

**WATER PERMIT NO. 7563-3**

Name of Applicant: **Bernard Hall**

Address: **32429 478<sup>th</sup> Ave, Elk Point SD 57025** Phone: **605 356-2823**

Amount of Water Claimed: **2.22 cfs** Total Acres: **95 acres**

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

Water to be used for: **irrigation** County: **Union**

Type of Waste Disposal System:

Location: **1/2 mile east of Elk Point**

**PRIORITY** Date Received: **12-6-12** Application/License Fee: **\$ 950**

Corrected Application Received: **12-17-12** Period of Annual Use: **May 1 – September 30**

Remarks: **Requesting diversion rate greater than statutory limit**

Diversion Point: **E 1/2 SE 1/4 Sec 20-T91N-R49W**

Land to be Irrigated: **SE 1/4 Sec 20-T91N-R49W**

Depth of Well: **125 feet deep**

Well Driller:

Remarks:

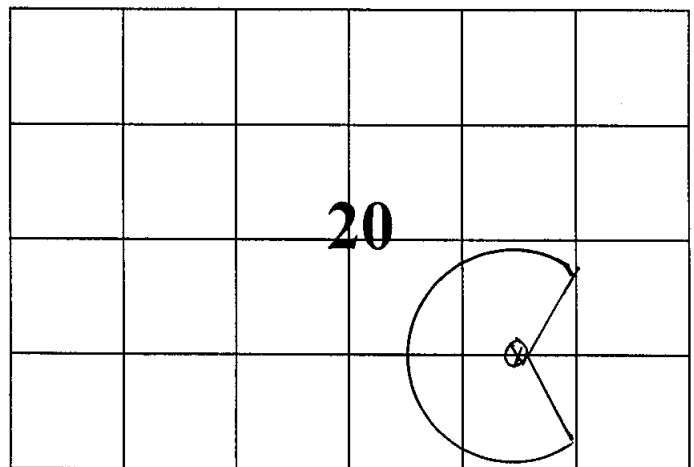
Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **12-1712**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: \_\_\_\_\_



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

|                                                                                                                 |                                                                            |
|-----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Mail to:<br>PMB 2020<br>DENR - Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br>ph. (605) 773-3352 | No. <u>7563-3</u> (office use only)<br>Hydrologic Unit <u>10170101</u>     |
|                                                                                                                 | Basin <u>Missouri River</u> <u>605-356-2632</u>                            |
|                                                                                                                 | Newspaper <u>Leader-Comer Box 310 Elk Point 57025</u>                      |
|                                                                                                                 | <u>Press &amp; Dakotan 319 Walnut Yankton 57028</u><br><u>605-665-7811</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 Keith Hall (SON) Bernard Hall  
(check one) ☐ Owner ☒ Tenant/lessee ☐ Owner's Legal Agent  
(name and complete address if different than above name)  
Mailing Address 32429 478<sup>th</sup> Ave Elk Point S.D. 57025  
(Address) (City) (State) (Zip Code)  
Home Phone 356-2823 Cell \_\_\_\_\_ Email \_\_\_\_\_
2. Amount of water claimed 2.22 \*CFS or 1000 \*\*GPM \*\*\*AF Total Acreage 95  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply ground
4. Location of point of diversion E 1/2, SE 1/4 - 20-91-49  
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
- County Union
5. County or counties where water will be used Union
6. Annual period during which water is to be used May 1 thru Sept. 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 |
|-----------------------------|-------|------------------------------------|-------|
| 1 level land moderate soils | 28    | NW 1/4 SE 1/4 - Sec 20 - T91N R49W | 15.5  |
| 2 all 3 are the same        | 32    | SW 1/4 SE 1/4 " " "                | 15.5  |
| 3                           | "     | NE 1/4 SE 1/4 " " "                | 32    |
|                             |       | SE 1/4 SE 1/4 " " "                | 32    |

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

100 rods to north bldg site and 1/2 mile to my other well  
requesting greater diversion rate than statutory limit

I, Bernard Hall, 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. 7563-3**

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Date of first receipt of application December 6, 2012.

Date of return to applicant for corrections, amendments or changes December 7, 2012.

Date of receipt of corrected application December 17, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7563-3 to Bernard Hall, 32429 478<sup>th</sup> Ave, Elk Point SD 57025 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. 7563-3 appropriates 2.22 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (125 feet deep) located in the E 1/2 SE 1/4 Section 20 for irrigation of 95 acres located in the SE 1/4 Section 20; all in T91N-R49W.
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 December 6, 2012.
4. The date of approval of Permit No. 7563-3 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. 7563-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 7563-3 authorizes a maximum diversion rate of 2.22 cfs for the irrigation of 95 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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 \_\_\_\_ Have test holes been drilled ☐ Yes ☐ No Drilled by \_\_\_\_  
(if yes, please provide copies of logs)

b) If existing wells, how many \_\_\_\_ Provide copy of log(s), if available. Drilled by \_\_\_\_

c) Well Depth 12.5 ft Depth to Top of Water Bearing Material \_\_\_\_ Depth to Water from Surface \_\_\_\_

d) Distance to nearest existing domestic well:

On applicant's property \_\_\_\_ On property owned by others \_\_\_\_

### 2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) \_\_\_\_

b) System Capacity (gallons) \_\_\_\_ Year Constructed \_\_\_\_

c) Connected to the City of \_\_\_\_ Sanitary System

### 3. Dugout Information

a) Surface Dimensions \_\_\_\_ Depth \_\_\_\_

b) Depth to water (ground surface to water level) \_\_\_\_

### 4. Water Storage Dams

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

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

b) Freeboard \_\_\_\_

c) Crest Width \_\_\_\_

Crest Length \_\_\_\_

d) Height \_\_\_\_

e) Primary Outlet Capacity \_\_\_\_

If pipe, diameter \_\_\_\_

f) Secondary Spillway Capacity \_\_\_\_

Spillway Width \_\_\_\_

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

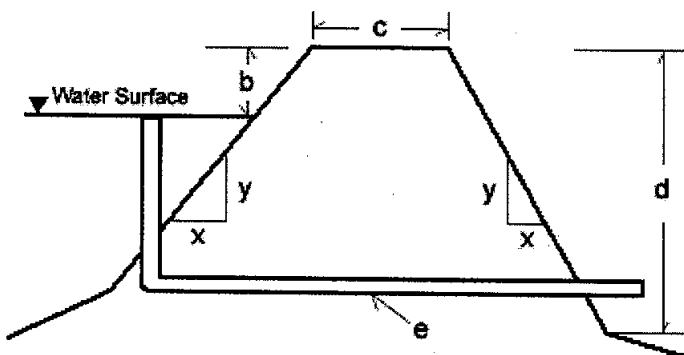
Upstream \_\_\_\_

Downstream \_\_\_\_

h) Surface Area of Impoundment \_\_\_\_

i) Storage \_\_\_\_ Acre Feet

j) Drainage Area Above Dam \_\_\_\_ Acres





United States Department of Agriculture  
Farm Service Agency

PLSS: 20\_91N\_49W  
Farm: 2859

**Union County**

1:8,869

May 01, 2012



**Wetland Determination Identifiers**

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

Common Land Units

Non Cropland

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area.  
Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

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2010 Ortho-Photography - Not to Scale

# RECEIPT

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South Dakota Department of Environment and Natural Resources

Date 12/7, 20 12

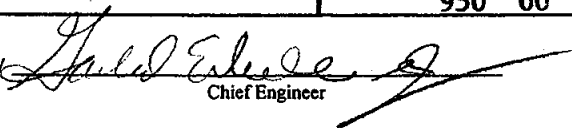
RECEIVED OF Bernard Hall 32429 478TH AVE ELk Point SD 57025

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

|                                                                                                                        |       |        |
|------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>7563-3</u> to Appropriate Water, to construct and to put water to beneficial use | 750   | 00     |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                           |       |        |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                                 |       |        |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7563-3</u>            | 200   | 00     |
| Fee for Filing Transfer Form _____                                                                                     |       |        |
| Fee for _____                                                                                                          |       |        |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                                    |       |        |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                                     |       |        |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                                 |       |        |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                              |       |        |
| (Any Other Work Provided by Law)                                                                                       | TOTAL | 950 00 |

No. **05739**

By

  
Chief Engineer

Dec 4-12

Dec  
Inclosed is a check for \$950.<sup>00</sup> for a water permit to pump a 1000 gal a minute from a new ground water irrigation system.

Would you send me the form I need to put in the local newspaper for publication?

Thanks for your trouble.

Bernard Hall

Bernard L Hall  
32429 478th Ave  
Elk Point SD 57025-6737

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The reason for asking more water than the 1.28 CFS of water are (1) unrestricted amount of water available for irrigation and other uses? (2) existing water rights would not be affected or unlawfully impaired (3) It could be a beneficial use of water due to evaporation and time to apply.

Do you have a form for publication in local paper? If you do I would appreciate it if you would send one.

Thanks for your consideration on this matter.

Bernard Hall

Bernard L Hall  
32429 478th Ave  
Elk Point SD 57025-6737

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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](http://denr.sd.gov)

December 7, 2012

Bernard Hall  
32429 478<sup>th</sup> Ave  
Elk Point SD 57025

Dear Mr. Hall:

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

- The name to appear on the irrigation is listed at Keith Hall, but the application is signed by you, Bernard Hall. Is Keith the tenant/lessee? *yes*
- What is the total amount of acres to be irrigated? It appears to be approximately 90 acres. Do you agree? *95 acres with end gun.*
- Item No. 2, Amount of water claimed states 1000 gallons per minute (gpm). State Statutes limit diversions to 1 cubic feet of water per second (cfs) for each 70 acres irrigated. This would mean that you are allowed approximately 1.28 cfs or 575 gpm to irrigate the total 90 acres. We understand that in order to accommodate certain irrigation methods, a greater diversion rate is required. Please justify in writing your request for a diversion rate greater than the statutory limit (please explain diversion rate requirement for the project).
- Enclosed is the Form 2A, Supplemental Information. Please complete Item No. 1 regarding the Well Information – Proposed Construction. At the very least, we need the proposed depth of the well(s).
- Enclosed is the aerial photo map submitted with the application. Please mark the proposed well location with an "X".

You asked about the notice to appear in the local paper. Statutes now require the notice be published for one week in the local county paper and the nearest daily newspaper. Once the application is complete, a staff report and chief engineer recommendation are prepared. At that time, you will be notified and given instructions regarding the public notice process.

If you have any questions, please contact me.

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Water Rights Program  
605 773-3352  
[karen.schlaak@state.sd.us](mailto: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. 7563-3, Bernard Hall**

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. 7563-3, Bernard Hall, 32429 478<sup>th</sup> Avenue, Elk Point SD 57025.

The Chief Engineer is recommending APPROVAL of Application No. 7563-3 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. 7563-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 7563-3 authorizes a maximum diversion rate of 2.22 cfs for the irrigation of 95 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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 4, 2013

REPORT TO THE CHIEF ENGINEER  
ON  
WATER PERMIT APPLICATION NO. 7563-3  
BERNARD HALL  
January 31, 2013

Water Permit Application No. 7563-3 proposes to appropriate up to 190 acre-feet annually (ac-ft/yr) at a maximum diversion rate of 2.22 cubic feet of water per second (cfs) from one well to be completed into the Missouri: Elk Point aquifer. The well will be located in the E ½ SE ¼ of Section 20, T91N-R49W and is expected to be approximately 125 feet deep. This application proposes to irrigate 95 acres located in the SE ¼ of Section 20, T91N-R49W in Union County. The applicant is requesting a diversion rate greater than the statutory limit.

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

**GEOLOGY AND AQUIFER CHARACTERISTICS:**

The Elk Point management unit of the Missouri aquifer is a surficial aquifer composed of unconsolidated glacial outwash material ranging from fine sand to coarse gravel (Niehus, 1994). The aquifer generally lies below the flood plains of the Missouri and Big Sioux Rivers in the southern part of Union County (Niehus, 1994). This proposed well site is approximately 7.3 miles east of the Missouri River and 2.8 miles west from the Big Sioux River. The aquifer directly overlies and is hydraulically connected to the Dakota aquifer, and is hydraulically connected to the Big Sioux aquifer in the northeast and the Lower Vermillion-Missouri aquifer in the north (Niehus, 1994). The aquifer is primarily under water-table conditions in Union County, but is under artesian conditions in the area of this application. The Elk Point management unit of the Missouri aquifer encompasses regions of Clay, Union, and Yankton Counties. The Missouri: Elk Point aquifer underlies approximately 99,600 acres of Union County alone and contains an estimated 1,494,600 acre-feet of recoverable water in storage in the county (Hedges and others, 1982). Niehus estimated that the aquifer underlies approximately 115,200 acres of Union County and contains an estimated 1.5 million acre-feet of water in storage (1994). The maximum thickness of the Missouri aquifer is 146 feet with an average thickness of 84 feet (Niehus, 1994). There is approximately 25 feet of artesian head pressure available, and the records show relatively high values for the saturated thickness in this region of the aquifer (Niehus, 1994). The observation well logs in the area show a saturated thickness of 33 – 146 feet as shown in Table 1. (Water Rights, 2013a).

| Observation Well/Lithologic Log | Saturated Thickness (ft) |
|---------------------------------|--------------------------|
| Observation Well UN-77M         | 72                       |
| Observation Well UN-80E         | 33                       |
| Lithologic Log 17CDDD           | 72                       |
| Lithologic Log 29BDCB           | 146                      |
| Lithologic Log 29CCBD           | 99                       |

Table 1. Saturated thickness for nearby observation wells and lithologic logs (Water Rights, 2013a).

## **SDCL 46-2A-9**

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

### **WATER AVAILABILITY:**

This application proposes to appropriate 190 ac-ft/yr from the Missouri: Elk Point aquifer. If this application is approved, it is likely that the actual water use will be less than the appropriated amount. The probability of unappropriated water available from the aquifer can be evaluated using SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source."

### **Recharge versus Discharge:**

#### **Recharge:**

Recharge to the Missouri: Elk Point aquifer occurs through infiltration and percolation of precipitation falling in areas where the aquifer is near land surface (Niehus, 1994). Recharge is also provided to the aquifer from the Big Sioux, Lower Vermillion-Missouri, and Dakota aquifers as well as during times of high flow and stage from the Missouri River (Niehus, 1994). The average annual recharge rate to the Missouri: Elk Point aquifer is an estimated 3.8 in/yr based on observation well analysis (Hedges and others, 1985). Given the area of the management unit in Union County of 115,200 acres by Niehus, average annual recharge to the aquifer in Union County alone is estimated to be 36,480 ac-ft/yr.

#### **Discharge:**

Discharge from the Missouri: Elk Point aquifer is by evapotranspiration, discharge to the Big Sioux and Missouri Rivers during low flow and to the underlying Dakota aquifer, and withdrawal from wells (Niehus, 1994). There are a number of completion reports on file with the SD DENR-Water Rights Program for domestic use wells completed into the Missouri: Elk Point aquifer (Water Rights, 2013b) and there are currently 507 water rights/permits appropriating water from the Missouri: Elk Point aquifer (Water Rights, 2013c). There are 297 water rights/permits appropriating water from this aquifer in Union County alone (Water Rights, 2013c). The distribution of these appropriations and their types are shown in Table 2.

| <b>Water Rights/Permits</b> | <b>Number</b> |
|-----------------------------|---------------|
| Commercial                  | 3             |
| Domestic                    | 1             |
| Industrial                  | 2             |
| Irrigation                  | 286           |
| Municipal                   | 4             |
| Recreational                | 1             |

Table 2. Water rights/permits from the Missouri: Elk Point aquifer in Union County (Water Rights, 2013c).

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

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

The expected water use for non-irrigation purposes, from the Missouri: Elk Point aquifer in Union County, is less than 5,700 ac-ft/yr based on current water appropriations.

The annual reported water use from the Missouri: Elk Point aquifer for irrigation purposes is displayed in Table 3.

| YEAR       | NO. OF PERMITS | APPROPRIATION (AC-FT/YR) | PUMPAGE REPORTED (AC-FT/YR) |
|------------|----------------|--------------------------|-----------------------------|
| 2011       | 431            | 159700.8                 | 12107.55                    |
| 2010       | 419            | 155905.4                 | 2723.87                     |
| 2009       | 410            | 155245.4                 | 6120.97                     |
| 2008       | 396            | 151130.4                 | 16261.88                    |
| 2007       | 366            | 139826.6                 | 30482.84                    |
| 2006       | 353            | 136491.6                 | 27974.54                    |
| 2005       | 335            | 130046.6                 | 23964.5                     |
| 2004       | 322            | 126955.8                 | 23862.25                    |
| 2003       | 314            | 125379.8                 | 26734.67                    |
| 2002       | 315            | 125555.8                 | 23547.22                    |
| 2001       | 313            | 125537.4                 | 19071.88                    |
| 2000       | 309            | 124852.2                 | 26640.12                    |
| 1999       | 308            | 125225.6                 | 14748.02                    |
| 1998       | 313            | 127862.6                 | 11127.24                    |
| 1997       | 305            | 126518.2                 | 17182                       |
| 1996       | 296            | 124606.2                 | 9412.78                     |
| 1995       | 292            | 121644.25                | 18320.24                    |
| 1994       | 295            | 122975.05                | 10221.43                    |
| 1993       | 298            | 125576.3                 | 1475.2                      |
| 1992       | 295            | 125256.68                | 1881.95                     |
| 1991       | 300            | 126471.68                | 18798.6                     |
| 1990       | 297            | 127965.68                | 19425                       |
| 1989       | 292            | 126354.68                | 25651.9                     |
| 1988       | 282            | 123601.48                | 28184.55                    |
| 1987       | 281            | 123601.68                | 13163.7                     |
| 1986       | 286            | 125320.68                | 6252.1                      |
| 1985       | 282            | 124546.68                | 13718.5                     |
| 1984       | 281            | 126221.56                | 9194.3                      |
| 1983       | 273            | 121483.08                | 10834.04                    |
| 1982       | 269            | 122297.78                | 18822.35                    |
| 1981       | 297            | 134477.62                | 13096                       |
| 1980       | 262            | 124404.88                | 14586                       |
| 1979       | 259            | 122980.02                | 9859                        |
| <b>MIN</b> | <b>259</b>     | <b>121483.08</b>         | <b>1475.20</b>              |
| <b>MAX</b> | <b>431</b>     | <b>159700.80</b>         | <b>30482.84</b>             |
|            |                |                          |                             |

Table 3. Irrigation from the Missouri: Elk Point aquifer (Water Rights, 1979-2011)

Comparison of the estimated average annual withdrawal from the entire Missouri: Elk Point aquifer with the estimated average annual recharge for the aquifer in Union County alone indicated that in general the average annual withdrawals from the aquifer do not exceed the average annual recharge to the aquifer and unappropriated water is available from the Missouri: Elk Point aquifer. Specifically, unappropriated water is available for the 190 acre-feet appropriation proposed by this application.

#### **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 to the aquifer”.

The DENR-Water Rights Program monitors 37 observation wells completed into the Missouri: Elk Point aquifer with three of these observation wells located within two miles of the well site proposed by this application (Water Rights, 2013b). Hydrographs for the nearest two of these wells are shown in Figures 1 and 2.

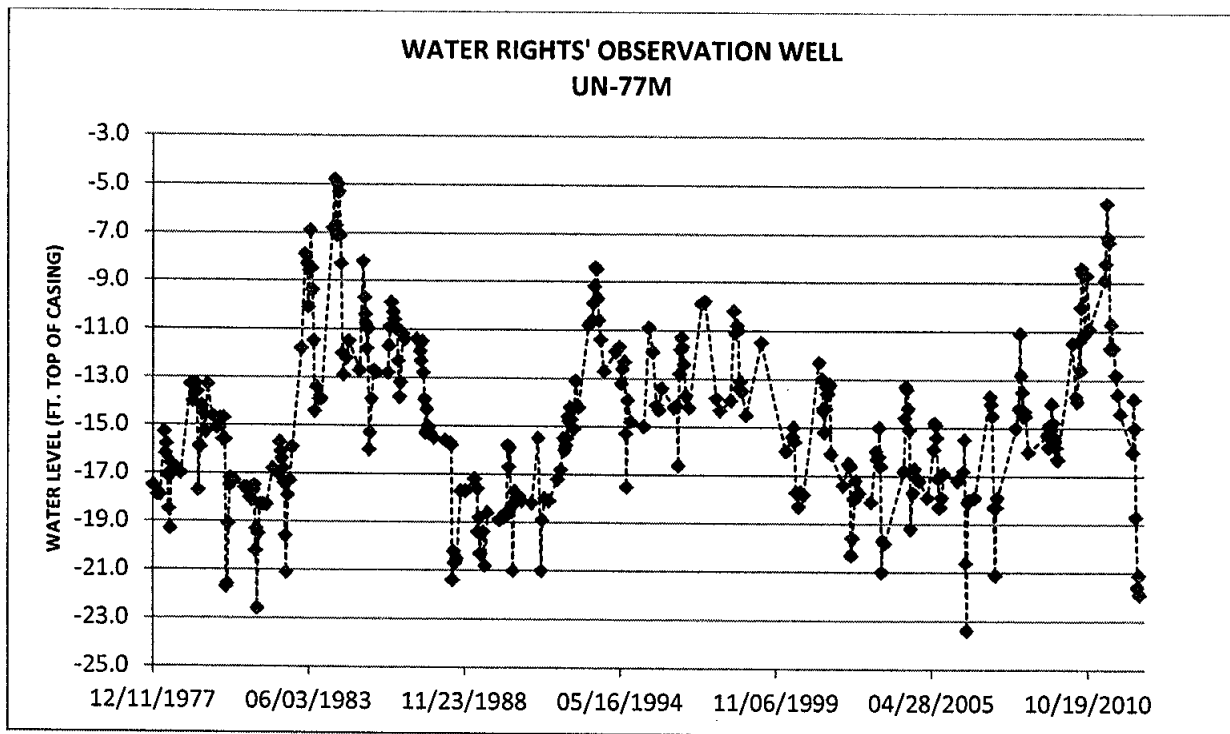


Figure 1. Hydrograph for DENR-Water Rights Observation Well UN-77M completed into the Missouri: Elk Point aquifer approximately one half mile northwest of the well site proposed by Application No. 7563-3 (Water Rights, 2013a).

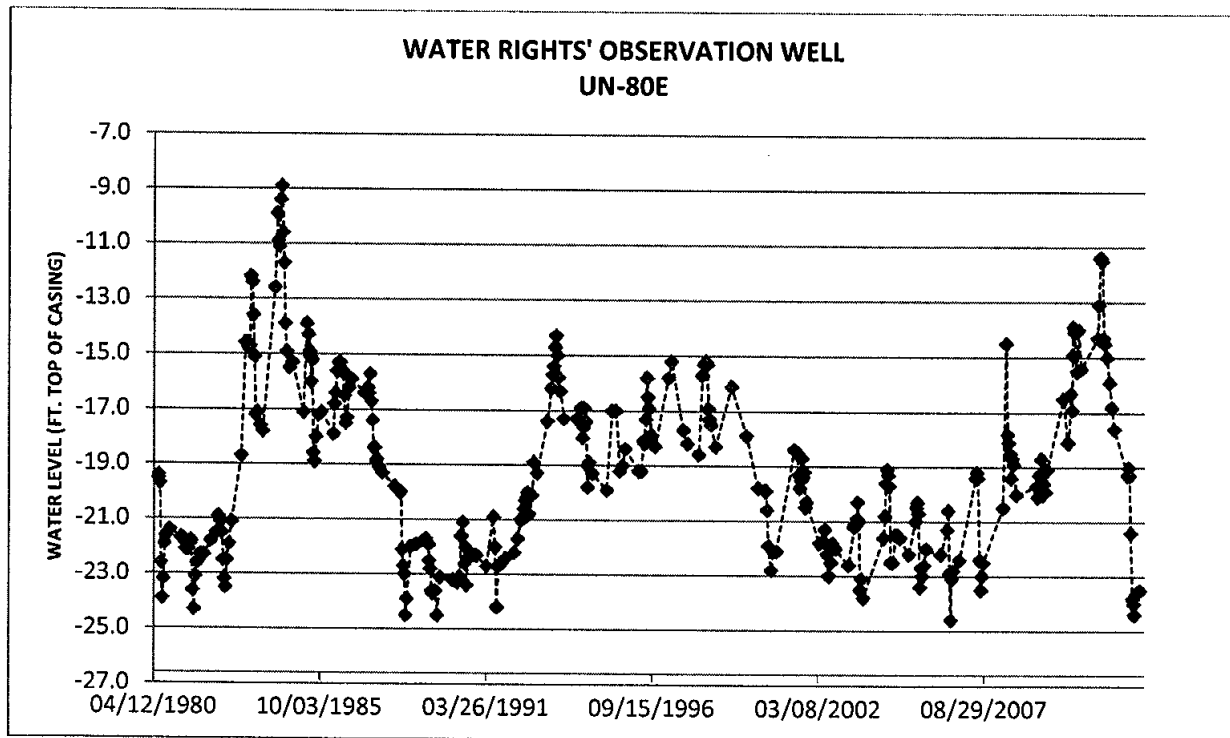


Figure 2. Hydrograph for DENR- Water Rights Observation Well UN-80E completed into the Missouri: Elk Point aquifer approximately 1.7 miles southeast of the well site proposed by Application No. 7563-3 (Water Rights, 2013a).

The observation well data shows the aquifer responds well to climatic conditions with rising water levels during wet years and gradually declining water levels during dry years. The water level data shows that over the period of record, in general discharge has not exceeded recharge. The observation well data shows that at the current level of development, climatic conditions greatly mask the temporal effects of well withdrawals. Therefore, recharge to and natural discharge from the Missouri: Elk Point aquifer significantly exceeds pumping. Recognizing that natural discharge from the aquifer can be captured for pumping. The hydrographs document that there is unappropriated water available from the aquifer to support this appropriation.

#### **EXISTING WATER RIGHTS:**

The well site proposed by this application is located approximately 7.3 miles east of the Missouri River in a portion of the Missouri: Elk Point aquifer that extends east of the Missouri River for approximately 10 miles to the edge of the aquifer at the Big Sioux River. There are 13 water rights/permits that have diversion points within a one mile radius from the proposed well site. The nearest water right/permit is Water Permit No. 2512-3, for Richard Fennel, located over 640 feet north and up-gradient from the proposed well site.

Observation well UN-77M is within 910 feet of Water Permit No. 2474-3, for Marimac Inc. which diverts at a rate of 1.9 cfs, and the hydrograph, shown in Figure 1, reports minimal drawdown at this distance due to pumping. The precise drawdown cannot be quantified without aquifer testing. With that in mind, a standard permit qualification to most groundwater permits/rights states that:

“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”.

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. To balance interests between irrigation use and delivery of water by artesian pressure, the Water Management Board has 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”

In reality, the assurance of reasonable domestic use provided by SDCL 46-6-6.1 and ARSD 74:02:04:20(7) generally ensures not only that interference will not be adverse to domestic well users but also in existing appropriative rights (i.e. in most cases, the protection afforded to adequate domestic wells by water law, would lead to enforcement of the “standard permit qualification” before there is a reduction of needed water supplies to appropriative rights). Although drawdown is expected to be minimal, as shown by the observation well hydrographs, some drawdown will occur. Depending on the extent of drawdown, some existing well owners may need to lower their pumps to accommodate for deeper water levels. However, when considering the statute and rule, there is a reasonable probability that any well interference from these proposed applications will not be adverse to adequate domestic wells.

#### **SDCL 46-5-6**

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cubic foot of water per second for every seventy acres, or “the equivalent thereof”. The statute provides that the Water Management Board may allow a greater diversion if the method of irrigation so requires. Water Permit Application No. 7563-3 proposes to divert at a rate of 1.64 cfs per 70 acres. The applicant did not provide justification for this diversion rate above the statutory limit.

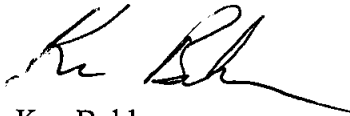
#### **CONCLUSIONS:**

1. This application proposes to appropriate up to 190 acre-feet annually for irrigation from the Missouri: Elk Point aquifer.
2. There is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer to supply this proposed appropriation.
3. The Missouri: Elk Point aquifer is under artesian conditions in this area, and drawdown from pumping is not expected to adversely impact existing water rights.



Nicole Van Dyk  
SD DENR-Water Rights Program

Approved by



Ken Buhler  
SD DENR-Water Rights Program

#### **REFERENCES:**

- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., Schoon, R.A., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Hedges, L.S., Allen, J., Holly D.E., 1985, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Niehus, C.A., 1994, Water Resources of Lincoln and Union Counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 93-4195, 57 p.
- Water Rights, 1979-2011, Irrigation Questionnaire Summaries 1979-2011, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2013a, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2013b, Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2013c, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

# AFFIDAVIT OF PUBLICATION

RECEIVED

FEB 19 2013

WATER RIGHTS  
PROGRAM

State of South Dakota )

:ss

County of Union )

Kelly Kruithoff,

an employee of the Leader-Courier, deposes and says that

## The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

Notice of Application No. 7563-3

### To Appropriate Water

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 14 day of February, 2013

and that the succeeding publications were

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_,

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_,

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_,

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 26.78, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or 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 other person whomsoever.

Kelly Kruithoff

Subscribed and sworn to before me

this 14 day of February, 2013

My commission expires 6-21-17

SUSAN ODSON  
NOTARY PUBLIC  
SOUTH DAKOTA

[Signature]  
Notary Public

## NOTICE OF APPLICATION

NO. 7563-3

### TO APPROPRIATE WATER

Notice is given that Bernhard Hall, 32429 478<sup>th</sup> Ave, Elk Point SD 57025 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second from one well to be completed into the Missouri Elk Point Aquifer (125 feet deep) located in the E 1/2 SE 1/4 Section 20 for irrigation of 95 acres located in the SE 1/4 Section 20; all in T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7563-3 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. Birner, Secretary,  
Department of Environment and  
Natural Resources

Published February 14, 2013  
Published once at the approximate  
cost of \$26.78

7-2-12

RECEIVED

FEB 19 2013

WATER RIGHTS  
PROGRAM

**AFFIDAVIT OF PUBLICATION**

**YANKTON DAILY PRESS AND DAKOTAN**

Department of Environment and Natural Resources  
PMB 2020  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON  
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE  
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER  
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY  
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID  
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED  
Notice of Application No. 7563-3

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 \$26.15 ENSURES TO THE  
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO  
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS  
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF  
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 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

2+14  
NOTICE OF APPLICATION  
NO. 7563-3 to Appropriate Water

Notice is given that Bernard Hall, 32429 478th Ave, Elk Point SD 57025 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second from one well to be completed into the Missouri/Elk Point Aquifer (125 feet deep) located in the E 1/2 SE 1/4 Section 20 for irrigation of 95 acres located in the SE 1/4 Section 20; all in T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7563-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

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The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$26.15.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[denr.sd.gov](http://denr.sd.gov)

February 5, 2013

Leader Courier  
PO Box 310  
Elk Point SD 57025

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7563-3 to Appropriate Water. Please publish the notice once on February 14, 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 Bernard Hall, 32429 478<sup>th</sup> Ave., Elk Point SD 57025 (Ph # 605-356-2823).

**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](http://denr.sd.gov)

February 5, 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](http://denr.sd.gov)

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

February 5, 2013

Bernard Hall  
32429 478<sup>th</sup> Ave  
Elk Point SD 57025

Dear Mr. Hall:

Water Permit Application No. 7563-3 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 Leader Courier printed at Elk Point SD (Ph # 605-356-2632) and the Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

  
Eric Gronlund  
Natural Resources Engineer  
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish the Notice on February 14, 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. 7563-3 to Appropriate Water

Notice is given that Bernard Hall, 32429 478<sup>th</sup> Ave, Elk Point SD 57025 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (125 feet deep) located in the E 1/2 SE 1/4 Section 20 for irrigation of 95 acres located in the SE 1/4 Section 20; all in T91N-R49W. The applicant is requesting a diversion rate greater than the statutory limit.

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The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \_\_\_\_\_.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

[denr.sd.gov](http://denr.sd.gov)

**APR 26 2013**

Bernard Hall  
32429 478<sup>th</sup> Ave  
Elk Point SD 57025

Dear Mr. Hall:

Enclosed is Water Permit No. 7563-3 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

RECEIVED

JUL - 1 2013

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

Date

June 25-2013

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

FROM:

Bernard Hall  
(name)32429 478 ave  
(address)Elk Point, SD 57025 605-356-2823  
(city, state, zip) (phone)

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

Water Permit No. 7563-3 states that the water use system is to be constructed by

Feb 25-2013, and water is to be put to beneficial use by Feb 25-2013  
(date) (date)

The water use system was completed on

June 1-2013  
(date)

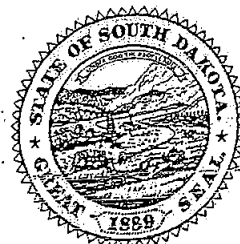
Applying the water to beneficial use was completed on

June 1-2013  
(date)

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

any time is alright

Bernard Hall  
(signature)





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

July 1, 2013

7563-3

Bernard Hall  
32429 478<sup>th</sup> Ave  
Elk Point SD 57025

Dear Mr. Hall:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system authorized under Water Permit No. 7563-3.

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

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

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

## Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7563-3

I have this day, November 3, 2016, made a thorough examination of the water use system constructed by Bernard Hall, 32429 478<sup>th</sup> Ave, Elk Point SD 57025 of Permit No. 7563-3, bearing the priority of December 6, 2012 authorizing the diversion of 2.22 cu. ft. per second of the waters of Missouri:Elk Point Aquifer for irrigation purposes, of 95 acres, in Union County.

Inspection contact & relationship     **Bernard Hall, permit holder**  
to permit holder, if applicable:

### A. Works used to divert the water:

#### Well Information:

- 1) Well Drilling Firm: Dakota Drilling & Backhoe, Inc.
- 2) No. of Wells 1
- 3) Depth(s) Unknown feet
- 4) Well log is available No

Comments: Well Driller is retired and has moved from the area.

#### Casing:

- 1) Diameter Unknown inches
- 2) Length \_\_\_\_\_ feet
- 3) Type Unknown

#### Screen:

- 1) Type Unknown
- 2) Length \_\_\_\_\_ feet
- 3) Static water level \_\_\_\_\_ feet

#### Pump:

- 1) Make Unknown
- 2) Model In-Line Shaft
- 3) Capacity 1000 GPM

#### Motor:

- 1) Make U.S. Motors
- 2) Model No. BF54A
- 3) Horsepower rating 50 hp

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

**Center pivot:**

- 1) Make Valley
- 2) Overall length 1298 feet
- 3) Number of towers 7
- 4) End gun Yes
- 5) Capacity 1000 GPM

**Chemigation Equipment:**

- 1) Does chemigate No

**D. Compliance with Permit Requirements:**

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes, began irrigating in 2013.

List any extended period of nonuse: None

- 3) Exceptions to compliance are: None

**E. Condition and Location:**

1. The system is in good condition with the point(s) of diversion located as follows: West 680', North 1340' from SE Corner of Sec 20-T91N-R49W; Lat 42.68217/Long -96.64806; NE ¼ SE ¼ Sec 20-T91N-R49W.
2. The works are capable of diverting and conveying to the place of use 2.22 cfs or 1000 gpm of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:  
All land is located in Sec 20-T91N-R49W.  

|                          |                          |
|--------------------------|--------------------------|
| <u>NW ¼ SE ¼ - 14 ac</u> | <u>NE ¼ SE ¼ - 31 ac</u> |
| <u>SW ¼ SE ¼ - 14 ac</u> | <u>SE ¼ SE ¼ - 29 ac</u> |

comprising a total of 88 acres of land and the license should be issued for 2.22 cfs or 1000 gpm.
3. All structures, wells and lands on map Yes

**F. Comments or other permit(s) associated with the project:**

**Report of Examination of Works**

Permit No. 7563-3

**Provide detailed explanation when multiple permits are involved or any discrepancy between what the permit was issued for and what was developed.**

**One acre in SE ¼ NE ¼ Sec 20-T91N-R49W is not included as it overlaps Water Right No. 2449-3.**

**Water Permit No. 7563-3 appropriates a diversion rate greater than the statutory limit of 1 cfs per 70 acres irrigated.**

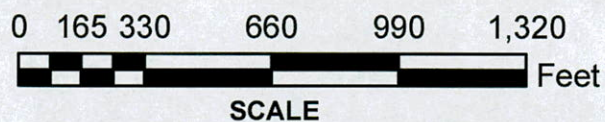
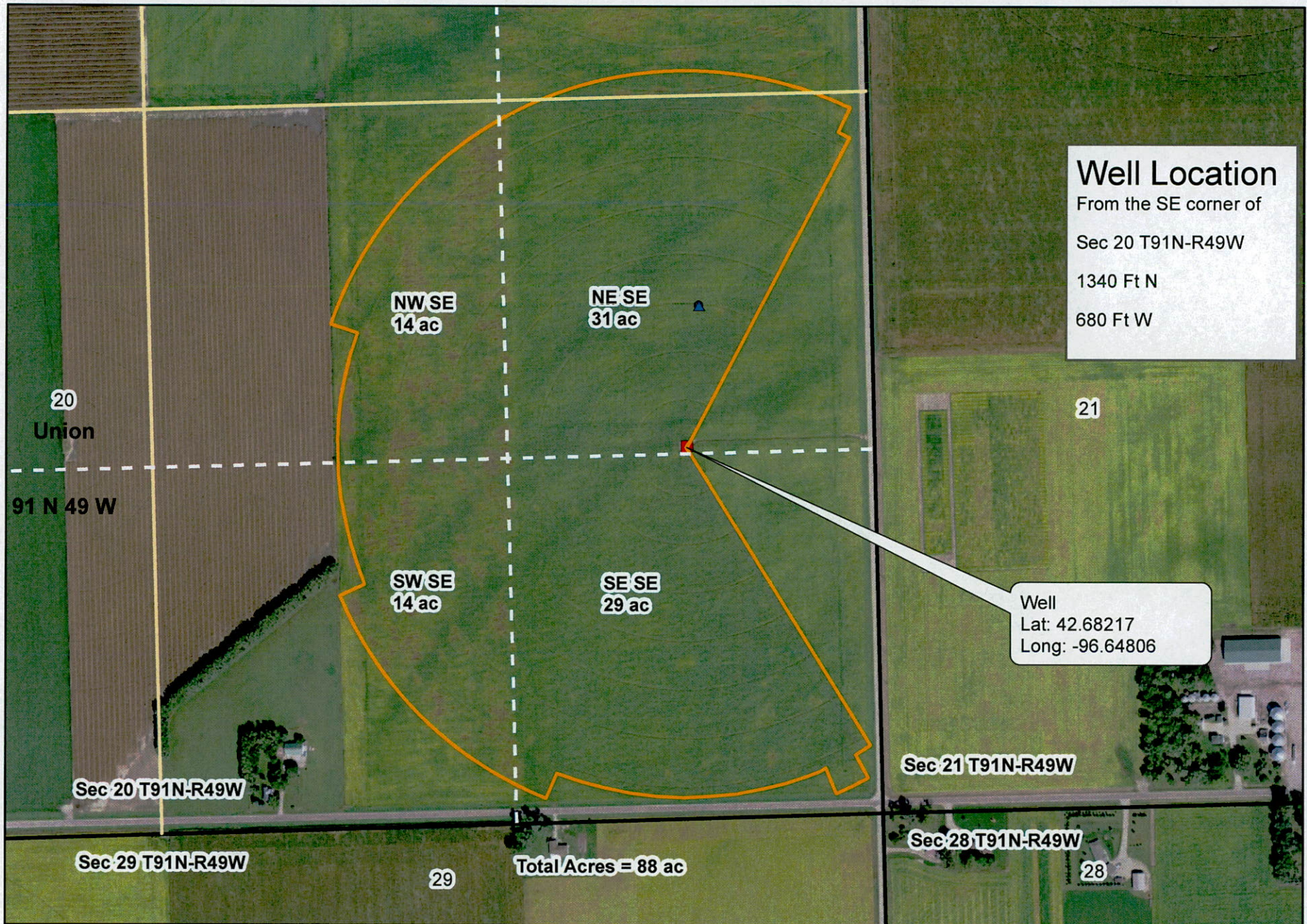


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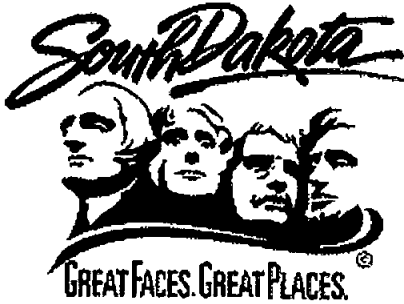
Harold Holoch, PE  
Staff Engineer  
DENR, Water Rights Program

Date report completed: **March 15, 2017**

7563-3



*Harold Holoch*  
Harold Holoch, PE  
Staff Engineer  
March 15, 2017



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

MAY 30 2017

7563-3

Bernard Hall  
32429 478<sup>th</sup> Ave  
Elk Point SD 57025

Dear Mr. Hall:

Enclosed is Water License No. 7563-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 7563-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

enclosures

# STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 7563-3

(1) Bernard Hall, 32429 478<sup>th</sup> Ave, Elk Point SD 57025 made Application No. 7563-3, December 6, 2012 for a water permit to divert 2.22 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer), Union County, South Dakota for irrigation purposes. Permit No. 7563-3, with a priority date of December 6, 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 said water on or before February 25, 2022.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on July 1, 2013. The "*Notice*" stated the water use system was completed and the water placed to beneficial use on June 1, 2013.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 2.22 cubic feet of water per second for beneficial use. The location of the diversion point is 680 feet west and 1,340 feet north of the SE corner of Section 20, T91N, R49W (NE ¼ SE ¼).

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

|                        |           |          |
|------------------------|-----------|----------|
| Section 20, T91N, R49W | NW ¼ SE ¼ | 14 acres |
|                        | SW ¼ SE ¼ | 14 acres |
|                        | NE ¼ SE ¼ | 31 acres |
|                        | SE ¼ SE ¼ | 29 acres |
|                        | Total     | 88 acres |

*The center pivot has a one acre overlap into the SE ¼ NE ¼ Section 20, T91N, R49W that is not included on this license. The one acre is authorized under Water Right No. 2449-3.*

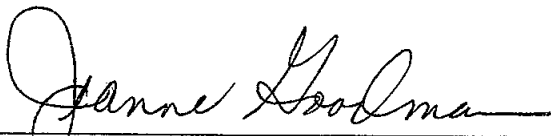
(4) Pursuant to South Dakota Water Law 46-5-30.1 Bernard Hall, 32429 478<sup>th</sup> Ave, Elk Point SD 57025 the holder and/or owner of Water Right No. 7563-3 is issued a license to appropriate water, the right to use 2.22 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer) with a priority date of December 6, 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. 7563-3 and subject to the following qualifications:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

continued

- The well authorized by Permit No. 7563-3 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.
- Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 7563-3 authorizes a maximum diversion rate of 2.22 cfs for the irrigation of 88 acres with an annual volume not to exceed 2 acre feet of water per acre per year. *Permit originally issued for 95 acres – qualification is now based on the 88 acres actually developed.*
- 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 30 2017

date



## NOTICE OF TRANSFER OF OWNERSHIP

For assistance call 605-773-3352

PAID

DEC 18 2019

Ck# 6663

Mail to: PMB 2020  
DENR - Water Rights Program  
523 E Capitol Ave  
Pierre, SD 57501-3182

DEC 18 2019

WATER RIGHTS  
PROGRAM

Water Right/Permit No. 7563-3

Date: 12/16/19

I/We request that Water Right/Permit No. 7563-3 formerly owned by:

Bernard Hall be transferred to:

New Owner Name: Keith Hall

Address: 912 E. Washington

City, State, Zip Elk Point SD 57025 Telephone No. 605-356-3140

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

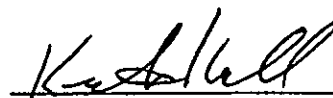
sec 20-T091N-R49W, NW1/4SE1/4 - 14.00 acres  
sec 20-T091N-R49W, SW1/4SE1/4 - 14.00 acres  
sec 20-T091N-R49W, NE1/4SE1/4 - 31.00 acres  
sec 20-T091N-R49W, SE1/4SE1/4 - 29.00 acres

☒ I understand that the validity of Water Right/Permit No. 7563-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Keith Hall, the new owner, certify that the above information is true and correct.



(signed by new owner)

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

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

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 18, 2019

RECEIVED OF Keith/Toni Hall 912 E Washinton St Elk Point SD 57025

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

|                                                                                                                |       |    |
|----------------------------------------------------------------------------------------------------------------|-------|----|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 50    | 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. _____            |       |    |
| Fee for Filing Transfer Form <u>7563-3</u>                                                                     |       |    |
| 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. _____                                         | 50    | 00 |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |    |
| (Any Other Work Provided by Law)                                                                               | TOTAL |    |

No. **09295**

By Jeanne Goodman  
Chief Engineer  
*pm*

7563-3



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

December 26, 2019

2121-3  
2449-3  
7563-3

Keith Hall  
912 E Washington  
Elk Point SD 57025

Dear Mr. Hall:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership on Water Right Nos. 2121-3, 2449-3 and 7563-3.

The ownership changes have been completed. The water rights, formerly held by Bernard Hall, are now listed in your name.

Enclosed for your records are Receipt Nos. 09293, 09294 and 09295 in the amount of \$50 each. If you have any questions, please contact me.

Sincerely,

  
Genny McMath  
DENR - Water Rights Program  
605 773-3352

enclosures



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

January 20, 2022

**NOTICE**

TO: KEITH HALL, LEASOR, 912 E WASHINGTON ST, ELK POINT, SD 57025 2269  
FROM: Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaires

Our records indicate your 2021 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2121-3, 2341A-3, 2449-3 & 2858-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 6801-3, 7563-3 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) 6801-3, 7563-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2121-3, 2341A-3, 2449-3 & 2858-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires 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 questionnaires 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](mailto: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: CPYVTT**

c: ALVIN HOWE, 30778 R 49, HINTON, IA 51024

**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.

7563-3



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

January 26, 2022

Keith Hall  
912 E Washington St  
Elk Point SD 57025-2269

RE: Water Right or Permit Nos. 2121-3, 2341A-3, 2449-3, 2858-3, 6801-3 and 7563-3

Dear Mr. Hall:

I am writing to acknowledge receipt of your 2021 irrigation questionnaires.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for the above listed water permits/rights. 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