

WATER PERMIT NO. 7475-3

Name of Applicant: **Douglas G Bye**

Address: **1559 Crestview, Vermillion SD 57069**

Phone: **605 624 2580**

Amount of Water Claimed: **1.78 cfs**

Total Acres: **144.8**

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

Water to be used for: **irrigation**

County: **Clay**

Type of Waste Disposal System:

Location: **5 miles northwest of Vermillion**

PRIORITY

Date Received: **10-18-2012**

Application/License Fee: **\$ 1050**

Corrected Application Received: **10/24/12** Period of Annual Use: **May 1 – October 31**

Remarks:

Diversion Point: **approximate center of NE 1/4 Sec**
2-T92N-R53W

Land to be Irrigated: **NE 1/4 Sec 2-T92N-R53W**

Depth of Well: **110 feet**

Well Driller:

Remarks:

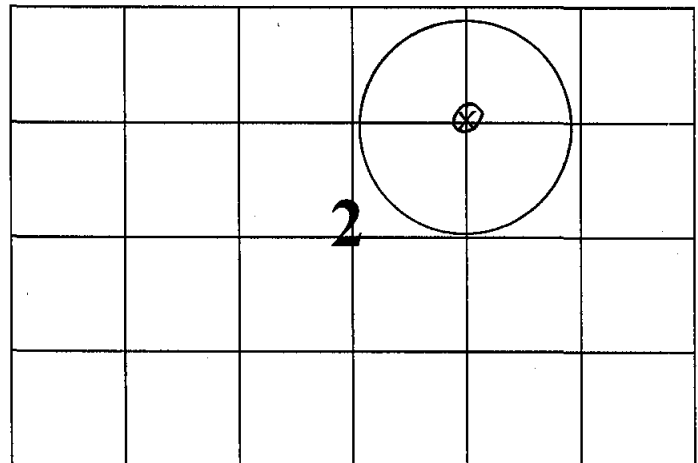
Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **10-24-2012**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



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

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

No. 7475-3 (office use only)
Hydrologic Unit 10170102
Basin Vermillion River 605-624-2695
Newspaper Plain Talk 201 W Cherry Vermillion 57069
605-665-7811
Press & Dakotan 319 Walnut Yankton 57078

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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 Douglas G. Bye
(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent (name and complete address if different than above name)
Mailing Address 1559 Crestview Vermillion SD 57069
(Address) (City) (State) (Zip Code)
Home Phone 605-624-2580 Cell 202-0177 Email dmbye@g.com
2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 144.81
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Ground Water
4. Location of point of diversion approximate center NE 1/4 Sec 2-T92N-R53W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
- County Clay
5. County or counties where water will be used Clay
6. Annual period during which water is to be used May 1 to October 1
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
NE 1/4 NE 1/4	36.2	SE 1/4 NE 1/4	36.2
NW 1/4 NE 1/4	36.2	SW 1/4 NE 1/4	36.2
<u>S2-T92N-R53W</u>		<u>S2-T92N-R53W</u>	

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

I, Douglas Bye, 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. 7475-3**

Date of first receipt of application October 18, 2012.

Date of return to applicant for corrections, amendments or changes October 18, 2012.

Date of receipt of corrected application October 24, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7475-3 to Douglas G Bye, 1559 Crestview, Vermillion SD 57069 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. 7475-3 appropriates 1.78 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (110 feet deep) located in the approximate center of the NE 1/4 Section 2 for irrigation of 144.8 acres located in the NE 1/4 Section 2; all in T92N-R53W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 1.
3. The date from which applicant may claim right is October 18, 2012.
4. The date of approval of Permit No. 7475-3 is January 22, 2013.
5. One-fifth of the construction is to be completed on or before July 22, 2015.
6. All construction is to be completed on or before January 22, 2018.
7. Water is to be put to beneficial use on or before January 22, 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 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. 7475-3 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

FEB 19 2013

date



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 _____

c) Well Depth 110 Depth to Top of Water Bearing Material 35' Depth to Water from Surface 20'

d) Distance to nearest existing domestic well:

On applicant's property noneOn property owned by others none**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)

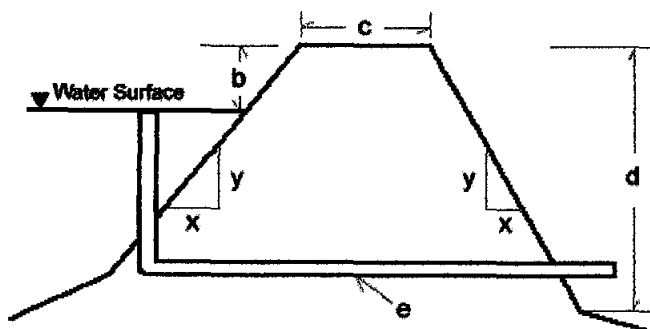
Upstream _____

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: 2_92N_53W
Farm: 4696

Clay County, SD

1:8,438

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.

2008 Ortho-Photography - Not to Scale



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Wetland Determination Identifiers

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

Common Land Units

Sheree Christensen
March 16, 2010
Prog. Tech

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OCT 18 2012

WATER RIGHTS PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/18, 20 12

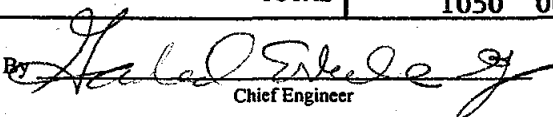
RECEIVED OF Douglas Bye 1559 Crestview Dr Vermillion SD 57069

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

Fee for Application for Permit No. <u>7475-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	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>7475-3</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	1050 00

No. **05629**

By


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 18, 2012

Douglas G Bye
1559 Crestview
Vermillion SD 57069

Dear Mr. Bye:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Section 2-T92N-R53W, Clay County. In order to complete the application, the following is required.

- Enclosed is the map submitted with your application. On the map, please outline the acres to be irrigated and mark the proposed well location with an "X".

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

Sincerely,

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

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7475-3, Douglas G Bye**

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. 7475-3, Douglas G Bye, 1559 Crestview, Vermillion SD 57069.

The Chief Engineer is recommending APPROVAL of Application No. 7475-3 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. 7475-3 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
December 27, 2012

**REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO.7475-3
DOUGLAS G. BYE
DECEMBER 20, 2012**

Water Permit Application No. 7475-3 proposes to appropriate up to 289.6 acre-feet annually at a maximum diversion rate of 1.78 cubic feet of water per second (cfs) from one well to be completed in to the Missouri: Elk Point aquifer. The well is expected to be approximately 110 feet deep and is to be located in the approximate center of the NE $\frac{1}{4}$ of Section 2, T92N-R53W. This permit application proposes to irrigate 144.8 acres located in the NE $\frac{1}{4}$, Section 2, T92N-53W in Clay County.

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

GEOLOGY AND AQUIFER CHARACTERISTICS:

The proposed well site is located in south central Clay County, approximately three miles north of the Missouri River.

The Missouri: Elk Point is an alluvium mantled outwash consisting of clay and silt with sand and gravel that appears to be under confined or unconfined conditions in the area of the proposed well site (Jenson, 2000; Water Rights, 2012c). The Missouri: Elk Point aquifer extends from Clay County east into Union County and West into Yankton County. In total, the Missouri: Elk Point aquifer is estimated to underlie 219,100 acres and contain 3,287,100 acre-feet (ac-ft) of recoverable water in storage. In Clay County alone, the aquifer is estimated to underlie 74,500 acres and contain 1,117,000 ac-ft of recoverable water in storage (Hedges and others, 1982). The aquifer connects to the Lower Vermillion-Missouri aquifer to the northeast, overlies the Dakota aquifer in portions of Clay County, and is hydraulically connected to the Vermillion River to the southeast and Missouri River to the south. Water in the aquifer generally moves from the northwest to the southeast and towards the Missouri River (Stephens, 1967).

A test hole report was not submitted with this application; however, sufficient information is available from area water rights/permits and well completion reports to evaluate the aquifer at the proposed well site. In this area, the top of aquifer materials are generally 5 to 80 feet below ground surface and the saturated thickness is estimated to be 45 to 85 feet. The static water level ranges from 12 to 33 feet below ground surface. In the area of this application it appears that the Missouri: Elk Point aquifer moves from confined to unconfined conditions as it gets closer to the Missouri River. Until a test well is drilled it cannot be determined if the proposed well will be under water table or artesian conditions. (Water Rights, 2012b; Water Rights, 2012c)

SDCL 46-2A-9

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

WATER AVAILABILITY:

This application proposes to appropriate 289.6 ac-ft/yr from the Missouri: Elk Point aquifer. If this application is approved, the actual water use will likely be less than the appropriation. The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source."

HYDROLOGIC BUDGET:

Recharge:

In Clay County recharge to the Missouri: Elk Point aquifer is due to infiltration of precipitation in areas where the aquifer is at or near land surface, inflow from the Lower Vermillion Missouri aquifer at the Missouri: Elk Point aquifer's northern boundary, inflow from the Missouri and Vermillion Rivers during periods of high flow, inflow from the aquifer in surrounding counties, and leakage from the underlying Dakota aquifer.

Hedges and others (1985) estimated recharge, based on observation well data, of the Missouri: Elk Point aquifer to be 3.8 inches per year. Using this recharge rate and the area of the aquifer, the recharge for the Missouri: Elk Point aquifer in Clay County is estimated to equal 23,600 ac-ft/yr. Also consider that Stephens (1967) indicated that additional discharge by wells would induce additional recharge from the Missouri River.

Discharge:

In Clay County discharge from the Missouri: Elk Point aquifer occurs due to evapotranspiration in areas where the aquifer is near land surface, outflow to the Missouri and Vermillion Rivers during periods of low flow, outflow from the aquifer to surrounding counties, and well withdrawals from domestic use, non-irrigation use, and irrigation. Currently there are a total of 111 water rights/permits appropriating water from the Missouri: Elk Point aquifer in Clay County (Water Rights, 2012b). The distribution of appropriation types are shown in table 1 along with 5 future use appropriations.

Water Rights/Permits	Number
Commercial	1
Irrigation	104
Municipal	4
Rural Water System	2
Future Use Permits	Number
Municipal	1
Rural Water System	4

Table 1 – Water Rights from the Missouri: Elk Point aquifer in Clay County
(Water Rights, 2012b).

From the Missouri: Elk Point aquifer in Clay County, water rights/permits for non-irrigation use that are limited only by diversion rate currently appropriate a total of 5,242 cfs. Water rights/permits for non-irrigation use that are limited by an annual volume currently appropriate a total of 33,326 ac-ft/yr (Water Rights, 2012b). Future use permits reserve a total of 14,900 ac-ft/yr (Water Rights, 2012b).

Lewis and Clark RWS's expected water use is a significant portion of the annual volume of water anticipated to be used under current appropriations. In Clay County, the Lewis and Clark RWS currently has two permits appropriating a total of 32,165 ac-ft/yr and four future use permits reserving a total of 13,000 ac-ft/yr, all from the Missouri: Elk Point aquifer (Water Rights, 2012b). Recognizing that due to the proximity of the wells to the Missouri River and the design of the wells, most of the water that will be withdrawn from the Lewis and Clark RWS wells will be induced from the Missouri River. Though Lewis and Clark RWS's appropriations are large, only 92 ac-ft of use was reported in 2011.

The amount of water that can be expected to be withdrawn through water rights/permits authorizing water use for non-irrigation purposes at the current appropriation level can be estimated by assuming:

1. Water rights/permits limited by an annual volume will pump the entire volume appropriated.
2. Water rights/permits limited only by diversion rate will pump at the maximum permitted diversion rate 60 percent of the time.
3. Future use permits can be fully developed.

At the current appropriation amount, the total annual withdrawal from the Missouri: Elk Point aquifer in Clay County by non-irrigation use is expected to total less than 50,493 ac-ft/yr (Water Rights, 2012b).

Figure 1 shows the Missouri: Elk Point aquifer's historic irrigation data for Clay County. The development of this aquifer has been steadily increasing over the last decade. The number of permits and the amount of appropriations for irrigation in Clay County has approximately doubled in this time period. The annual withdrawal due to irrigation use fluctuates greatly, which seems to be more dependent on yearly climatic conditions than on the increase in amount of appropriation. The average pumpage reported equals 2,706 ac-ft/yr. The maximum pumpage reported was in 2007 for 7,085 ac-ft/yr (Water Rights, 1979-2012).

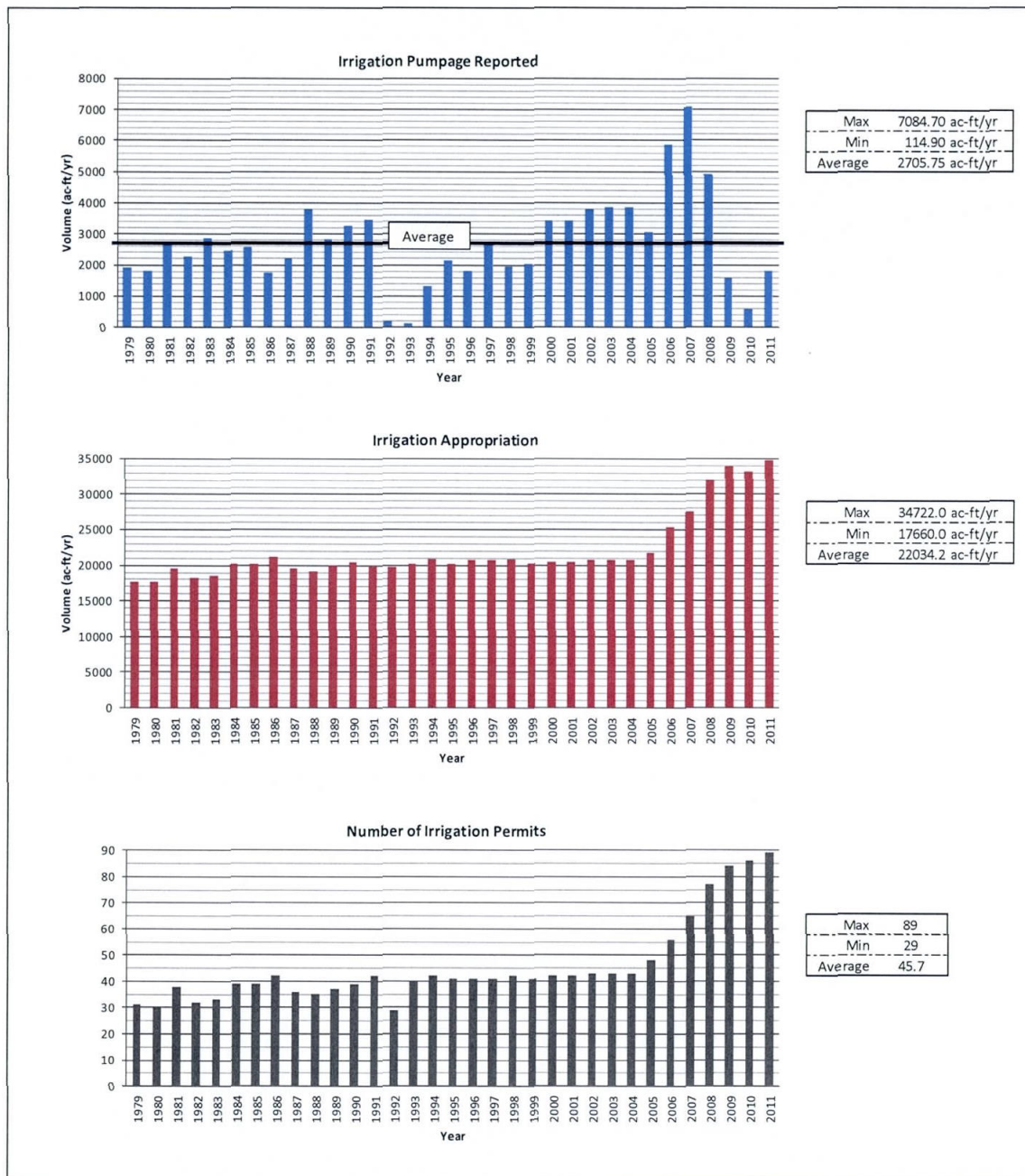


Figure 1: Historic irrigation water use from the Missouri: Elk Point aquifer in Clay County (Water Rights, 1979-2011)

As indicated by Figure 1, historically actual water use has not exceeded the average annual recharge. Since the reporting of the 2011 irrigation questionnaires 13 new irrigation permits have been issued for withdrawals from the Missouri: Elk Point aquifer in Clay County. Combined, these permits appropriate 4409 acre-feet/year at a maximum diversion rate of 20.37 cubic feet per second of water. With the addition of the permits issued in the past year and this application it is still expected that withdrawals will not exceed average annual recharge to the Missouri: Elk Point aquifer in Clay County.

In addition, there are many completion reports on file with the SD DENR-Water Rights Program in Clay County for domestic wells that appear to be completed into the Missouri: Elk Point aquifer (Water Rights, 2012c). The annual withdrawal due to domestic use is not significant to the hydrologic budget of the aquifer.

Hydrologic Budget:

Recognizing that Lewis and Clark RWS withdraws water from the Missouri: Elk Point aquifer that is induced from the Missouri River and considering the remaining hydrologic budget, there is a reasonable probability that unappropriated groundwater is available from the Missouri: Elk Point aquifer for the proposed appropriation of 289.6 ac-ft/yr.

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 five observation wells completed into the Missouri: Elk Point aquifer in Clay County. The nearest of these wells, CL-80A and CL-80B, are located approximately 4.4 miles northeast and 2.5 miles southwest of the proposed well site, respectively. CL-80A is under artesian conditions and CL-80B is under water table conditions (Water Rights, 2012a). Until a test well is drilled it cannot be determined if the proposed well will be under water table or artesian conditions. (Water Rights, 2012b; Water Rights, 2012c). Hydrographs of these observation wells are shown in Figures 2 and 3.

The observation well data documents cyclic conditions of water levels, recharging during wet years and declining during dry years. Water levels may also be influenced by the aquifer’s connection to the Missouri River. For example, high flows in the Missouri River during the summer of 2011 and the current drought conditions are evident in the hydrograph of observation well CL-80B, which is located approximately one mile from the Missouri River. The hydrographs also show the effects of nearby pumping on the aquifer. Observation well data indicates that temporal well withdrawal is masked by climatic conditions. Therefore, recharge to and natural discharge from the Missouri: Elk Point aquifer greatly exceeds well withdrawal.

The hydrograph of the observation well CL-80B shows a slight decline of the Missouri: Elk Point aquifer’s water table, as indicated by the trend line. This gradual decline has been attributed to entrenching of the Missouri River (Goodman, 2007) or controlling the flow of the Missouri River by the Gavins Point Dam, which no longer allows inundation of the floodplain (Stephens, 1967). Regardless of cause, the declining water table levels demonstrate the hydraulic connection between the aquifer and the Missouri River. Pumping from the aquifer will induce recharge supplied by the Missouri River or capture discharge before outflowing to the river (Stephens, 1967).

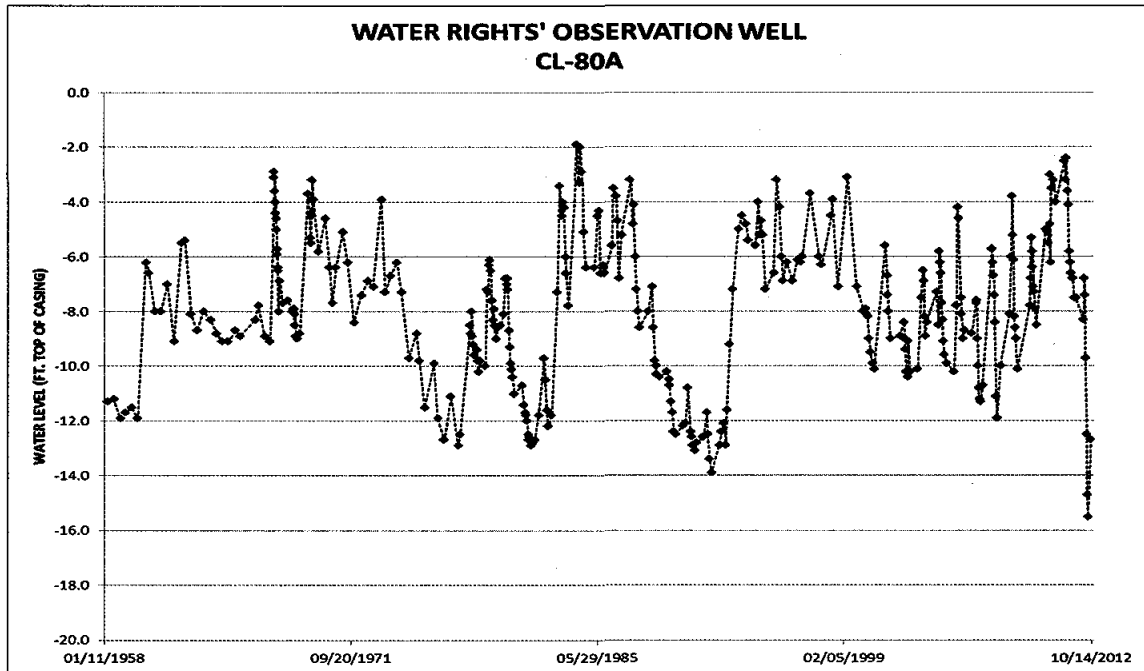


Figure 2: Hydrograph for DENR-Water Rights' observation well CL-80A (Water Rights, 2012a)

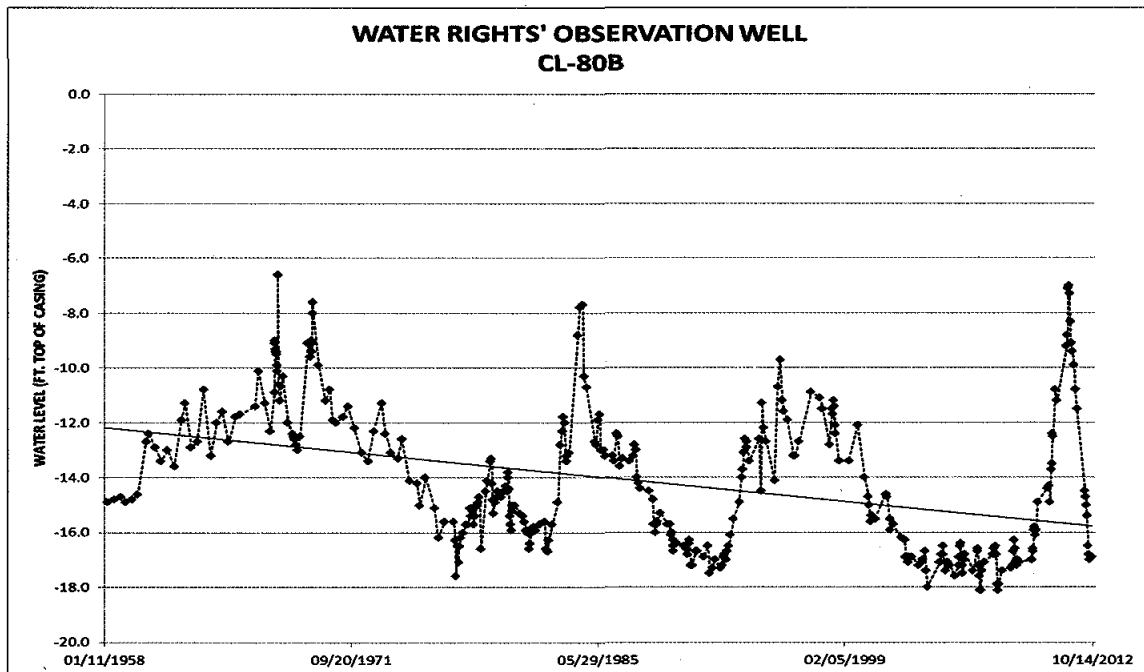


Figure 3: Hydrograph for DENR-Water Rights' observation well CL-80B (Water Rights, 2012a)

EXISTING WATER RIGHTS:

There are 111 water rights/permits appropriating water from the Missouri: Elk Point aquifer in Clay County. There are 5 water rights/permits authorizing wells within two miles of the proposed well location. The closest well authorized by these water rights/permits is one mile from the proposed diversion point. The well is authorized under Water Right/Permit 2584-3. There are no domestic wells

on file with DENR-Water Rights Program within two miles of this application. (Water Rights, 2012b; Water Rights, 2012c) Table 2 shows the water rights/permits within two miles of the proposed well location.

PERMIT NO.	NAME	STATUS	TYPE	CFS	ACRES
2584-3	Gary J. Freeburg	LC	IRR	3.74	262
5289-3	D.A. Olson & Sons	PE	IRR	2.25	160
6783-3	D.A. Olson & Sons	PE	IRR	2	140
6896-3	Gary J. & Amy Freeburg	PE	IRR	1.56	55
7019-3	Book Bye	LC	IRR	1.56	132
LC = Water Right, PE = Water Permit, IRR = Irrigation					

Table 2 – Water Rights from the Missouri: Elk Point aquifer within 2 miles of the proposed well location (Water Rights, 2012b)

Well interference has not been a problem with the Missouri: Elk Point aquifer. At the distances involved between the proposed well sites and wells of existing water rights/permits and domestic users, interference is not expected to be a concern.

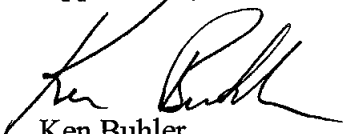
CONCLUSIONS:

1. The application proposes to appropriate 289.6 ac-ft/yr for irrigation.
2. Most of the water that will be withdrawn from the Lewis and Clark RWS wells will be induced from the Missouri River.
3. There is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer to supply the proposed appropriation.
4. There is a reasonable probability that this proposed well will not adversely impact existing nearby wells.



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

Approved by



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Goodman, J.A. 2007. Report on Water Permit Application No. 6869-3 for Lewis and Clark RWS: SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Allen, J., and Holly, D.E. 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 7: Ground Water Recharge. South Dakota DENR-Geological Survey, Vermillion, SD.
- Jensen, A.R. 2000. Aquifer Materials Map 1. South Dakota DENR-Geological Survey, Vermillion, SD.
- Stephens, J.C. 1967. Geology and Hydrogeology of Clay County, South Dakota, Part II: Water Resources. South Dakota DENR-Geological Survey Bulletin 19, 62 p.
- Water Rights. 1979-2012. "Annual Irrigation Summary by Aquifer": SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2012a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2012b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2012c. Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

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JAN 18 2013

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

PLAIN TALK

DENR

Division of Environmental Services

Air Quality Program

Joe Foss Building, 523 East Capitol

Pierre, SD 57501

STATE OF SOUTH DAKOTA

COUNTY OF CLAY

TERA SCHMIDT BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT SHE IS THE CLASSIFIED MANAGER OF YANKTON
MEDIA INC., A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED
IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF THE
OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS
AFFIDAVIT; THAT THE ANNEXED
NOTICE OF APPLICATION FOR AIR QUALITY CONSTRUCTION PERMIT

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 11 DAY OF JANUARY 2013
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$26.98 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: 1/11/13

FILED ON: 1/11/13

NOTICE OF APPLICATION
NO. 7475-3 to Appropriate
Water

Notice is given that Douglas G Bye, 1559 Chestview, Vermillion SD 57069 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Missouri Elk Point Aquifer (110 feet deep) located in the approximate center of the NE 1/4 Section 2 for irrigation of 144.8 acres located in the NE 1/4 Section 2; all in T92N-R53W

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7475-3 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 22, 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 \$26.98.

Published January 11, 2013

Tera A. Schmidt

SUBSCRIBED AND SWORN TO BEFORE ME THIS

11th DAY OF

January

Amya R. Hall
NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

RECEIVED

JAN 14 2013

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

1-11

NOTICE OF APPLICATION
NO. 7475-3 to Appropriate Water

Notice is given that Douglas G Bye, 1559 Crestview, Vermillion SD. 57069 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Missouri Blk Point Aquifer (110 feet deep) located in the approximate center of the NE 1/4 Section 2, for irrigation of 144.8 acres located in the NE 1/4 Section 2; all in T92N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7475-3 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 \$25.48.

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 **Notice of Application No. 7475-3**

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 11th DAY OF January 2013 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID **NOTICE** TO WIT \$25.48 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: 1/11/2013

FILED ON: 1/11/2013

SUBSCRIBED AND SWORN TO BEFORE ME THIS 11th DAY OF January

2013

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 3, 2013

Plain Talk
201 W Cherry St
Vermillion SD 57069

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7475-3 to Appropriate Water. Please publish the notice once on January 11, 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 Douglas G Bye, 1559 Crestview, Vermillion SD 57069 (Ph # 605-624-2580).

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

January 3, 2013

Press & Dakotan
319 Walnut
Yankton SD 57078

ATTENTION: Legal Public Notice

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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.

January 3, 2013

Douglas G Bye
1559 Crestview
Vermillion SD 57069

Dear Mr. Bye:

Water Permit Application No. 7475-3 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 Plain Talk printed at Vermillion SD (Ph # 605-624-2695) and the Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish the Notice on January 11, 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. 7475-3 to Appropriate Water

Notice is given that Douglas G Bye, 1559 Crestview, Vermillion SD 57069 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (110 feet deep) located in the approximate center of the NE 1/4 Section 2 for irrigation of 144.8 acres located in the NE 1/4 Section 2; all in T92N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7475-3 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

FEB 19 2013

Douglas G Bye
1559 Crestview
Vermillion SD 57069

Dear Mr. Bye:

Enclosed is Water Permit No. 7475-3 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

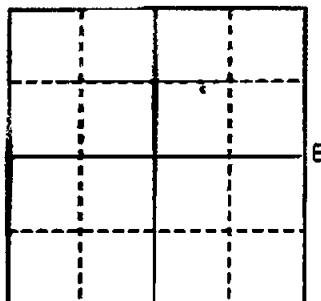
enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW ¼ NE ¼ Sec 2 Twp 92N Rg 52W

County Clay

Please mark well
location with an 'X'

Well Completion Date

May 24, 2013

1 Mile

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

1,450.0 ft. from Septic Tank (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

bucket method

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	16.00 IN	0.0 FT	79.0 FT	22.00 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Bentonite	20	9.5 Lb/gal	0.0 Ft	70.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
Tremie Method

SCREEN:

☐ Perforated pipe ☒ Manufactured

Diameter 16.00 Inches Length 20.0 Feet

Material PVC

Slot Size .085 Set From 79.0 Feet to 99.0 Feet

Other information

WAS A PACKER OR SEAL USED?

☐ Yes ☐ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How?

☒ No, Why Not? Not Required
Lab to which water
quality sample sent for analysis

Well Owner Douglas Bye

Business Name:

Address 1559 Crestview Dr.

City, State, Zip: Vermillion SD 57069

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Top Soil	0	2
Clay	2	4
Sand	4	67
Gravel Clay Mix	67	70
Sand	70	80
Gravel	80	99

STATIC WATER LEVEL 22.0 FEET

If flowing: closed in pressure PSI

GPM flow through Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe:

☐ Bailed

☐ Other

Pumping Level Below Land Surface

Ft. After Hrs. pumped GPM

Ft. After Hrs. pumped GPM

If pump installed, pump rate: GPM

REMARKS

SEP 06 2013

WATER RIGHTS
PROGRAM

This well was drilled under license # 666 and this report is true and accurate.

Drilling firm: Hammond-Wetmore Drilling, LLC

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: 9/1/2013

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7475-3

I have this day, **January 29, 2016**, made a thorough examination of the water use system constructed by **Douglas G Bye, 1559 Crestview Dr, Vermillion SD 57069** of Permit No. **7475-3**, bearing the priority of **October 18, 2012** authorizing the diversion of **1.78** cu. ft. per second of the waters of **Missouri:Elk Point Aquifer** for **irrigation** purposes, of **144.8** acres, in **Clay** County.

Inspection contact & relationship to permit holder, if applicable: **Brook Bye-son, Douglas G Bye-permit holder**

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: **Hammond-Wetmore Drilling, LLC**
- 2) No. of Wells **1**
- 3) Depth(s) **99** feet
- 4) Well log is available **Yes**

Casing:

- 1) Diameter **16** inches
- 2) Length **79** feet
- 3) Type **PVC**

Screen:

- 1) Type **PVC Manufactured**
- 2) Length **20** feet
- 3) Static water level **22** feet

Pump:

- 1) Make **Grundfos Submersible**
- 2) Model **625S300-2aa**
- 3) Capacity **750** GPM

Motor:

- 1) Make **Grundfos**
- 2) Model No. **Submersible**
- 3) Horsepower rating **30** hp

C. Works used to apply water to beneficial use:**Center pivot:**

- 1) Make Valley
- 2) Overall length 1294 feet
- 3) Number of towers 7
- 4) End gun Yes
- 5) Capacity 750 GPM

Comments: Water Permit 7475-3 appropriated 1.78 cfs or 800 gpm, however only 1.67 cfs or 750 gpm was developed.

Chemigation Equipment:

- 1) Does chemigate No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes, began irrigating in 2013.
List any extended period of nonuse: None
- 3) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: West 1310', South 1340' from NE Corner of Sec 2-T92N-R53W; Lat 42.81901/Long -97.06686; approximate center of NE ¼ Sec 2-T92N-R53W.
2. The works are capable of diverting and conveying to the place of use 1.67 cfs or 750 gpm of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:
All land is located in Sec 2-T92N-R53W.

<u>NW ¼ NE ¼ - 31 ac</u>	<u>NE ¼ NE ¼ - 32 ac</u>
<u>SW ¼ NE ¼ - 33 ac</u>	<u>SE ¼ NE ¼ - 35 ac</u>
<u>NW ¼ SE ¼ - 1 ac</u>	<u>NE ¼ SE ¼ - 1 ac</u>

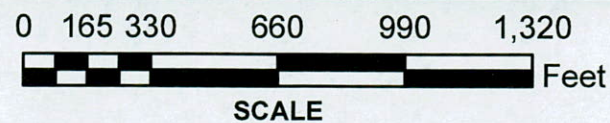
comprising a total of 133 acres of land and the license should be issued for 1.67 cfs or 750 gpm.
3. All structures, wells and lands on map Yes



Harold Holoch, PE
Staff Engineer
DENR, Water Rights Program

Date report completed: October 30, 2017

7475-3



Harold Holoch
Harold Holoch, PE
Staff Engineer
June 6, 2017

7475-3

SD EForm - 1311LD V1

Form 10

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

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

Date 1/29/16

FROM: Brook Bye
(name)
31472 458th
(address)
Vermillion SD 57069
(city) (state) (zip) 1-605-670-9132
(phone)

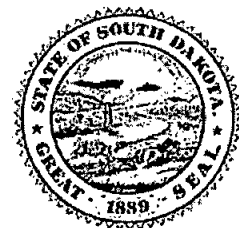
I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 7475-3 states that the water use system is to be constructed by
1-22-2018, and water is to be put to beneficial use by 1-22-2022
(date) (date)

The water use system was completed on May 2013
(date)

Applying the water to beneficial use was completed on June 2013
(date)

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



McMath, Genny

From: Gronlund, Eric
Sent: Wednesday, November 01, 2017 11:28 AM
To: 'Holoch, Harold N'
Cc: McMath, Genny
Subject: 7475-3, Dougla Bye

Reviewed the write-up on 7475-3. The permit authorized irrigation of 144.8 acres in the NE ¼ Section 2-T92N-R53W. The write-up and map indicate the pivot endguns are allowed to extend into the N ½ SE ¼ with only 1 acre in each quarter-quarter. The total developed acres is 133 so it is less than what is authorized by the permit. There is a statute that allows for DENR to administratively allow for acreage developed for irrigation outside the acreage described on the permit. The criteria for doing so is it be contiguous to the permitted acreage and owned by the same property owner. This is commonly done. However in this instance according to the 2016 Clay County plat book this small acreage where the irrigation occurs is on land not owned by Mr. Bye. Presumably they have some type of agreement to allow for endgun to not shutdown and irrigate until the home&yard (David Thiesse) is encountered.

What does this mean? We can not license these two acres on the Water License No. 7475-3 and technically they are not to be irrigated (ie. - Shut the endgun down earlier)

Your write-up is correct in that this is what you found in the field. I will need to discuss with Genny but my thought right now is that two acres will be omitted from the license and the cover letter informing Mr. Bye of that fact.

If you have other information on landownership from what I found, please let me know.

Eric

From: Holoch, Harold N [<mailto:Harold.Holoch@usd.edu>]
Sent: Monday, October 30, 2017 3:58 PM
To: Gronlund, Eric
Subject: [EXT] Water Permits #7418-3, #7454-3, #7475-3, #7933-3&8204-3

Eric: Attached are the final drafts of Water Permits 7418-3, 7454-3, 7475-3, & 7933-3&8204-3 for your review and comment. Dick Hammond has just recently given me information on several submersible pump/motors and missing well logs that I requested some time back, so should be able to send several final drafts over the next few days.

Harold Holoch
Staff Engineer
Dept of Environment & Natural Resources
Water Rights Program
Akeley-Lawrence Science Center, Office #406
414 E Clark St
Vermillion, SD 57069
Cell Ph (605)638-0977



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOV 08 2017

7475-3

Douglas G Bye
1559 Crestview Dr
Vermillion SD 57069

Dear Mr. Bye:

Enclosed is Water License No. 7475-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

enclosures

Note: The investigation of your water use system found the pivot extending into the SE ¼ of Section 2, T92N, R53W and covering two acres of land you do not own. Your water right is limited to the 131 acres developed in the NE ¼ of Section 2.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 7475-3

(1) Douglas G Bye, 1559 Crestview, Vermillion SD 57069 made Application No. 7475-3, October 18, 2012 for a water permit to divert 1.78 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer), Clay County, South Dakota for irrigation purposes. Permit No. 7475-3, with a priority date of October 18, 2012 was approved January 22, 2013 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before January 22, 2018 and for the application to beneficial use of said water on or before January 22, 2022.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on January 29, 2016. The "*Notice*" stated the water use system was completed in May, 2013 and the water placed to beneficial use in June, 2013.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.67 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,310'W and 1,340'S of the NE Corner of Section 2, T92N, R53W (approximate center of the NE ¼)
Latitude 42.81901, Longitude -97.06686

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

Section 2, T92N, R53W	NW ¼ NE ¼	31 acres
	SW ¼ NE ¼	33 acres
	NE ¼ NE ¼	32 acres
	SE ¼ NE ¼	35 acres
	Total	131 acres

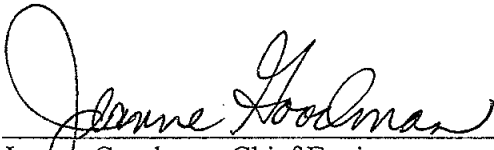
(4) Pursuant to South Dakota Water Law 46-5-30.1 Douglas G Bye, 1559 Crestview, Vermillion SD 57069 the holder and/or owner of Water Right No. 7475-3 is issued a license to appropriate water, the right to use 1.67 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer) with a priority date of October 18, 2012 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 7475-3 and subject to the following qualifications:

- 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.

continued

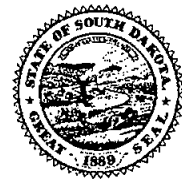
- The well authorized by Permit No. 7475-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *The well was drilled by Hammond Wetmore Drilling LLC in May, 2013. A copy of the well log is on file with the Water Rights Program.*
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



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

NOV 08 2017

date





7475-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 28, 2022

7454-3
7475-3
8204-3

Brook Bye
31472 458th Ave
Vermillion SD 57069-6613

Dear Mr. Bye:

Thank you for taking the time to visit with me about Water Right Nos. 7454-3, 7475-3 & 8204-3 listed under Douglas Bye.

Enclosed are partially completed "Notice of Transfer of Ownership" forms for use in filing ownership changes. Please review and complete as needed. Upon completion, please sign and return the forms to our office with a required filing fee of \$50 each (total of \$150). The check or money order for the fee can be made payable to the Water Rights Program.

I have also included the 2022 irrigation questionnaires and copies of the water rights themselves. Keep in mind the questionnaires are due back by December 5th. If you have any questions, please let me know.

Sincerely,

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

enclosures

7475-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date December 5, 2022RECEIVED OF Bye Family Rvoc. Trust 31472 458th Ave., Vermillion SD 57069

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>7475-3</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 EngineerOne

PAID

DEC 5 2022

Ck#

1052

Rec't#

NOTICE OF TRANSFER OF OWNERSHIP

DAT

RECEIVED

DEC 5 2022

Dept. of Agriculture
& Natural Resources

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

RECEIVED

DEC 05 2022

OFFICE OF
WATER

No. 7475-3

Date:

12/2/2022

I/We request that Water Right No. 7475-3

formerly owned by: Douglas G Bye

be transferred to: (name & address)

Brook Bye 31472 458th Av.
Vermillion SD 57069

Telephone No.

605-670-9132

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

131 acres - NE 1/4 Section 2, T92N, R53W

I/We understand that the validity of Water Right No. 7475-3 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 Brook Bye, the new owner, certify that the above information is true and correct.

Shelly. Bye 9450. edu Brook Bye
(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.

7475-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 19, 2022

7454-3
7475-3
8204-3

Brook Bye
31472 458th Ave
Vermillion SD 57069

Dear Mr. Bye:

Thank you for following up on the ownership changes for Water Right Nos. 7454-3, 7475-3 and 8204-3.

The ownership changes have been completed. The above listed water rights formerly held by Douglas Bye are now listed in your name.

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

Sincerely,

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

enclosures

7475-3

NOTICE OF TRANSFER OF OWNERSHIP

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

PAID

SEP 08 2023
Ck# 1009
Rec't# 918/23

No. 7475-3

Date: 8/24/2023

We request that Water Right/Permit No. 7475-3

formerly owned by: Brook Bye

be transferred to: (name & address) Kelly Barbier 3317 Powderhorn Drive Rapid City South Dakota 57702
And Kirste Schindler 209 Jon Court Oacoma South Dakota 57365
605-415-0434 and 605-730-0981 Telephone No.

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

131 Acres-NE ¼ Section 2, T92N, R53W

We understand that the validity of Water Right/Permit No. 7475-3 has not been determined by this transfer action. If We have any questions on validity, 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.

We Kelly Barbier and Kirste Schindler, the new owners, certify that the above information is true and correct.

Kirste Schindler

Kirste Schindler

Kelly S. Barbier

(Signed by new owners)

RECEIVED

SEP 08 2023

OFFICE OF
WATER

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date September 8, 2023

RECEIVED OF Kirste/Todd Schindler 209 Jon Court Oacoma SD 57365

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>7475-3</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 Engineer

vm

RECEIVED

SEP 08 2023

KLASS

LAW FIRM, L.L.P.

A Tradition of Service Since 1917

**OFFICE OF
WATER**

Marvin J. Klass (1913 - 2000)

Attorneys in Alphabetical Order

Julia C. Adams *+
Timothy A. Clausen *+
Zachary D. Clausen *+
Ryland L. Deinert *+^
Clifton J. Kephart *+
René C. Lapierre *+
William H. Larson *+
Douglas L. Phillips *
Chris C. White *+
Jenny L. Winterfeld

Writer's Direct Dial • 712-252-1866 ext.242

Writer's E-mail • poznanski@klasslaw.com

* Also admitted in Nebraska
+ Also admitted in South Dakota
^ Also admitted in Minnesota

www.klasslaw.com

September 6, 2023

SD DANR, Water Rights
523 E. Capitol Avenue
Pierre SD 57501-3182

Re: Notice of Transfer of Ownership
Water Right/Permit No. 7475-3 and 7454-3

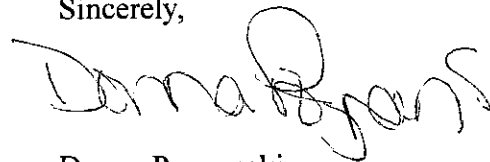
Dear Sir/Madam:

Enclosed please find two (2) Notice of Transfer of Ownership, one for Water Right/Permit No. 7475-3 and one for Water Right/Permit No. 7454-3, on behalf of Kelly Barbier and Kirste Schindler, the new owners. Additionally, I am enclosing two (2) checks, each in the amount of \$50.00 to cover the required filing fees under SDCL 46-2-13.

Please contact my office if you have any questions or concerns.

Thank you.

Sincerely,

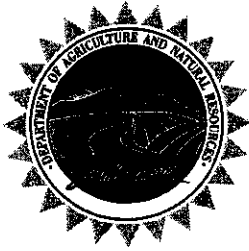


Donna Poznanski
Paralegal

Enclosures

Klass Law Firm, LLP

Sioux City Office • 4280 Sergeant Road, Mayfair Center, Suite 290 • Sioux City, IA 51106 • 712-252-1866 • Fax • 712-252-5822
Sioux Center Office • 20 3rd St. NE • Sioux Center, IA 51250 • 712-722-3210 • Fax • 712-722-3211



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 11, 2023

7454-3
7475-3

Kirste Schindler
209 Jon Court
Oacoma SD 57365

Dear Ms. Schindler:

I have received your "Notice of Transfer of Ownership" forms and the required fees. Enclosed are receipts of payment for your records.

Water Right Nos. 7454-3 & 7475-3, previously owned by Brook Bye is now listed under Kelly Barbier & Kirste Schindler. I have also updated your contact information in our system.

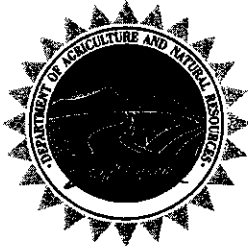
As a reminder, so long as you use the water beneficially, as stated in the Water Rights, State Water Laws provide that you have a continuing right to use the water. Should the water not be put to beneficial use for a period longer than 3 consecutive years, without legal excuse, the Water Rights will be subject to cancellation.

If you have any questions, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 11, 2023

7454-3
7475-3

Kelly Barbier
3317 Powderhorn Dr
Rapid City SD 57702

Dear Ms. Barbier:

I have received your "Notice of Transfer of Ownership" forms and the required fees. Enclosed are receipts of payment for your records.

Water Right Nos. 7454-3 & 7475-3, previously owned by Brook Bye is now listed under Kelly Barbier & Kirste Schindler. I have also updated your contact information in our system.

As a reminder, so long as you use the water beneficially, as stated in the Water Rights, State Water Laws provide that you have a continuing right to use the water. Should the water not be put to beneficial use for a period longer than 3 consecutive years, without legal excuse, the Water Rights will be subject to cancellation.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@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 14, 2025

NOTICE

TO: KELLY BARBIER, 3317 POWDERHORN DR, RAPID CITY, SD 57702

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) 7454-3, 7475-3. 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) 7454-3, 7475-3 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) 7454-3, 7475-3 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: DIBBJK**

cc: KIRSTE SCHINDLER; 209 JON COURT, OACOMA SD 57365

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

February 21, 2025

7454-3
7475-3

Kelly Barbier
3317 Powderhorn Dr
Rapid City SD 57702

Kirste Schindler
209 Jon Court
Oacoma SD 57365

Dear Ms. Barbier & Ms. Schindler:

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). 7454-3 & 7475-3. 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

7454-3
7475-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2026

NOTICE

TO: KELLY BARBIER, 3317 POWDERHORN DR, RAPID CITY, SD 57702

FROM: Ron Duvall, Engineer III
for Adam Mathiowetz, PE, Acting Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7454-3, 7475-3. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 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) 7454-3, 7475-3 qualification:

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

The hearing will be held on **Wednesday, March 4, 2026 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) 7454-3, 7475-3 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 4, 2026** 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 Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: QGQTYK**

KIRSTE SCHINDLER; 209 JON COURT, OACOMA SD 57365

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

7454-3

7475-3

January 28th, 2026

KELLY BARBIER
3317 POWDERHORN DR
RAPID CITY SD 57702

Dear Ms. Barbier,

I am writing to acknowledge receipt of your 2025 irrigation questionnaire(s).

You may disregard the January 20, 2026, "Notice" concerning irrigation reporting requirements for your water permit/right(s). 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,

Shannon Konst
Water Rights Program
605 773-8204
Shannon.konst@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 27th, 2026

7454-3

7475-3

Kelly Barbier
3317 Powderhorn Dr
Rapid City, SD 57702

Dear Ms. Barbier,

I am writing to acknowledge receipt of your 2025 irrigation questionnaires.

You may disregard the January 20, 2026, "Notice" concerning reporting requirements for Water Right Nos. 7454-3, 7475-3. 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,

Shannon Konst
Water Rights Program
605 773-8204
Shannon.konst@state.sd.us

CC: Kriste Schindler, 209 John Court, Oacoma, SD 57365