

**WATER PERMIT NO. 7952-3**

Name of Applicant: **Fischer Farms, Jeffrey & Seth Fischer**

Address: **PO Box 787, Wagner SD 57380** Phone: **605 491-0326**

Amount of Water Claimed: **no add'l** Total Acres: **135.16 acres**

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

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

Type of Waste Disposal System:

Location: **1 miles south of Wagner**

**PRIORITY** Date Received: **1-27-14** Application/License Fee: **\$ 1050**

Corrected Application Received: Period of Annual Use: **May 1 – August 30**

Remarks: **Utilizing the well authorized on Water Permit No. 7451-3**

Diversion Point: **Lot 1405 Sec 15-T95N-R63W**

Land to be Irrigated: **W 1/2 NW 1/4, NE 1/4 Sec**  
**15-T95N-R63W**

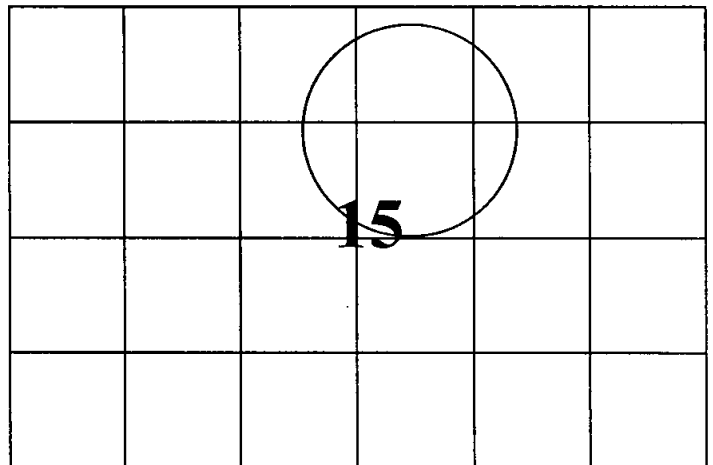
Depth of Well: **265 feet deep**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:



Reviewed and the Number Assigned on: **1-27-14**

By: **Karen Schlaak**

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

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**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 Fischer Farms / Jeffrey Fischer / Seth Fischer  
(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent \_\_\_\_\_  
(name and complete address if different than above name)
- Mailing Address PO Box 787 Wagner SD 57380  
(Address) (City) (State) (Zip Code)
- Home Phone \_\_\_\_\_ Cell 605-491-0324 Email Fischer@FischerFarms.com
2. Amount of water claimed \_\_\_\_\_ \*CFS or ND add'l GPM \_\_\_\_\_ \*\*\*AF Total Acreage 135.12 ac  
(\*Cubic Feet per Second) (\*\*Gallons per minute) (\*\*\*Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Existing Irrigation Well Charles Aveder Permit # 7451-3
4. Location of point of diversion 1 well in ~~SW 1/4~~ SUNE 1/4 of NE 1/4 of  
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
- 1405-Section 15 ~~R23N6-R~~ T95N-R63W County Charles Mix
5. County or counties where water will be used Charles Mix
6. Annual period during which water is to be used ~~SW 1/4~~ May 1 - October 31
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)

[illegible]

8. Give a description of the project. (Attach sheet if more space is needed)
- would like to tie into existing well (which will be completed this spring) and share the well with Seth Fischer's System located to the West. Pivot would Irrigate 135.12 acres of farmland once CRR contract is expired in approx. 2 years and currently should do approx. 115 acres. Most of the land is owned by Seth Fischer (partner of FF) and approx 35 acres is owned by Seth Fischer.
- I, Seth Fischer, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

Water Rights Program - DENR  
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Application No. 7952-3, Fischer Farms, Jeffrey and Seth Fischer

ADDRESS: COUNTY: Charles Mix

DATE: January 30, 2014 TELEPHONE: cell – 605 491-0325

RE: acreage breakdown

The acreage breakdown for the proposed irrigation is in quarter-quarter designations. However, since this is part of the Yankton Reservation Survey designated in lots, I arrived at the following lot designations:

All in Section 15, T95N, R63W

|          |       |
|----------|-------|
| Lot 1404 | 33.78 |
| Lot 1405 | 33.78 |
| Lot 1428 | 33.78 |
| Lot 1429 | 33.78 |

Used the plat map submitted with Water Permit No. 7451-3

NAME:

Eric Hunkler

**SOUTH DAKOTA**  
**WATER PERMIT NO. 7952-3**

Date of first receipt of application January 27, 2014.

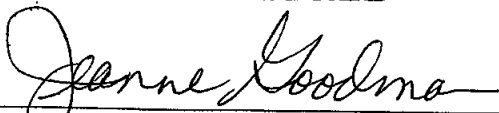
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7952-3 to Fischer Farms, Jeffrey Fischer and Seth Fischer, PO Box 787, Wagner SD 57380 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7952-3 authorizes irrigation of 135.12 new acres. Water Permit No. 7451-3 appropriates 1.89 cubic feet of water per second from one well completed into the Choteau:West Aquifer (265 feet deep) located in Lot 1405 Section 15 for irrigation of 105 acres located in Lots 1, 2, north portion of Lot 3 and Lots 1402, 1430 and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey. This permit authorizes irrigation of 135.12 new acres located in Lots 1404, 1405, 1428 and 1429 Section 15-T95N-R63W of Yankton Reservation Survey from the well authorized by Water Permit No. 7451-3. This permit does not authorize any increase in the diversion rate.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 31.
3. The date from which applicant may claim right is January 27, 2014.
4. The date of approval of Permit No. 7952-3 is May 12, 2014.
5. One-fifth of the construction is to be completed on or before November 12, 2016.
6. All construction is to be completed on or before May 12, 2019.
7. Water is to be put to beneficial use on or before May 12, 2023.
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 Water Permit No. 7451-3 and 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 Water Permit Nos. 7451-3 and 7952-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

**WATER MANAGEMENT BOARD**

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

MAY 22 2014

date



## Supplemental Information

(type or print)

**1. Well Information** (check one or both as applicable) ☐ Drilling new well(s) ☒ Using existing well(s)

- a) If new wells, how many \_\_\_\_ Have test holes been drilled ☐ Yes ☐ No Drilled by \_\_\_\_  
(if yes, please provide copies of logs)
- b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by NA already not completed
- c) Well Depth \_\_\_\_ Depth to Top of Water Bearing Material \_\_\_\_ Depth to Water from Surface \_\_\_\_
- d) Distance to nearest existing domestic well:  
On applicant's property ~~0~~ 1/4 mile On property owned by others 1/4 mile

**2. Wastewater Disposal System Information**

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

**3. Dugout Information**

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

**4. Water Storage Dams**

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

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

b) Freeboard \_\_\_\_\_

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

Crest Length \_\_\_\_\_

d) Height \_\_\_\_\_

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

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

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

Spillway Width \_\_\_\_\_

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

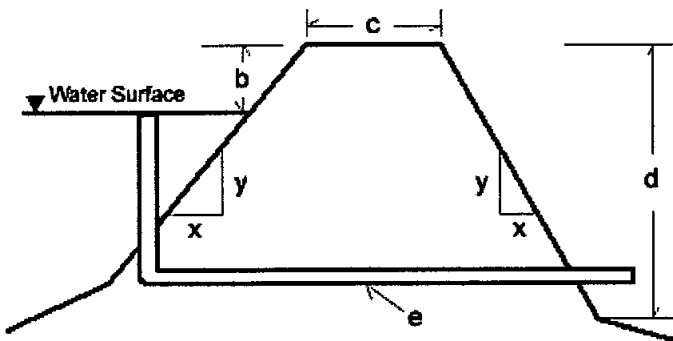
Upstream \_\_\_\_\_

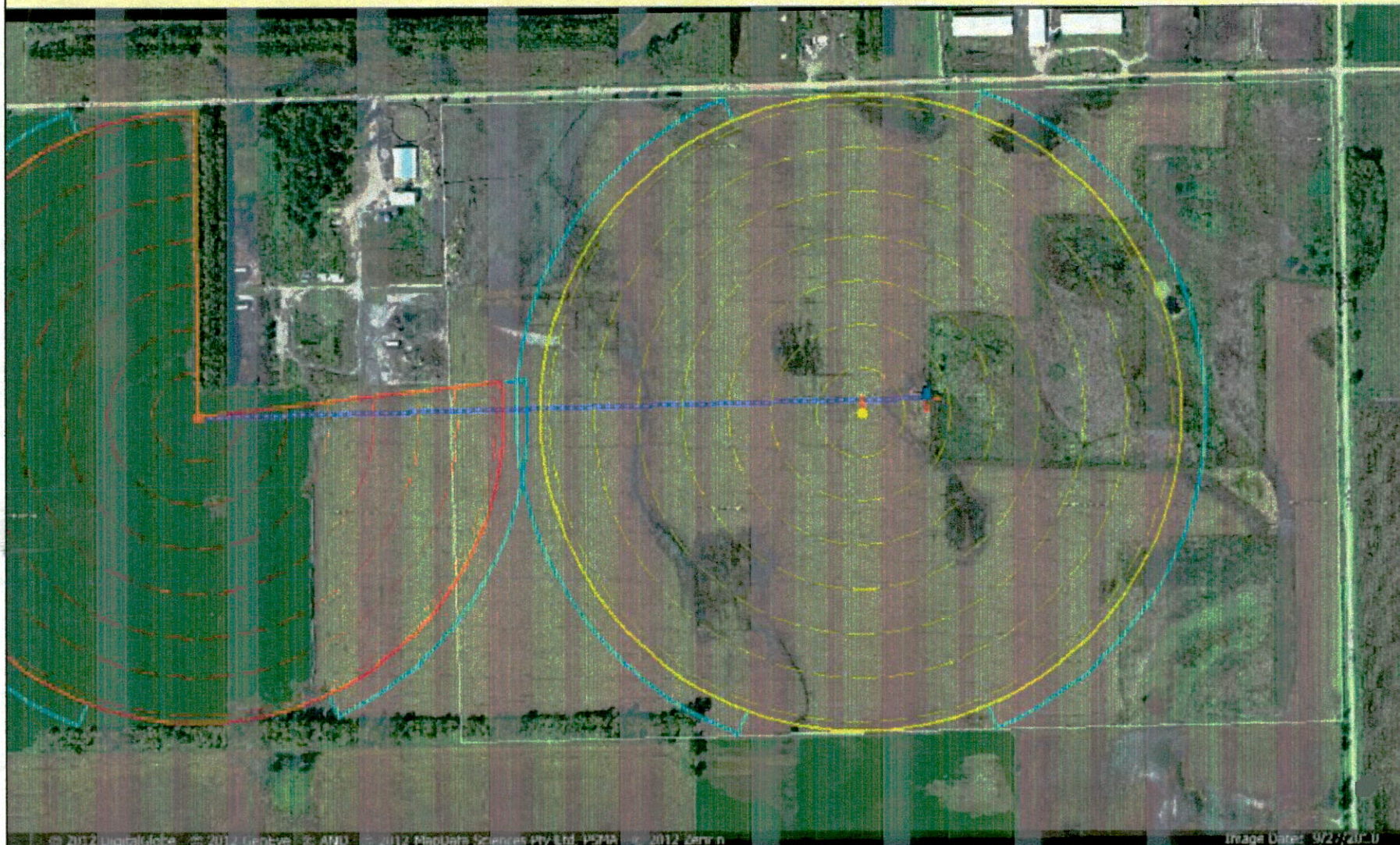
Downstream \_\_\_\_\_

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

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

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



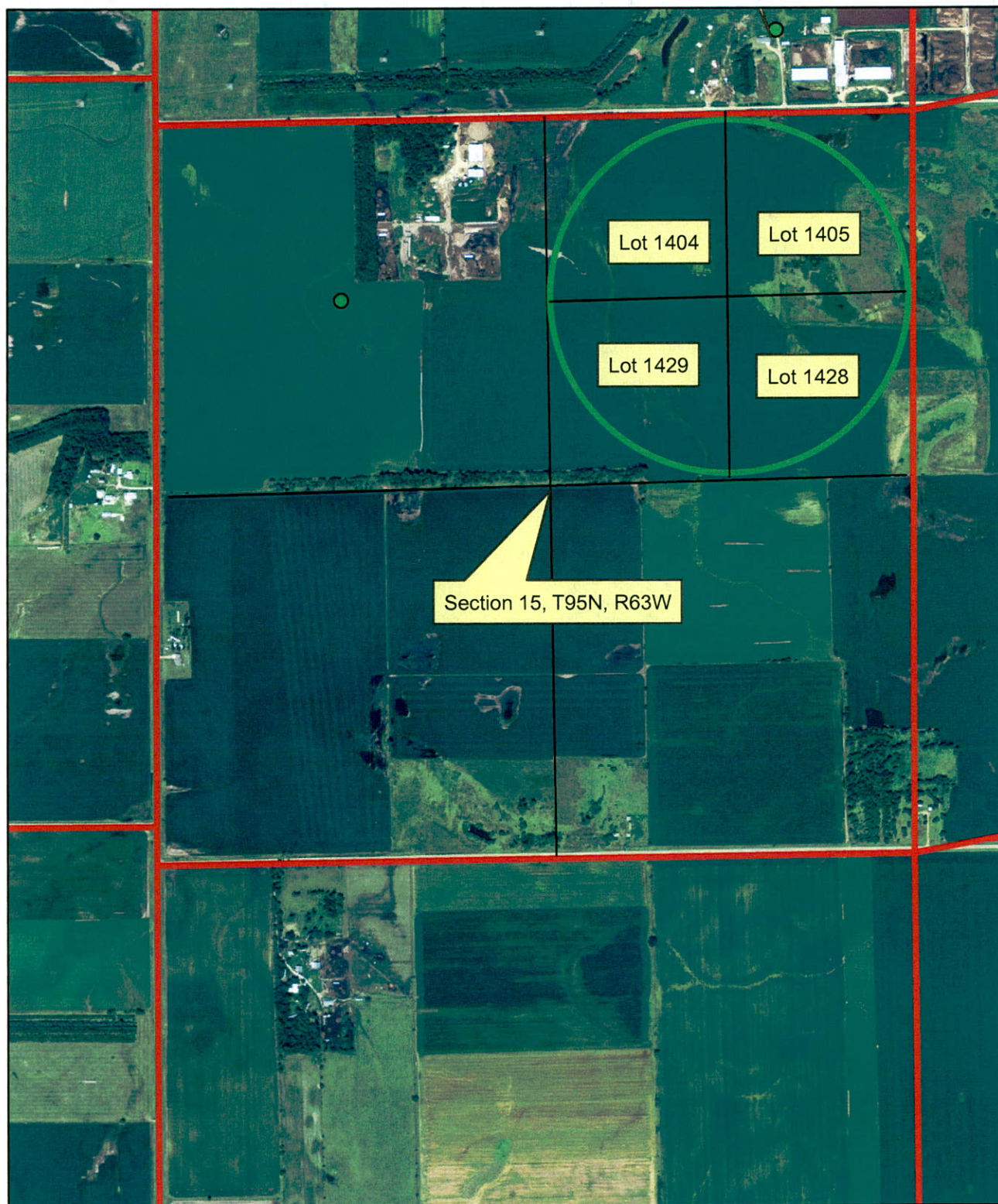


Lindsay Manufacturing Co. Omaha, NE 800-829-5300 office

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1,200 600 0 1,200 Feet



# Lindsay Manufacturing Co.



2707 North 108th Street  
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## Farm: Field1

Grower:

1/21/2014

| Systems:      | Length     | Spans                | Total area including endgun |
|---------------|------------|----------------------|-----------------------------|
| ● Seths Pivot | 1238.00 ft | 7 spans + 22 ft o.h. | 95.64 acres                 |
| ● SE pivot    | 1292.67 ft | 7 spans + 33 ft o.h. | 135.12 acres                |

| Pipe and Wire: | Length / Size         | Description |
|----------------|-----------------------|-------------|
| ● Pipe 1       | 2940.29 ft / 10" PIPE |             |
| ● Pipe 2       | 54.83 ft / 10" Pipe   |             |



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Pivot Area: **120.51** acres  
 Endgun Area: **14.61** acres  
 Total Area: **135.12** acres

System Length: **1292.67** ft  
 # of Spans: **7 + overhang**  
 Deg. of Sweep: **360.0°**  
 Endgun Throw: **100.0** ft

Color on map:

**Spans**

| # of Spans: 7 | Span 1<br>(180.2) | Span 2<br>(359.1) | Span 3<br>(538.0) | Span 4<br>(716.9) | Span 5<br>(895.8) | Span 6<br>(1074.8) | Span 7<br>(1253.7) | Overhang<br>(1292.7) |
|---------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|--------------------|----------------------|
| Length:       | 179               | 179               | 179               | 179               | 179               | 179                | 179                | 33 ft                |
| Pipe Size:    | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"           | 6 - 5/8"           | 5 - 9/16"            |

**Endgun Areas****Endgun 1: (Throw = 100.0 ft)**

| # of Areas:<br>2 | Start / Stop Angle<br>(Deg. from North) | Start / Stop Angle<br>(Deg. from Pivot Start) | Start / Stop Location<br>( Lat/Long ) |                                 | Area<br>( acres ) |
|------------------|-----------------------------------------|-----------------------------------------------|---------------------------------------|---------------------------------|-------------------|
| Area 1           | 21.2° / 157.1°                          | - NA - / - NA -                               | 43.051224172°<br>-98.271596577°       | 43.044646310°<br>-98.271465289° | 7.32              |
| Area 2           | 201.4° / 337.0°                         | - NA - / - NA -                               | 43.044612477°<br>-98.275108639°       | 43.051181444°<br>-98.275234377° | 7.29              |

South Dakota Department of Environment and Natural Resources

Date 1/27, 2014

RECEIVED OF **Fischer Farms** **PO Box 787** **Wagner SD 57380**

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

|                                                                                                                        |       |         |
|------------------------------------------------------------------------------------------------------------------------|-------|---------|
| Fee for Application for Permit No. <u>7952-3</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>7952-3</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. 06695

By

Chief Engineer



**DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES**

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



**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 7952-3, Fischer Farms**

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. 7952-3, Fischer Farms, Jeffrey & Seth Fischer, PO Box 787, Wagner SD 57380.

The Chief Engineer is recommending APPROVAL of Application No. 7952-3 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 Water Permit No. 7451-3 and 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 Nos. 7451-3 and 7952-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

  
for Jeanne Goodman, Chief Engineer  
March 13, 2014

**REPORT TO THE CHIEF ENGINEER  
WATER PERMIT APPLICATION NO. 7952-3  
FISCHER FARMS  
February 28, 2014**

Water Permit Application No. 7952-3 proposes to irrigate additional acres to those applied for and approved in Water Permit Application No. 7451-3. Permit No. 7451-3 appropriates 1.89 cubic feet per second (cfs) from one well to be completed into the West Management Unit of the Choteau aquifer. The well has not yet been completed but is expected to reach a depth of approximately 265 feet below the ground surface and will be located in Lot 1431 of Section 15, T95N-R63W of Yankton Reservation Survey. The water was originally intended to irrigate 105 acres in Lots 1, 2, 3, 1402, 1403, 1430, and 1431 in the same section in Charles Mix County. Water Permit Application No. 7952-3 proposes to increase the number of irrigated acres by 135.12 (for a total of 240.12 acres), with the additional 135.12 acres divided evenly between Lots 1404, 1405, 1428, and 1429, all in Section 15. No additional diversion rate beyond 1.89 cfs has been requested.

**AQUIFER: West Management Unit of the Choteau aquifer (CH: W)**

**GEOLOGY AND AQUIFER CHARACTERISTICS:**

A test hole log was not included in this application or in Water Permit Application No. 7451-3, and the original well associated with Water Permit No. 7451-3 has not yet been completed. However, existing well logs (Water Rights 2014c) and lithological records (SDGS, 2014) were used to determine the well associated with this application will be drawing water from the West Management Unit of the Choteau aquifer. The Choteau: West is a buried aquifer consisting of glacial outwash (sand and gravel) and western derived stream deposits that were deposited as several layers within the glacial till in the Choteau bedrock valley (Kume, 1977). The Choteau: West underlies approximately 169,600 acres of Charles Mix County and extends into Bon Homme and Douglas Counties (Hedges et al., 1982). Kume (1977) estimated the saturated thickness to range from five to 89 feet with an average of 35 feet. The Choteau: West aquifer is under confined conditions with water generally moving from northwest to southeast (Kume, 1972).

**SDCL 46-2A-9:**

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

**WATER AVAILABILITY:**

This application does not propose to increase the diversion rate of 1.89 cfs from the same aquifer for which Water Permit No. 7451-3 appropriates water. However, this application does propose to increase the total number of acres irrigated and will likely withdraw a larger volume of water than Water Permit No. 7451-3. Although there is a two ac-ft/ac limit to the amount of water

used to irrigate, the actual amount used is unlikely to exceed one ac-ft/ac. Consequently, the increased acreage is not expected to result in an increase in water use of more than 135 ac-ft/yr.

The probability of unappropriated water being available from the aquifer can be evaluated 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 that the quantity of water withdrawn annually from the 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.

*Recharge:*

Recharge to the Choteau: West aquifer is primarily from the adjacent till (Kume, 1977). According to Kume (1977),

“Water is available in the till and from the numerous saturated lenticular outwash bodies. Perhaps some recharge also comes from the Niobrara Marl where the aquifer lies directly upon the marl.”

Hedges and others (1985) stated,

“Some aquifers in surficial deposits are or may be receiving significant recharge from the source. An example is the Choteau: West aquifer which is directly underlain by the Niobrara Formation and/or Codell Sandstone throughout much of its areal extent.”

Recharge has been estimated to range from 0.15 inches to 0.60 inches in confined conditions (Hedges, 1985) such as those in the area of this application.

*Discharge:*

Discharge from the Choteau: West aquifer is from the natural losses to springs and seepage to surrounding drift or bedrock (Kume, 1977) but is primarily through well withdrawals. There are 45 water rights/permits appropriating water from the Choteau: West aquifer, with 37 of those in Charles Mix County (Water Rights, 2014b). Most of the water rights/permits are authorized for irrigation purposes.

Water rights/permits authorized for non-irrigation purposes appropriate water for commercial use (one water permit), municipal use (two water rights), and recreational use (two water rights). The municipal water rights (Water Rights Nos. 569-3 and 1782-3) are for the town of Wagner. Wagner currently uses the rural water system in the area (Buhler, 2012) and is unlikely to withdraw much water from the Choteau: West aquifer, except in case of emergencies. Water withdrawal from the Choteau: West aquifer by non-irrigation appropriations is estimated to be 333 ac-ft/yr. This estimation is based on an assumption that pumping will occur at the maximum diversion rate 60 percent of the time.

Irrigation water use as reported to the DENR-Water Rights Program through annual irrigation questionnaires is shown below in Table 1.

| Year | No. Permits Reporting | Appropriation (ac-ft/yr) | Pumpage (ac-ft/yr) |
|------|-----------------------|--------------------------|--------------------|
| 2012 | 33                    | 17312.12                 | 6042.81            |
| 2011 | 35                    | 19324.12                 | 1872.77            |
| 2010 | 35                    | 19324.12                 | 614.83             |
| 2009 | 35                    | 19492.12                 | 1163.81            |
| 2008 | 34                    | 19212.12                 | 2443.95            |
| 2007 | 34                    | 19108.12                 | 3363.59            |
| 2006 | 34                    | 19943.8                  | 3598.83            |
| 2005 | 36                    | 19563.8                  | 2896.82            |
| 2004 | 34                    | 18843.8                  | 2819.08            |
| 2003 | 33                    | 15696                    | 2526.26            |
| 2002 | 33                    | 15995.8                  | 3223.92            |
| 2001 | 33                    | 16475.8                  | 1625.24            |
| 2000 | 33                    | 16475.8                  | 3009.11            |
| 1999 | 40                    | 19675.8                  | 1248.07            |
| 1998 | 42                    | 18975.8                  | 697.51             |
| 1997 | 42                    | 19087.8                  | 1509               |
| 1996 | 42                    | 19087.8                  | 1795.61            |
| 1995 | 42                    | 20410.8                  | 999.46             |
| 1994 | 41                    | 20146.8                  | 2026.03            |
| 1993 | 45                    | 21835.8                  | 334.2              |
| 1992 | 46                    | 23224.8                  | 1682.6             |
| 1991 | 45                    | 23080.8                  | 4056.5             |
| 1990 | 45                    | 23400.8                  | 3716               |
| 1989 | 45                    | 23565.8                  | 3984.1             |
| 1988 | 44                    | 23245.8                  | 4537.4             |
| 1987 | 42                    | 23080.8                  | 2198               |
| 1986 | 42                    | 23108.8                  | 2986               |
| 1985 | 43                    | 23810.8                  | 2377               |
| 1984 | 44                    | 24770.8                  | 1692               |
| 1983 | 40                    | 21761.8                  | 1368.89            |
| 1982 | 39                    | 20935.8                  | 1647.15            |
| 1981 | 48                    | 21657                    | 3132               |
| 1980 | 47                    | 21477                    | 2644               |
| 1979 | 49                    | 21477                    | 2933               |
| Min  | 33                    | 15696                    | 334.2              |
| Max  | 49                    | 24770.8                  | 6042.81            |
| Avg  | 39.9                  | 20429.0                  | 2434.3             |

Table 1: Irrigation water use from the Choteau: West aquifer (Water Rights, 2014d)

### *Hydrologic Budget*

Given the aerial extent of the aquifer in Charles Mix County (169,600 acres), a recharge rate of approximately 0.2 inches per year would be required to supply the expected diversion rate from

the aquifer of 2,767.3 ac-ft/yr. Since 0.2 inches is well within Hedges (1985) recharge rate, it can reasonably be assumed that recharge is greater than discharge in the Choteau: West aquifer.

**Observation Well Data:**

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

The DENR-Water Rights Program Monitors 25 observation wells completed into the Choteau: West aquifer with 19 of the observation wells being in Charles Mix County. The closest of these observation wells that has historical records extending to the present is Observation Well CM-57B, located approximately 2.8 miles to the northeast of the proposed well site. Figure 1 shows historic water levels in CM-57B, which are primarily climatically controlled but do show the effects of seasonal pumping. The climatic effects on water levels mask the temporal impacts of well withdrawal. Therefore, recharge to and natural discharge from the Choteau: West aquifer significantly exceeds pumping. Recognizing that natural discharge can be captured for pumping, there is a reasonable probability that unappropriated water is available for these proposed appropriations.

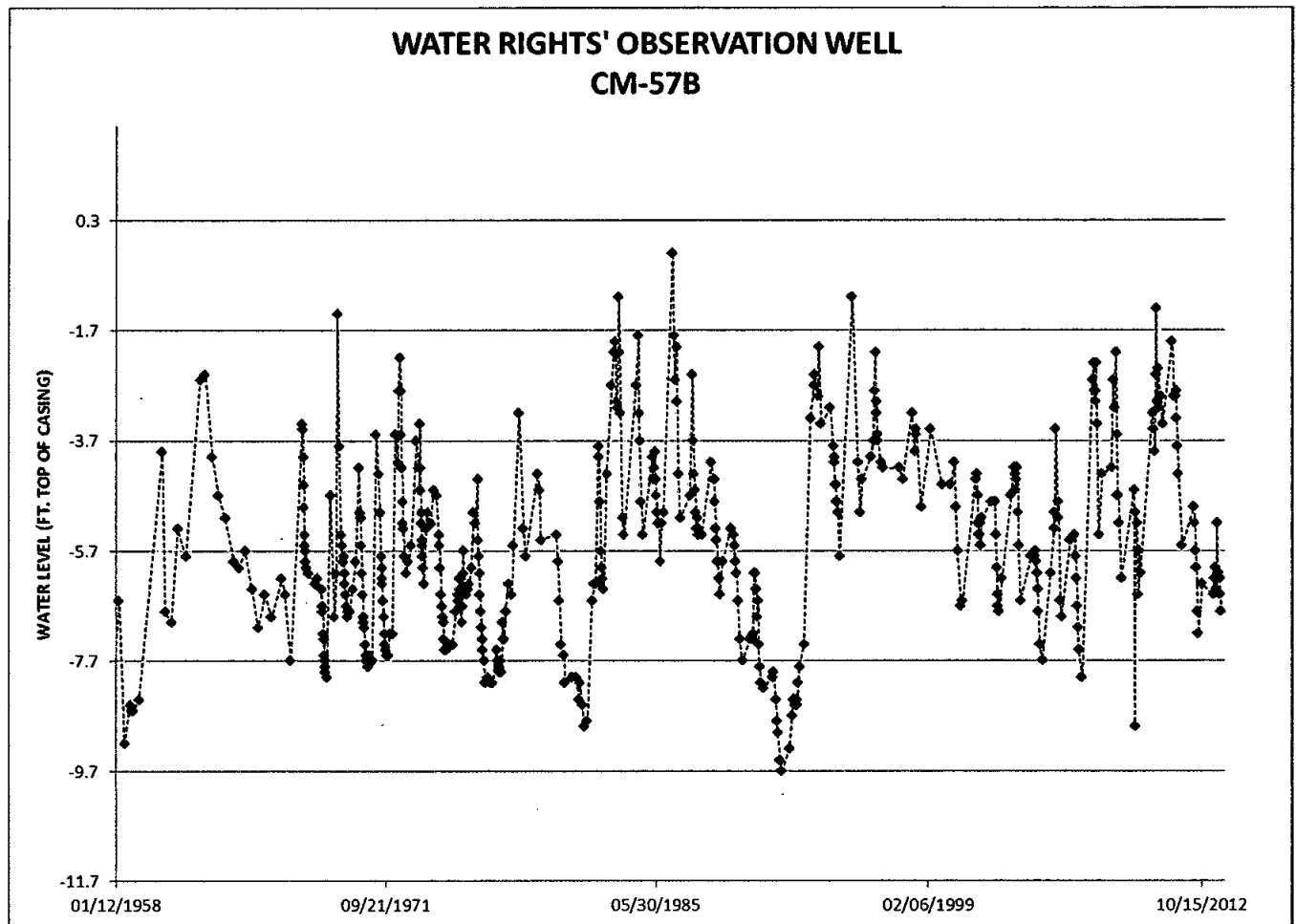


Figure 1: Historic water levels in Observation Well CM-57B (Water Rights, 2014a).

### EXISTING WATER RIGHTS:

The closest water right (No. 7385-3) to the proposed well site that is not owned by Mr. Fischer is located approximately one mile to the south. The nearest domestic well is located approximately 0.6 miles to the north. At these distances, interference is not expected to be a concern. Assuming that the additional withdrawal as a result of 135.12 additional irrigated acres is approximately 135 ac-ft/yr, it follows that the additional diversion required to irrigate these acres from April 1<sup>st</sup> to August 30<sup>th</sup> is the equivalent of 0.567 cfs continuously over that time period. It is not expected that this increase will significantly affect drawdown or result in unlawful impairment of existing wells.

### CONCLUSIONS:

- 1) This application proposes to appropriate up to 270 ac-ft/yr of water for the irrigation of an additional 135.12 acres at a maximum diversion rate of 1.89 cfs. The amount of water that will actually be used is expected to be significantly less than 270 ac-ft/yr.
- 2) This application proposes to withdraw water from the Choteau: West aquifer.

- 3) There is a reasonable probability that unappropriated water is available from the Choteau: West aquifer for this proposed appropriation.
- 4) There is a reasonable probability that the diversion requested by this application can be made without adversely impacting existing water rights or domestic wells.



Bracken Capen  
SD DENR-Water Rights Program

Approved by:



Ken Buhler  
SD DENR-Water Rights Program

## REFERENCES:

- Buhler, L. 2012. "Water Permit Application No. 7385-3 Report". Sd DENR-Water Rights Program. Joe Foss Bldg., Pierre, SD.
- Hedges, L.S., S.L. Burch, D.L. Iles, R.A. Barari, and R.A. School. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Allen, J., and Holly, D.E. 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 7: Ground-Water Recharge. South Dakota DENR-Geological Survey, Vermillion, SD.
- Kume, J. 1972. Major Aquifers in Charles Mix and Douglas Counties, South Dakota. South Dakota Geological Survey Information Pamphlet No. 2 SD DENR-Geological Survey, Vermillion, SD.
- SDGS. 2012. Lithologic Logs Database. <http://sddenr.net/lithdb/>. SD DENR-Geological Survey. Vermillion, SD.
- Water Rights 2014a. Observation Well Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights 2014b. Water Rights/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights 2014c. Water Well Completion Report. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights 2014d. Irrigation Questionnaires. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

# Affidavit of Publication

RECEIVED

STATE OF SOUTH DAKOTA)

)SS

APR - 3 2014

COUNTY OF CHARLES MIX)

WATER RIGHTS  
PROGRAM

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 26<sup>th</sup> day of March, 2014  
2nd publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2014  
3rd publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2014  
4th publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2014  
5th publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2014

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

\$ 25.84

Kristina Hajek

Subscribed and sworn before me this 26<sup>th</sup> day of March, 2014.

Barbara Benson

Notary Public

My commission expires 10/22/16

scribing 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 \$25.84.

Pub: March 26, 2014

## PUBLIC NOTICE

### NOTICE OF APPLICATION NO. 7952-3 TO APPROPRIATE WATER

Notice is given that Fischer Farms, Jeffrey & Seth Fischer, PO Box 787, Wagner SD 57380 have filed an application for a water permit to irrigate 135.12 new acres. Water Permit No. 7451-3 appropriates 1.89 cubic feet of water per second from one well completed into the Choteau: West Aquifer (265 feet deep) located in Lot 1431 Section 15 for irrigation of 105 acres located in Lots 1, 2, north portion of Lot 3 and Lots 1402, 1430 and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey. Application No. 7952-3 is to irrigate 135.12 new acres located in Lots 1404, 1405, 1428 and 1429 Section 15-T95N-R63W of Yankton Reservation Survey from the well authorized by Water Permit No. 7451-3. This application, if approved, does not authorize any increase in the diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7952-3 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 7, 2014.

The petition may be informal, but must include a statement de-

RECEIVED

MAR 31 2014

WATER RIGHTS  
PROGRAM

## AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

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

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON  
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE  
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER  
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY  
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID  
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED  
Notice on Application No. 7952-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
NEWSPAPER ON THE 26th DAY OF March 2014  
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$29.79 ENSURES TO THE  
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO  
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS  
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF  
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 3/26/2014

FILED ON: 3/26/2014

SUBSCRIBED AND SWORN TO BEFORE ME THIS 26th DAY OF March 2014

NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES 8/19/2015

Notice is given that Fischer Farms, Jeffrey & Seth Fischer, PO Box 787, Wagner SD 57380 have filed an application for a water permit to irrigate 135.12 new acres. Water Permit No. 7451-3 appropriates 1.89 cubic feet of water per second from one well completed into the Choteau-West Aquifer (265 feet deep) located in Lot 1431 Section 15 for irrigation of 105 acres located in Lots 1, 2, north portion of Lot 3 and Lots 1402, 1430 and 1431 of Section 15; all in T95N-R63W of Yankton Reservation Survey. Application No. 7952-3 is to irrigate 135.12 new acres located in Lots 1404, 1405, 1428 and 1429 Section 15-T95N-R63W of Yankton Reservation Survey from the well authorized by Water Permit No. 7451-3. This application, if approved, does not authorize any increase in the diversion rate.

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tained. 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 \$29.79.

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 ob-



DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES

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



March 14, 2014

Wagner Post  
PO Box 187  
Wagner SD 57380

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7952-3 to Appropriate Water. Please publish the notice once on March 26, 2014. 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 Fischer Farms, c/o Jeffrey & Seth Fischer, PO Box 787, Wagner SD 57380 (Ph # 605-491-0326).

**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

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



March 14, 2014

Press & Dakotan  
319 Walnut  
Yankton SD 57078

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Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures



DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES

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(S) RIGHT AWAY.**

March 14, 2014

Fischer Farms  
Jeffrey & Seth Fischer  
PO Box 787  
Wagner SD 57380

Dear Sirs:

Water Permit Application No. 7952-3 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 Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
(605) 773-3352  
enclosures

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

Instruction to Newspaper - Publish the Notice on March 26, 2014. 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.

---

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

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

# Affidavit of Publication

RECEIVED

MAY - 2 2014

STATE OF SOUTH DAKOTA)

)SS

WATER RIGHTS  
PROGRAM

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 30<sup>th</sup> day of April, 2014  
2nd publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2014  
3rd publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2014  
4th publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2014  
5th publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2014

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

\$ 26.48

Kristina Hajek

Subscribed and sworn before me this 30<sup>th</sup> day of April, 2014.

Brian [Signature]

Notary Public

My commission expires 10/22/16

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

Published once at the total approximate cost of \$26.48.

Pub: April 30, 2014

## PUBLIC NOTICE

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RECEIVED  
MAY - 2 2014  
WATER RIGHTS  
PROGRAM

# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources  
Water Rights Program  
523 E. Capitol  
Pierre, SD 57501

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON  
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TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
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THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$29.79 ENSURES TO THE  
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO  
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS  
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF  
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 4/30/2014

FILED ON: 4/30/2014

SUBSCRIBED AND SWORN TO BEFORE ME THIS 30th DAY OF April 2014

NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES 8/19/2015

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

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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

**Schlaak, Karen**

---

**From:** Schlaak, Karen  
**Sent:** Tuesday, April 22, 2014 1:29 PM  
**To:** Wagner (announcer@hcinet.net)  
**Subject:** Notice of Application No. 7952-3  
**Attachments:** 7952-3public.short.docx

Attached is Notice of Application No. 7952-3 to Appropriate Water for Fisher Farms. This notice was originally published by your paper on March 26. Due to an error, on our part, regarding the legal description within the notice, the notice needs to be readvertised.

Please publish the attached Notice on April 30, 2014. Please send the bill and affidavit to the Water Rights Program, 523 E Capital, Pierre SD 57501.

Please acknowledge receipt of this notice. Thanks.

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

## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Tuesday, April 22, 2014 1:29 PM  
**To:** 'Tera Schmidt'  
**Subject:** FW: Notice of Application No. 7952-3  
**Attachments:** 7952-3public.short.docx

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Please acknowledge receipt of this notice. Thanks.

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



**DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES**

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



April 22, 2014

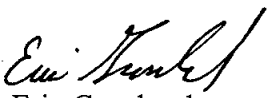
Fischer Farms  
Jeffrey & Seth Fischer  
PO Box 787  
Wagner SD 57380

Dear Sirs:

The Notice of Application No. 7952-3 to Appropriate Water for irrigation printed in the Yankton Daily Press and Dakota and the Wagner Post contained an error in the legal description of the well location (copies enclosed). It was incorrectly identified as being located in Lot 1431 Section 15. The correct location is Lot 1405 Section 15. Therefore, the notice needs to be readvertised to correct the error so the water permit is free from any legal problems due to insufficient public notice.

The Yankton Daily Press and Dakota and the Wagner Post have been instructed to publication the notice again on April 30, 2014 with the date for submittal of petitions being May 12, 2014. If you have any questions, please contact me.

Sincerely,

  
Eric Gronlund  
Natural Resources Engineer  
(605) 773-3352

enclosures

Water Rights Program is responsible for payment

---

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

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

**MAY - 2 2014**

**WATER RIGHTS  
PROGRAM**

Date \_\_\_\_\_

4/30/14

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

[illegible]

May 2, 2014

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

Re-ad of 7952-3 S Fischer # 15798

AMOUNT: \$26.48

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

*Paul Jackson* 5-2-14

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.

May 2, 2014

PAYMENT REQUEST FORM

PAYEE: Press & Dakotan  
319 Walnut  
Yankton SD 57078

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Re-ad of 7952-3 S Fischer

AMOUNT: \$29.79

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

*Neil Jasson 5-2-14*

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.



DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES

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



MAY 22 2014

Fischer Farms  
Jeffrey Fischer & Seth Fischer  
PO Box 787  
Wagner SD 57380

Dear Sirs:

Enclosed is Water Permit No. 7952-3 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

JUL - 9 2014

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

Date

7/7/2014

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

FROM:

ETH Fisch  
(name)

PO Box 1132  
(address)

Wagner, SD 57380  
(city, state, zip)

605-491-0326  
(phone)

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

Water Permit No. 7952-3 states that the water use system is to be constructed by

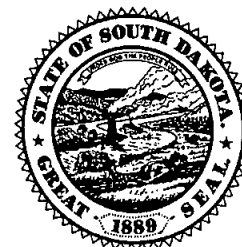
5/1/2014, and water is to be put to beneficial use by 5/15/2014.  
(date) (date)

The water use system was completed on 5/20/14.  
(date)

Applying the water to beneficial use was completed on 5/25/14.  
(date)

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

ETH Fisch  
(signature)





**DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES**

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



July 11, 2014

7952-3

Seth & Jeffrey Fischer  
Fischer Farms  
PO Box 787  
Wagner SD 57380

Dear Sirs:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with the irrigation system authorized under Water Permit No. 7952-3.

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

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

Sincerely,

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



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

January 20, 2023

### NOTICE

TO: FISCHER FARMS, LYNN FISCHER, PO BOX 787, WAGNER, SD 57380 0787

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) 7450-3 & 7952-3. 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) 7450-3 & 7952-3 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) 7450-3 & 7952-3 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](mailto:genny.mcmath@state.sd.us). **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: BSZBPB**

**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 25, 2023

7450-3  
7952-3

Lynn Fischer  
Fischer Farms  
PO Box 787  
Wagner SD 57380

Dear Mr. Fischer:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit Nos. 7450-3 & 7952-3. 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

March 27, 2023

7952-3

Sam & Angie Fousek  
29972 396<sup>th</sup> Ave  
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

Thank you for visiting with me about the ownership change needed for Water Permit No. 7952-3.

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

I have enclosed a copy of the water permit for you to keep for your records. If I can answer any questions, please let me know.

Sincerely,

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

enclosures

7952-3

**RECEIPT****WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date April 11, 2023RECEIVED OF Fousek Farm & Ranch LLC 29972 396<sup>th</sup> Ave., Wagner SD 57380

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

|                                                                                                                |                |
|----------------------------------------------------------------------------------------------------------------|----------------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | \$ _____       |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                   | \$ _____       |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                         | \$ _____       |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____            | \$ _____       |
| Fee for Filing Transfer Form <u>7952-3</u>                                                                     | <u>\$50.00</u> |
| Fee for _____                                                                                                  | \$ _____       |
| Fee for Issuing New Well Driller's License No. _____                                                           | \$ _____       |
| Fee for Renewal of Well Driller's License No. _____                                                            | \$ _____       |
| Fee for Issuing Well Pump Installer's License No. _____                                                        | \$ _____       |
| Fee for Renewal of Well Pump Installer's License No. _____                                                     | \$ _____       |
| (Any Other Work Provided by Law) TOTAL                                                                         | <u>\$50.00</u> |

By Eric Gronlund  
 Chief Engineer  
me

PAID

APR 11 2023

NOTICE OF TRANSFER OF OWNERSHIP

Ck# 25285

Rec't# \_\_\_\_\_

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

No. 7952-3

Date: 4.7.23

I/We request that Water Permit No. 7952-3

formerly owned by: Fischer Farms

be transferred to: (name & address) ~~Robert Fischer~~ Sam + Angie Fousek  
29972 396<sup>th</sup> Ave - Wagner SD 57380  
Telephone No. 605 491 5474

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

135.12 acres – NW ¼ Section 15, T95N, R63W (Lots 1404, 1405, 1428 & 1429)

I/We understand that the validity of Water Permit No. 7952-3 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 Sam + Angie 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.

APR 11 2023

OFFICE OF  
WATER



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

April 12, 2023

7952-3

Sam & Angie Fousek  
29972 396<sup>th</sup> Ave  
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Permit No. 7952-3.

The ownership change has been completed. The water permit formerly held by Fischer Farms is now listed in your names.

Enclosed for your records is a receipt for the filing fee you paid. If I can answer any questions, please let me know.

Sincerely,

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

Enclosure



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: SAM & ANGIE FOUSEK, 29972 396TH AVE, 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) 2323A-3, 7385-3, 7451-3 & 7952-3. 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) 2323A-3, 7385-3, 7451-3 & 7952-3 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) 2323A-3, 7385-3, 7451-3 & 7952-3 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](mailto: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: LFOJPG or QFWVIF**

**cc: ALLISON FISCHER, 9797 N SHORE DR, SPICER MN 56288**

**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 30, 2025

2323A-3, 7385-3, 7450A-3  
7451-3 & 7952-3

Sam & Angie Fousek  
29972 396<sup>th</sup> Ave  
Wagner SD 57380

Dear Mr. & Mrs. 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). 2323A-3, 7385-3, 7450A-3, 7451-3 & 7952-3. 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