

WATER PERMIT NO. 8016-3

Name of Applicant: Amelia Bertrand Trust

Address: 745 Streeter Dr, #14, North Sioux City SD 57049

Phone: 712 259-5382

Amount of Water Claimed: 1.67 cfs Total Acres: 66

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation County: Union

Type of Waste Disposal System:

Location: 8 miles northwest of Elk Point

PRIORITY Date Received: 5-12-14

Application/License Fee: \$ 950

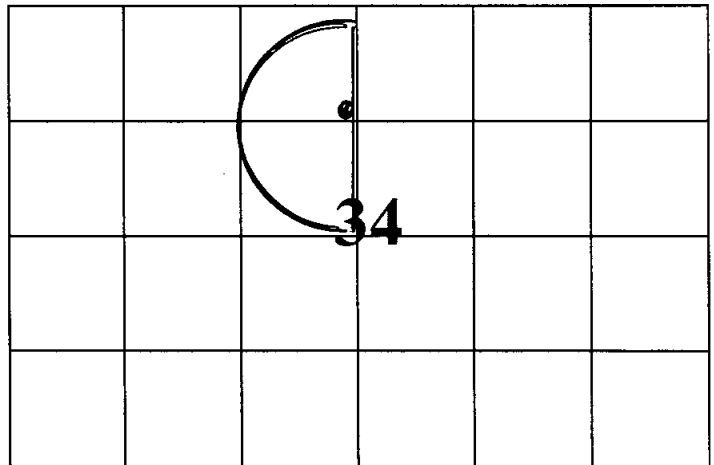
Corrected Application Received: 5-19-14

Period of Annual Use: June 1 – Aug 31

Remarks: Applicant requesting diversion rate greater than statutory limit

Diversion Point: NE 1/4 NW 1/4 Sec 34-T90N-
R49W

Land to be Irrigated: E 1/2 NW 1/4 Sec 34-T90N-
R49W



Depth of Well: 110 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 5-19-14

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	(office use only) No. _____ Hydrologic Unit _____
	Basin _____
	Newspaper _____

RECEIVED

MAY 12 2014

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.)

New Well to irrigate acres with Permit from Previous
Well on neighbors ground.

1. Name to Appear on Irrigation Permit Amelia Bertrand Trustee
(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent Amelia Bertrand
(name and complete address if different than above name)

Mailing Address 745 Streeter Dr. #14 North Sioux City SD 57049
(Address) (City) (State) (Zip Code)

Home Phone _____ Cell 712-259-5382 Email _____

2. Amount of water claimed 1.67 *CFS or 750 **GPM ***AF Total Acreage 66
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply New Well

4. Location of point of diversion NE 1/4 of NW 1/4 Section 34 - T90N-R49W (Civil Bend)
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

See attached map County Union

5. County or counties where water will be used Union

6. Annual period during which water is to be used June-Aug.

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
NE 1/4 of NW 1/4	33		
SE 1/4 of NW 1/4	33		
Sec 34 - T90N - R 49W			

8. Give a description of the project. (Attach sheet if more space is needed) Spoke w/Eric 5/8/14
In regards that this 80 was water permitted under a previous
well on the 80 Adj. West. That well now water a 160A to the South
& the 80 it is on. (Previous Permit Under Rodger Dailey) 4433-3
requesting diversion rate greater than statutory limit

I, Amelia Bertrand, 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. 8016-3

Date of first receipt of application May 12, 2014.

Date of return to applicant for corrections, amendments or changes May 13, 2014.

Date of receipt of corrected application May 19, 2014.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8016-3 to Amelia Bertrand Trust, c/o Amelia Bertrand, 745 Streeter Dr #14, North Sioux City SD 57049 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. 8016-3 appropriates 1.67 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (110 feet deep) located in the NE 1/4 NW 1/4 Section 34 for irrigation of 66 acres located in the E 1/2 NW 1/4 Section 34; all in T90N-R49W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: June 1 – August 31.
3. The date from which applicant may claim right is May 12, 2014.
4. The date of approval of Permit No. 8016-3 is August 11, 2014.
5. One-fifth of the construction is to be completed on or before February 11, 2017.
6. All construction is to be completed on or before August 11, 2019.
7. Water is to be put to beneficial use on or before August 11, 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 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. 8016-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8016-3 authorizes a maximum diversion rate of 1.67 cfs for the irrigation of 66 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

SEP 04 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 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 110' Depth to Top of Water Bearing Material 80' Depth to Water from Surface 40'

d) Distance to nearest existing domestic well:

On applicant's property N/A On property owned by others < 1/2 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)

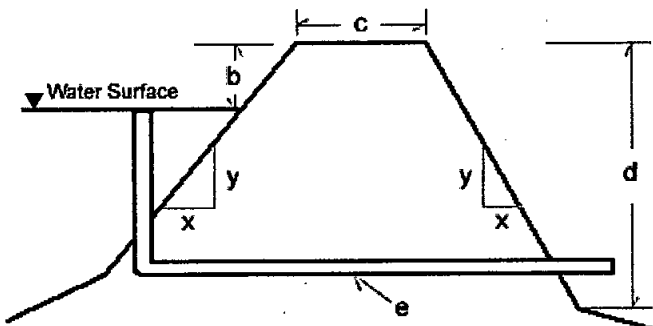
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/12, 20 14

RECEIVED OF Amelia L Bertrand Trust 745 Streeter Dr #14 N Sioux City SD 57049

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

Fee for Application for Permit No. <u>8016-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	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>8016-3</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	700 00

No. **06854**

By Jeane Goodman
Chief Engineer

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/19, 20 14

RECEIVED OF Amelia L Bertrand Trust 745 Streeter Dr # 14 N Sioux City SD 57049

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

Fee for Application for Permit No. <u>8016-3</u> to Appropriate Water, to construct and to put water to beneficial use	200	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
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	200 00

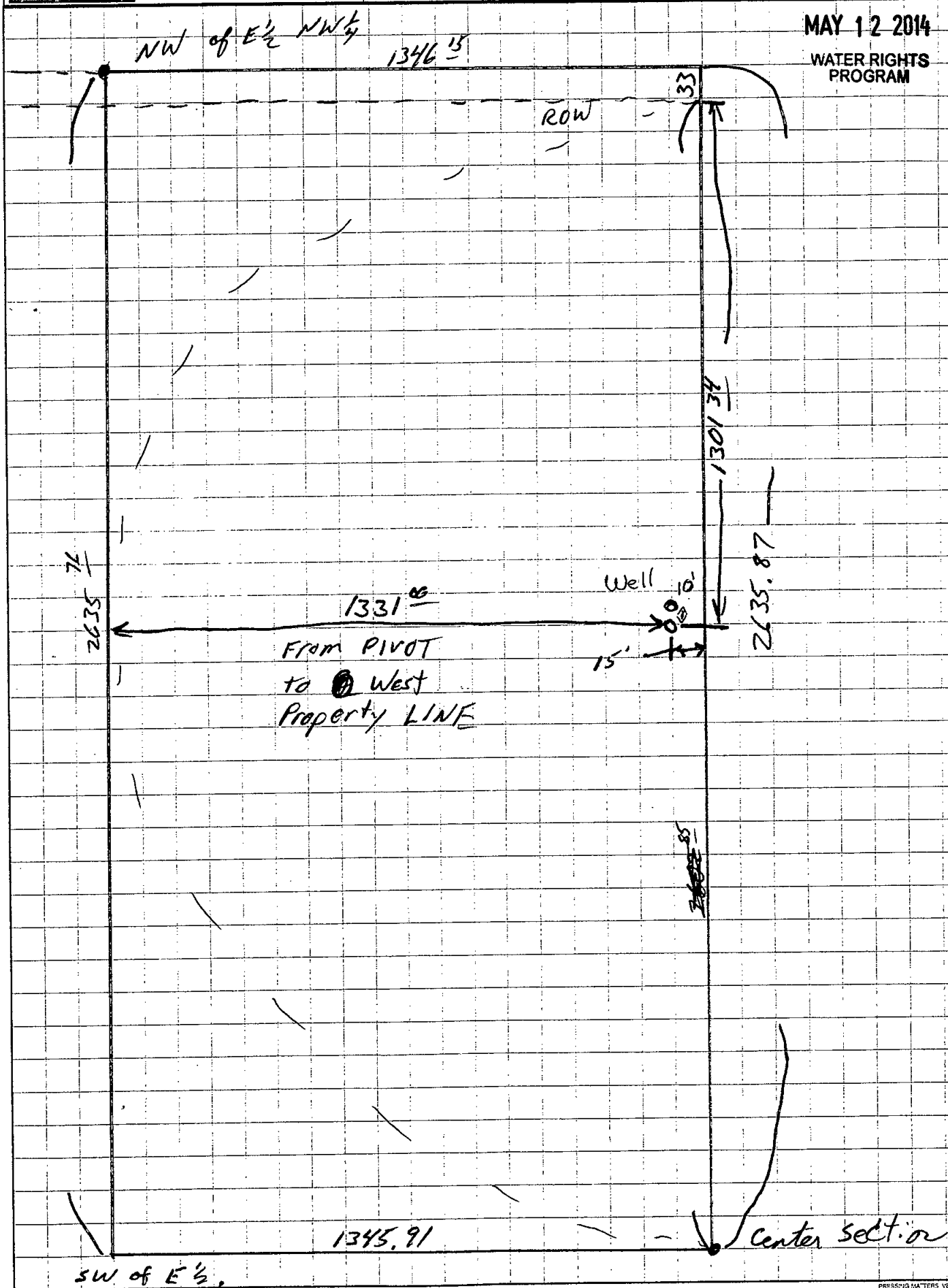
No. **06858**

By J. Anne Goodman
Chief Engineer

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MAY 12 2014

**WATER RIGHTS
PROGRAM**





DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



May 13, 2014

Amelia Bertrand Trustee
c/o Ameila Bertrand
745 Streeter Dr. #14
North Sioux City SD 57049

Dear Ms. Bertrand:

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

- The application/license fee for irrigation of 66 acres is \$ 950.00. We have received your check for \$700.00. Please submit and an additional \$200.00.

If you have any questions, please contact me.

Sincerely,

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

May 13, 2014

Roger Dailey
33229 479 Ave
Jefferson Sd 57038

Dear Mr. Dailey:

On May 12, 2014 we received an Application for a Permit to Appropriate Water from Amelia Bertrand. The application is for irrigation of 66 acres located in the E 1/2 NW 1/4 Section 34-T90N-R49W from a new well to be located in the same area.

A review of our files indicates you hold Water Right Nos. 4433-3 and 3461-3 in this same area also. Water Right No. 4433-3 is for 1.89 cubic feet of water per second (cfs) for irrigation of 133 acres located in the NW 1/4 Section 34-T90N-R49W. The application submitted by Ms. Bertrand requests irrigation of the E 1/2 NW 1/4 which is a portion of the acres under your permit. Her application further indicates that the existing well authorized by Water Right No. 4433-3 will be used to irrigate the W 1/2 NW 1/4 and 160 acres to the south which would be the SW 1/4 Section 34. To Water Rights knowledge, the SW 1/4 of Section of 34 is not covered under any existing permit.

Your Water Right No. 3461-3 authorizes 5.55 cfs from two wells to irrigate 433 acres located in portions of Section 33 and the S 1/2 SE 1/4 Section 28; all in T90N-R49W. Mrs. LuVerne Wriedt holds Water Right No. 3102-3 for irrigation of the NE 1/4 Section 34 and Eugene Mollet holds Water Right No. 5903-3 for irrigation of the SE 1/4 Section 34.

I have enclosed an aerial photo map of this area which shows irrigation is taking place in the SW 1/4 Section 34-T90N-R49W. The Union County plat map shows you own most of this land. Are you aware of a water right held for irrigation of the SW 1/4 Section 34? If so, please provide the water right number. If not, please complete and return an application form (form and instruction sheet enclosed).

If you have any questions, please contact Eric Gronlund or me.

Sincerely,

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

enclosure

Water Rights Program - File Documentation

NAME: Amelia Bertrand and Tom Corio

ADDRESS: 745 Streeter Dr. #14, North Sioux City, SD 57049

DATE: July 14, 2014 **COUNTY:** Union **TELEPHONE:** (712) 259-5382

RE: Regarding overlap in lands irrigated between Water Right No. 4433-3 and Water Permit Application No. 8016-3

COMMENTS:

On July 14, 2014 I spoke to Amelia Bertrand and her Tom Corio (who leases the E ½ NW ¼ of Section 34, T90N-R49W from Amelia Bertrand) about Water Permit Application No. 8016-3, which proposes to irrigate the According to water rights records, the E ½ NW ¼ of Section 34, T90N-R49W is already being irrigated under Water Right No. 4433-3 along with the W ½ NW ¼ of the same section. Irrigation questionnaires submitted by a Mr. Roger Daily indicate that he has been regularly irrigating both halves of the NW ¼ of Section 34 since 1979. However, Ms. Bertrand and Mr. Corio have both said that Mr. Daily has not farmed this land in approximately 10 years and that these irrigation questionnaires are incorrect. Consequently, Ms. Bertrand has submitted Water Permit Application No. 8016-3 which proposes to irrigate the E ½ NW ¼ of Section 34 alone.

Bracken Capen
Water Rights Program



**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. 8016-3, Amelia Bertrand Trust**

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. 8016-3, Amelia Bertrand Trust, c/o Amelia Bertrand, 745 Streeter Dr, #14, North Sioux City SD 57049.

The Chief Engineer is recommending APPROVAL of Application No. 8016-3 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. 8016-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8016-3 authorizes a maximum diversion rate of 1.67 cfs for the irrigation of 66 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
July 24, 2014

**REPORT TO THE CHIEF ENGINEER
WATER PERMIT APPLICATION NO. 8016-3
Amelia Bertrand Trust
July 14, 2014**

Water Permit Application No. 8016-3 proposes to divert groundwater at a maximum rate of 1.67 cubic feet per second (cfs) from one well completed into the Elk Point Management Unit of the Missouri aquifer at approximately 110 feet deep. The diversion point will be located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, T90N-R49W for irrigation of 66 acres located in the E $\frac{1}{2}$ NW $\frac{1}{4}$ of the same section. The land in this application is already covered by Water Right No. 4433-3 along with the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 34. The reason for the overlap in coverage is discussed at the end of this report. The applicant is requesting a diversion rate greater than the statutory limit.

AQUIFER: Elk Point Management Unit of the Missouri aquifer (M:EP)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Elk Point Management Unit of the Missouri aquifer is an alluvium mantled outwash consisting of fine sand to very coarse gravel (Niehus, 1994; Stephens, 1967). The Missouri: Elk Point aquifer is located in southeastern South Dakota, underlying large portions of Yankton, Clay, and Union Counties. In total, the Missouri: Elk Point aquifer is estimated to underlie 210,100 acres and contain 3,287,100 acre feet (ac-ft) of recoverable water in storage (Hedges et al, 1982). The aquifer connects to the Lower Vermillion Missouri and Lower James Missouri aquifers to the north, overlies and is often hydrologically connected to the Dakota aquifer, and is hydraulically connected to the Vermillion, Big Sioux, and Missouri Rivers. Water in the aquifer generally moves from the northwest to the southeast and towards the Missouri River (Stephens, 1967). The Missouri: Elk Point aquifer is predominantly under water table conditions.

A test hole log was not submitted with this application. Nearby lithological records indicate sand and gravel from near ground surface to approximately 120 feet below grade (Water Rights, 2014c). The static water level of wells in the area and a DENR-Water Rights Program observation well (UN-77P) ranges from 8 to 20 feet below ground surface (Water Rights, 2014a and 2014c). The proposed well site is approximately 1.6 miles away from the Missouri River.

South Dakota Codified Law (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 from the aquifer and the potential for impairment of existing rights.

WATER AVAILABILITY:

This application proposes to appropriate water from the Missouri: Elk Point aquifer. Actual water use, if this application is approved, will likely be less than 66 acre-feet annually (ac-ft/yr) and will not exceed 132 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, the withdrawal/recharge issue must be considered.

Hydrologic Budget:

The hydrologic budget of the Missouri: Elk Point aquifer was evaluated for groundwater appropriations as of June 10, 2013. Water rights/permits/future use permits are expected to use 81,108 ac-ft/yr, which includes expected use by newer irrigation water permits. Recharge to the aquifer is estimated to be at least 91,964 ac-ft/yr, which considers induced recharge. Therefore, approximately 10,856 ac-ft/yr of unappropriated water was available at that stage of development (Stonesifer, 2013).

Since June 10, 2013, 17 water permits have been approved. These water permits are for irrigation use and are shown in Table 1. Historically, irrigation use water rights/permits withdrawing water from this aquifer pump on average 13.7% of the total appropriation (Stonesifer, 2013). Stonesifer’s percentage of pumping to appropriation takes in to account the continuing development of irrigation from the Missouri: Elk Point aquifer, especially during the period of 2006 to 2012. Stonesifer accomplished this by only considering the pumpage compared to appropriation of water rights/permits that were past the end of their respective construction period (five years after approval). Applying that proportion to the new appropriations and the pending appropriation means estimated withdrawals of approximately 492 ac-ft/yr. Consequently, there is approximately 10,364 ac-ft/yr of recharge in excess of average annual withdrawal. Therefore there is a reasonable probability that unappropriated water is available for this proposed appropriation.

Permit No.	Name	County	Priority Date	Permit CFS	Permit Acres	Permit Appropriation (ac-ft)
7848-3	Missouri Valley Farms Inc.	Union	05/31/2013	3.04	213	426
7856-3	Mike & Steve Allard	Union	07/01/2013	1.78	129.3	258.6
7895-3	Todd Hansen	Union	09/09/2013	1.89	180	360
7898-3	James Orr	Clay	09/12/2013	1.56	132	264
7899-3	Justin Orr	Clay	09/12/2013	1.56	97	194
7904-3	Craig S. McInerney	Union	09/23/2013	1.78	160	320
7933-3	Doug Bye	Clay	12/12/2013	0.89	80	160
7936-3	Donald Johnson	Yankton	12/17/2013	1.39	83	166
7938-3	Russell M. Hall	Union	01/02/2014	n/a	53	106
7941-3	Joseph F. Chicoine	Union	01/14/2014	1	37.69	75.8
7074A-3	Calvin Hanson	Clay	01/21/2014	1.78	162	324
7951-3	Allen Pace	Union	01/24/2014	1.78	150	300
7955-3	Karl M. Schenk	Yankton	02/03/2014	1.78	140	280
7971-3	Barry Van Osdel	Yankton	02/20/2014	1.11	68	136
7980-3	Francis Heine	Clay	02/24/2014	n/a	5	10
7987-3	Armstrong Living Trust	Clay	03/17/2014	1.78	102	204
8010-3	Ryan Rusher	Yankton	04/28/2014	0.1	2.5	5

Table 1- Approved and pending water permits from the Missouri Elk: Point aquifer since June 10, 2013 (Water Rights, 2014b)

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 Water Rights Program monitors 37 observation wells completed into the Missouri: Elk Point aquifer (Water Rights, 2014a). The closest of these wells with records extending to the present are UN-77P and UN-99A, located approximately 1.9 and 1.4 miles to the northeast and northwest, respectively. The hydrographs for these observation wells are shown in Figures 1 and 2. The observation well data documents cyclic conditions of water levels, recharging during wet years and declining during dry years. The hydrograph reflects the effects of pumping on the aquifer. Observation well data indicates that at the current level of development temporal well withdrawal is greatly masked by climatic conditions, indicating that recharge to and natural discharge from the aquifer greatly exceeds well withdrawal. In general, hydrographs of observation wells completed into the Missouri: Elk Point aquifer show a slight decline in the water table since records began. This has been attributed to entrenching of the Missouri River and a strong hydraulic connection between the river and the aquifer (Goodman, 2007).

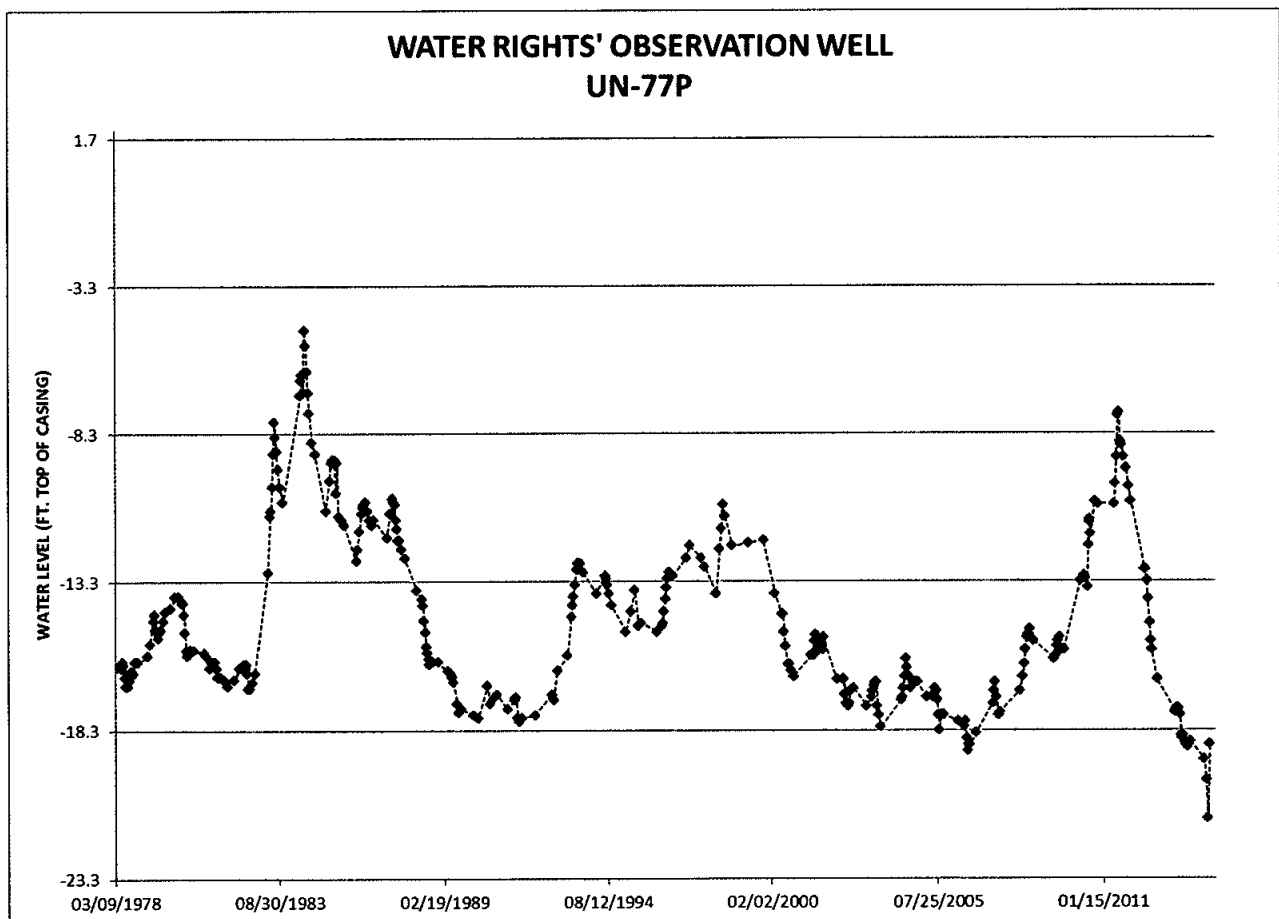


Figure 1: Historic water levels in Observation Well UN-77P (Water Rights, 2014a)

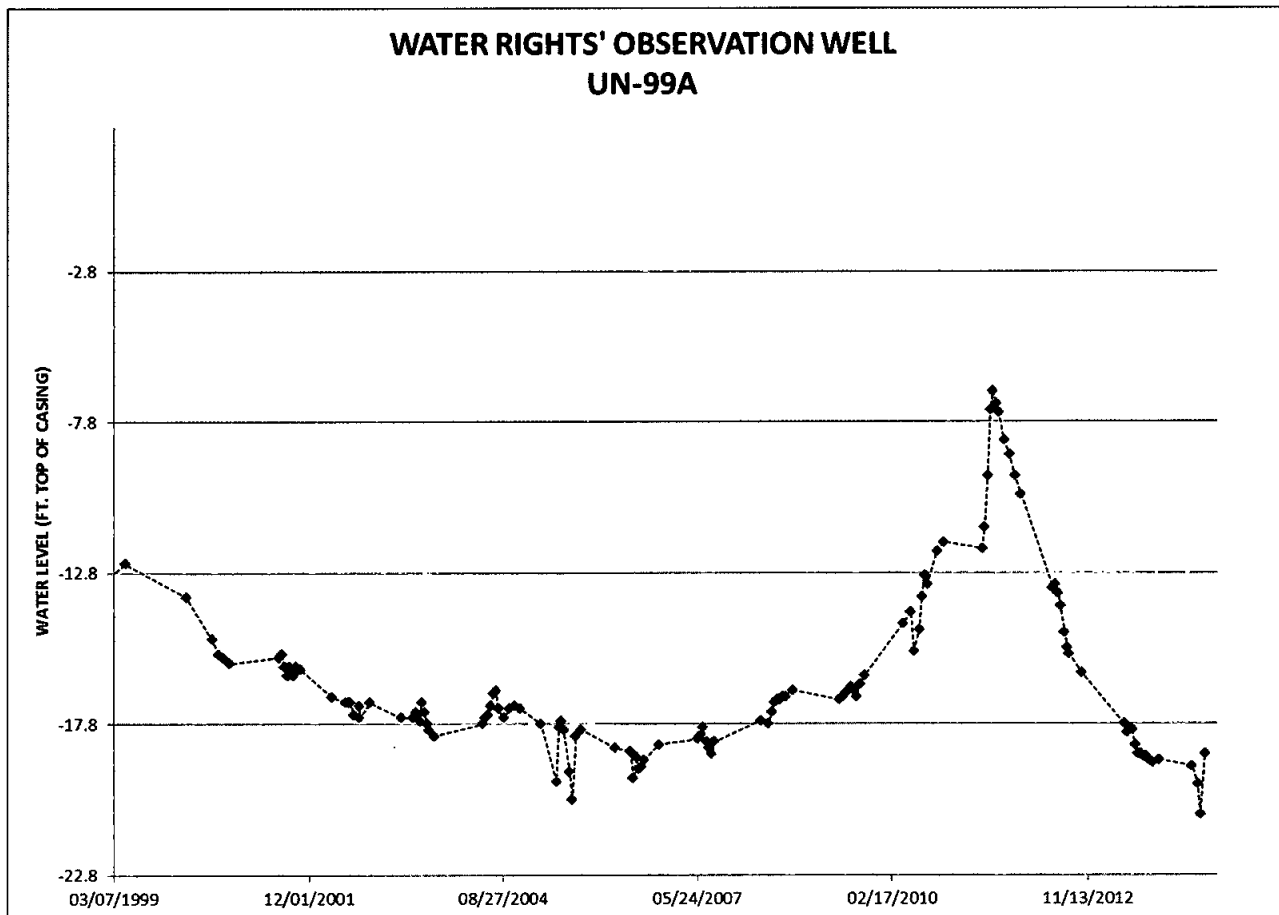


Figure 2: Historic water levels in Observation Well UN-99A (Water Rights, 2014a)

EXISTING WATER RIGHTS:

In reviewing this application, the well completion report and water rights databases were reviewed for the nearest domestic wells and water rights/permits on file. Water Right Nos. 4433-3 and 3102-3 both have wells completed into the same formation at 1,320 feet to the west and 1,320 feet to the east, respectively. Given the thickness of the saturated portion of the formation of 80 feet shown in nearby well logs (Water Rights, 2014c) and the distances between the wells, approval of this application is not expected to adversely impact nearby water rights/permits. The nearest domestic well on file which has been completed to a similar depth is located approximately 1.6 miles to the northwest of the proposed well site. Similarly, interference is not expected to be a concern at this distance.

SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs for every 70 acres, or "the equivalent thereof." The statute does provide that the Water Management Board may allow a greater diversion rate if the method of irrigation so requires. Water Permit Application No. 8016-3 proposes to divert 1.67 cfs (750 gpm) from the Missouri: Elk Point aquifer for the irrigation of 66 acres, or the equivalent of 1.77 cfs per 70 acres. The applicant requested a diversion rate greater than the statutory limit because the type of system, a center pivot, needs the requested flow rate to operate properly. The map submitted with the application shows the center pivot irrigation system will not make a full rotation. In the past, it

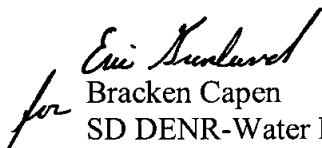
has been accepted that to run a center pivot that only makes a partial rotation a diversion rate greater than the statutory limit is often required.

DISCUSSION OF WATER RIGHT NO. 4433-3:

Water Right No. 4433-3 was approved with a priority date of August 17, 1979, to divert 2.3 cfs from one well completed into the Missouri: Elk Point aquifer to irrigate 160 acres in the NW ¼ of Section 34, T90N-R49W. At the time that the application was submitted, and up until approximately 10 years ago, the entire NW ¼ of Section 34 was irrigated under Water Right No. 4433-3 by Mr. Roger Daily. Mr. Daily had been renting the E ½ NW ¼ of Section 34 from Amelia Bertrand. However, Mr. Daily no longer rents this land from Amelia Bertrand and now only irrigates the W ½ NW ¼ of Section 34 under Water Right No. 4433-3. Aerial photographs of the area and a conversation with Amelia Bertrand and the current operator of the land, Tom Corio, indicate the land is not currently being irrigated.

CONCLUSIONS:

1. The water permit application proposes to withdraw groundwater at a maximum diversion rate of 1.67 cfs from one well to be completed into the Missouri: Elk Point aquifer for the irrigation of 66 acres in Union County.
2. Unappropriated water is available from the Missouri: Elk Point aquifer to supply the proposed appropriation.
3. This proposed diversion is not expected to adversely or unlawfully impair existing appropriative or domestic users.
4. The applicant is requesting a diversion rate greater than the statutory limit. The applicant stated that the increased diversion rate is in order to full supply the pivot that will irrigate the land in question.


for Bracken Capen
SD DENR-Water Rights Program

Approved by


Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Goodman, J.A. 2007. Report on Water Permit Application No. 6869-3 for Lewis and Clark RWS: SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Niehus, C.A. 1994. Water Resources of Lincoln and Union Counties, South Dakota. U.S. Geological Survey Water-Resources Investigations Report 93-4195. U.S. Geological Survey. Rapid City, South Dakota.
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- Water Rights. 2014b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
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AFFIDAVIT OF PUBLICATION

RECEIVED

AUG - 4 2014

WATER RIGHTS
PROGRAM

State of South Dakota)

:ss

County of Union)

Bruce L. Odson,

the publisher of the Leader-Courier, deposes and says that

The Leader-Courier

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

Notice of Application No. 8016-3

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

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

on Thursday, the 31 day of July, 2014

and that the succeeding publications were

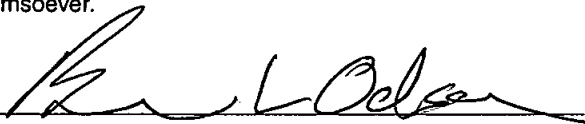
on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

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

\$ 24.38, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

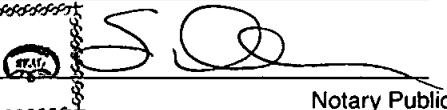


Subscribed and sworn to before me

this 31 day of July, 2014

My commission expires 6-21-17

SUSAN ODSON
NOTARY PUBLIC
SOUTH DAKOTA


Notary Public

NOTICE OF APPLICATION NO. 8016-3 TO APPROPRIATE WATER

Notice is given that Amelia Bertrand Trust, c/o Amelia Bertrand, 745 Streeter Dr, #14, North Sioux City SD 57049 has filed an application for a water permit to appropriate 1.67 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (110 feet deep) located in the NE 1/4 NW 1/4 Section 34 for irrigation of 66 acres located in the E 1/2 NW 1/4 Section 34; all in T90N-R49W. The applicant is requesting a diversion rate greater than the statutory limit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8016-3 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 August 11, 2014.

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. Publish July 31, 2014 Published once at the total approximate cost of \$24.38 31-11-81

RECEIVED

AUG - 4 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

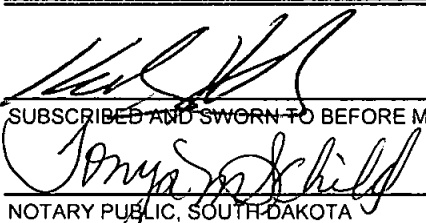
KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Application No. 8016-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 31st DAY OF July 2014
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$26.48 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: 7/31/2014

FILED ON: 7/31/2014

SUBSCRIBED AND SWORN TO BEFORE ME THIS 31st DAY OF July


NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

2014

7+31

NOTICE OF APPLICATION
NO. 8016-3 to Appropriate Water

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



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



July 24, 2014

Leader-Courier
PO Box 310
Elk Point SD 57025

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 8016-3 to Appropriate Water. Please publish the notice once on July 31, 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 Amelia Bertrand Trust, c/o Amelia Bertrand, 745 Streeter Dr, #14, North Sioux City SD 57049 (Ph # 712-259-5382).

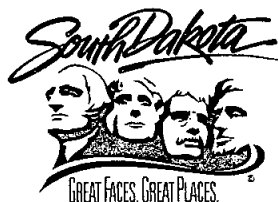
Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

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



July 24, 2014

Press & Dakotan
319 Walnut
Yankton SD 57078

ATTENTION: Legal Public Notice

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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.**

July 24, 2014

Amelia Bertrand Trust
Amelia Bertrand
745 Streeter Dr #14
North Sioux City SD 57049

Dear Ms. Bertrand:

Water Permit Application No. 8016-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Leader- Courier printed at Elk Point SD (Ph # 605-356-2632) and the Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

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

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

Instruction to Newspaper - Publish the Notice on July 31, 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.

NOTICE OF APPLICATION NO. 8016-3 to Appropriate Water

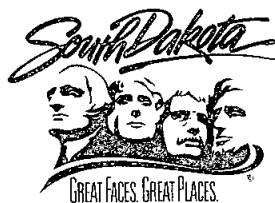
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Published once at the total approximate cost of_____.



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



SEP 04 2014

Amelia Bertrand Trust
Amelia Bertrand
745 Streeter Dr # 14
N Sioux City SD 57049

Dear Ms. Bertrand:

Enclosed is Water Permit No. 8016-3 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