 22, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7470-3 to Robert J Borchard, 14549 382nd Ave, Mansfield SD 57460 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. 7470-3 authorizes irrigation of 46 additional acres. Water Right No. 4681-3 authorizes 2.0 cubic feet of water per second from one well completed into the Middle James:Aberdeen Aquifer (108 feet deep) located in SW 1/4 SW 1/4 Section 24 to irrigate 274 acres located in the SW 1/4 Section 24 and NW 1/4 Section 25; all in T121N-R65W. This permit authorizes irrigation of 46 additional acres located in the corners of the SW 1/4 Section 24 and NW 1/4 Section 25; all in T121N-R65W. This permit does not authorize any increase in the developed diversion rate.
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 16, 2012.
4. The date of approval of Permit No. 7470-3 is January 14, 2013.
5. One-fifth of the construction is to be completed on or before July 14, 2015.
6. All construction is to be completed on or before January 14, 2018.
7. Water is to be put to beneficial use on or before January 14, 2022.
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 Water Right No. 4681-3 and Water Permit No. 7470-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele

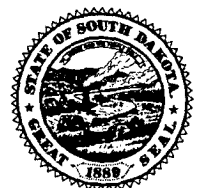
Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

FEB 08 2013

date



Sec 14
T121N
R65W

Sec 13
T121N
R65W

Sec 18
T121N
R64W

Sec 23
T121N
R65W

Sec 24
T121N
R65W

Sec 19
T121N
R64W

Sec 26
T121N
R65W

Sec 25
T121N
R65W

Sec 30
T121N
R64W

Sec 35
T121N
R65W

Sec 36
T121N
R65W

Sec 31
T121N
R64W



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/16, 20 12

RECEIVED OF Robert Borchard 14549 382nd Ave Mansfield SD 57460

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

Fee for Application for Permit No. <u>7470-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7470-3</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	700 00

No. **05620**

By

Larry E. Erbe
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 17, 2012

Robert J Borchard
14549 382nd Ave
Mansfield SD 57460

Dear Mr. Borchard:

Thank you for submitting the *Application for a Permit to Appropriate Water* for additional acreage to Water Right No. 4681-3. In order to complete the application, the following is required.

- Enclosed is an aerial photo map of Sections 24 and 25; T121N-R65W. On the map, please outline the new acres (corners) you are proposing to irrigate in Sections 24 and 25.

Upon receipt of the map, further processing of your application will continue. If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosure

RECEIVED

OCT 22 2012

WATER RIGHTS
PROGRAM

I am sorry about the mess
I made of the maps. If you
have any questions you can
call me at 605-225,0899 or
at 605 228-2374 cell
Thank you very much.

Sincerely
Robb J. Bardak



**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. 7470-3, Robert J Borchard**

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. 7470-3, Robert J Borchard, 14549 382nd Avenue, Mansfield SD 57460.

The Chief Engineer is recommending APPROVAL of Application No. 7470-3 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 Water Right No. 4681-3 and Water Permit No. 7470-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
December 19, 2012

NOTE: Once the additional acres are developed for irrigation and a staff on-site investigation is conducted to determine the level of development, Water Right No. 4681-3 and this permit will be incorporated into one water rights.

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7470-3
ROBERT J. BORCHARD
DECEMBER 19, 2012

Water Permit Application No. 7470-3 proposes to appropriate 92 acre-feet (ac-ft) to irrigate 46 acres located in the SW $\frac{1}{4}$ Section 24-T121N-R65W and NW $\frac{1}{4}$ Section 25-T121N-R65W from an existing well completed into the Aberdeen management unit of the Middle James aquifer and authorized under Water Right No. 4681-3. The well is 108 feet deep and is located in the SW $\frac{1}{4}$ Section 24-T121N-R65W. Water Right No. 4681-3 authorizes a diversion up to 548 ac-ft annually at a maximum diversion rate of 2.0 cubic feet of water per second (cfs) for the irrigation of 274 acres located in the SW $\frac{1}{4}$ Section 24-T121N-R65W and NW $\frac{1}{4}$ Section 25-T121N-R65W in Brown County. This application, if approved, does not authorize any increase in the maximum diversion rate authorized by Water Right No. 4681-3. Water Right No. 4681-3 and Water Permit No. 7470-3 (if approved) will authorize the irrigation of 320 acres from an existing well completed into the Aberdeen management unit of the Middle James aquifer at a maximum diversion rate of 2.0 cfs.

AQUIFER: Aberdeen management unit of the Middle James aquifer (MJ: A)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Middle James: Aberdeen aquifer is composed of buried outwash (sand and gravel) that is predominantly under confined conditions (Koch and Bradford, 1976). The Aberdeen management unit of the Middle James aquifer underlies approximately 118,800 acres and contains approximately 356,000 ac-ft of water in Brown County (Hedges et al., 1982). The water in the aquifer generally moves west to east (Koch and Bradford, 1976). The aquifer has an average saturated thickness of 20 feet but may range from 1 to over 100 feet (Koch and Bradford, 1976). The aquifer can be encountered between 40 feet below ground surface in the lowland areas to almost 250 feet below grade at higher land-surface altitudes (Koch and Bradford, 1976). In the area of this application the aquifer may be overlain by the Elm aquifer, but there does not appear to be an obvious hydraulic connection between the aquifers in this area (Koch and Bradford, 1976). The well completion report in the file for Water Right No. 4681-3 indicates till for ground surface to 90 feet below grade with some gravel intermixed from 20 to 60 feet and some intermixed sand from 60 to 90 feet. The log indicates "good sand" from 90 to 110 feet below grade.

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:

Water Permit Application No. 7470-3 proposes to appropriate 92 ac-ft annually from the Middle James: Aberdeen in addition to the 548 ac-ft appropriated by Water Right No. 4681-3. Although the actual water use if this application is approved will most likely be less than 92 ac-ft annually. 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:

The Middle James: Aberdeen is recharged by percolation of snowmelt and precipitation through overlying lake silts, outwash, and till (Koch and Bradford, 1976). According to Koch and Bradford (1976), the largest source of recharge is probably from the Elm aquifer where it overlies the Middle James aquifer. According to Hedges and others (1985), "for management and development programs the minimum recharge rate to confined aquifers is estimated to be 0.15 inches per year and the maximum rate is 0.60 inches per year." Using that range, the annual recharge to the aquifer should be between 1,485 ac-ft and 5,940 ac-ft in Brown County.

Discharge:

Discharge from the Middle James: Aberdeen is through percolation into the Deep James aquifer, flow into the Lake Dakota sediments, flow into adjacent till, and well withdrawals (Koch and Bradford, 1976). There are 11 water rights and two water permits appropriating water from the Middle James: Aberdeen aquifer (Water Rights, 2012b). There are 12 water rights/permits designated for irrigation purposes and one for municipal purposes, Water Right No. 4288-3 Warner Sanitary District. The estimated annual water use by Water Right No. 4288-3 is 95.56 ac-ft. The estimate is based on pumping 60 percent of the time and the maximum permitted diversion rate. That estimate is most likely still higher than the actual water use. Table 1 shows a summary of the irrigation withdrawal from the Middle James: Aberdeen aquifer as reported to the SD DENR-Water Rights Program through annual irrigation questionnaires. The number of permits and the water appropriated has been fairly constant over the period of record.

	No. Permits Reporting	Appropriation (ac-ft/yr)	Pumpage (ac-ft/yr)
Min	9	4598	264.27
Max	15	9488	3482.4
Avg	11.8	7182.4	1517.0

Table 1- Summary of irrigation water use from the Middle James: Aberdeen aquifer (Water Rights 1979-2012).

The estimated average annual well withdrawal is near the bottom end of the range of recharge estimates. The estimated maximum annual well withdrawal is within the range of recharge estimates. Therefore, there is a reasonable probability that there is unappropriated water available for this proposed appropriation.

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 10 observation wells completed into the Middle James: Aberdeen aquifer (Water Rights, 2012a). Observation wells BN-77H and BN-82A are closest to the well site proposed by this application. The observation wells are 0.7 miles northwest and 1.6 miles west-southwest, respectively. The seasonal effects of pumping are evident in each well, but at the end of the pumping season the water levels show that the aquifer quickly recharges to a level similar to what it was before the irrigation season. The water level generally follows climatic conditions. The temporal effects of pumping are greatly masked by the climatic effects on the water level in the aquifer. Therefore, recharge to and natural discharge from the aquifer greatly exceeds well withdrawals. Thus, there is a reasonable probability that unappropriated water is available from the Middle James: Aberdeen for this proposed appropriation. Figures 1 and 2 show the hydrographs for observation wells BN-77H and BN-82A, respectively.

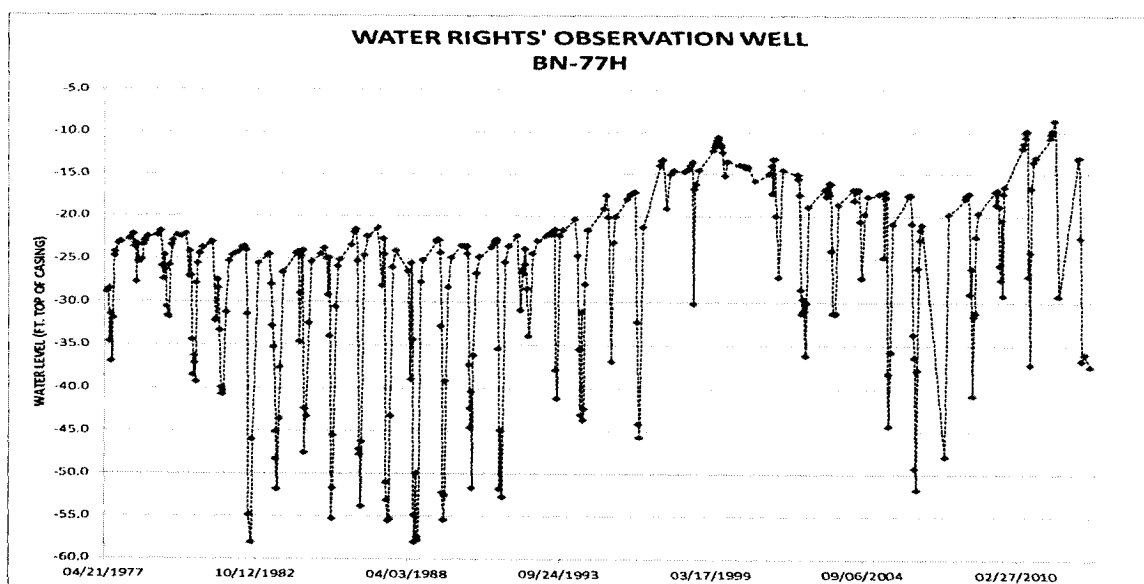


Figure 1- Hydrograph of DENR-Water Rights' observation well BN-77H (Water Rights, 2012a)

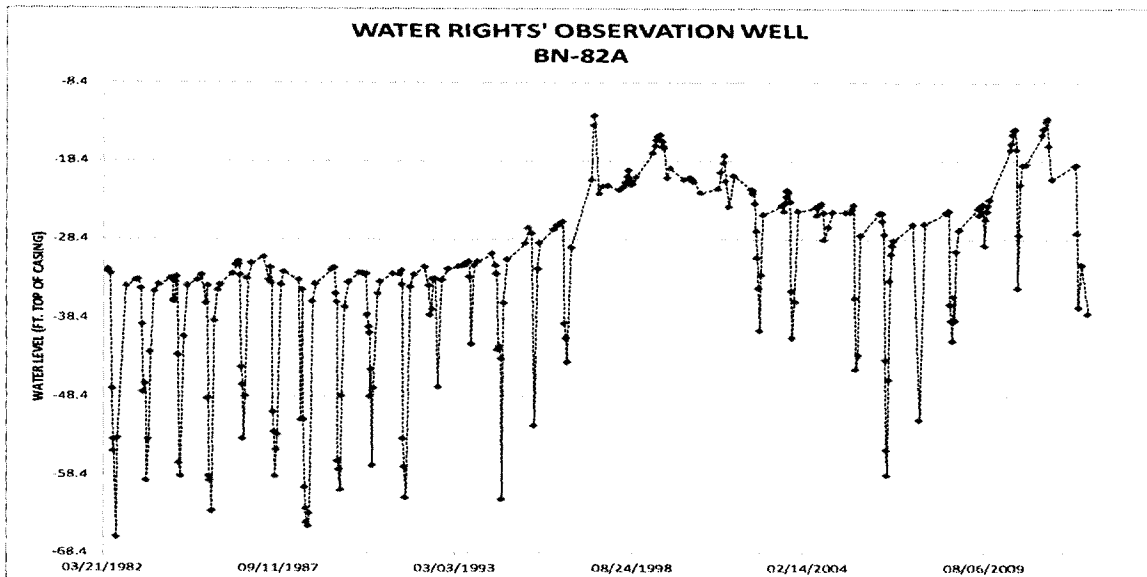


Figure 2- Hydrograph of DENR-Water Rights' observation well BN-82A (Water Rights, 2012a)

EXISTING WATER RIGHTS:

There are 13 water rights/permits authorizing wells and many domestic wells that withdraw water from the Middle James: Aberdeen aquifer (Water Rights, 2012b and 2012c). There are five water rights within three miles including the applicants, but only two within two miles. There are also several domestic wells within three miles of the proposed site. Table 2 shows the water rights/permits within three miles of the proposed well location.

Permit No.	Name	Status	Type	CFS	Acres
2964-3	Rodney A. Bade	LC	IRR	2	254
3187-3	Boekelheide Farms Inc.	LC	IRR	2	264
3274-3*	BLTS Farm Partnership	LC	IRR	1.33	112
3725-3	Aaron J. Bade	LC	IRR	2	396
3848-3	Myron Jeschke	LC	IRR	2.2	154
3972-3	John Braun	LC	IRR	1.89	132
4288-3	Warner Sanitary District	LC	MUN	0.22	N/A
4681-3*	Robert J. Borchard	LC	IRR	2	274
4784-3A*	Wiedebush Farms Inc.	LC	IRR	1.78	132
5128-3*	Krause-Allbee Farms	LC	IRR	1.61	113
5495-3*	John Braun	LC	IRR	8	890
6176-3	Larry Krause	PE	IRR	2	150
6784-3	John Braun	PE	IRR	1.37	96
* = Within 3 miles of proposed well site, LC= Water Right, PE= Water Permit, IRR= Irrigation, MUN= Municipal, N/A= Not Applicable					

Table 2 – Water Rights from the Middle James: Aberdeen aquifer within three miles of the proposed well site (Water Rights, 2012b)

Well interference may occur but it is not expected to be significant due to the distance between the wells. Water Management Board rules 74:02:04 and 74:02:05, which were promulgated pursuant to SDCL 46-6-6.1, provide protection for existing wells only to the degree necessary to maintain an adequate depth of water in wells that have the ability to produce water independent of artesian pressure. Hence, the pump placement in a prior appropriator's well is not necessarily

protected. The Water Management Board, in the past, has concluded that if increased cost or decreased production is considered an adverse impact, it could be in conflict with SDCL 46-1-4. South Dakota Codified Law 46-1-4 requires South Dakota's water resources to be put to beneficial use to the fullest extent of which they are capable. In the area of this application the Middle James: Aberdeen aquifer has between 40 and 70 feet of artesian head pressure. Therefore, well interference is not likely to adversely impact existing appropriative or domestic users.

CONCLUSIONS:

1. Water Permit Application No. 7470-3 proposes to appropriate 92 acre-feet annually for the irrigation of 46 acres in addition to the 274 acres authorized by Water Right No. 4681-3 from the existing well used by Water Right No. 4681-3.
2. Water Right No. 4681-3 and Water Permit Application No. 7470-3, if approved, would authorize the appropriation of 640 ac-ft of water annual for the irrigation of 320 acres at a maximum diversion rate of 2.0 cfs.
3. This application, if approved, does not authorize any increase in the maximum diversion rate, but the average diversion rate will increase because of the increase in total volume of water pumped.
4. There is a reasonable probability that unappropriated water is available from the Middle James: Aberdeen aquifer to supply this proposed diversion.
5. There is a reasonable probability that the diversion requested by this application can be made without adversely affecting existing water rights/permits and domestic users.



Adam Mathiowetz
SD DENR-Water Rights Program

Approved by



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- 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. J. Allen, and D.E. Holly. 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.
- Koch, N.C. and W. Bradford. 1976. Geology and Water Resources of Brown County, South Dakota Part II: Water Resources. SD DENR- Geological Survey Bulletin 25. Vermillion, SD.
- Water Rights. 1979-2012. "1979-2011 Irrigation Summaries by Aquifer": SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights. 2012a. Observation Well Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2012b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2012c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

RECEIVED

JAN - 9 2013

WATER RIGHTS
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Brown) SS

I, _____

certify that the attached printed Notice was
taken

from the Aberdeen News

printed and published in Aberdeen

County of Brown and

state of South Dakota. The notice was
published

in the newspaper on the following date:

January 3, 2013

Cost of Printing 42.59

May Besh
(Signature)

Adv. Billy Spears
(Title)

January 3, 2013
(Date Signed)

(No. 1496842)
(Jan. 3, 2013 - 1T)

NOTICE OF APPLICATION NO. 7470-3
to Appropriate Water

Notice is given that Robert J. Borchard, 14549 382nd Ave., Mansfield SD, 57460 has filed an application for a water permit to irrigate 46 additional acres. Water Right No. 46B1-3 authorizes 2.0 cubic feet of water per second from one well completed into the Middle James-Aberdeen Aquifer (108 feet deep) located in SW 1/4 SW 1/4 Section 24 to irrigate 274 acres located in the SW 1/4 Section 24 and NW 1/4 Section 25; all in T121N-R65W. This application proposes to irrigate 46 additional acres located in the corners of the SW 1/4 Section 24 and NW 1/4 Section 25; all in T121N-R65W. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7470-3 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 January 14, 2013.

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. Pimer, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$42.59



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

December 20, 2012

American News
PO Box 4430
Aberdeen SD 57402

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7470-3 to Appropriate Water. Please publish the notice once on January 3, 2013. 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 Robert J Borchard, 14549 382nd Ave., Mansfield SD 57460 (Ph # 605-225-0893).

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

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

December 20, 2012

Robert J Borchard
14549 382nd Ave
Mansfield SD 57460

Dear Mr. Borchard:

Water Permit Application No. 7470-3 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 American News printed at Aberdeen SD (Ph # 605-225-4100). 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 January 3, 2013. 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. 7470-3 to Appropriate Water

Notice is given that Robert J Borchard, 14549 382nd Ave, Mansfield SD 57460 has filed an application for a water permit to irrigate 46 additional acres. Water Right No. 4681-3 authorizes 2.0 cubic feet of water per second from one well completed into the Middle James:Aberdeen Aquifer (108 feet deep) located in SW 1/4 SW 1/4 Section 24 to irrigate 274 acres located in the SW 1/4 Section 24 and NW 1/4 Section 25; all in T121N-R65W. This application proposes to irrigate 46 additional acres located in the corners of the SW 1/4 Section 24 and NW 1/4 Section 25; all in T121N-R65W. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7470-3 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 January 14, 2013.

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 _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

FEB 08 2013

Robert J Borchard
14549 382nd Ave
Mansfield SD 57460

Dear Mr. Borchard:

Enclosed is Water Permit No. 7470-3 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

1410-5
RECEIVED

MAY 24 2013

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date

5-15-13

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

FROM:

Robert Borchard

(name)

14549 382 Ave.

(address)

Mansfield SD 57460

(city, state, zip)

225-8873

(phone)

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

Water Permit No. 7470-3 states that the water use system is to be constructed by

1-14-18

(date)

, and water is to be put to beneficial use by

1-14-22

(date)

The water use system was completed on

5-5-13

(date)

Applying the water to beneficial use was completed on

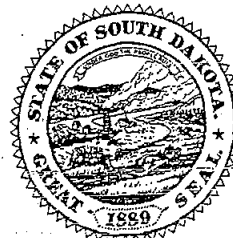
5-15-13

(date)

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

Robert Borchard

(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

June 6, 2013

7470-3

Robert Borchard
14549 382nd Ave
Mansfield SD 57460

Dear Mr. Borchard:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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



Thrivent Financial for Lutherans

Appleton, Wisconsin • Minneapolis, Minnesota
800-THRIVENT (800-847-4836) • www.thrivent.com

RECEIVED 17 10

JUN 11 2013

WATER RIGHTS
PROGRAM

Jenny McMath

I am retired so I will give
you the name address and
phone numbers for you to
contact. The address is
Phillip Shanley
Box 168

224 1st ave N West

Warner S Dake 59479

cell phone 605-290-3323

Land line 605-5040

Thank you

Sincerely
Robert J. Borchard

Phillip Shanley has a 5 year
lease on all of my land



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 11, 2013

4681-3
7470-3

Robert J Borchard
14549 382nd Ave
Mansfield SD 57460

Dear Mr. Borchard:

Thank you for your letter of June 10th letting us know that Phillip Shanley leases all of your land.

I have added his contact information to our files, specifically the irrigation questionnaire mailing list, so that the annual forms can be sent directly to him as the "leaser". We will continue to mail Mr. Shanley the annual questionnaires until you let us know otherwise.

Thank you again and if you have any questions, please contact us.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

**Water Rights Program
File Documentation**

NAME OF PERSON OR FILE: Water Permit No. 7470-3

DATE: 11/16/2016

RE: Licensing inspection/Completion of Works form

Contact: Phillip Stanley

Telephone: Home 605-225-5040

COMMENTS:

On 11/16/2016 I spoke with Phillip Stanley who leases the land authorized under Water Permit No. 7470-3 held by Robert Borchard. Water Permit 7470-3 is for the addition of cornering systems to two pivots authorized by Water Right No. 4681-3. The Water Rights Program received a completion of works form from Mr. Borchard signed 5/13/2013. When I talked to Mr. Stanley he indicated that only one cornering system had been installed and he was working with the land owner on getting the second cornering system installed and would like the remainder of the construction period to do that. I let him know that was fine, but that all construction would need to be completed by the completion date on the permit (January 14, 2018).


Whitney Kilts
Natural Resources Engineer

7470-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Environment and Natural Resources

Date March 17, 2021RECEIVED OF Phillip Shanley PO Box 168 Warner SD 57479

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>7470-3</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$50.00

By *Eric Gronlund*
 Chief Engineer
vm

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

PAID 7470-3
MAR 17 2021
Ck# 17777Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

RECEIVED

MAR 17 2021

WATER RIGHTS
PROGRAM

Water Right/Permit No. 7470-3

Date: January 12, 2021

I/We request that Water Right/Permit No. 7470-3 formerly owned by:

Robert Borchard

be transferred to:

New Owner Name: Phillip Shanley

Address: PO Box 168 224 1st Ave NW

City, State, Zip Warner - SD 57470 Telephone No. 605-290-3323

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

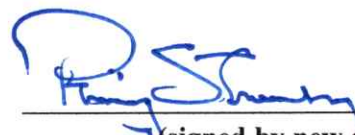
Phillip Shanley

☒ I understand that the validity of Water Right/Permit No. 7470-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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 included to cover the filing fee as required by SDCL 46-2-13.

I, Phillip Shanley, 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.

7470-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 17, 2021

7470-3
4681-3

Phillip Shanley
PO Box 168
Warner SD 57479

Dear Mr. Shanley:

Enclosed as we discussed are transfer forms for filing the ownership changes on Water Permit No. 7470-3 and Water Right No. 4681-3. The new forms include the legal descriptions for each one. Please sign and return the forms to us in the enclosed postage paid envelope.

With respect to the ownership change you filed for Water Permit No. 2870-3; we will refund you the \$50 you paid for filing the ownership change. No transfer is required for that specific permit because the land described in the permit was incorporated into No. 4681-3 at the time of licensing. A refund for the fee will be processed and sent to you within the next couple weeks.

No further fees are required on your part. If you have any questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads 'Genny McMath'.

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP
RECEIVED

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

MAR 23 2021

**WATER RIGHTS
PROGRAM**

No. 7470-3

Date: _____

I/We request that Water Permit No. 7470-3

formerly owned by: Robert Borchard

be transferred to: (name & address) Phillip Shanley, PO Box 168, 224 1st Ave NW, Warner SD 57479

Telephone No. 605 290-3323

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

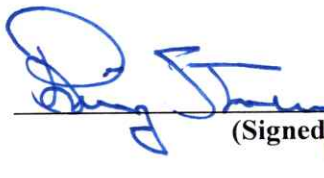
46 acres – SW ¼ Section 24, NW ¼ Section 25, all in T121N, R65W

I/We understand that the validity of Water Permit No. 7470-3 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 Phillip Shanley, 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.

7470-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 25, 2021

7470-3
4681-3

Phillip Shanley
PO Box 168
Warner SD 57479-0168

Dear Mr. Shanley:

I am writing to acknowledge the updated forms you submitted for transferring Water Right No. 4681-3 and Water Permit No. 4681-3.

The ownership changes have been completed. The above listed water right and water permit, formerly held by Robert Borchard, are now listed in your name.

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

Sincerely,

A handwritten signature in blue ink that reads "Genny McMath".

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

enclosures