

WATER PERMIT NO. 7607-3

Name of Applicant: Ken Swatek

Address: 29804 395th Ave, Wagner SD 57380 Phone: 605 384-3502

Amount of Water Claimed: 1.78 cfs Total Acres: 111 acres

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation County: Charles Mix

Type of Waste Disposal System:

Location: 1/2 mile southeast of Wagner

PRIORITY Date Received: 12-18-12

Application/License Fee: \$ 950

Corrected Application Received: 12-31-12

Period of Annual Use: April 1 – September 30

Remarks:

Diversion Point: center of NE 1/4 Sec 3-T95N-
R63W

Land to be Irrigated: NE 1/4, E 1/2 NW 1/4 Sec 3-
T95N-R63W

Depth of Well: 280 feet deep

Well Driller:

Remarks:

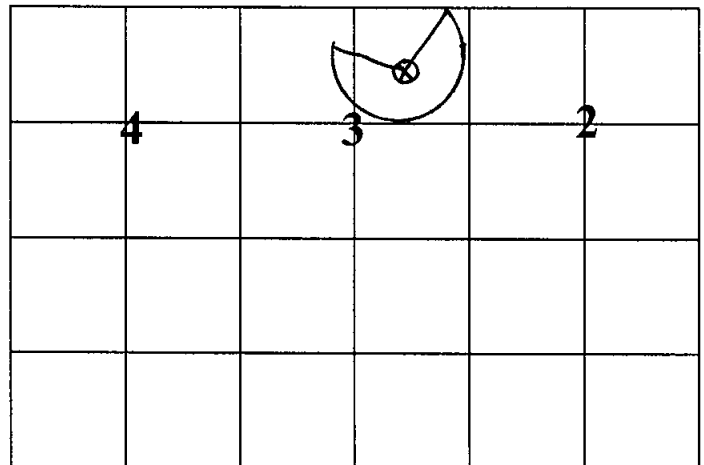
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 1-4-13

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. 7607-3 (office use only)
Hydrologic Unit 10170101
Basin Missouri River 605-384-5616
Newspaper Wagner Post Box 187 57380
Daily Republic Box 1288 Mitchell 57301 605-996-5514

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DEC 18 2012

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application:



New



Vested Right



Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

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

1. Name to Appear on Irrigation Permit Ken Swatek(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 29804 395th Ave.

(Address)

Wagner

(City)

S.D

(State)

57380

(Zip Code)

Home Phone 605-384-3502 Cell 605-491-1499 Email kvsbatek@hcinet.net2. Amount of water claimed 1.78 CFS or X 800-1000**GPM ***AF Total Acreage 111

(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply 1 - WELL4. Location of point of diversion 1 - WELL

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

approximate center NE 1/4 Sec 3 - T95N-R63WCounty CHARLES MIX5. County or counties where water will be used Charles Mix6. Annual period during which water is to be used APRIL 1 THRU 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
<u>NE 1/4 3 - 95N - 63W</u>	<u>111 acres</u>		
<u>E 1/2 NW 1/4</u>			
<u>(see map)</u>			

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

WELL WILL BE IN SECTION 3 TO IRRIGATE
APPRX 111 acres. Requesting div. rate greater than
statutory limit

I, KEN SWATEK, 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. 7607-3**

Date of first receipt of application December 18, 2012.

Date of return to applicant for corrections, amendments or changes December 27, 2012.

Date of receipt of corrected application December 31, 2012.

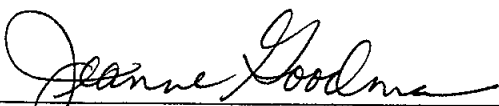
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7607-3 to Ken Swatek, 29804 395th Ave, Wagner SD 57380 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7607-3 appropriates 1.78 cubic feet of water per second from one well to be completed into the Choteau:West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 for irrigation of 111 acres located in the NE 1/4, E 1/2 NW 1/4 Section 3; all in T95N-R63W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – September 30.
3. The date from which applicant may claim right is December 18, 2012.
4. The date of approval of Permit No. 7607-3 is April 22, 2013.
5. One-fifth of the construction is to be completed on or before October 22, 2015.
6. All construction is to be completed on or before April 22, 2018.
7. Water is to be put to beneficial use on or before April 22, 2022.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

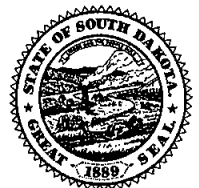
1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7607-3 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. 7607-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 111 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, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAY 15 2013

date



Supplemental Information

(type or print)

1. Well Information

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

a) If new wells, how many 1 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many 0 Provide copy of log(s), if available. Drilled by _____

c) Well Depth 280' Depth to Top of Water Bearing Material 160' Depth to Water from Surface 90'

d) Distance to nearest existing domestic well:

On applicant's property 1 mi/2 On property owned by others _____

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) 800 to 1000 gpm 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)

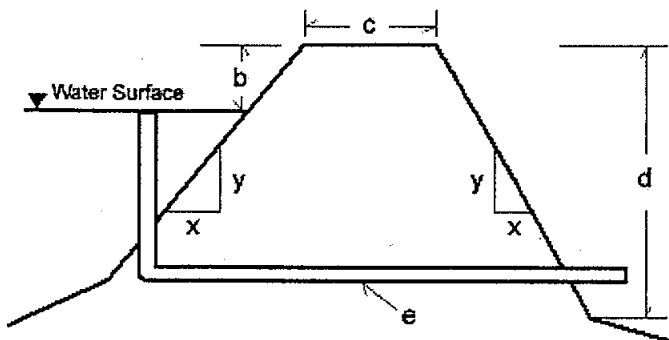
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



Sec 28
T096N
R63W

Sec 27
T096N
R63W

Sec 26
T096N
R63W

Sec 33
T096N
R63W

Sec 34
T096N
R63W

Sec 35
T096N
R63W

Sec 4
T095N
R63W

Sec 3
T095N
R63W

Sec 2
T095N
R63W

Sec 9
T095N
R63W

Sec 10
T095N
R63W

Sec 11
T095N
R63W

Sec 14
T095N
R63W

ARR 11/1/02



United States Department of Agriculture
Farm Service Agency

PLSS: 3_95N_63W
Farm: 7703

Charles Mix County, SD
1:8,205

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.

March 17, 2011

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Wetland Determination Identifiers
 ● Restricted Use
 ▽ Limited Restrictions
 □ Exempt from Conservation Compliance Provisions

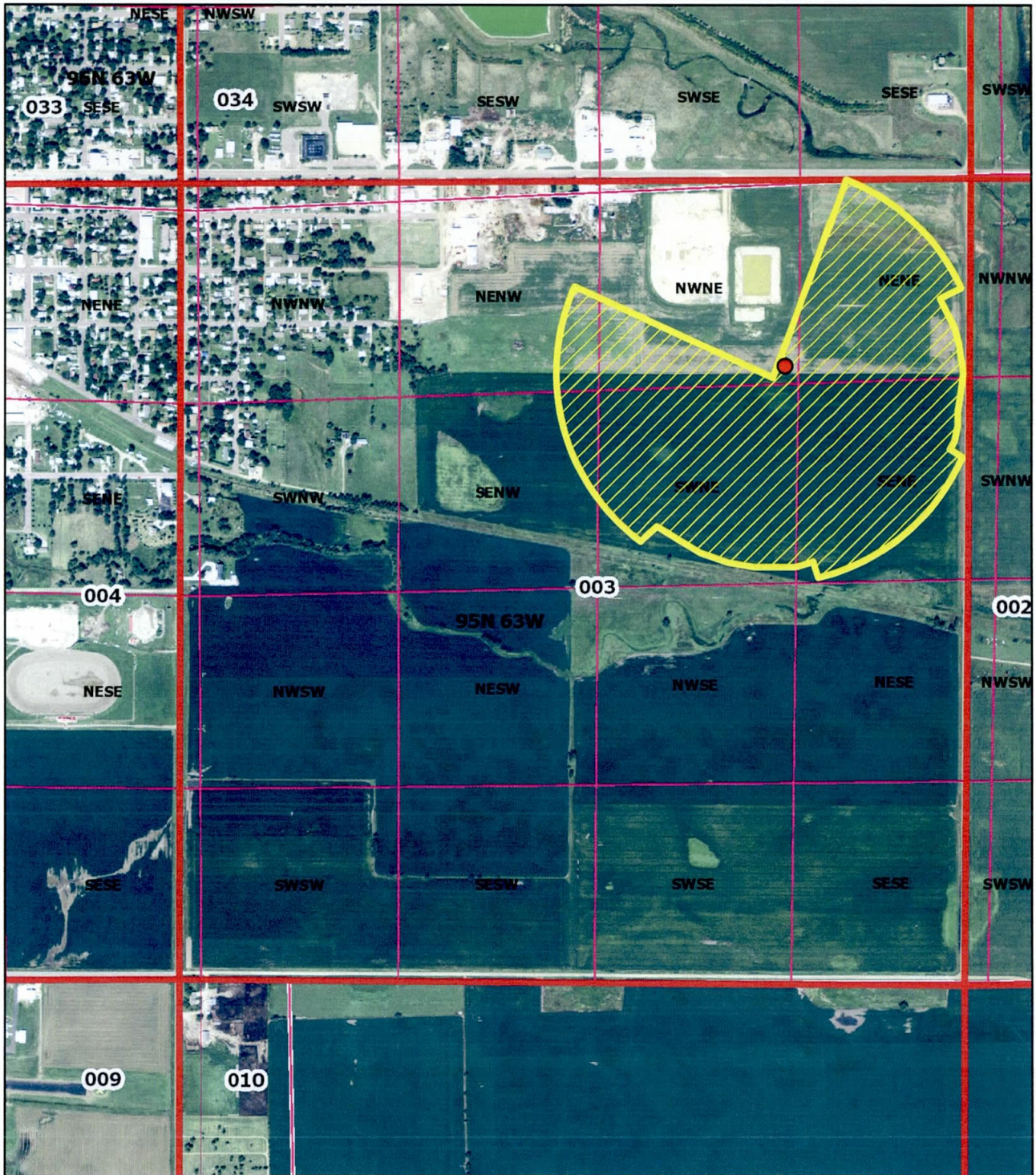


Common Land Units

/// Non Cropland

2010 Ortho-Photography - Not to Scale

Breakdown of Acres for Ken Swatek's Water Permit Application



all is Section 3, T95N, R63W

NE 1/4 NW 1/4	4
SE 1/4 NW 1/4	5
NW 1/4 NE 1/4	11
NE 1/4 NE 1/4	27
SW 1/4 NE 1/4	35
SE 1/4 NE 1/4	29
Total	111 acres



Eric Gronlund

Eric Gronlund
Water Rights Program, DENR
breakdown of acres based on map
submitted by Mr. Swatek

Anson Electric Inc. Ewing/Brunswick Nebraska



Grower: Ken Swatek



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South Dakota Department of Environment and Natural Resources

Date 12/18, 20 12

RECEIVED OF Ken Swatek 29804 395th Ave Wagner SD 57380

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

Fee for Application for Permit No. <u>7607-3</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>7607-3</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. **05781**

By

David Erbe
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

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December 27, 2012

Ken Swatek
29804 395th Ave
Wagner SD 57380

Dear Mr. Swatek:

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

- Enclosed are the aerial photo maps submitted with the application. For your use, I have enclosed a map of Section 3-T95N-R63W. On this map, please outline the 111 acres to be covered by the proposed irrigation system. Please mark the proposed well location with an "X".
- It appears that the 111 acres will be located in the NE 1/4 Section 3. Do you agree? *yes* —
- Please complete item No. 2, Amount of water claimed. 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 1.59 cfs or 715 gpm to irrigate the total 111 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).

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. 7607-3, Ken Swatek**

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. 7607-3, Ken Swatek, 29804 395th Avenue, Wagner SD 57380.

The Chief Engineer is recommending APPROVAL of Application No. 7607-3 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. 7607-3 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. 7607-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 111 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
March 4, 2013

REPORT TO THE CHIEF ENGINEER

WATER PERMIT APPLICATION NO. 7607-3

Ken Swatek

February 20, 2013

Water Permit Application No. 7607-3 proposes to appropriate 222 acre-feet per year (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 West management unit of the Choteau aquifer. The well is expected to be approximately 280 feet deep and is to be located in the approximate center of NE¼ of Section 3 to irrigate 111 acres located in the NE¼, W½ NW¼ of Section 3, all in T95N-R63W in Charles Mix County. The application proposes a diversion rate in excess of the statutory limit.

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

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Choteau: West is a buried outwash with western origin stream deposits consisting of sand and gravel occurring in several layers within the till. The aquifer is under artesian conditions (Kume, 1977). The majority of the aquifer lies within Charles Mix County, and also extends north into Douglas County and east into Bon Homme County. In total, the Choteau: West aquifer is estimated to underlie 218,400 acres and contain 1,474,200 ac-ft of recoverable water in storage (Hedges and others, 1982).

A test hole log was not submitted with this application as required by ARSD 74:02:01:08.01; however, information is available to evaluate the area of the proposed well site. The saturated thickness of the Choteau: West aquifer ranges from five to 89 feet, with an average of 35 feet (Kume, 1977). The ground surface elevation at the proposed well site is approximately 1,430 feet above mean sea level. The proposed well site is located near geologic cross section I-I' completed by Kume (1977), as shown in Figure 1. Geologic cross section I-I', shown in Figure 2, displays the top of the Choteau aquifer at approximately 1,250 feet above mean sea level and the top of the Niobrara Formation at approximately 1,200 feet above mean sea level. The applicant estimated depth to water bearing material at 160 feet; therefore, the applicant is pursuing the Choteau: West aquifer. The total well depth of 280 feet proposed on the application is likely an over estimation.

SDCL 46-2A-9

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

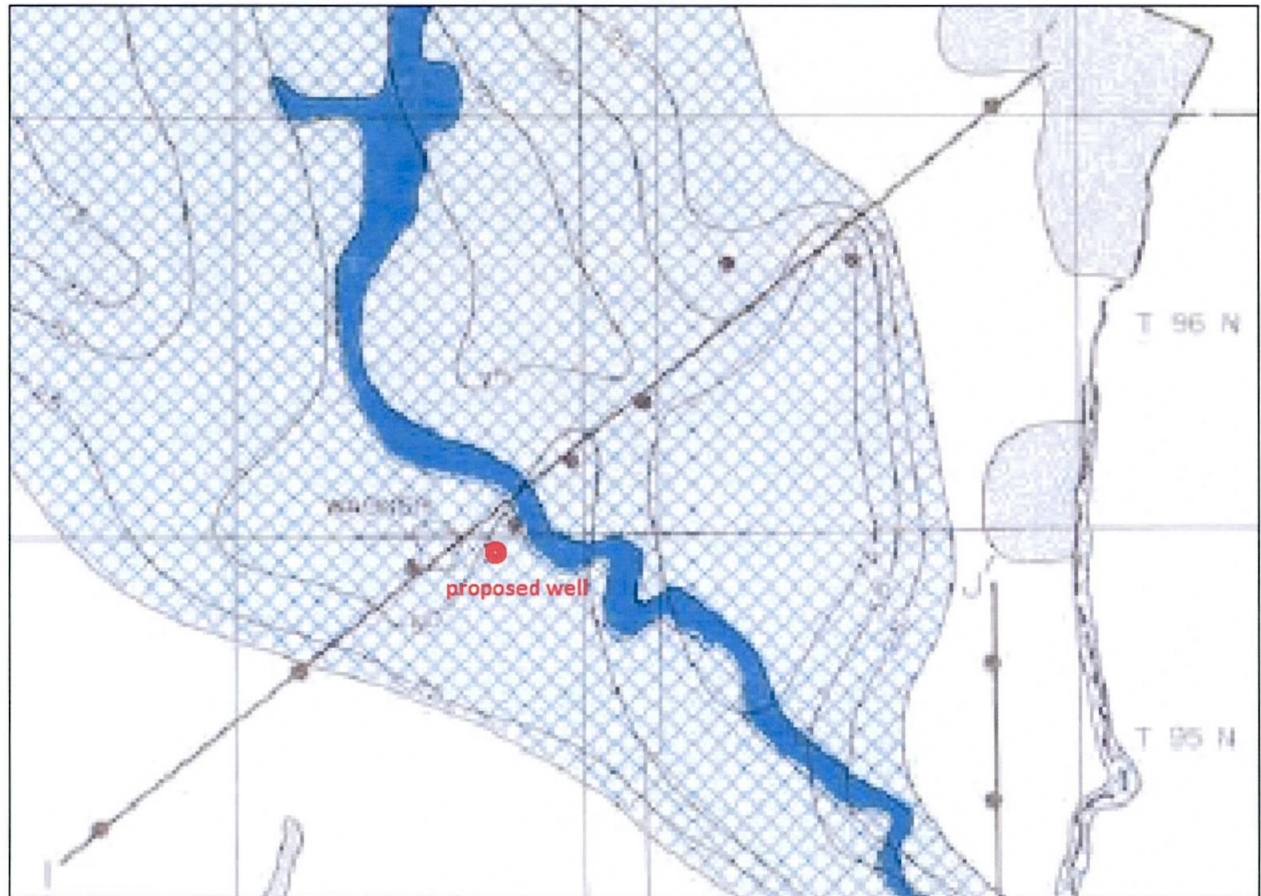


Figure 1: Map of geologic cross section I-I' and proposed well site (modified from Kume, 1977)

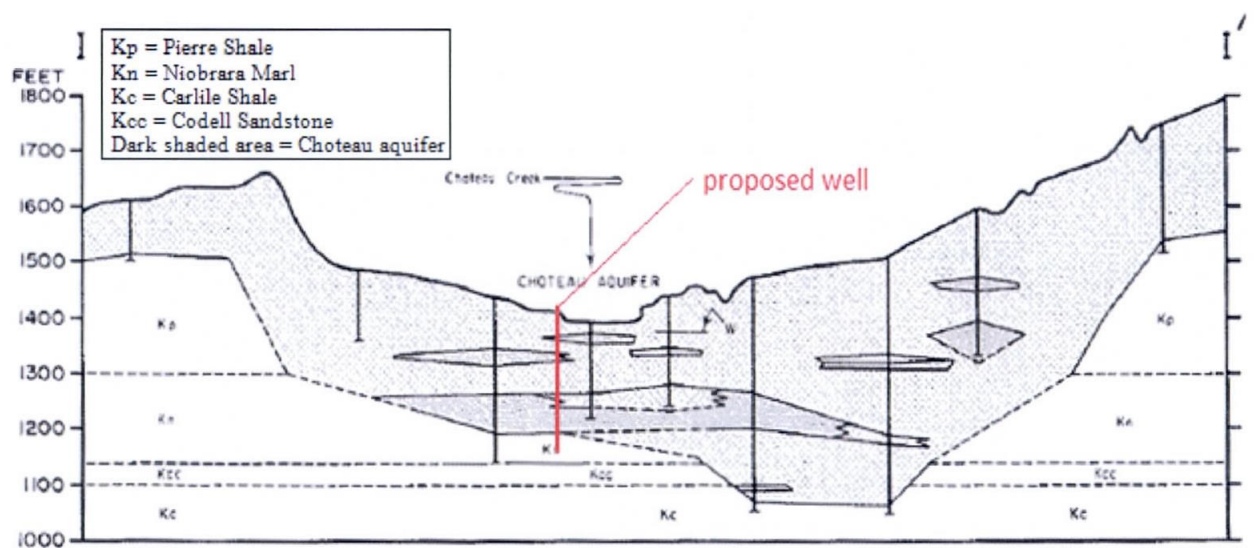


Figure 2: Geologic cross section I-I' (modified from Kume, 1977)

WATER AVAILABILITY:

This application proposes to appropriate 222 ac-ft/yr from the Choteau: West aquifer. If this application is approved, the actual water use will likely be less than the appropriation. The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

Hydrologic Budget:

Recharge:

Recharge to the Choteau: West aquifer is mostly from adjacent till, and also from leakage where the aquifer lies directly on the Niobrara, such as the case in the vicinity of the proposed well site (Kume, 1977). Because the potentiometric surface of bedrock aquifers are generally higher than that of surficial aquifers, there is a substantial potential for up flow, creating a significant recharge source. According to Hedges and others (1985), this is exactly the case for the Choteau: West and bedrock Niobrara aquifers.

Based on observation well data, recharge to unconfined portions of the Choteau: West aquifer was determined to be 4.1 inches per year (in/yr) (Hedges and others, 1985). The aquifer is also under confined conditions frequently. For management and development programs, Hedges and others (1985) suggests an estimated recharge rate range, based on observation well data, of 0.15 to 0.60 in/yr for confined aquifers.

Discharge:

Discharge from the Choteau: West aquifer occurs through seepage to springs, surrounding drift, or bedrock, and also due to well withdrawals. Currently there are 47 water rights/permits appropriating from the Choteau: West aquifer (Water Rights, 2013b). There are also two water permit applications being processed at this time: Water Permit Application No. 7626-3 proposes appropriating up to 560 ac-ft/yr and Water Permit Application No. 7628-3 proposes appropriating up to 152 ac-ft/yr.

The amount of water that can be expected to be withdrawn by non-irrigation use water rights/permits can be estimated by assuming water rights/permits limited only by diversion rate will pump at the maximum permitted diversion rate 60 percent of the time. The City of Wagner has connected to a rural water system, and therefore, the associated water rights are no longer expected to withdraw from the aquifer (Water Rights, 2013b). Therefore, the total annual withdrawal from the Choteau: West aquifer by non-irrigation use is expected to be less than 366 ac-ft/yr (Water Rights, 2013b).

In addition, there are many well completion reports on file with the SD DENR-Water Rights Program for domestic wells that appear to be completed into the Choteau: West aquifer (Water Rights, 2013c). The annual withdrawal due to domestic use is not significant to the hydrologic budget of the aquifer.

The irrigation development of the Choteau: West aquifer over the period of record, 1979 to 2011, has remained at the same general level. The annual withdrawal from the aquifer fluctuates, as shown in Figure 3. This is probably mostly dependent on annual growing season climatic conditions. Over the period of record, the average pumpage reported equals 2,325 ac-ft/yr. The maximum and minimum pumpage reported was 4,538 and 335 ac-ft/yr, respectively (Water Rights, 1980-2012).

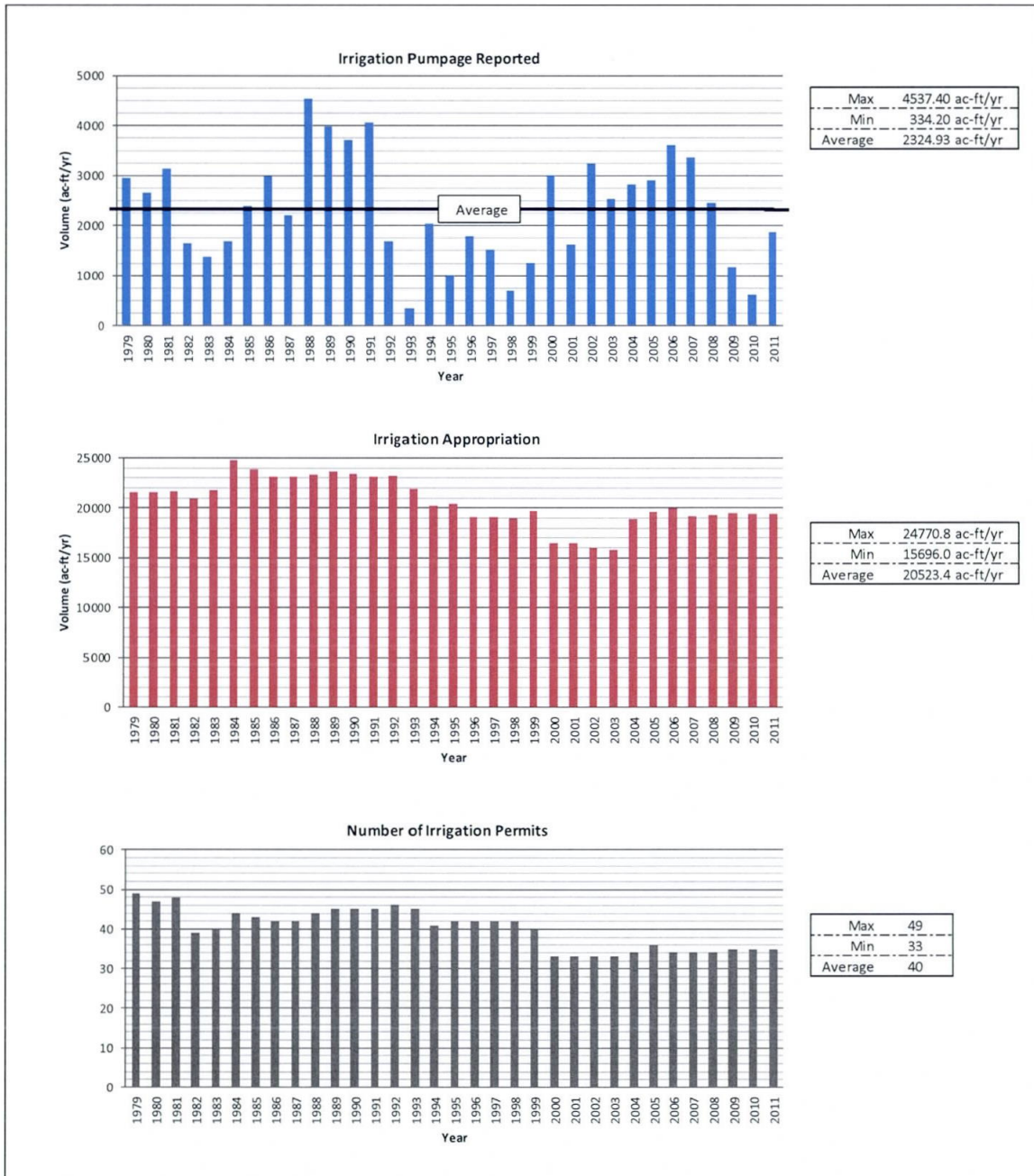


Figure 3: Historic irrigation water use from the Choteau: West aquifer (Water Rights, 1980-2012)

Water Balance:

The average annual withdrawal from the Choteau: West aquifer is estimated to be less than 2,691 ac-ft/yr. To balance the hydrologic budget, recharge must equal withdrawal. And so, assuming average annual use plus the maximum use proposed by this application, recharge to this aquifer must equal 0.16 in/yr. If the two other pending water permit applications are approved, and assuming maximum use proposed by these three applications plus average annual use, recharge to this aquifer must equal 0.20 in/yr. This required recharge rate is on the low end of the suggested recharge rate range provided by Hedges and others (1985). Therefore, there is a reasonable probability that unappropriated water is available from the Choteau: West aquifer for this proposed appropriation of 222 ac-ft/yr.

Observation Well Data:

Administrative Rule of South Dakota Section 74:02:05:07 requires that “the Water Management Board shall rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.”

The SD DENR-Water Rights Program monitors 25 observation wells in the Choteau: West aquifer. The nearest observation well, CM-68F, is located approximately 1.7 miles northeast of the proposed well site. The associated hydrograph is shown in Figure 4 (Water Rights, 2013a).

The observation well data documents cyclic conditions of water levels, recharging during wet years and declining during dry years. The effects of pumping are also evident. This data documents that, at the current level of development, temporal well withdrawal is masked by climatic conditions. Therefore, recharge to and natural discharge from the Choteau: West aquifer exceeds pumping, indicating that unappropriated water is available from the aquifer to support the proposed appropriation of 222 ac-ft/yr.

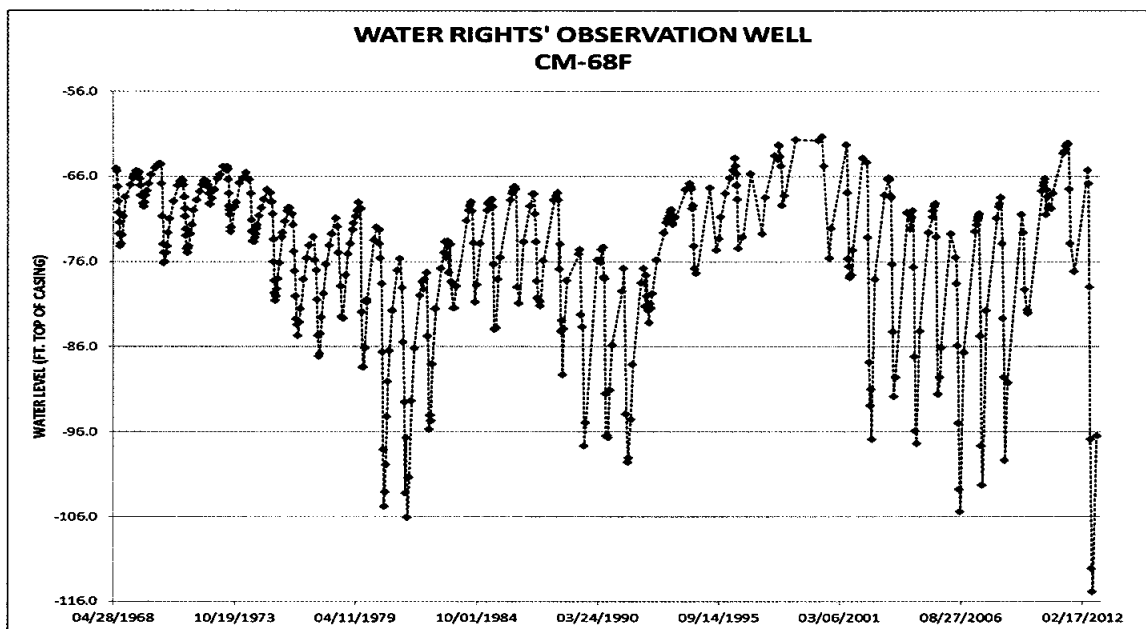


Figure 4: Hydrograph for observation well CM-68F (Water Rights, 2013a)

EXISTING WATER RIGHTS:

If approved, the proposed well will be located near other wells that obtain water from the same aquifer. With that in mind, a standard permit qualification to most groundwater permits/rights stating 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” should be placed on this permit if approved.

There are five water rights/permits appropriating water from the Choteau: West aquifer with diversion points within two miles of the proposed well site; these are shown in Table 1. As previously discussed, the City of Wagner is no longer expected to withdraw from the aquifer. However, these municipal water rights are generally maintained for fire protection, and so, potential impairment of these rights are considered (Water Rights, 2013b). Water Right No. 569-3, City of Wagner, has the nearest diversion point at approximately 2,000 feet north of the proposed well site. There are also several well completion reports on record with the SD DENR-Water Rights Program for domestic wells within two miles of the proposed well site that could be completed into the Choteau: West aquifer (Water Rights, 2013c).

Table 1: Water rights/permits with diversion points within two miles of the proposed well site (Water Rights, 2013b)

Permit No.	Name	Priority Date	Status	Type	Diversion Rate (CFS)	Acres
1782-3	City of Wagner	10/19/1970	LC	MUN	0.89	0
2323A-3	Samuel D & Angela M Fousek	06/26/1975	LC	IRR	2.44	204.44
5183-3	Arlo Miller	03/14/1988	LC	IRR	3.55	311
569-3	City of Wagner	01/01/1951	LC	MUN	1.1	0
6271-3	Sandra Eitemiller	07/09/2001	LC	IRR	1.78	132
LC = Water Right, MUN = Municipal, IRR = Irrigation						

The Choteau: West aquifer is under artesian conditions at the proposed well site; therefore, some drawdown due to pumping is likely. However, precise drawdown cannot be quantified without aquifer testing. The Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. SDCL 46-6-6.1 does not require protection of artesian head pressure as a means of groundwater delivery. However, reasonable domestic use must be assured before irrigation use is allowed. Therefore, when considering irrigation projects, the Water Management Board must give consideration to maintaining artesian head pressure as a method of delivery for domestic wells. To balance interests between irrigation use and delivery of groundwater by artesian pressure, ARSD 74:02:04:20(7) defines an adversely impacted domestic well 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: West aquifer at the proposed well site, some existing well owners may need to lower their pumps to accommodate possible reduction of head pressure.

There are three water rights within two miles of observation well CM-68F, whose hydrograph is shown in Figure 4. The hydrograph documents the obvious effects of pumping; however, these

effects have been relatively minimal over the period of record (Water Rights, 2013a). At the distances involved there is a reasonable probability that any well interference from the proposed appropriation will not adversely or unlawfully impair existing nearby wells.

Irrigation development in the 1950's in this area was very controversial. Irrigation pumping caused changes in the water levels in domestic wells that resulted in wells that no longer were free flowing at the surface and caused other wells to have pumps lowered. The early controversies were resolved and there have been no issues in this area for several years. The change in South Dakota Water Law no longer protecting artesian head pressure as a means of water delivery would have made these early controversies non-issues.

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.

This water permit application proposes to divert at a rate of 1.78 cfs per 111 acres, equaling 1.12 cfs per 70 acres. The application indicates that the proposed pivot will not make a full rotation. This requested diversion rate is probably an operational requirement of the equipment that is unrelated to the amount of rotation and subsequent area of land irrigated.

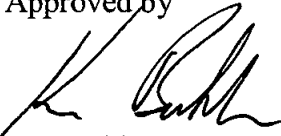
CONCLUSIONS:

1. The application proposes to appropriate 222 ac-ft/yr for irrigation.
2. There is a reasonable probability that unappropriated water is available from the Choteau: West aquifer to supply the proposed appropriation.
3. There is a reasonable probability that this proposed well will not adversely or unlawfully impair existing nearby wells.
4. This application has requested an additional diversion rate in excess of one cfs per 70 acres.



Joseph R Stonesifer
SD DENR-Water Rights Program

Approved by



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Hedges, L.S., S.L. Burch, D.L. Iles, R.A. Barari, and R.A. Schoon. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Allen, J., and Holly, D.E. 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 7: Ground Water Recharge. South Dakota DENR-Geological Survey, Vermillion, South Dakota.
- Kume, J. 1977. Geology and Water Resources of Charles Mix and Douglas Counties, South Dakota; Part II: Water Resources. S.D. Geological Survey Bulletin 22. SD DENR-Geological Survey, Vermillion, South Dakota.
- Water Rights. 1980-2012. "Annual Irrigation Summary by Aquifer": SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2013a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2013b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2013c. Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

March 4, 2013

Wagner Post
PO Box 187
Wagner SD 57380

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7607-3 to Appropriate Water. Please publish the notice once on March 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 Ken Swatek, 29804 395th Ave, Wagner SD 57380 (Ph # 605-384-3502).

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

March 4, 2013

Mitchell Daily Republic
PO Box 1288
Mitchell SD 57301

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7607-3 to Appropriate Water. Please publish the notice once on March 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 Ken Swatek, 29804 395th Ave, Wagner SD 57380 (Ph # 605-384-3502).

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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.

March 4, 2013

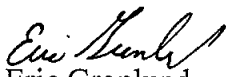
Ken Swatek
29804 395th Ave
Wagner SD 57380

Dear Mr. Swatek:

Water Permit Application No. 7607-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Wagner Post printed at Wagner SD (Ph # 605-384-5616) and the Daily Republic printed at Mitchell SD (Ph # 605-996-5514). 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 March 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. 7607-3 to Appropriate Water

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 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:West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 for irrigation of 111 acres located in the NE 1/4, W 1/2 NW 1/4 Section 3; all in T95N-R63W. 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. 7607-3 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 March 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_____.

RECEIVED

MAR 15 2013

WATER RIGHTS
PROGRAM

NOTICE OF
APPLICATION
NO. 7607-3

to Appropriate Water

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 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 West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 for irrigation of 111 acres located in the NE 1/4 W 1/2 NW 1/4 Section 9, all in T95N-R63W. 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. 7607-3 because: 1) unappropriated water is available; 2) existing rights will not be unlawfully impaired; 3) it is a beneficial use of water; and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

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Published once at the total approximate cost of \$59.55

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

Penny Hohbach of said county, being, first duly sworn, on oath, says; that he/she is the publisher or an employee of the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 issues(s), to wit:

Wednesday, March 13, 2013

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; 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 person whomsoever, that the fees charged for the publication thereof are: \$59.55

Signed: Penny Hohbach

Subscribed and sworn to before me this 13 day of March

Kathy Hoggman

Notary Public

County of Hanson

My Commission Expires: 10.8.2015

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515

Affidavit of Publication

RECEIVED

STATE OF SOUTH DAKOTA)

SS APR - 3 2013

COUNTY OF CHARLES MIX)

WATER RIGHTS PROGRAM

Stacy Irwin, of said County and State being first duly sworn on her oath says: That **The Wagner Post** is a legal newspaper of general circulation, printed and published in Wagner, in said County and State, by Stacy Irwin, and has been such newspaper during the time herein mentioned; and that I, Stacy Irwin, the undersigned, am Assistant Editor of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in supplement, once each week for one successive weeks.

1st publication made on 13th day of March, 2013
2nd publication made on _____ day of _____, 2013
3rd publication made on _____ day of _____, 2013
4th publication made on _____ day of _____, 2013
5th publication made on _____ day of _____, 2013

That said newspaper is a legal newspaper, and has a bonafide circulation of more than two hundred copies weekly, and has been published within the County of Charles Mix for more than fifty-two successive weeks prior to the first publication of said notice, and is printed in an office maintained in Wagner, South Dakota, the place of publication of said newspaper. That the full amount of the fee for the publication of the annexed notice is

\$ 22.97
Stacy Irwin

Subscribed and sworn before me this 14 day of March, 2013.

Brian Brown

Notary Public

My commission expires 10/22/16

NOTICE OF APPLICATION NO. 7607-3 TO APPROPRIATE WATER

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 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 West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 for irrigation of 11 Acres located in the NE 1/4 W 1/2 NW 1/4 Section 3; all in T95N-R63W. 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. 7607-3 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 March 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 \$22.97

Pub: March 13, 2013

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, April 04, 2013 8:29 AM
To: Wagner (announcer@hcinet.net); Hohbach, Penny (PHohbach@mittchellrepublic.com)
Subject: Notice of Application No. 7607-3, Ken Swatek
Attachments: 7607-3public.short.docx

Wagner Post and Mitchel Daily Republic,

Attached is the Notice of Application No. 7607-3, Ken Swatek to be published on April 10, 2013. Please send the affidavit ASAP. The Water Right Program will pay the cost of publication.

Thanks,

Karen Schlaak
Water Rights Program
Phone: 605 773-3352
Fax: 605 773-4068



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

April 4, 2013

Ken Swatek
29804 395th Ave
Wagner SD 57380

Dear Mr. Swatek:

The Notice of Application No. 7607-3 to Appropriate Water was published with an error. The legal description of the 111 acres to be irrigated was incorrectly listed as the NE 1/4, W 1/2 NW 1/4 Section 3. The correct legal description should be the NE 1/4, E 1/2 NW 1/4 Section 3 (copies enclosed)

Therefore, the notice needs to be readvertised to correct the error. The notice has again been sent to the Wagner Post and the Mitchell Daily Republic to be published on April 10, 2013 (copy enclosed). The date for interested persons to file petitions will be April 22, 2013.

The cost of publication of this notice will be paid by the Water Rights Program. Please contact us if you have any questions.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Affidavit of Publication

RECEIVED

STATE OF SOUTH DAKOTA)

)SS

APR 16 2013

COUNTY OF CHARLES MIX)

WATER RIGHTS PROGRAM

Stacy Irwin, of said County and State being first duly sworn on her oath says: That **The Wagner Post** is a legal newspaper of general circulation, printed and published in Wagner, in said County and State, by Stacy Irwin, and has been such newspaper during the time herein mentioned; and that I, Stacy Irwin, the undersigned, am Assistant Editor of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in supplement, once each week for one successive weeks.

1st publication made on 10th day of April, 2013
2nd publication made on _____ day of _____, 2013
3rd publication made on _____ day of _____, 2013
4th publication made on _____ day of _____, 2013
5th publication made on _____ day of _____, 2013

That said newspaper is a legal newspaper, and has a bonafide circulation of more than two hundred copies weekly, and has been published within the County of Charles Mix for more than fifty-two successive weeks prior to the first publication of said notice, and is printed in an office maintained in Wagner, South Dakota, the place of publication of said newspaper. That the full amount of the fee for the publication of the annexed notice is

\$ 23.29

Stacy Irwin

Subscribed and sworn before me this 11 day of April, 2013.

[Signature]

Notary Public

My commission expires 10/22/16

NOTICE OF APPLICATION NO. 7607-3 TO APPROPRIATE WATER

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 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 West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 for irrigation of 111 acres located in the NE 1/4, E 1/2 NW 1/4 Section 3; all in T95N-R63W. 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. 7607-3 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 April 22, 2013.

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

Steven M. Pirner, Secretary,
Department of Environment and
Natural Resources.

Published once at the total approximate cost of \$23.29

Pub. April 10, 2013

Taboma Publications, LLC

Wagner Post / Lake Andes Wave
PO Box 187
Wagner, SD 57380
605-384-5616

RECEIVED

APR 16 2013

WATER RIGHTS
PROGRAM

Invoice

Date	Invoice #
4/10/13	9205

Bill To
WATER RIGHTS PROGRAM FOSS BUILDING 523 E CAPITAL PIERRE, SD 57501

P.O. No.	Terms	Project
	Due on receipt	

Description	Qty	Rate	Amount
WAGNER POST LEGAL NOTICE - NOTICE OF APPLICATION TO APPROPRIATE WATER - RUN DATE 4/10	73	0.319	23.29

PLEASE INCLUDE INVOICE NUMBER(S) WITH YOUR PAYMENT. THANK YOU!
QUESTIONS:EMAIL TABOMA@HCINET.NET

Subtotal	\$23.29
Sales Tax (0.0%)	\$0.00
Total	\$23.29
Payments/Credits	\$0.00
Balance Due	\$23.29

April 16, 2013

PAYMENT REQUEST FORM

PAYEE: Wagner Post
PO Box 187
Wagner SD 57380

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Pub Notice for 7607-3 (Swatek)

AMOUNT: \$23.29

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Gail Jackson 4/16/13

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

RECEIVED

APR 17 2013

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

Penny Hohbach of said county, being, first duly sworn, on oath, says; that he/she is the publisher or an employee of the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 issues(s), to wit:

Wednesday, April 10, 2013

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; 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 person whomsoever, that the fees charged for the publication thereof are: \$59.55

Signed: Penny Hohbach

Subscribed and sworn to before me this 10 day of April

Kathy Haggman

Notary Public
County of Hanson

My Commission Expires: 10.8.2015

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515

NOTICE OF
APPLICATION
No. 7607-3
to Appropriate Water

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 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-West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 for irrigation of 111 acres located in the NE 1/4, E 1/2, NW 1/4 Section 3; all in T95N-R63W. 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. 7607-3 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

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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. Pimer, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$59.55



DAILY REPUBLIC
120 SOUTH LAWLER
PO BOX 1288
MITCHELL, SD 57301

**CLIENT**

WATER RIGHTS PROGRAM
523 E. CAPITOL
PIERRE, SD 57501

RECEIVED**APR 17 2013****WATER RIGHTS
PROGRAM****INVOICE**

ACCOUNT NUMBER	INVOICE DATE
295026	04/10/2013
INVOICE NUMBER	INVOICE AMOUNT
CL09014684	59.55

AMOUNT PAID

 **REMITTANCE PORTION: CUT AND RETURN THIS PORTION WITH YOUR PAYMENT**

Account Number	Terms	Invoice Date	Invoice Number
295026	DUE UPON RECEIPT	04/10/2013	CL09014684

Ad Text: NOTICE OF APPLICATION No. 7607-3 to Appropriate Water Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 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:West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 for irrigation of 111 acres located in the NE 1/4, E 1/2 NW 1/4 Section 3; all in T95N-R63W. 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. 7607-3 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 April 22, 2013. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$59.55

Ad #: 1674783 **Date:** 04/04/2013 **Ad Size:** 1 col. x 104.00 Lines **Word Count:** 374
Ad Heading: SOUTH DAKOTA LEGALS **Tearsheets:** **P.O. #:**

59.55

TOTAL: 59.55

ADJUSTMENTS: 0.00

PAYMENTS: 0.00

Amount Due:

59.55



TERMS: A FINANCE CHARGE OF 1.5% PER MONTH, WHICH IS AN ANNUAL PERCENTAGE RATE OF 18%, IS CHARGED ON ALL PAST DUE ACCOUNTS AFTER 60 DAYS.

April 12, 2013

PAYMENT REQUEST FORM

PAYEE: Mitchell Daily Republic
PO Box 1288
Mitchell SD 57301

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Public Notice for Water Permit No. 7607-3 - K Swatek

AMOUNT: \$59.55

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Paul Gardner 4/12/13

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

Instruction to Newspaper - Publish the Notice on April 10, 2013. The Water Rights Program is responsible for payment.

NOTICE OF APPLICATION NO. 7607-3 to Appropriate Water

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 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:West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 for irrigation of 111 acres located in the NE 1/4, E 1/2 NW 1/4 Section 3; all in T95N-R63W. 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. 7607-3 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 April 22, 2013.

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

Published once at the total approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

MAY 15 2013

Ken Swatek
29804 395th Ave
Wagner SD 57380

Dear Mr. Swatek:

Enclosed is Water Permit No. 7607-3 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



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 24, 2014

NOTICE

TO: KEN SWATEK, 29804 395TH AVE, WAGNER, SD 57380

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2013 Irrigation Questionnaire(s)

Our records indicate that the 2013 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3. The request for the Questionnaire was dated October 18, 2013. The Water Management Board has directed that owners of water permits who have not submitted the 2013 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) 7607-3 qualification:

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

The hearing will be held at **9:00 am, March 6, 2014** 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) 7607-3 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 on/or before **March 3, 2014**, 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
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

January 28, 2014

7607-3

Ken Swartek
29804 395th Ave
Wagner SD 57380

Dear Mr. Swartek:

I am writing to acknowledge receipt of your 2013 irrigation questionnaire.

You may disregard the January 24, 2014, "Notice" concerning reporting requirements for Water Permit No. 7607-3. 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 that reads "Genny McMath".

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

7607-3



Wipf & Cotton, L.L.C.

A Professional Limited Liability Company

Attorneys at Law

107 South Main Avenue

Wagner, South Dakota 57380-0370

Kenneth W. Cotton

ASSOCIATE:

Steven R. Cotton

Owen R. Wipf (1927-2004)

Telephone (605) 384-5471

Fax (605) 384-5472

October 29, 2018

ATTN: Genny McMath
Environmental Scientist
Water Rights Program
Joe Foss Building
523 E Capitol Ave.
Pierre, SD 57501-9970

Re: Notice of Transfer of Ownership – Water Right No. 8064-3 & 7607-3

Dear Ms. McMath:

We are enclosing herewith the Notice of Transfer of Ownership of Water Right No. 8064-3 & 7607-3 from Ken Swatek to Steven Fousek. Also enclosed is a check from Steven Fousek in the amount of \$100 to cover the transfer fees.

Thank you.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kenneth W. Cotton".

Kenneth W. Cotton

KWC:gh
Enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 7607-3

Date: _____

RECEIVED

OCT 30 2018

WATER RIGHTS
PROGRAM

I/We request that Water Permit No. 7607-3

formerly owned by: Ken Swatek

be transferred to: (name & address) Steven S and Kasi J Fousek

39569 SD Hwy 46, Wagner SD 57380

Telephone No. _____

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

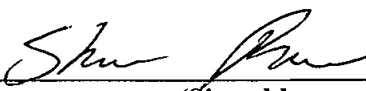
111 acres – NE ¼ and E ½ NW ¼ Section 3, T95N, R63W

I/We understand that the validity of Water Permit No. 7607-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

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


(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

RECEIVED OF S & K Truck Repair & Walsh LLC 39569 SD Hwy 46 Wagner SD 57380 Date October 30, 2018

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>7607-3f</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. **08788**

By

Jeanne Goodman
Chief Engineer
7.7u

FILE COPY

Prepared by:
Wipf & Cotton LLC
107 S. Main Ave.
Wagner, SD 57380
Phone: 605-384-5471

Filed in - Charles Mix County
Recorded on 10/16/2018 10:25 AM
Transaction # 1002691

Document # WARRANTY DEED
Book 133 Trans. Fee \$1,457.00
Page 389 (2 pages) Rec. Fee \$30.00



Julie Pavel, Register of Deeds

Julie Pavel

WARRANTY DEED

Kenneth R. Swatek and Veronica L. Swatek, husband and wife, of 29804 395th Ave., Wagner, SD 57380 Post Office, Grantors, for and in consideration of ONE MILLION FOUR HUNDRED FIFTY-SEVEN THOUSAND DOLLARS (\$1,457,000), GRANT, CONVEY, AND WARRANT to Steven S. Fousek and Kasi J. Fousek, husband and wife, as joint tenants with the right of survivorship and not as tenants in common, of 39569 SD Hwy 46, Wagner, SD 57380 Post Office, Grantees, the following described real estate in the County of Charles Mix, in the State of South Dakota:

Parcel 1:

Lot one (1), including Outlot A, except Lot H-1; Lot two (2), except Lots 2A, 3A and H-1, except Tract 1 of Swatek Addition in Lots 1 and 2 in N $\frac{1}{2}$ NE $\frac{1}{4}$; the south one-half of the northeast quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$), except 2.54 acres railroad right-of-way of the Chicago, Milwaukee and St Paul Railroad, all in Section three (3), Township Ninety-five (95) North, Range sixty-three (63) West of the Fifth Principal Meridian, Charles Mix County, South Dakota;

also described as

The northeast quarter (NE $\frac{1}{4}$), including Outlot A, except Lots H-1, 2A, 3A, Tract 1 of Swatek Addition in Lots 1 and 2 in N $\frac{1}{2}$ NE $\frac{1}{4}$ and except 2.54 acres railroad right-of-way of the Chicago, Milwaukee and St Paul Railroad, all in Section three (3), Township ninety-five (95) North, Range sixty-three (63) West of the Fifth Principal Meridian, Charles Mix County, South Dakota;

Parcel 2:

Acre Property J, except Lots 1, 2, 3, 4, 5, 6, 7, 8, 10 and Outlot 9 of Acre Property J, in the northwest quarter (NW $\frac{1}{4}$), Section three (3), Township ninety-five (95) North, Range sixty-three (63) West of the Fifth Principal Meridian, Charles Mix County, South Dakota;

also described as

2



7607-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 30, 2018

7607-3
8064-3

Steven S & Kasi J Fousek
39569 SD Hwy 46
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership on Water Permit Nos. 7607-3 and 8064-3.

The ownership changes have been completed. Water Permit Nos. 7607-3 and 8064-3 formerly held by Ken Swatek are now listed in your names.

The annual irrigation questionnaires were directed to Ken Swatek since they were mailed before the ownership changes were received in our office. I apologize for that. If you farmed the land in 2018, you can get the forms from Swatek's or I can send you an additional set for completion.

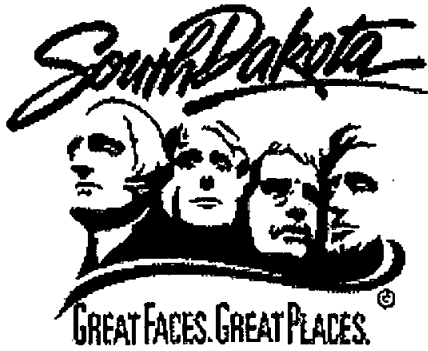
Enclosed for your records are Receipt Nos. 08787 and 08788 in the amount of \$50 each. If you have any questions or if you need me to mail a set of 2018 questionnaires directly to you, please let me know.

Sincerely,

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

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

enclosures



7607-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 8, 2018

7607-3
8064-3

Steven S & Kasi J Fousek
39569 SD Hwy 46
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

I am writing in regard to the 2018 irrigation questionnaires for Water Permit Nos. 7607-3 and 8064-3.

As you recall, the permits were transferred about the same time as the irrigation questionnaires were mailed out. Mr. Swatek returned them to us indicating we needed to contact you.

I am sending the forms he sent to us back to you. Please complete and return them by December 3rd. Thank you in advance and if you have any questions, please let me know.

Sincerely,

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

enclosure: Irrigation questionnaires and a postage paid envelope



7607-3
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: STEVEN S & KASI J FOUSEK, 39569 SD HWY 46, WAGNER, SD 57380

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) 7607-3 & 8064-3. 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) 7607-3 & 8064-3 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) 7607-3 & 8064-3 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: QTFXPV**

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.

7607-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 2020

7607-3
8064-3

Steven & Kasi Fousek
39569 SD Hwy 46
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

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

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Permit Nos. 7607-3 and 8064-3. The information was received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

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

7607-3



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: STEVEN S & KASI J FOUSEK, 39569 SD HWY 46, WAGNER, SD 57380

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) 7607-3 & 8064-3. 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) 7607-3 & 8064-3 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) 7607-3 & 8064-3 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: FXDKBQ**

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.

7607-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 2021

7607-3
8064-3

Steven & Kasi J Fousek
39569 SD Hwy 46
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

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

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for Water Permit Nos. 7607-3 & 8064-3. The information was received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Genny McMath". The signature is fluid and cursive.

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



7607-3

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: STEVEN S & KASI J FOUSEK, 39569 SD HWY 46, WAGNER, SD 57380

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) 7607-3 & 8064-3. 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) 7607-3 & 8064-3 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) 7607-3 & 8064-3 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: EKJGTZ**

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.

7607-3



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

January 27, 2022

7607-3
8064-3

Steven & Kasi Fousek
39569 SD Hwy 46
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

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

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Permit Nos. 7607-3 and 8064-3. 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

7607-3



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: STEVEN S & KASI J FOUSEK, 39569 SD HWY 46, WAGNER, SD 57380

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. 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) 7607-3 & 8064-3 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) 7607-3 & 8064-3 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: DXDRRB**

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.

7607-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 24, 2023

7607-3
8064-3

Steven S & Kasi J Fousek
39569 SD Hwy 46
Wagner SD 57380

Dear Mr. & Ms. Fousek:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit Nos. 7607-3 & 8064-3. 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 19, 2024

NOTICE

TO: STEVEN & KASI FOUSEK, 39569 SD HWY 46, WAGNER, SD 57380

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

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 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) 7607-3 & 8064-3 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, 2024 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) 7607-3 & 8064-3 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, 2024** 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: NRSCZH**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 21, 2024

7607-3

8064-3

Steven & Kasi Fousek
39569 SD HWY 46
Wagner SD 57380

Dear Mr. & Ms. Fousek:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 7607-3 & 8064-3. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@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: STEVEN & KASI FOUSEK, 39569 SD HWY 46, WAGNER, SD 57380

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. 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) 7607-3 & 8064-3 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) 7607-3 & 8064-3 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: XZUTUL**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 21, 2025

7607-3
8064-3

Steven & Kasi Fousek
39569 SD HWY 46
Wagner SD 57380

Dear Mr. & Ms. Fousek:

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

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 7607-3 & 8064-3. 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