

WATER PERMIT NO. 7543-3

Name of Applicant: **Brian Kozak**

Address: **30620 417th Ave, Tyndall SD 57066** Phone: **605 464-1119**

Amount of Water Claimed: **1.78 cfs** Total Acres: **249**

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

Water to be used for: **irrigation** County: **Bon Homme**

Type of Waste Disposal System:

Location: **3 miles east of Tyndall**

PRIORITY Date Received: **11-28-2012**

Application/License Fee: **\$ 1250**

Corrected Application Received: **12-6-2012**

Period of Annual Use: **May 1 – September 30**

Remarks:

Diversion Point: **SW 1/4 NE 1/4 Sec 10-T94N-R59W**

Land to be Irrigated: **E 1/2 Sec 10-T94N-R59W**

Depth of Well: **240 feet deep**

Well Driller: **Christensen Well Drilling**

Remarks:

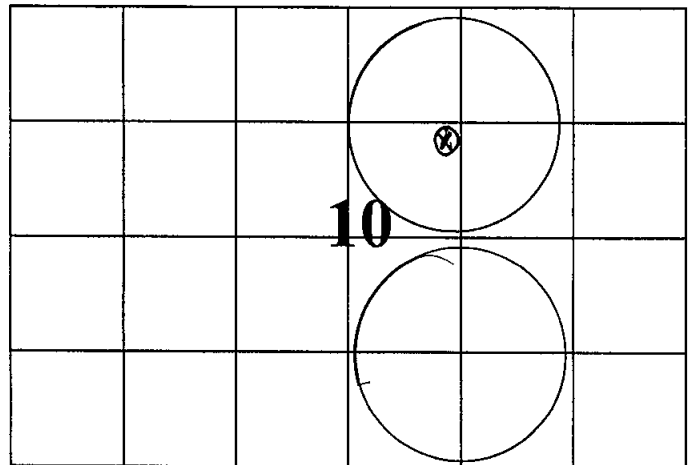
Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **12-7-12**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7543-3</u> (office use only) Hydrologic Unit <u>10170101</u>
	Basin <u>Missouri River</u> <u>605-589-3272</u>
	Newspaper <u>Lyndall Tribune Box 520 57066</u> <u>605-665-7811</u>
	<u>Press & Dakotan 319 Walnut Yorkton 57078</u>

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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 Brian Kozak
(check one) ☐ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent
- Mailing Address 30620 417th Ave Lyndall SD 57066
(Address) (City) (State) (Zip Code)
- Home Phone _____ Cell 605-464-1119 Email _____
2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 249
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply irrigation well
4. Location of point of diversion SW 1/4 NE 1/4 sec 10 T-94-N R-59-W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
- County Bon Homme
5. County or counties where water will be used Bon Homme
6. Annual period during which water is to be used May 1 to September 30
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SEE		SHEET	

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

well water will be pumped from one
 $\frac{1}{4}$ to another

I, Brian Kozak, 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. 7543-3**

Date of first receipt of application November 28, 2012.

Date of return to applicant for corrections, amendments or changes November 29, 2012.

Date of receipt of corrected application December 6, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7543-3 to Brian Kozak, 30620 417th Ave, Tyndall SD 57066 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. 7543-3 appropriates 1.78 cubic feet of water per second from one well to be completed into the Choteau:Tyndall Aquifer (240 feet deep) located in the SW 1/4 NE 1/4 Section 10 for irrigation of 249 acres located in the E 1/2 Section 10; all in T94N-R59W.
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 – September 30.
3. The date from which applicant may claim right is November 28, 2012.
4. The date of approval of Permit No. 7543-3 is February 25, 2013.
5. One-fifth of the construction is to be completed on or before August 25, 2015.
6. All construction is to be completed on or before February 25, 2018.
7. Water is to be put to beneficial use on or before February 25, 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. 7543-3 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.

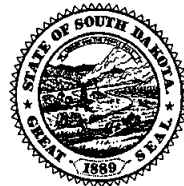
WATER MANAGEMENT BOARD

By: _____

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

APR 26 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 Christensen Well & Hydrus
(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 240 Depth to Top of Water Bearing Material 204' Depth to Water from Surface approx 100'
- d) Distance to nearest existing domestic well:

On applicant's property

☒ On property owned by others 1 mile

2. Wastewater Disposal System Information

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

3. Dugout Information

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

4. Water Storage Dams

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

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

b) Freeboard

c) Crest Width

Crest Length

d) Height

e) Primary Outlet Capacity

If pipe, diameter

f) Secondary Spillway Capacity

Spillway Width

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

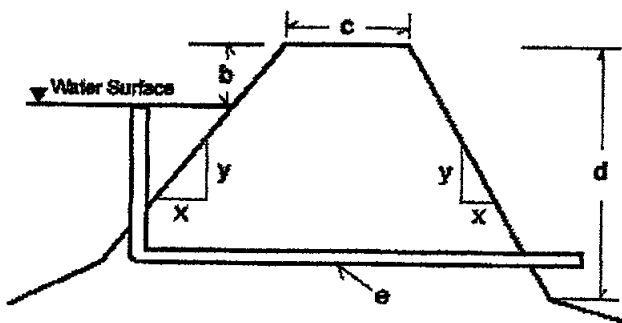
Upstream

Downstream

h) Surface Area of Impoundment

i) Storage Acre Feet

j) Drainage Area Above Dam Acres



Sec 4
T094N
R59W

Sec 3
T094N
R59W

Sec 2
T094N
R59W

Sec 9
T094N
R59W

Sec 10
T094N
R59W

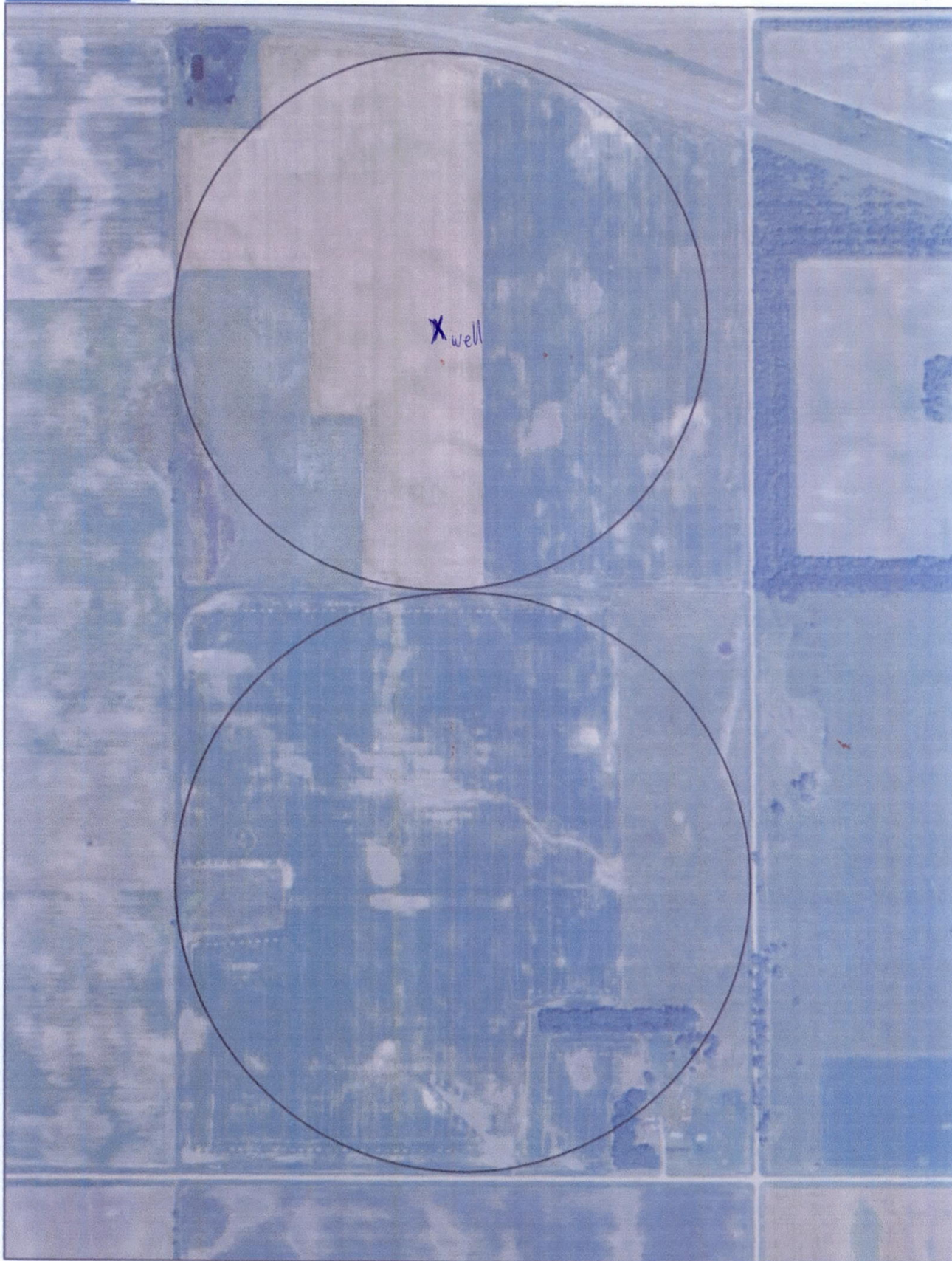
Sec 11
T094N
R59W

Sec 16
T094N
R59W

Sec 15
T094N
R59W

Sec 14
T094N
R59W

X well



Data use subject to license.

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Scale 1 : 7,200



1" = 600.0 ft

Data Zoom 14-7

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88005 Hwy. 57
Hartington, NE 68739
Office 402-254-6809

ADDRESS 30620 417th

STATE Tyndall, SD-57066 DATE 11-2 20 12

TEST HOLE ☒ FARM WELL ☐ IRRIGATION ☐

	c

Quarter *NE*

Section 10

Township 94-N

Range 59-W

County Bernard

FT	FT
0	19
19	204
204	210
210	220

1st + brown clay w/ pebbles
 blue clay w/ pebbles
 coarse gravel sand
 coarse gravel RAD ROCKS

ROCKS @ 70' + 90' + 118'

ROCKS @ $70' + 90' + 118'$

STATIC WATER LEVEL	est static	100'
PUMPING WATER LEVEL		
SCREEN LENGTH		
SLOT SIZE		
TOTAL DEPTH		220'

9 PS

Customer: Brian Kozak

Date: _____

PHONE: _____

CELL: _____

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Billing Address: _____

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Location of Job: _____

NW $\frac{1}{4}$ NE $\frac{1}{4}$
NE $\frac{1}{4}$ NE $\frac{1}{4}$
SW $\frac{1}{4}$ NE $\frac{1}{4}$
SE $\frac{1}{4}$ NE $\frac{1}{4}$
NW $\frac{1}{4}$ SE $\frac{1}{4}$
NE $\frac{1}{4}$ SE $\frac{1}{4}$
SW $\frac{1}{4}$ SE $\frac{1}{4}$
SE $\frac{1}{4}$ SE $\frac{1}{4}$

Sec 10

T-94-N

R-59-W

Bon
Hornum

29 acres

24 acres

34 acres

30 acres

33 acres

33 acres

33 acres

33 acres

249

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South Dakota Department of Environment and Natural Resources

Date 11/28, 20 12

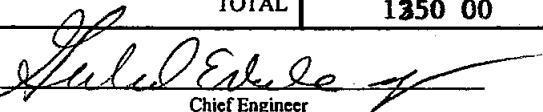
RECEIVED OF Kozak Farms 30620 417th Ave Tyndall Sd 57066

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

Fee for Application for Permit No. <u>7543-3</u> to Appropriate Water, to construct and to put water to beneficial use	1050	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>7543-3</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	1350 00

No. **05718**

By


Chief Engineer



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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 29, 2012

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Grant County. In order to complete the application, the following is required.

- The application needs to be signed at the bottom.
- Enclosed is a copy of the aerial photo map submitted with the application. The map needs to reference a government section corner or quarter corner including section, township and range. For your use, I have enclosed a map with those designations. Please outline the acres to be irrigated and mark the proposed well location with an "X".

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosures



**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. 7543-3, Brian Kozak**

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. 7543-3, Brian Kozak, 30620 417th Avenue, Tyndall SD 57066.

The Chief Engineer is recommending APPROVAL of Application No. 7543-3 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. 7543-3 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
February 1, 2013

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7543-3
BRIAN KOZAK
FEBRUARY 02, 2013

Water Permit Application No. 7543-3 proposes to appropriate up to 498 acre-feet of water annually (ac-ft/yr) at a maximum diversion rate of 1.78 cubic feet of water per second (cfs) from one well to be completed into the Choteau: Tyndall aquifer. The well is expected to be approximately 240 feet deep and is to be located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10 for the irrigation of 249 acres located in the E $\frac{1}{2}$ Section 10; all in T94N-R59W in Bon Homme County.

AQUIFER: Tyndall management unit of the Choteau aquifer (CH: T)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Choteau: Tyndall aquifer is a buried outwash (sand and gravel) aquifer that fills a preglacial valley in central Bon Homme County (Jorgensen, 1971). Jorgensen (1971) and Christensen (1970) originally called this outwash the Tyndall-Scotland aquifer, and thought that it extended northeast into Yankton County. Hedges and others (1982) separated the Tyndall-Scotland aquifer into the Lower James Missouri: Scotland and the Choteau: Tyndall aquifers. Data from the observation wells in the area showed that groundwater movement in the Choteau: Tyndall was from the northeast to the southwest and was from the southwest to the northeast in the Lower James Missouri: Scotland.

The Choteau: Tyndall aquifer underlies approximately 31,300 acres and contains an estimated 140,850 ac-ft of recoverable water in storage in Bon Homme County (Hedges et. al., 1982). The aquifer is generally under confined conditions, however water table conditions could exist locally (Jorgensen, 1971). Generally, the Choteau: Tyndall aquifer has a saturated thickness of less than 50 feet, but the aquifer could have a saturated thickness greater than 50 feet in the southwest portion of it (Christensen, 1970). An aquifer test conducted on a municipal well belonging to Tyndall and completed into the Choteau: Tyndall indicated a transmissivity of 210,000 gal/day/ft and a storage coefficient of 0.2 (Jorgensen, 1971). However, a 12-hour aquifer test at a well in Section 20, T94N-R60W indicated a transmissivity of 20,500 gal/day/ft (Jorgensen, 1971). The difference in transmissivity is due to a difference in saturated thickness; the municipal well penetrated 130 feet of saturated material while the other well penetrated less than 50 feet of saturated material. The test hole log submitted with this application indicates clay from ground surface to a depth of 204 feet, and coarse gravel and sand from 204 to 220 feet below grade. The static water level was 100 feet below ground surface on November 2, 2012.

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 effects on existing rights from the aquifer that are pertinent to this application.

WATER AVAILABILITY:

This application proposes to appropriate up to 498 ac-ft/yr from the Choteau: Tyndall aquifer. If this application is approved, the actual water use will likely be less than the appropriation. The probability of unappropriated water being 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 the water to the groundwater source.”

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 eight observation wells completed into the Choteau: Tyndall aquifer. Figures 1, 2, and 3 show the hydrographs for observation wells BH-82B, BH-76A, and BH-76B, respectively. These three observation wells are the closest to the proposed well site. Water levels in the observation wells show good response to climatic conditions. The water levels rise (recharge) during wet years and gradually decline during dry years. The hydrographs show the effects of pumping, but it does not appear to be significant. The climatic effects on water levels greatly mask the temporal impacts of well withdrawal. In general, the water level in the aquifer has held steady over the period of record. Therefore, the hydrographs show that there is unappropriated water available from the Choteau: Tyndall aquifer for this proposed appropriation of 498 ac-ft/yr.

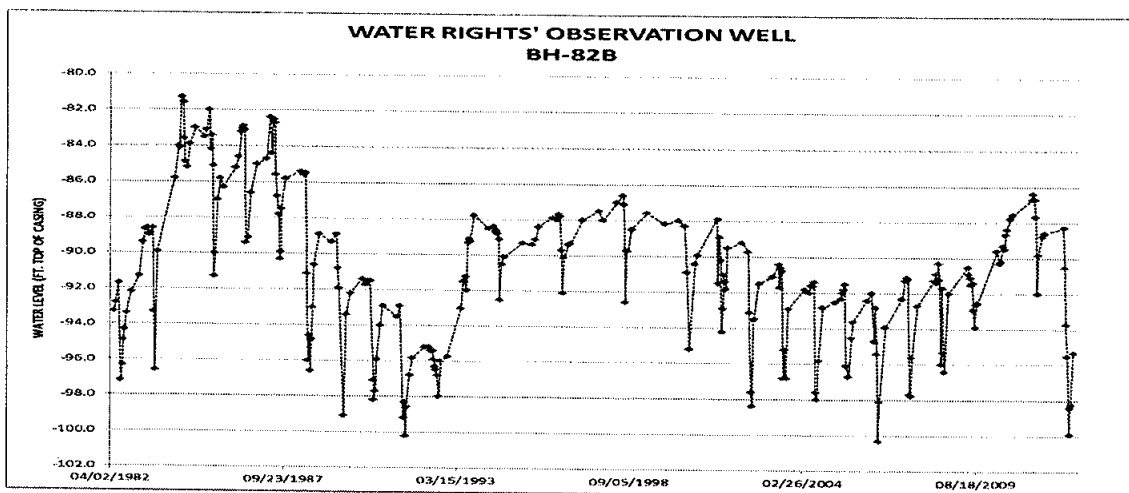


Figure 1- Hydrograph for observation well BH-82B (Water Rights, 2013a)

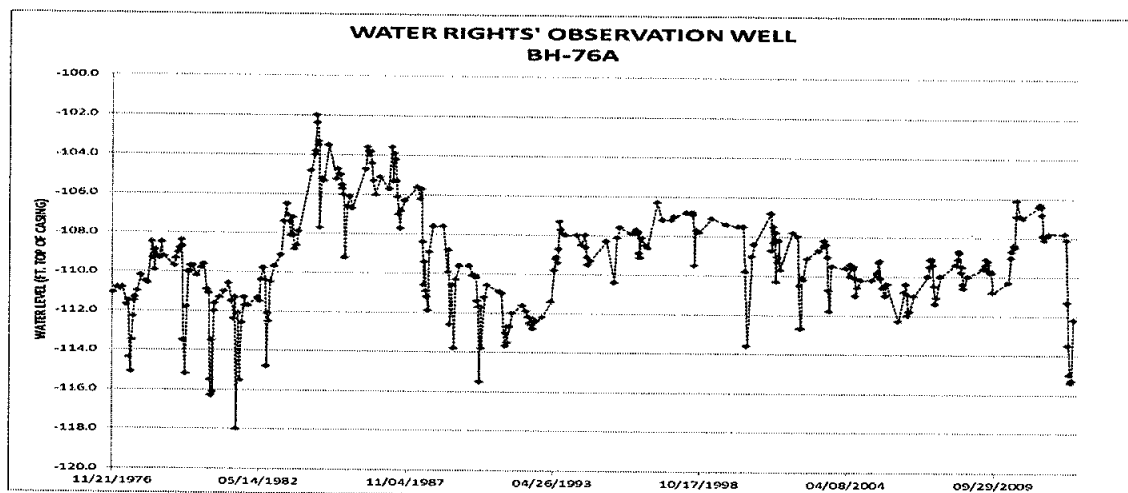


Figure 2- Hydrograph for observation well BH-76A (Water Rights, 2013a)

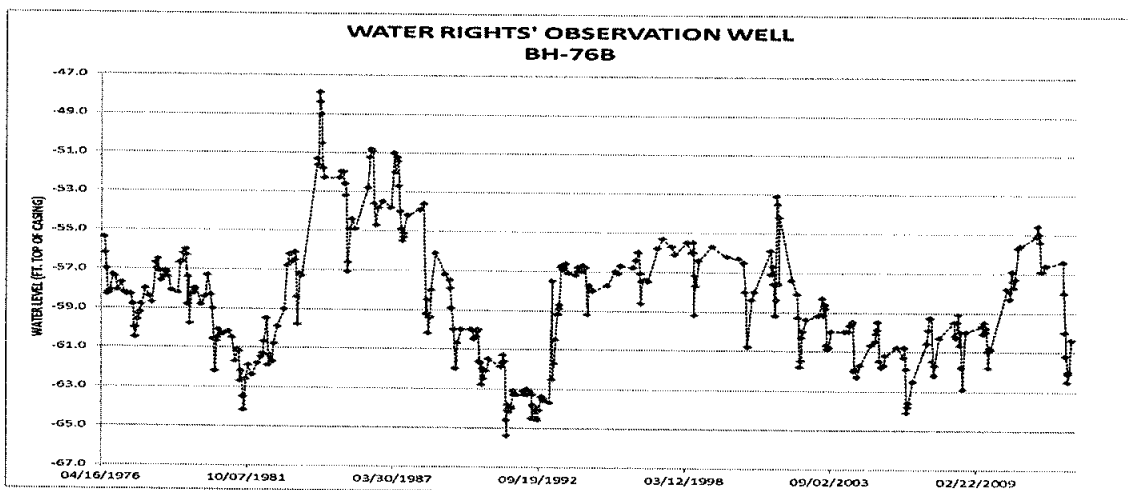


Figure 3- Hydrograph for observation well BH-76B (Water Rights, 2013a)

Hydrologic Budget:

Recharge:

Recharge to the Choteau: Tyndall is from percolation of precipitation through the overlying till or alluvium (Jorgensen, 1971). The aquifer directly overlies the Niobrara aquifer in some places and could receive some recharge from the bedrock aquifer (Jorgensen, 1971). Emanuel Creek could also recharge the aquifer where the outwash outcrops along the creek in T93N-R60W (Jorgensen, 1971). Hedges and others (1985) estimated the recharge to the Choteau: Tyndall aquifer to be 3.2 in/yr for the unconfined portions, but for management and development programs the estimated recharge rate to buried, confined aquifers should range from 0.15 to 0.60 inches per year. Thus, estimated annual recharge to the Choteau: Tyndall aquifer ranges from 391.25 ac-ft to 1,565 ac-ft.

Discharge:

Discharge from the Choteau: Tyndall aquifer is from springs in the outcrop along Emanuel Creek, evapotranspiration near the outcrop, and well withdrawals. Currently, there are 27 appropriations from the Choteau: Tyndall aquifer: 23 water rights/permits authorized for irrigation, Water Right Nos. 1075-3 and 4839B-3 City of Tyndall, and Future Use Permit Nos.

4839-3 and 4839A-3 City of Tyndall (Water Rights, 2013b). 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 (938 ac-ft/yr), and 3) future use permits can be fully developed (410 ac-ft/yr). Note that both the diversion rate limited volume, 938 ac-ft/yr, and future use volume, 410 ac-ft/yr, are for the City of Tyndall which has been on B-Y Rural Water since 2005 (Holan, 2013). The wells authorized by Water Right Nos. 1075-3 and 4839B-3 are maintained for emergency use only. In terms of the hydrologic budget, the water use and future use for the City of Tyndall should be considered zero. The domestic water use from the aquifer is insignificant to the hydrologic budget. Table 1 shows the water use by irrigation from the Choteau: Tyndall aquifer. The average annual use from the aquifer is equal to the irrigation use, 1330.25 ac-ft, assuming that the City of Tyndall uses little to no water from their water rights.

Year	No. of Permits	Appropriation (ac-ft)	Pumpage (ac-ft)
2011	21	7035	1609.67
2010	23	7824	559.56
2009	23	7824	1023.99
2008	23	7824	2138.41
2007	21	7410	1931.36
2006	20	7240	1693.26
2005	20	7288	2006.84
2004	20	7288	1680.06
2003	16	6138	1495.99
2002	17	6759	1613.71
2001	18	7179	919.74
2000	18	7179	1235.83
1999	18	7179	939.23
1998	18	7179	708.2
1997	17	7179	964
1996	19	7672	1034.76
1995	19	7523	1104.18
1994	19	7523	633.66
1993	19	7154	61.2
1992	19	7154	489.25
1991	19	7154	1961.5
1990	19	7604	1570.5
1989	22	9470	2173.9
1988	21	9393	2545.85
1987	21	9393	1645.7
1986	21	9551	1184.2
1985	21	9551	1056.16
1984	23	10710	1012.13
1983	19	9043	996.66
1982	19	8576	1564.67
1981	22	10210	1418
1980	17	7966	1943
1979	17	8079	983
Min	16	6138	61.2
Max	23	10710	2545.85
Avg	19.67	7947.0	1330.25

Table 1- Irrigation water use from the Choteau: Tyndall aquifer (Water Rights, 1979-2012)

The average annual water use is near the high end of the range of recharge estimated by Hedges and others (1985). Therefore, there is a reasonable probability that there is unappropriated water available for this proposed appropriation.

EXISTING WATER RIGHTS:

There are 25 existing water rights/permits appropriating water from the Choteau: Tyndall aquifer. Controversy accompanied irrigation development from the Choteau: Tyndall aquifer in 1975. Water Permit Application Nos. 2444-3 and 2445-3 were contested by a group of farmers and the City of Avon. The applications were eventually approved, but have since been cancelled. Water Permit No. 2444-3 was cancelled due to non-construction after test hole drilling failed to locate favorable aquifer conditions. Water Permit No. 2445-3 was developed, but was cancelled in 2011 due to abandonment and/or forfeiture. The SD DENR-Water Rights Program received a complaint in 1976 regarding the system for Water Permit No. 2445-3 was irrigating more acres than authorized, but there is no record of interference or water availability issues concerning that appropriation.

The nearest existing well authorized by a water right/permit is approximately 5.5 miles away and will not be affected by withdrawals from the well proposed by this application. There are several domestic wells that appear to be completed into the Choteau: Tyndall on file with the SD DENR-Water Rights Program. The nearest domestic well that appears to be completed into the Choteau: Tyndall is approximately two miles north of the proposed well site (Water Rights, 2012c). Observation wells BH-82B and BH-76B are each within approximately 0.75 miles of two irrigation wells. The hydrographs for the observation wells do not show significant effects from pumping. Since the Choteau: Tyndall aquifer is under confined conditions drawdown from pumping may extend quite far from the pumped well. It may be possible that drawdown from this proposed appropriation may be measurable in the nearby domestic wells. However, the impact of drawdown is not expected to be significant due to the distance between wells.

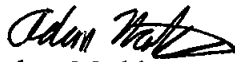
SDCL 46-6-6.1 does not protect artesian head pressure as a means of delivery and the Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. In order to balance interests between irrigation use and delivery of groundwater by artesian pressure the Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs”

Depending on the specific characteristics of the Choteau: Tyndall aquifer at the well site proposed by this application, some existing well owners may need to lower their pumps to accommodate for deeper water levels. However when considering the statute (SDCL 46-6-6.1) and rule (ARSD 74:02:04:20(7)), well interference from the proposed appropriation is not likely to cause a significant impact. Therefore, there is a reasonable probability that any interference will not be adverse.

CONCLUSIONS:

1. Water Permit Application No. 7543-3 proposes to appropriate up to 498 ac-ft/yr at a maximum diversion rate of 1.78 cfs for the irrigation of 249 acres from one well to be completed into the Choteau: Tyndall aquifer.
2. There is a reasonable probability that unappropriated water is available from the Choteau: Tyndall aquifer to supply this proposed diversion.
3. There is a reasonable probability that the diversion rate requested by this application can be made without adversely impacting existing water rights/permits and domestic users.



Adam Mathiowetz
SD DENR-Water Rights Program

Approved by:



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Christensen, C.M. 1970. Major Ground-Water Aquifers in Bon Homme County, South Dakota. SD DENR-Geological Survey Water Information Circular 4. Vermillion, SD.
- Hedges, L.S., S.L. Burch, D.L. Iles, R.A. Barari, and R.A. Schoon. 1982. Evaluation of Ground-water Resources in 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.
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- Water Rights. 2013b. Water Right/Permit Files. SD DENR-Water Rights Program. Joe Foss Bldg., Pierre, SD.
- Water Rights. 2013c. Well Completion Reports. SD DENR-Water Rights Program. Joe Foss Bldg., Pierre, SD.

Affidavit of Publication
RECEIVED

State of South Dakota }
County of Bon Homme } SS

MAR - 4 2013

WATER RIGHTS
PROGRAM

Rebecca Tyck
.....Being first duly sworn
says that the **Tyndall Tribune & Register** is a legal
weekly newspaper for publication of legal and other offi-
cial notices as required by Chapter 298 of the Session
Laws of South Dakota, 1939; that it has bona fide paid
circulation of more than two hundred copies weekly;
that it is published in English language in the City of
Tyndall, Bon Homme County, South Dakota, and has
been admitted to the United States mail under second
class mailing privilege for more than one year prior to
the first publication of the notice herein mentioned, and
that it is printed in an office maintained at the place of
publication at Tyndall, South Dakota, and that depo-
nent is the publisher in charge of the advertising depart-
ment of said newspaper; that the advertisement headed

Notice on Application

#7543-3

65037.2

a printed copy of which is hereto attached, was printed
and published in said newspaper for one successive
weeks, upon the following dates:

Feb. 13.....2013.....20.....
.....20.....20.....
.....20.....20.....
.....20.....20.....

That the full amount of the fee charged for the publica-
tion of said notice, \$24.18, inures to the benefit
of the publisher of said newspaper, that no agreement or
understanding for the division thereof has been made
with any other person, and that no part has been agreed
to be paid to any person whomsoever.

Rebecca Tyck
Subscribed and sworn to before me this
13th day of Feb 2013.
Peggy Schelske
Notary Public, South Dakota

My Commission expires: Oct 24, 2015

NOTICE OF APPLICATION
No. 7543-3 to Appropriate Water

Notice is given that Brian Kozak, 30620
417th Ave, Tyndall SD, 57066 has filed an
application for a water permit to appro-
priate 1.78 cubic feet of water per second
from one well to be completed into the
Choteau-Tyndall Aquifer (240 feet deep)
located in the SW 1/4 NE 1/4 Section 10
for irrigation of 249 acres located in the E
1/2 Section 10; all in T94N-R59W.

Pursuant to SDCL 46-2A-2, the Chief
Engineer recommends APPROVAL of
Application No. 7543-3 because, 1) unap-
propriated 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 recom-
mended, unless a petition is filed oppos-
ing the application or the applicant files
a petition contesting the Chief Engineer's
recommendation. If a petition opposing
the application or contesting the recom-
mendation is filed, then a hearing will be
scheduled and the Water Management
Board will consider this application. No-
tice of the hearing will be given to the ap-
plicant and any person who has filed a
petition.

Any person interested in opposing or
supporting this application or recom-
mendation must file a written petition
with BOTH the applicant and Chief En-
gineer. The applicant must file a petition
if contesting the Chief Engineer's recom-
mendation. 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 ad-
dress is given above. A petition filed by
either an interested person or the appli-
cant must be filed by February 25, 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 sup-
porting the application, and the signature
and mailing address of the petitioner
or the petitioner's legal counsel, if legal
counsel is obtained. Contact Eric Gron-
lund at the above Water Rights Program
address to request copies of information
pertaining to this application.

RECEIVED

FEB 19 2013

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

2+14

NOTICE OF APPLICATION
NO. 7543-3 to Appropriate Water

Notice is given that Brian Kozak, 30620 417th Ave, Tyndall SD 57066 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 Choteau-Tyndall Aquifer (240 feet deep) located in the SW 1/4 NE 1/4 Section 10 for irrigation of 249 acres located in the E 1/2 Section 10; all in T94N-R59W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7543-3 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 February 25, 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 \$23.83.

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. 7543-3**

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 14th DAY OF February 2013 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID **NOTICE** TO WIT \$23.83 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: 2/14/2013

FILED ON: 2/14/2013

SUBSCRIBED AND SWORN TO BEFORE ME THIS 14th DAY OF February

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

February 4, 2013

Tyndall Tribune
PO Box 520
Tyndall SD 57066

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7543-3 to Appropriate Water. Please publish the notice once on February 13, 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 Brian Kozak, 30620 417th Ave., Tyndall SD 57066 (Ph # 605-464-1119).

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

February 4, 2013

Press & Dakotan
319 Walnut
Yankton SD 57078

ATTENTION: Legal Public Notice

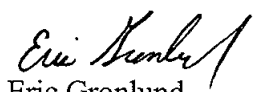
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Sincerely,


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.**

February 4, 2013

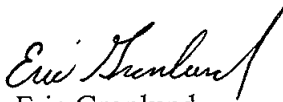
Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

Water Permit Application No. 7543-3 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 Press & Dakotan printed at Yankton SD (Ph # 605-665-7811) and the Tyndall Tribune printed at Tyndall SD (Ph # 605-589-3242). 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 February 13, 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. 7543-3 to Appropriate Water

Notice is given that Brian Kozak, 30620 417th Ave, Tyndall SD 57066 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 Choteau-Tyndall Aquifer (240 feet deep) located in the SW 1/4 NE 1/4 Section 10 for irrigation of 249 acres located in the E 1/2 Section 10; all in T94N-R59W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7543-3 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 February 25, 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

APR 26 2013

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

Enclosed is Water Permit No. 7543-3 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,

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

enclosures



7543-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: BRIAN KOZAK, 30620 417th AVE, TYNDALL, SD 57066
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7286-3 & 7543-3. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 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) 7286-3 & 7543-3 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 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) 7286-3 & 7543-3 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 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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 ENVIRONMENT
and NATURAL RESOURCES

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

March 3, 2016

NOTICE OF ENTRY OF ORDER FOR ONE YEAR SUSPENSION OF WATER PERMITS

TO: Brian Kozak, 30620 417th Ave., Tyndall SD 57066

FROM: Jeanne Goodman, Chief Engineer, Water Rights Program *Jeanne Goodman*

SUBJECT: One Year Suspension of Water Permit Nos. 7286-3 and 7543-3

On March 3, 2016, the Water Management Board ordered:

Effective April 4, 2016, Water Permit Nos. 7286-3 and 7543-3 be suspended for the 2016 irrigation season for failure to submit the 2015 irrigation questionnaires.

If the 2015 irrigation questionnaires are received prior to April 4, 2016, the suspension will not take effect.

Suspension of a water permit or right means water may not be pumped during the 2016 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2016 unless the 2015 irrigation questionnaires are submitted by April 4th.

After April 4th, you may petition the Water Management Board to rescind the suspension. You will need to submit the 2015 irrigation questionnaires and a letter to our office requesting time on the agenda for the next Water Management Board meeting scheduled for May 4-5, 2016, in Pierre, SD. The letter should include your reasons for not completing your 2015 irrigation questionnaires. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

Please contact Genny McMath (605) 773-3352, if you have any questions.



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DATE & TIME	STATUS OF ITEM	LOCATION
March 10, 2016 , 10:05 am	Delivered	TYNDALL, SD 57066

Your item was delivered at 10:05 am on March 10, 2016 in TYNDALL, SD 57066.

March 5, 2016 , 12:01 pm	Notice Left (No Authorized Recipient Available)	TYNDALL, SD 57066
March 5, 2016 , 4:04 am	Departed USPS Origin Facility	SIOUX FALLS, SD 57104
March 4, 2016 , 11:06 am	Arrived at USPS Origin Facility	SIOUX FALLS, SD 57104
March 3, 2016 , 11:57 pm	Departed USPS Facility	HURON, SD 57399
March 3, 2016 , 10:19 pm	Arrived at USPS Origin Facility	HURON, SD 57399
March 3, 2016 , 2:00 pm	Acceptance	PIERRE, SD 57501

Available Actions

Track Another Package

Tracking (or receipt) number

U.S. Postal Service™
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 (Domestic Mail Only; No Insurance Coverage Provided)

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(Endorsement Required)

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Street, Apt. No.
or PO Box No.
City, State, Zi

BRIAN KOZAK
30620 417TH AVE
TYNDALL SD 57066

PS Form 3800, August 2006

See Reverse for Instructions



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 16, 2016

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

On March 3rd, the Water Management Board ordered Water Permit Nos. 7286-3 and 7543-3 to be suspended if the 2015 irrigation questionnaires were not received prior to April 4, 2016. The questionnaire information for your water permits has been received.

Since the irrigation questionnaires are on file, no violation has occurred and no suspension will take place. You may irrigate during the 2016 irrigation season.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



7543-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2017

NOTICE

TO: BRIAN KOZAK, 30620 417th AVE, TYNDALL, SD 57066

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaire(s)

Our records indicate your 2016 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7286-3 & 7543-3. The request for the Questionnaire was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 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) 7286-3 & 7543-3 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 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) 7286-3 & 7543-3 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 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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.



7543-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 1, 2017

7286-3

7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Permit Nos. 7286-3 & 7543-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



7543-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2018

NOTICE

TO: BRIAN KOZAK, 30620 417th AVE, TYNDALL, SD 57066

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7286-3 & 7543-3. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 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) 7286-3 & 7543-3 qualification:

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

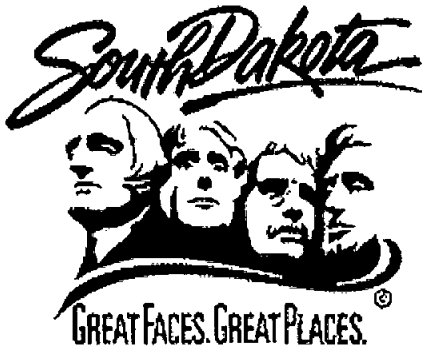
The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant 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) 7286-3 & 7543-3 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 7, 2018** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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.



7543-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 28, 2018

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

I am writing to acknowledge receipt of your 2017 irrigation questionnaires.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Permit Nos. 7286-3 and 7543-3. 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,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive style with a large, stylized "G" and "M".

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



7543-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 25, 2019

NOTICE

TO: BRIAN KOZAK, 30620 417th AVE, TYNDALL, SD 57066

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7286-3 & 7543-3. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 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) 7286-3 & 7543-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2019 at 10:30 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) 7286-3 & 7543-3 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 6, 2019** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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.

7543-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 19, 2019

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

I am writing to acknowledge receipt of your 2018 irrigation questionnaires.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Permit Nos. 7286-3 and 7543-3. 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,

A handwritten signature in black ink, appearing to read "Genny McMath". The signature is fluid and cursive, with the first name "Genny" and last name "McMath" clearly distinguishable.

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

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 7543-3**

I have this day, January 24, 2019, made a thorough examination of the water use system constructed by Brian Kozak, 30620 417th Avenue, Tyndall, SD 57066, holder of Permit No. 7543-3, bearing the priority of November 28, 2012 authorizing the diversion of 1.78 cu. ft. per second of the waters of groundwater (Choteau: Tyndall Aquifer) for irrigation purposes, in Bon Homme County.

Inspection contact: Brian Kozak

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Christensen Well & Irrigation, Inc.
- 2) No. of Wells 1
- 3) Depth(s) 230 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 16 inches
- 2) Length 190 feet
- 3) Type PVC

Screen:

- 1) Type PVC
- 2) Length 40 feet
- 3) Static water level 85 feet

Pump:

- 1) Make Goulds
- 2) Model 11CLC
- 3) Capacity 700 GPM

Motor:

- 1) Make NIDEC Motor Corporation
- 2) Model No. DT95
- 3) Horsepower rating 60 hp

B. Works used to transport water to place of use:

- 1) Type PVC
- 2) Size 8 inches
- 3) Length approximately 2,830 feet

Report of Examination of Works

Permit No. 7543-3

2. The works are capable of diverting and conveying to the place of use 1.56 cu. ft. per second of water which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows: all in Section 10-T94N-R59W

NW1/4NE1/4 28 acres
SW1/4NE1/4 37 acres

NE1/4NE1/4 26 acres
SE1/4NE1/4 36 acres

NW1/4SE1/4 18 acres
SW1/4SE1/4 34 acres

NE1/4SE1/4 10 acres
SE1/4SE1/4 17 acres

comprising a total of 206 acres of land and the license should be issued for 1.56 cfs.

3. All structures, wells and lands on map Yes

F. Comments or other permit(s) associated with the project: The well log is attached to this report.

Keith DeJong

Keith DeJong
Water Rights Inspector
DENR, Water Rights Program

Date report completed: January 29, 2019

C. Works used to apply water to beneficial use:

Center Pivots:

North Pivot

- 1) Make T&L
- 2) Overall length 1,294 feet
- 3) Number of towers 8
- 4) End gun Yes
- 5) Capacity 700 GPM

South Pivot

- 1) Make T&L
- 2) Overall length 902 feet
- 3) Number of towers 6
- 4) End gun Yes
- 5) Capacity 700 GPM

Chemigation Equipment: Feeds both pivots.

- 1) Does chemigate Yes
- 2) Main line check valve Yes
- 3) Inspection port/air relief Yes
- 4) Low pressure drain Yes
- 5) Discharge is 20' from source Need hose
- 6) Interlock type electrical
- 7) Injection pump positive displacement
- 8) Injection check valve Yes
- 9) Injection line check valve or
positive displacement pump Yes

D. Compliance with Permit Requirements:

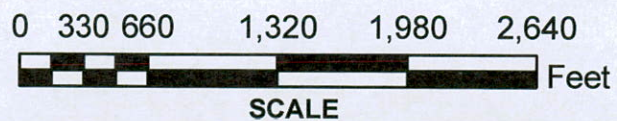
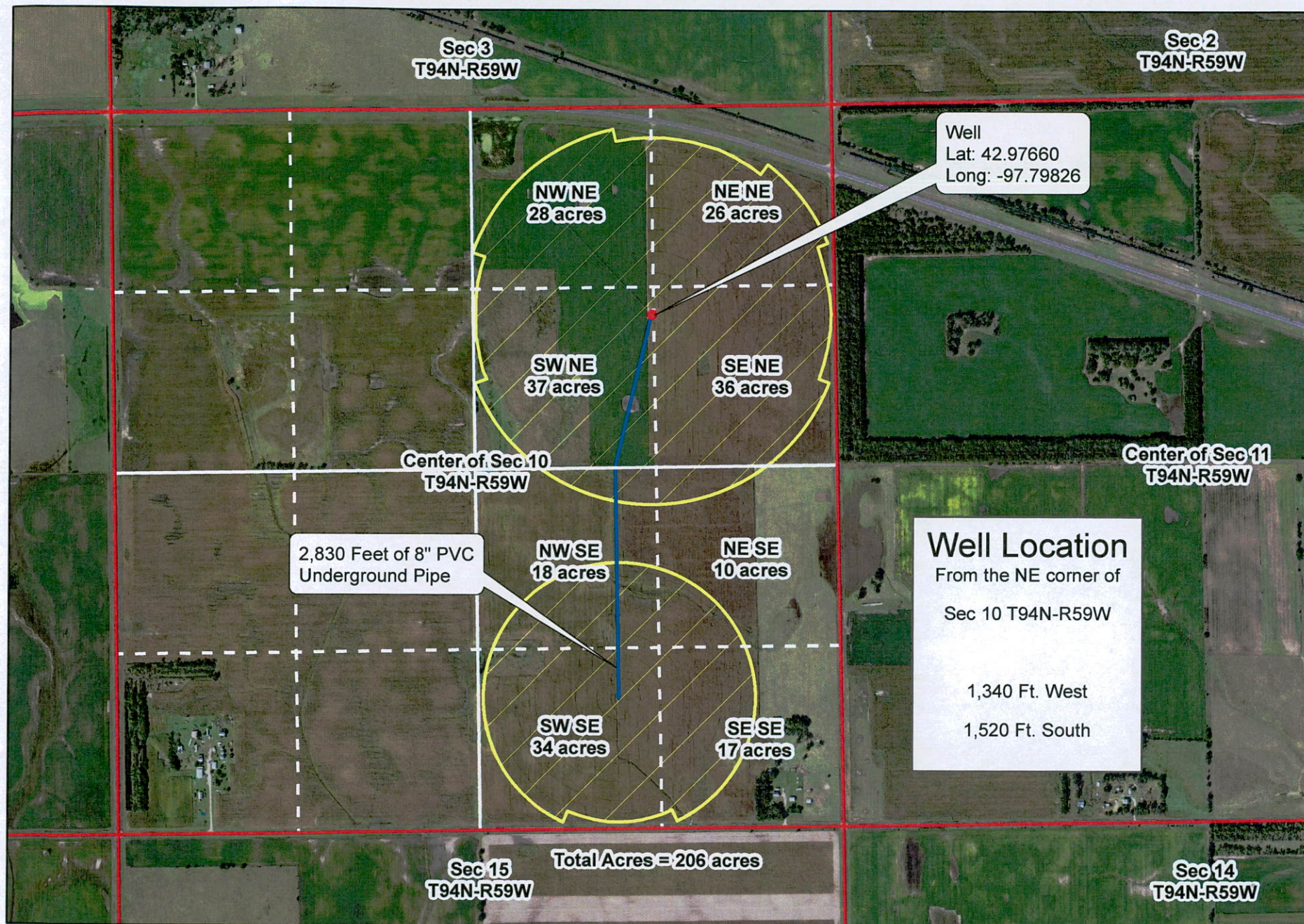
- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes
- 3) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows:

The well is 1,340 feet west and 1,520 feet south of the northeast corner of Section 10-T94N-R59W (Latitude 42.97660, Longitude -97.79826 – SW1/4 of the NE1/4).

Water Permit No. 7543-3



Keith DeJong

Keith DeJong, PE
Staff Engineer
January 29, 2019

7543-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location <u>NE 1/4 NE 1/4</u> Sec <u>10</u> Twp <u>94-N</u> Rg <u>57-W</u>		Well Owner: <u>Brian Royal</u>																					
County <u>Don Homme</u>		Business Name: <u>30620 417 Ave</u>																					
Please mark well location with an "X"		Address1: _____																					
		Address2: <u>Tyndall, SD 57060</u>																					
		City, State, Zip: _____																					
		WELL LOG:																					
Well completion Date <u>10-24-13</u>		<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">FORMATION</th> <th colspan="2">DEPTH</th> </tr> <tr> <th>FROM</th> <th>TO</th> </tr> </thead> <tbody> <tr> <td><u>top + brown clay w/ pebbles</u></td> <td><u>0</u></td> <td><u>19</u></td> </tr> <tr> <td><u>blue clay w/ pebbles</u></td> <td><u>19</u></td> <td><u>204</u></td> </tr> <tr> <td><u>course green sand</u></td> <td><u>204</u></td> <td><u>210</u></td> </tr> <tr> <td><u>course gravel +</u></td> <td><u>210</u></td> <td><u>230</u></td> </tr> <tr> <td><u>BAD ROCKS</u></td> <td></td> <td></td> </tr> </tbody> </table>		FORMATION	DEPTH		FROM	TO	<u>top + brown clay w/ pebbles</u>	<u>0</u>	<u>19</u>	<u>blue clay w/ pebbles</u>	<u>19</u>	<u>204</u>	<u>course green sand</u>	<u>204</u>	<u>210</u>	<u>course gravel +</u>	<u>210</u>	<u>230</u>	<u>BAD ROCKS</u>		
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<u>BAD ROCKS</u>																							
Distance from nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.) <u>2000</u> ft from <u>septic tank</u> (identify source)		STATIC WATER LEVEL <u>35</u> FEET																					
PROPOSED USE: ☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes ☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well		If flowing: closed in pressure _____ PSI																					
METHOD OF DRILLING: <u>Reverse Rotary</u>		GPM flow _____ through _____ inch pipe																					
CASING DATA: ☐ Steel ☒ Plastic ☐ Other If other describe _____		Controlled by ☐ Valve ☐ Reducers ☐ Other _____																					
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PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER																			
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_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN																			
GROUTING DATA: Grout Type <u>Cement</u> No. of Sacks <u>100</u> Grout Weight <u>16</u> Lb/gal From <u>0</u> Ft To <u>190</u> Ft Describe grouting procedure <u>pumped down w/ pressure grout</u>		Can well be completely shut in? _____																					
SCREEN: ☐ Perforated pipe ☐ Manufactured Diameter <u>16</u> Inches Length <u>40</u> Feet Material <u>AUC</u> Slot Size <u>.085</u> Set From <u>190</u> Feet to <u>230</u> Feet Other information _____		WELL TEST DATA: ☒ Pumped Describe: <u>pumped w/ turbine pump</u> ☐ Bailed ☐ Other																					
WAS A PACKER OR SEAL USED? ☐ Yes ☒ No If so, what material? _____ Describe packer(s) and location _____		Pumping Level Below Land Surface <u>153</u> Ft After <u>2</u> Hrs. pumped <u>1000</u> GPM <u>130</u> Ft After <u>4</u> Hrs. pumped <u>700</u> GPM If pump installed, pump rate: <u>700</u> GPM																					
DISINFECTION: Was well disinfected upon completion? ☒ Yes, How? <u>chlorine</u> ☐ No, Why Not? _____ Lab sample sent to for water quality analysis _____		REMARKS RECEIVED JAN - 6 2014 WATER RIGHTS PROGRAM																					
Signature of Well Owner or Equitable Property Holder: _____ Date: _____		This well was drilled under license # <u>444</u> And this report is true and accurate. Drilling firm: <u>Chulowen Well & Drilling</u> Signature of License Representative: <u>Colt W. Chulowen</u>																					

Please return White Copy to DENR Water Rights

523 E. Capitol Ave., Pierre SD 57501



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

MAY 22 2019

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

Enclosed are Water License Nos. 7286-3 and 7543-3. They are the final water right documents completing your process of obtaining Water Rights. Included with each license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by each water right, 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.

In regard to the equipment used for applying chemicals and/or fertilizer through your irrigation systems, the staff engineer who conducted the investigation noted the absence of a hose that ensured any discharge was at least 20 feet from the irrigation well. Enclosed is a copy of Water Management Board rules dealing with chemigation. "Appendix A" shows the minimum requirements for the equipment. The ability to discharge at least 20 feet from the well is required to prevent contamination of the water source. If after reading through the rules you have questions concerning placement of the equipment, please contact Ron Duvall with our program (his card is attached).

As long as you use the water beneficially, as stated in the Water Licenses, 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

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7543-3**

(1) Brian Kozak, 30620 417th Ave., Tyndall SD 57066 made Application No. 7543-3, November 28, 2012 for a water permit to divert 1.78 cubic feet of water per second from ground water, one well (Choteau Tyndall Aquifer), Bon Homme County, South Dakota for irrigation purposes. Permit No. 7543-3, with a priority date of November 28, 2012 was approved February 25, 2013 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before February 25, 2018 and for the application to beneficial use of water on or before February 25, 2022.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and is entitled to divert 1.56 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,340'W and 1,520'S of the NE corner of Section 10, T94N, R59W (SW ¼ NE ¼)
Latitude 42.97660, Longitude -97.79826

(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:

T94N, R59W Section 10	NW ¼ NE ¼	28 acres	NW ¼ SE ¼	18 acres
	NE ¼ NE ¼	26 acres	NE ¼ SE ¼	10 acres
	SW ¼ NE ¼	37 acres	SW ¼ SE ¼	34 acres
	SE ¼ NE ¼	36 acres	SE ¼ SE ¼	17 acres

Total – 206 acres

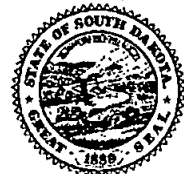
(4) Pursuant to South Dakota Water Law 46-5-30.1 Brian Kozak, 30620 417th Ave., Tyndall SD 57066 the holder and/or owner of Water Right No. 7543-3 is issued a license to appropriate water, the right to use 1.56 cubic feet of water per second from ground water, one well (Choteau Tyndall Aquifer) with a priority date of November 28, 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. 7543-3 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.
- The well authorized by Permit No. 7543-3 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 in October, 2013 by Christensen Well & Irrigation. A copy of the well completion report 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

MAY 22 2019
date





7543-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: BRIAN KOZAK, 30620 417th AVE, TYNDALL, SD 57066

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7286-3 & 7543-3. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 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) 7286-3 & 7543-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 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) 7286-3 & 7543-3 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 **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: FCVFI**

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.

7543-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 10, 2020

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

I am writing to acknowledge receipt of your 2019 irrigation questionnaires.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Right Nos. 7286-3 & 7543-3. 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,

A handwritten signature in cursive script, appearing to read 'Genny McMath'.

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



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

TO: BRIAN KOZAK, 30620 417th AVE, TYNDALL, SD 57066

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaire(s)

Our records indicate your 2020 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7286-3 & 7543-3. The request for the Questionnaire was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 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) 7286-3 & 7543-3 qualification:

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

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 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) 7286-3 & 7543-3 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 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: EMWDXC**

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.

7543-3



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

February 2, 2021

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

I am writing to acknowledge receipt of your 2020 irrigation questionnaires.

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for Water Right Nos. 7286-3 & 7543-3. 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,

A handwritten signature in blue ink that reads "Genny McMath". The signature is fluid and cursive.

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



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

January 20, 2022

NOTICE

TO: BRIAN KOZAK, 30620 417th AVE, TYNDALL, SD 57066
FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7286-3 & 7543-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 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) 7286-3 & 7543-3 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 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) 7286-3 & 7543-3 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 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: OVAYAX**

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.



7543-3
**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 3, 2022

NOTICE OF ENTRY OF ORDER FOR ONE YEAR SUSPENSION OF WATER RIGHTS

TO: Brian Kozak, 30620 417th Ave., Tyndall SD 57066

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
Water Rights Program

SUBJECT: One Year Suspension of Water Right Nos. 7286-3 & 7543-3

On March 2, 2022, the Water Management Board ordered:

Effective April 4, 2022, Water Right Nos. 7286-3 & 7543-3 be suspended for the 2022 irrigation season for failure to submit the 2021 irrigation questionnaires.

If the 2021 irrigation questionnaire is received prior to April 4, 2022, the suspensions will not take effect.

Suspension of a water permit or right means water may not be pumped during the 2022 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2022 unless the 2021 irrigation questionnaires are submitted by April 4, 2022.

After April 4th, you may petition the Water Management Board to rescind the suspensions. You will need to submit the 2021 irrigation questionnaires and a letter to our office requesting time on the agenda for the next Water Management Board meeting scheduled for May 4-5, 2022, in Pierre, SD. The letter should include your reasons for not completing the 2021 irrigation questionnaires. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

Please contact Genny McMath (605) 773-3352, if you have any questions.

7543-3

CERTIFICATION

I hereby certify that on March 3, 2022, I have personally deposited with the United States mail at Pierre, South Dakota, a first class postage prepaid envelopes containing a "Notice" dated March 3, 2022, concerning Board action to amend and/or suspend water rights to the following:

Amendments:

No. 3487-3: Dave Hanson, 31489 455th Ave., Meckling SD 57069
 No. 2460-3: Ryan Patterson, 10946 425th Ave., Britton SD 57430
 Patterson Farm Inc, 42474 SD Hwy 10, Britton SD 57430

Amend & Suspend:

Nos. 1397-2, 2647-2 & 2701-2: Cody Burull, 25299 Deer Valley Rd, Reliance SD 57569

Nos. 2072-3, 2126-3, 3204-3, 7236-3 & 7237-3:

- David Ulvestad, 46720 201st St., Bruce SD 57220
- Darwin Ulvestad, 46679 201st St, Bruce SD 57220

Three year suspensions:

No. 410B-2: Kathi Koester, PO Box 206, Custer SD 57730-0206
 Nos. 1350-3 & 6042-3: Scott Jensen, 24348 478th Ave., Dell Rapids SD 57022

One year suspensions:

No. 6947-3: Joe Adler, 48353 149th St, Milbank SD 57252
 Nos. 6263-3 & 8041-3: George G Hofer, Cedar Grove Colony, 36926 266th St, Platte SD 57369
 No. 881-2: Ryan Edwards, 25331 Yellow Eagle Rd, White River SD 57579
 No. 6316-3: Howard Athletic Club Inc., 508 E Farmer Ave., Howard SD 57349-9017
 Nos. 2851-3 & 4955-3: David Huber, 16010 413th Ave., Conde SD 57434

Nos. 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3: Joey Waldner Colony, 40068 Huron Colony Lane, Huron SD 57350-8001

Nos. 7286-3 & 7543-3: Brian Kozak, 30620 417th Ave., Tyndall SD 57066
 No. 5665-3: Pat Mentele, PO Box 41, Woonsocket SD 57385-0041
 No. 8326-3: Jerry D Nelsen, 45125 291st St., Viborg SD 57070
 No. 7005-3: Troy Randall, Randall Enterprise LLC, 24250 479th Ave., Dell Rapids SD 57022 6139
 No. 2497-2: Marty Vanderploeg, 22958 293rd St, Martin SD 57551-5930
 No. 8265-3: Carl Pulvermacher, Wiskota Farm, 14050 SD Hwy 25, Webster SD 57274
 Nos. 516-1 & 715-1: Lawrence Woodward, PO Box 220, Dupree SD 57623-0220



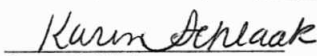
Genny McMath
 Program Assistant-Water Rights

STATE OF SOUTH DAKOTA)

) SS

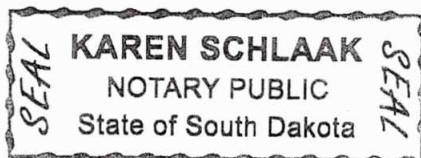
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of March, 2022.



Karen Schlaak
 Notary Public

My Commission expires April 1, 2025





7543-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 10, 2022

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

On March 2, 2022, the Water Management Board ordered Water Right Nos. 7286-3 & 7543-3 be suspended if the 2021 irrigation questionnaires were not received prior to April 4, 2022. The questionnaire information for your water rights has been received.

Since the irrigation questionnaires are on file, no violations have occurred, and no suspensions will take place. You may irrigate during the 2022 irrigation season.

If you have any questions, please contact us.

Sincerely,

Ron Duvall
Water Rights Permitting Administrator
Water Rights Program
(605) 773-3352



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

January 20, 2023

NOTICE

TO: BRIAN KOZAK, 30620 417th AVE, TYNDALL, SD 57066

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7286-3 & 7543-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7286-3 & 7543-3 qualification:

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

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

1. Suspend or cancel Permit No(s) 7286-3 & 7543-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

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

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

March 1, 2023

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Right Nos. 7286-3 & 7543-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



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

January 14, 2025

NOTICE

TO: BRIAN KOZAK, 30620 417TH AVE, TYNDALL, SD 57066

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) 7286-3 & 7543-3. 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) 7286-3 & 7543-3 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) 7286-3 & 7543-3 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: TECALH**

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

March 3, 2025

7286-3
7543-3

Brian Kozak
30620 417th Ave
Tyndall SD 57066

Dear Mr. Kozak:

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). 7286-3 & 7543-3. 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