

WATER PERMIT NO. 7816-3

Name of Applicant: **Otto F Fousek**

Address: **28474 391st Ave, Armour SD 57313** Phone: **605 491-0206**

Amount of Water Claimed: **1.78 cfs** Total Acres: **120**

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

Water to be used for: **irrigation** County: **Charles Mix**

Type of Waste Disposal System:

Location: **10 miles northwest of Wagner**

PRIORITY Date Received: **4-2-13** Application/License Fee: **\$ 950 – (need to refund \$100)**

Corrected Application Received: Period of Annual Use: **June 1 – September 30**

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

Diversion Point: **center of SE 1/4 Sec 24-T97N-R64W**

Land to be Irrigated: **SE 1/4 Sec 24-T97N-R64W**

Depth of Well: **240 feet**

Well Driller:

Remarks:

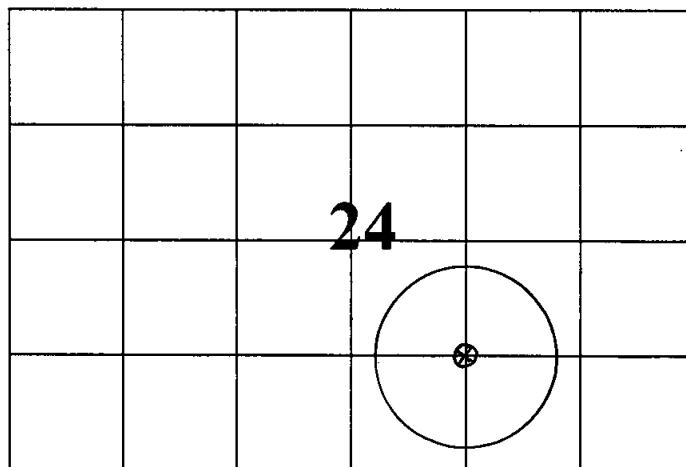
Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **4-2-13**

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. <u>7816-3</u>	(office use only) Hydrologic Unit <u>10170101</u>
	Basin <u>Missouri River</u>	<u>605-384-5616</u>
	Newspaper <u>Wagner Post Box 187-52380</u>	
	<u>Daily Republic Box 1288 Mitchell 57301</u>	<u>605-996-5514</u>

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APR - 2 2013
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 OTTO F. Fousek

(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 28474 391 Ave Armour S.D 57313

(Address)

(City)

(State)

(Zip Code)

Home Phone 605-724-2100 Cell 605-491-0006 Email OTTOFousek@hotmail.com

2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 120

(*Cubic Feet per Second)

(**Gallons per Minute)

(***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Well

4. Location of point of diversion 1 Well in the Center of the SE 1/4 of Section 24-97-64

(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

Howard Township County Charles Mix County

5. County or counties where water will be used Charles Mix

6. Annual period during which water is to be used June 1 through 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
SW 1/4 of the SE 1/4 of Section 24-97-64	30		
SE 1/4 of the SE 1/4 of Section 24-97-64	30		
NE 1/4 of the SE 1/4 of Section 24-97-64	30		
NW 1/4 of the SE 1/4 of Section 24-97-64	30		

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

I Draw a Picture on FSA map.

Requesting diversion rate greater than statutory limit

I, Otto F. Fousek, 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. 7816-3**

Date of first receipt of application April 2, 2013.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7816-3 to Otto F Fousek, 28474 391 Ave, Armour SD 57313 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. 7816-3 appropriates 1.78 cubic feet of water per second from one well to be completed into the Choteau West Aquifer (240 feet deep) located in the center of the SE 1/4 Section 24 for irrigation of 120 acres located in the SE 1/4 Section 24; all in T97N-R64W.
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: June 1 – September 30.
3. The date from which applicant may claim right is April 2, 2013.
4. The date of approval of Permit No. 7816-3 is June 17, 2013.
5. One-fifth of the construction is to be completed on or before December 17, 2015.
6. All construction is to be completed on or before June 17, 2018.
7. Water is to be put to beneficial use on or before June 17, 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. 7816-3 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. The well is authorized only to be completed into the Choteau West Aquifer and may not be constructed to allow production from the Niobrara Aquifer.
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. 7816-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 120 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUL 05 2013

date



Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many 1 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

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

c) Well Depth 240 ft Depth to Top of Water Bearing Material 40 ft Depth to Water from Surface 200 ftd) Distance to nearest existing domestic well: 1 mileOn applicant's property NO On property owned by others YES**2. Wastewater Disposal System Information**

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

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

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

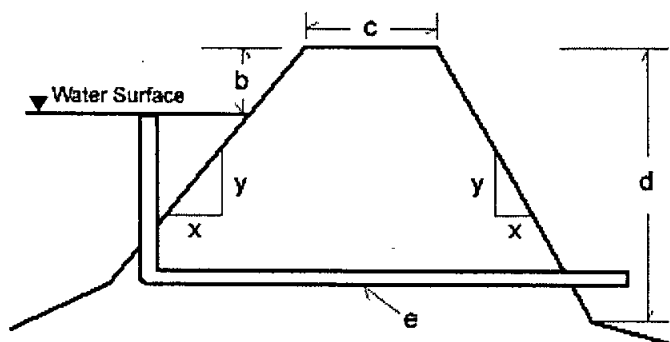
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





United States Department of Agriculture
Farm Service Agency

PLSS: 24_97_64
Farm: 3417

Douglas County, SD
1:8,149

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.

Well is in the center of circle
December 01, 2010
All land irrigated is my own land



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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



United States Department of Agriculture
Farm Service Agency

December 01, 2010

PLSS: 24_97_64
Farm: 3417

Douglas County, SD
1:8,149



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APR - 2 2013

**WATER RIGHTS
PROGRAM**

Wetland Determination Identifiers

- ☒ Restricted Use
- ☒ Limited Restrictions
- ☐ Exempt from Conservation Compliance Provisions

Common Land Units

Non Cropland

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

2010 Ortho-Photography - Not to Scale

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 4/2, 20 13

RECEIVED OF Otto F Fousek Jr 28474 391st Ave Armour SD 57313

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

Fee for Application for Permit No. <u>7816-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7816-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)		
TOTAL	1050	00

No. 06279

By Jeannine Redman 28
Chief Engineer



**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. 7816-3,
Otto F Fousek**

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. 7816-3, Otto F Fousek, 28474 391st Avenue, Armour SD 57313.

The Chief Engineer is recommending APPROVAL of Application No. 7816-3 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. 7816-3 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. The well is authorized only to be completed into the Choteau West Aquifer and may not be constructed to allow production from the Niobrara Aquifer.
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. 7816-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 120 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.

Jeanne Goodman, Chief Engineer
May 29, 2013

NOTE: Please read the staff engineer's report carefully concerning development into the Choteau West Aquifer as the Niobrara Aquifer may be encountered at the total depth you listed on the application. The water permit is solely for the Choteau West Aquifer and well construction standards do not allow construction in a manner that allows production from more than one aquifer. If the well is developed into the Niobrara Aquifer, a new water permit will be required.

REPORT TO THE CHIEF ENGINEER

WATER PERMIT APPLICATION NO. 7816-3

Otto F. Fousek

April 19, 2013

Water Permit Application No. 7816-3 proposes to divert groundwater 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 240 feet deep and is to be located in the center of the SE¼ of Section 24, T97N-R64W. Water will be used to irrigate 120 acres located in the SE¼ of Section 24, T97N-R64W in Charles Mix County.

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

GEOLOGY AND AQUIFER CHARACTERISTICS:

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 application indicated that the total well depth will be 240 feet, translating to bottom well depth elevation of 1,240 feet mean sea level (msl). In the area of the proposed well site, the Choteau: West aquifer materials occur between approximately 1,300 and 1,245 feet msl, with the Niobrara Formation underlying (Geological Survey, 2013). In this area, the top of the Niobrara occurs at approximately 1,240 feet msl (Tomhave and Shulz, 2004). A geologic cross section just south of the proposed well site created by Kume (1977) generally agrees with this lithology. Based on the proposed well depths and estimated aquifer material at these locations, the applicant appears to be pursuing the Choteau: West aquifer. However, there is a possibility that boreholes 240 feet deep would penetrate the underlying Niobrara aquifer. Pursuant to ARSD 74:02:04:34.01, "No well may be constructed to allow production from more than one aquifer unless approved by the chief engineer or the water management board". Therefore, this water permit application is designated for the Choteau: West aquifer.

The Choteau: West is a buried outwash with western origin stream deposits consisting of sand and gravel occurring in several layers within the till and in many places lying directly on bedrock. 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 acre feet (ac-ft) of recoverable water in storage (Hedges and others, 1982). The saturated thickness of the Choteau: West aquifer ranges from five to 89 feet, with an average of 35 feet (Kume, 1977). In the area of the proposed well site, the aquifer is expected to be between 25 and 50 feet thick (Geological Survey, 2013).

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.

WATER AVAILABILITY:

If this application is approved, the actual water use will likely be less than 240 ac-ft/yr. 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.” If the source of the water is older or lower than the greenhorn formation and a public water system has applied for a permit, the Board need not consider the recharge/withdrawal issue. Here, a public water system is not involved and the aquifer is not older or lower than the greenhorn formation therefore withdrawal/recharge issue must be considered.

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 is 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 well withdrawals. Currently there are 50 water rights/permits appropriating water from the Choteau: West aquifer (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. However, the annual withdrawal due to domestic use is not significant to the hydrologic budget of the aquifer (Water Rights, 2013c).

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).

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 1. 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). In 2011, 6,693 acres were authorized. Therefore, the average application rate is 4.17 inches per acre. Since 2011, ten water permits have been authorized for the Choteau: West aquifer authorizing 1,849 acres and this water permit application proposes 120 acres (Water Rights, 2013b). Applying the application rate to the newly authorized and proposed acres results in an estimated use of 684 ac-ft/yr for these newly authorized and proposed permits.

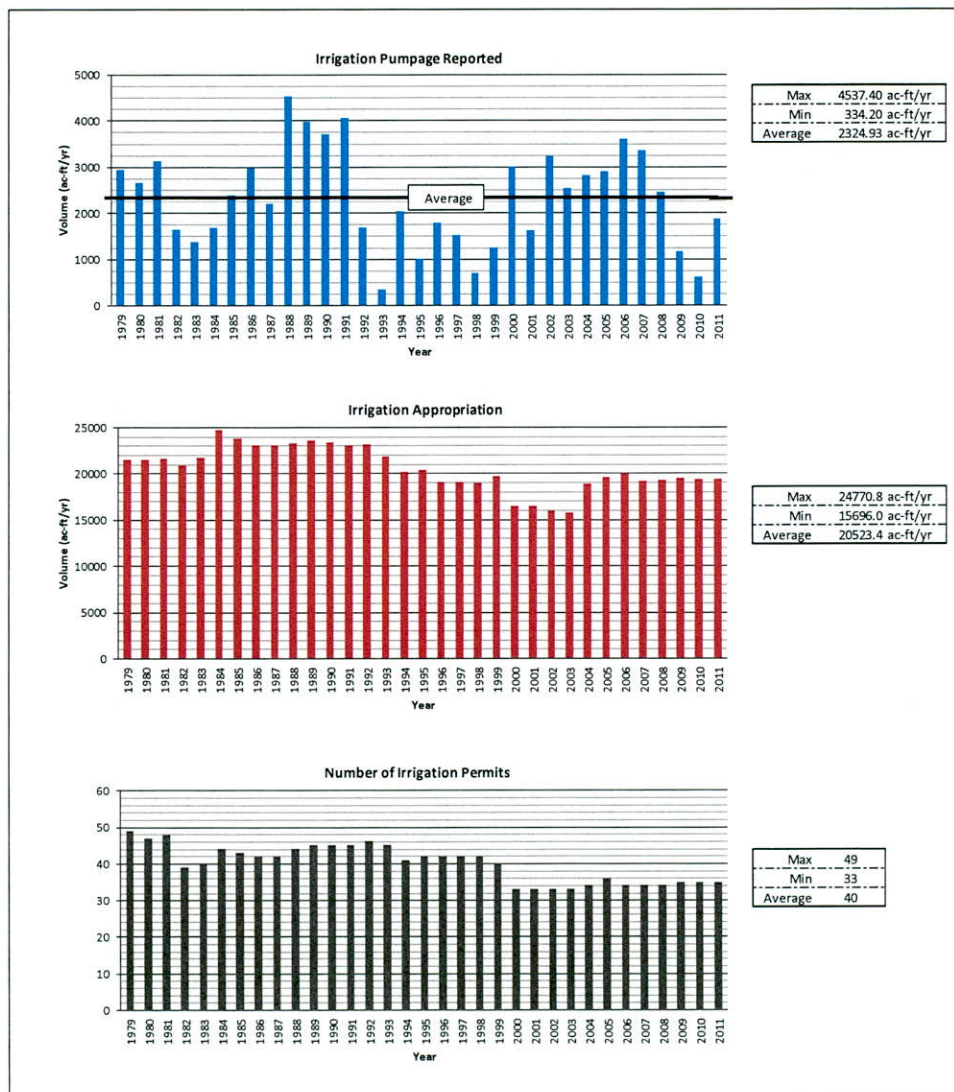


Figure 1: Historic irrigation water use from the Choteau: West aquifer (Water Rights, 1980-2012)

Water Balance:

The average annual withdrawal from the Choteau: West aquifer is estimated to be less than 3,400 ac-ft/yr. To balance the hydrologic budget, recharge must equal withdrawal, and so, average

annual recharge to this aquifer must equal 0.19 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.

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. There are several in the area of the proposed well site. The nearest observation wells, CM-67A and CM-67B, are located approximately two miles east and southeast of the proposed well site, respectively. The associated hydrographs are shown in Figures 2 and 3 (Water Rights, 2013a).

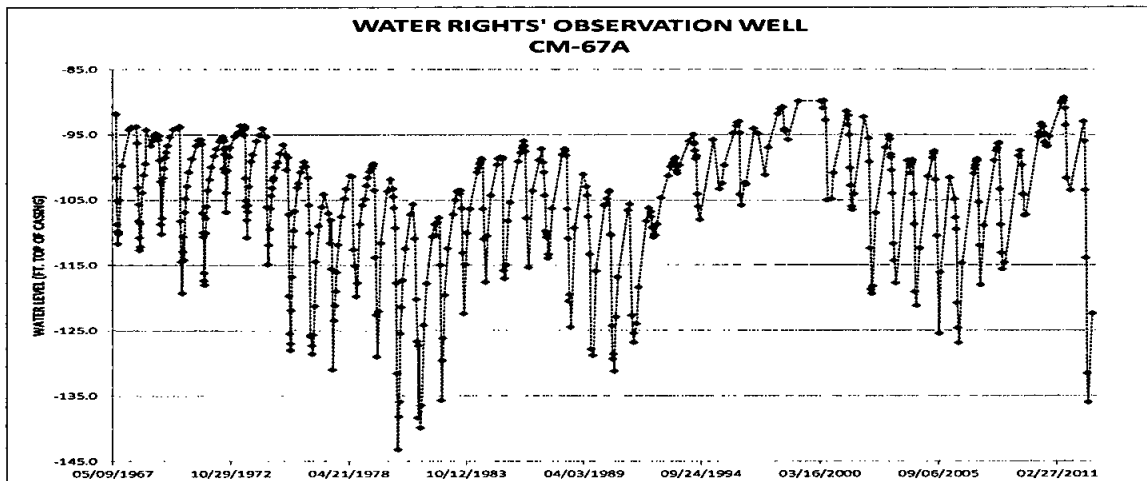


Figure 2: Hydrograph for observation well CM-67A (Water Rights, 2013a)

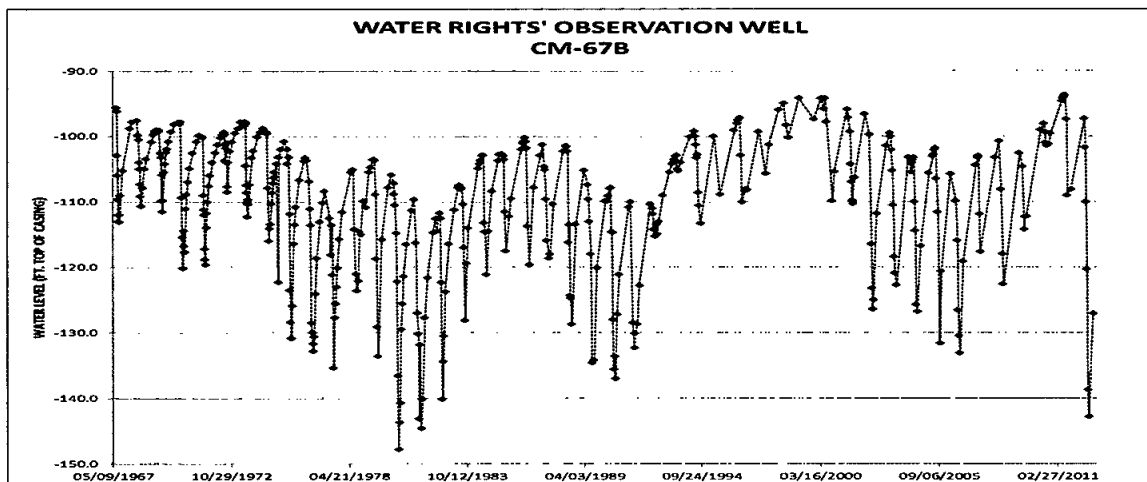


Figure 3: Hydrograph for observation well CM-67B (Water Rights, 2013a)

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. Over the period of record, water levels in observation wells completed into the Choteau: West have remained fairly steady. The recent low water levels are due to the current dry conditions. 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.

EXISTING WATER RIGHTS:

If approved, the proposed well will be located near other wells that obtain water from the same aquifer. There is one domestic well, Marvin Roth, and two water rights, Water Right Nos. 2217-3, Charles Eitemiller, and 6368-3, Chris and Theresa Eitemiller, within two miles of the proposed well site (Water Rights, 2013b; Water Rights, 2013c).

The Choteau: West aquifer is under artesian conditions at the proposed well site; therefore, drawdown due to pumping is likely to extend over a relatively large area. 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.

As previously discussed, nearby observation wells document 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.

If approved, the water permit should include the qualification that the well owner should 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.

CONCLUSIONS:

1. Water Permit Application No. 7816-3 proposes to divert groundwater at a maximum diversion rate of 1.78 cfs from one well to be completed into the Choteau:West aquifer to irrigate 120 acres in Charles Mix County.
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.



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.
- Tomhave, D.W. and Shulz, L.D. 2004. Geologic Map Showing Configuration of the Bedrock Surface in South Dakota East of the Missouri River. 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.

Affidavit of Publication

STATE OF SOUTH DAKOTA)

)SS

COUNTY OF CHARLES MIX)

Kristina Hajek, 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 Kristina Hajek, and has been such newspaper during the time herein mentioned; and that I, Kristina Hajek, the undersigned, 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 1 successive weeks.

1st publication made on 5th day of June, 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

\$ 22.65

Kristina Hajek

Subscribed and sworn before me this 5th day of June, 2013.

Brian B. Bowers

Notary Public

My commission expires 10/22/16

PUBLIC NOTICE

NOTICE OF APPLICATION NO. 7816-3 TO APPROPRIATE WATER

Notice is given that Otto F Fousek, 28474 391st Ave, Armour SD 57313 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 (240 feet deep) located in the center of the SE 1/4 Section 24 for irrigation of 120 acres located in the SE 1/4 Section 24; all in T97N-R64W. 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. 7816-3 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 June 17, 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 \$22.65.

NOTICE OF
APPLICATION NO.
7816-3 to Appropriate
Water

RECEIVED

JUN 10 2013

WATER RIGHTS
PROGRAM

Notice is given that Otto F. Fousek, 28474 391st Ave, Armour SD 57313 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 (240 feet deep) located in the center of the SE 1/4 Section 24 for irrigation of 120 acres located in the SE 1/4 Section 24; all in T97N-R64W. The applicant is requesting a diversion rate greater than the statutory limit.

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Steven M. Pirner,

Secretary, Department of
Environment and Natural
Resources.

Published once at the total approximate cost of \$64.01

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 issue(s), to wit:

Wednesday, June 5, 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: \$64.01

Signed: Penny Hohbach

Subscribed and sworn to before me this 5 day of June

Kathy Hoffmann
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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

May 29, 2013

Wagner Post
PO Box 187
Wagner SD 57380

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7816-3 to Appropriate Water. Please publish the notice once on June 5, 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 Otto F Fousek, 28474 391st Ave, Armour SD 57313 (Ph # 605-724-2102).

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

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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 DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.**

May 29, 2013

Otto F Fousek
28474 391st Ave
Armour SD 57313

Dear Mr. Fousek:

Water Permit Application No. 7816-3 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 June 5, 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. 7816-3 to Appropriate Water

Notice is given that Otto F Fousek, 28474 391st Ave, Armour SD 57313 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 (240 feet deep) located in the center of the SE 1/4 Section 24 for irrigation of 120 acres located in the SE 1/4 Section 24; all in T97N-R64W. The applicant is requesting a diversion rate greater than the statutory limit.

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Published once at the total approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

JUL 05 2013

Otto F Fousek
28474 391st Ave
Armour SD 57313

Dear Mr. Fousek:

Enclosed is Water Permit No. 7816-3 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

SOUTH DAKOTA WATER WELL COMPLETION REPORT

7816-3 SD EForm - 1621LD V1

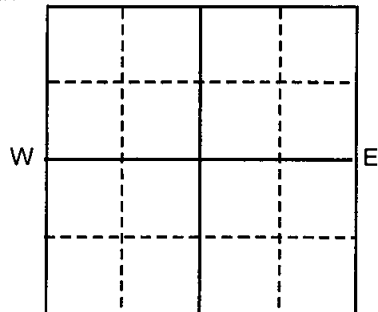
11-02

Location NW ¼ SE ¼ Sec 24 Twp 97N Rg 64W

County Charles Mix

North

Please mark well location with an "X"



Well Completion Date

August 7, 2013

← 1 Mile →

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

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>12.00</u> IN	<u>0.0</u> FT	<u>182.0</u> FT	<u>17.50</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Bentonite</u>	<u>40</u>	<u>Lb/gal</u>	<u>0.0</u> Ft	<u>180.0</u> Ft
		<u>Lb/gal</u>	<u>Ft</u>	<u>Ft</u>

Describe grouting procedure
 tremie piped

SCREEN:

☐ Perforated pipe ☒ Manufactured

Diameter 12.00 Inches Length 40.0 Feet

Material stainless steel

Slot Size .050 Set From 182.0 Feet to 222.0 Feet

Other information

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? chlorinated

☐ No, Why Not?

Lab to which water quality sample sent for analysis
n/a

Well Owner: Otto Fousek

Business Name:

Address: PO Box 651

City, State, Zip: Armour SD 57313

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Yellow clay	0	15
Brown clay	15	34
Blue clay	34	49
Blue/brown clay/gravel	49	116
Brown/blue gravel/clay	116	170
Brown/black sand/coal	170	190
Sand, fine to coarse	190	210
Fine sand	210	220
Blue Clay	220	225

STATIC WATER LEVEL 90.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe:

☐ Bailed

☐ Other

Pumping Level Below Land Surface

105.0 Ft. After 4.0 Hrs. pumped 610.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

GPS: N 43 12.12
W 98 21.151

RECEIVED
JAN - 9 2014
WATER RIGHTS PROGRAM

This well was drilled under license # 475 and this report is true and accurate.

Drilling firm: Thein Well Co., Inc.

Signature of License Representative:

[Signature]

Signature of Well Owner or Equitable Property Holder:

Date: _____



7816-3
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 16, 2015

NOTICE

TO: OTTO F FOUSEK, 28474 391ST AVE, ARMOUR, SD 57313

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

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaire(s)

Our records indicate your 2014 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7816-3. The request for the Questionnaire was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 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) 7816-3 qualification:

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

The hearing will be held at **10:00 am, March 4, 2015** 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) 7816-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 26, 2015

7816-3

Otto F Fousek
28474 391st Ave
Armour SD 57313

Dear Mr. Fousek:

I am writing to acknowledge receipt of your 2014 irrigation questionnaire.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for Water Permit No. 7816-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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