

WATER PERMIT NO. 8064-3

Name of Applicant: Ken Swatek

Address: 29804 395th Ave, Wagner SD 57380

Phone: 605 491-1499

Amount of Water Claimed: no additional

Total Acres: 25

Source of Water Supply: one existing well

Water to be used for: irrigation

County: Charles Mix

Type of Waste Disposal System:

Location: 1/2 mile southeast of Wagner

PRIORITY

Date Received: 11-24-14

Application/License Fee: \$ 500

Corrected Application Received:

Period of Annual Use: April 1- September 30

Remarks: Additional acres to Water Permit No. 7607-3

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

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

Depth of Well: 280 feet deep

Well Driller:

Remarks:

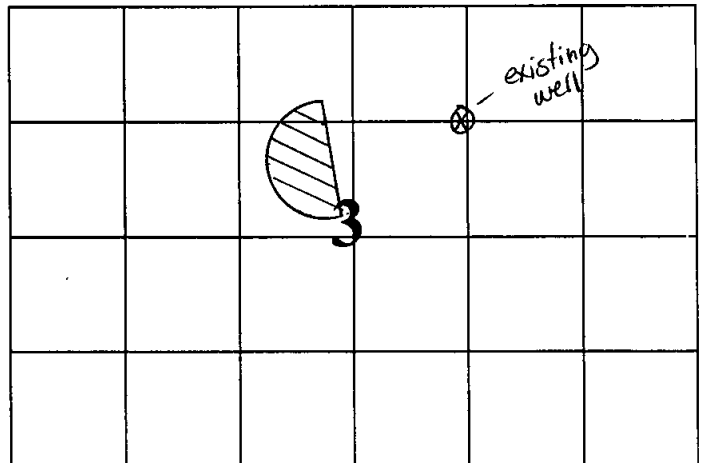
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 12-1-14

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

No. 8064-3 (office use only)
Hydrologic Unit 10170101
Basin Missouri River 605-384-5616
Newspaper Wagner Post, Box 187 57380
Daily Republic, Box 1288 Mitchell 57301 605-996-5514

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NOV 24 2014

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 7607-3
(Use predates Mar 2, 1955)

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

additional acres

1. Name to Appear on Irrigation Permit Ken Swatek

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

(name and complete address if different than above name)

Mailing Address 29804 395th Ave Wagner SD 57380
(Address) (City) (State) (Zip Code)

Home Phone 605-384-3502 Cell 605-491-1499 mail kuswatek@hcinet.net

2. Amount of water claimed _____ *CFS or no add'l **GPM _____ ***AF Total Acreage 25
(*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 Well

4. Location of point of diversion Existing Well Approximate center NE 1/4 Sec 3-T95N-R63W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R55W)

County Charles-Mix

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

6. Annual period during which water is to be used April thro September 30

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>Sec 3-T95N-R63W</u>	<u>25</u>		
<u>E 1/2 NW 1/4</u>			

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

Pivot will be in Section 3 - to water approximately 25 acres more from existing well.

I, Ken Swatek, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

**SOUTH DAKOTA
WATER PERMIT NO. 8064-3**

Date of first receipt of application November 24, 2014.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8064-3 to Ken Swatek, 29804 395th Ave, Wagner SD 57380 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8064-3 authorizes irrigation of 25 new acres. Water Permit No. 7607-3 appropriates 1.78 cubic feet of water per second from one well completed into the Choteau:West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 to irrigate 111 acres located in the NE 1/4, E 1/2 NW 1/4 Section 3; all in T95N-R63W. This permit authorizes irrigation of 25 new acres located in the E 1/2 NW 1/4 Section 3-T95N-R63W from the existing well. This permit does not authorize any increase in the authorized 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: April 1 – September 30.
3. The date from which applicant may claim right is November 24, 2014.
4. The date of approval of Permit No. 8064-3 is March 2, 2015.
5. One-fifth of the construction is to be completed on or before September 2, 2017.
6. All construction is to be completed on or before March 2, 2020.
7. Water is to be put to beneficial use on or before March 2, 2024.
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. 7607-3 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. 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

MAR 19 2015

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 Sargent Irrigation

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

d) Distance to nearest existing domestic well:

On applicant's property 1 mile

On property owned by others _____

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) 800-1000 GPM Year Constructed 2014

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)

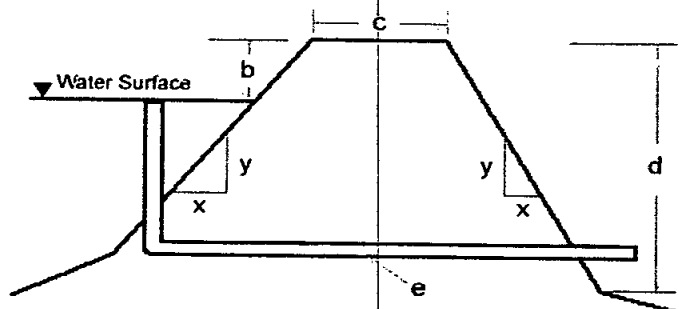
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres

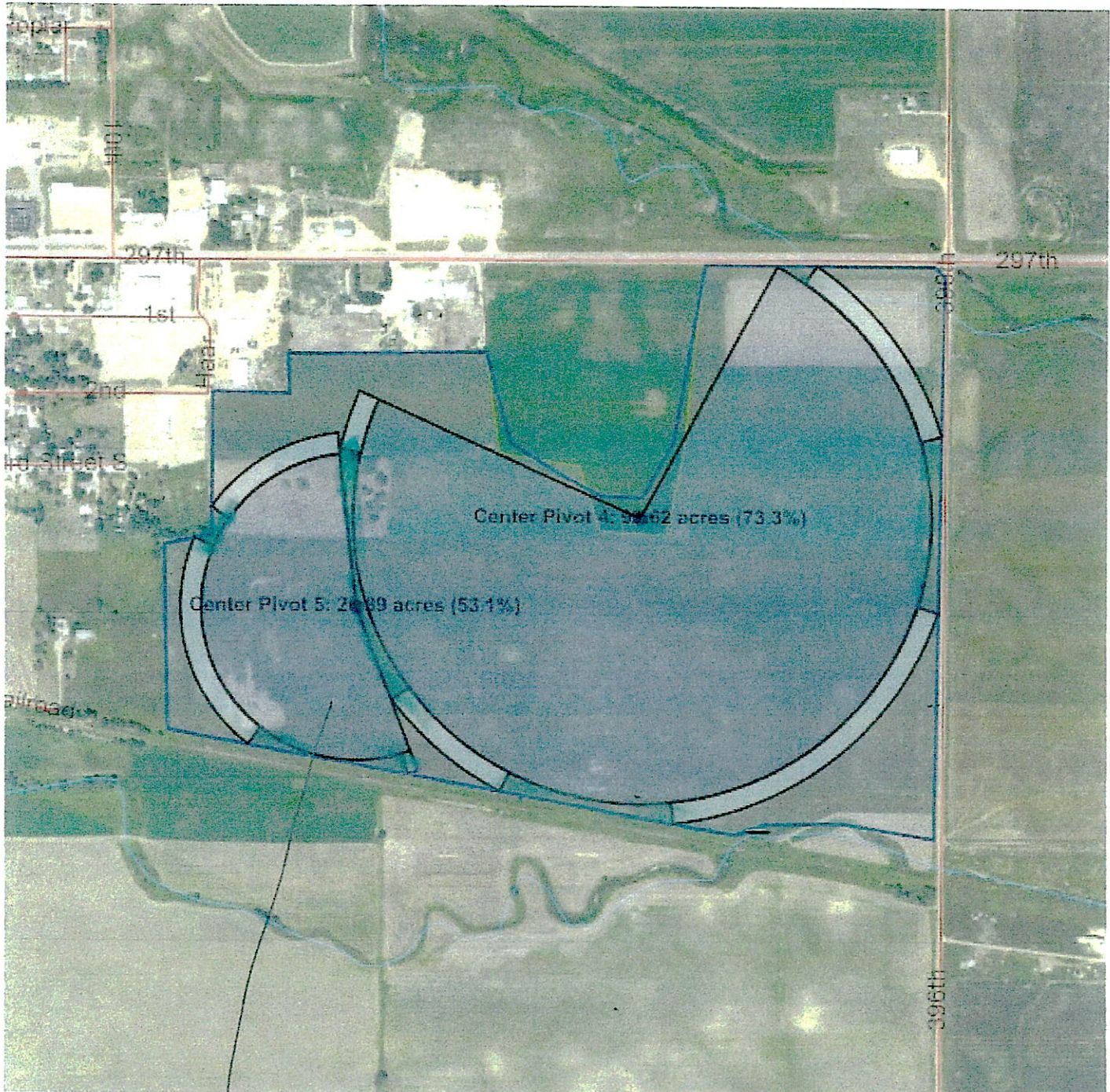


Anson Electric Inc. Ewing/Brunswick Nebraska



Reinke
MORE RIGHT THAN RAIN

Grower: Ken Swatek



740'
53% of circle
20.89 acres circle
4.02 acres end gun
(24.91) total

Lost
1.64 acres on
Big system
end gun

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NOV 24 2014

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/1, 20 14

RECEIVED OF Ken Swatek Livestock Sales 29804 395th Ave Wagner SD 57380

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

Fee for Application for Permit No. <u>8064-3</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. _____		
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	500 00

No. **06992**

By J. Carme Goodman
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. 8064-3, Ken Swatek**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8064-3, Ken Swatek, 29804 395th Avenue, Wagner SD 57380.

The Chief Engineer is recommending APPROVAL of Application No. 8064-3 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. 7607-3 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. 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
January 22, 2015

Report to the Chief Engineer

Water Permit Application No. 8064-3

Ken Swatek

December 23, 2014

Water Permit Application No. 8064-3 proposes the irrigation of 25 acres in the E ½ NW ¼ Section 3-T95N-R63W using an existing well authorized under Water Permit No. 7607-3. Water Permit No. 7607-3 appropriates water at a maximum diversion rate of 1.78 cubic feet per second (cfs) from one well (240 foot deep) completed into the Choteau: West aquifer for the irrigation of 111 acres located in the NE ¼, E ½ NW ¼ Section 3 all in T95N-R63W in Charles Mix County. This application, if approved, does not authorize any increase in the maximum diversion rate authorized by Water Permit No. 7607-3.

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

Aquifer Characteristics and Hydrogeology:

The Choteau: West aquifer is a basal system aquifer that underlies portions of Charles Mix, Douglas, and Bon Homme Counties (Hedges et al., 1982). Figure 1 shows the location and approximate boundaries of the aquifer. The aquifer lies within the Choteau bedrock valley and is made up of buried outwash and western stream deposits that consist of sand and gravel (Kume, 1977). The Choteau: West aquifer is primarily a confined aquifer but does have some unconfined portions (Hedges et al., 1985). Based on Hedges et al. (1982) the aquifer has an area of approximately 218,400 acres and contains about 1,474,200 acre-feet of recoverable water. The saturated thicknesses in the aquifer ranges from 5 to 89 feet and averages about 35 feet (Kume, 1977). Groundwater movement in the aquifer is generally toward the south (Kume, 1977).



Figure 1: Location and Approximate Boundaries of the Choteau: West aquifer (modified from Hedges et al., 1982)

Based on the well completion report, the well for this application is 240 feet deep with the top of the aquifer at 160 feet below grade. The static water level at the time the well was drilled (5/15/2014) was 58 feet below grade. The aquifer is under confined conditions at this location. This well is an existing well authorized under Water Permit No. 7607-3. Water Permit No. 7607-3 appropriates water at a maximum diversion rate of 1.78 cfs for the irrigation of 111 acres, equaling 1.12 cfs per 70 acres. This is notable since pursuant to South Dakota Codified Law (SDCL) 46-5-6 the diversion rate for an irrigation appropriation is limited to one cfs per 70 acres or the “equivalent thereof.” Additionally the statute allows for the Water Management Board to approve a greater diversion rate if the method of irrigation requires it, such as in the case of Water Permit No. 7607-3. Application No. 8064-3, if approved, would authorize the irrigation of 25 additional acres for a total of 136 acres with no increase in maximum diversion rate, which would result in a diversion rate that would be less than one cfs per 70 acres.

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 and existing rights from the aquifer that are pertinent to this application.

Water Availability:

Water Permit Application No. 8064-3 does not propose to increase the maximum diversion rate of 1.78 cfs from the Choteau: West authorized by Water Permit No. 7607-3, however the total number of irrigated acres would be increased by this application, if approved. An increase in the total number of acres would likely result in a larger volume of water being used annually for irrigation. Although there is an annual limit of two acre feet of water for each acre of land irrigated, actual use is likely to be less than one acre foot per year (ac-ft/yr) for each acre of land irrigated. Therefore approval of this application is likely to result in a water use of less than 25 acre-feet annually.

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 that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." 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 Choteau: West aquifer is not older or lower than the Greenhorn Formation, therefore the withdrawal/recharge issue must be considered.

In applying SDCL 46-6-3.1, the Sixth Judicial Circuit Court ruled in 2005 that if the Water Management Board uses average annual recharge, then it should also use average annual withdrawals to determine if unappropriated water is available from the aquifer (*Hines v. South Dakota Dept. of Environ. and Nat'l. Resources, Hughes County 04-37*) (Memorandum Decision, April 29, 2005).

A 2012 First Judicial Circuit Court's rulings basically stated that data must be presented to show it is probable the average annual recharge exceeds the average annual discharge by at least the amount requested by the water permit application being considered (*Hanson County Dairy v. Robert Bender and Stace Nelson*) (Memorandum Decision, April 11, 2012).

Later in 2012, the First Judicial Circuit Court stated that in deciding whether or not it is probable that the quantity of water withdrawn will exceed the quantity of the average estimated annual recharge is to be based according to the best information reasonably available, and that nothing in South Dakota law requires a recharge study (*Longview Farms, LLP v. South Dakota Dept. of Environ. and Nat'l. Resources*) (Memorandum Decision, May 17, 2012).

Hydraulic Budget:

Recharge:

The primary source of recharge for the aquifer is from the adjacent till (Kume, 1977). In the areas where the Choteau: West aquifer is in contact with the Niobrara Marl, the potential exists for some recharge to the Choteau: West aquifer from the Niobrara Marl (Hedges et al., 1985 and Kume, 1977). In the area of this application the Niobrara Marl is in contact with the Choteau: West aquifer (Kume, 1977).

Utilizing the recharge rates recommended by Hedges et al. (1985) for use by management and development programs for confined aquifers of 0.15 to 0.60 inches per year and an area of 218,400 acres, the estimated annual recharge to the aquifer is 2,730 to 10,920 acre-feet per year. The estimated average annual recharge to the unconfined portions of the Choteau: West aquifer is 4.1 inches per year based on observation well analysis (Hedges et al., 1985).

Withdrawals:

Withdrawals from the aquifer consist of natural losses to springs (in the southern part of the aquifer), seepage to surrounding bedrock or drift, and pumping from wells (Kume, 1977). Withdrawals due to wells can be split into irrigation and non-irrigation uses. For the Choteau: West aquifer the majority of water rights/permits are for irrigation use.

Over the period of record the number of water rights/permits per year have been generally decreasing until 2013. The number of water rights/permits per year over the period of record is shown in Figure 2. The average number of water rights/permits over the period of record is 40, the minimum is 32, and the maximum is 49 (Water Rights, 1980-2014). The reported pumpage over the period of record can be utilized to estimate the average annual withdrawal due to irrigation. The reported pumpage by year is shown in Figure 3. Based on the reported irrigation pumpage data the average annual withdrawal due to irrigation can be estimated to be approximately 2,515 acre-feet (Water Rights, 1980-2014). During the period of record the maximum reported pumpage was in 2012 at about 6,045 acre-feet, and the minimum occurred in 1993 at about 330 acre-feet (Water Rights, 1980-2014). In comparing Figures 2 and 3 it can be observed that the number of water rights/permits is not necessarily reflective of the amount of water withdrawn for irrigation use in a given year. Instead pumping withdrawals are more dependent on unpredictable climate and economic conditions. In considering the period of record both wet and dry years as well as both high and low economic conditions are present with in the period of record, thus the estimated average annual withdrawal due to irrigation is reflective of these different conditions. In early 2014, an additional permit was issued for the Choteau: West aquifer; this permit is likely to result in an average annual water use of less than 135 acre-feet per year (Capen, 2014). Taking this into consideration the average annual withdrawal due to irrigation is estimated to be about 2,650 acre-feet per year.

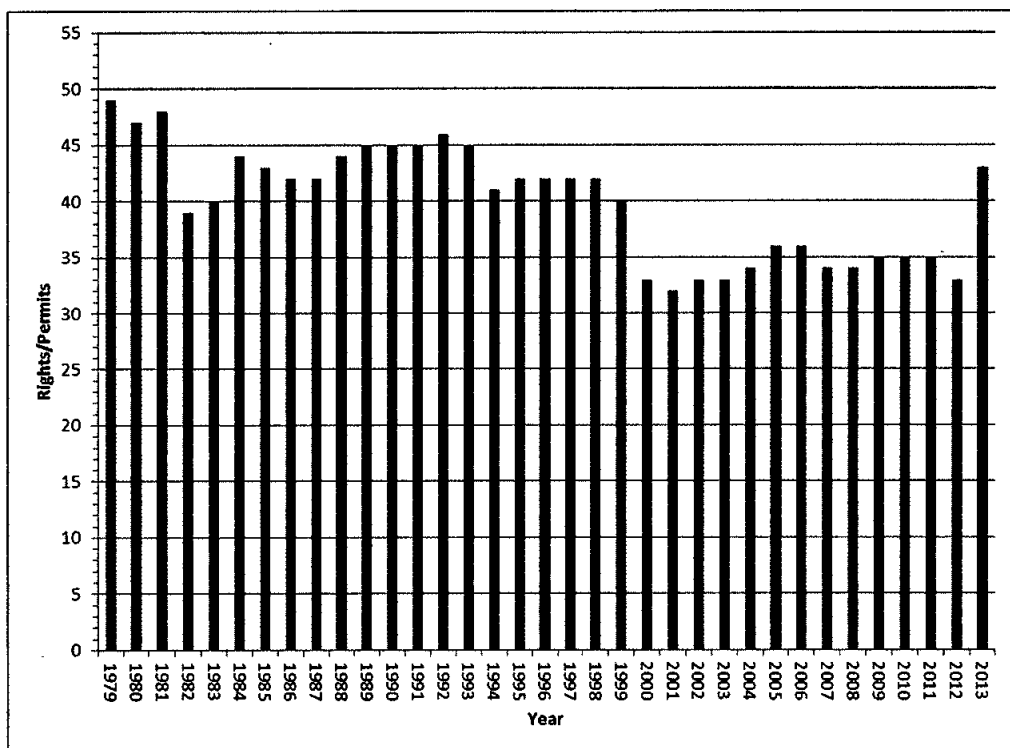


Figure 2: Irrigation Water Rights/Permits by Year in the Choteau: West Aquifer (Water Rights, 1980-2014)

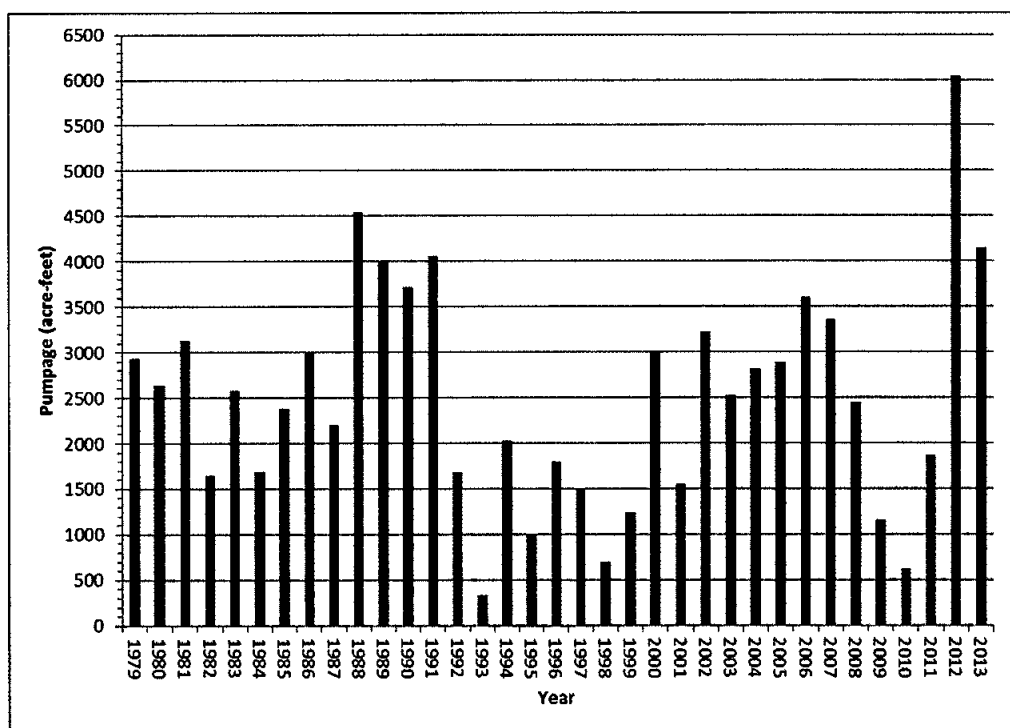


Figure 3: Reported Irrigation Pumpage by Year in the Choteau: West Aquifer (Water Rights, 1980-2014)

Non-irrigation uses of the Choteau: West aquifer include domestic, commercial, municipal, and recreational. Withdrawals from domestic wells are not considered a significant portion of the hydraulic budget for the aquifer. Average annual non-irrigation use can be estimated by assuming that pumping will occur at the maximum diversion rate 60% of the time for water rights/permits limited by rate only. For water rights/permits limited to an annual volume full use of that volume is assumed for estimation of average annual withdrawal. The municipal water rights for the Choteau: West aquifer belong to the City of Wagner (Water Rights, 2014b). The City of Wagner is connected to a rural water system and maintains their wells for standby/emergency purposes (i.e. fire protection) (Friedeman, 2014). Based on this the average annual non-irrigation withdrawals from the aquifer can be estimated at approximately 370 acre-feet.

Water Balance:

Combining irrigation and non-irrigation uses yields an estimated average annual withdrawal of approximately 3,020 acre-feet per year. This falls toward the low end of the range of estimated recharge (2,730 to 10,920 acre-feet per year) for the aquifer. Therefore there is a reasonable probability that there is water available to support this application.

Observation Well Data:

In determining the availability of unappropriated water for a permit application Administrative Rule 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that average annual withdrawals from the aquifer do not exceed the estimated annual recharge. Observation well data offers a picture of conditions in the aquifer over the period of record.

The Water Rights Program monitors 25 observation wells in the Choteau: West aquifer. The closest observation to the location of this application is observation well CM-68F, which is about 1.8 miles to the northeast. The hydrograph for this observation well is shown in Figure 4. Observation well CM-72C is located about 3.2 miles to the north northeast and observation well CM-80D is located about 3.6 miles to the north northwest. The hydrographs for observation wells CM-72C and CM-80D are shown in Figures 5 and 6. The aquifer in the area of these observation wells is under confined conditions.

The observation well hydrographs shows cyclic patterns based on the effect of climatic conditions on the aquifer. Increases in water levels occur during wetter periods (recharge), and decreases in water levels occur during drier periods. The hydrographs do show the effects of seasonal pumping from the nearby irrigation wells. However, at the current level of development the temporal effects of pumping are masked by climate conditions. This shows that the hydrographs are dominated by natural conditions, and water is available for capture. Therefore, there is a reasonable probability that water is available to support this application.

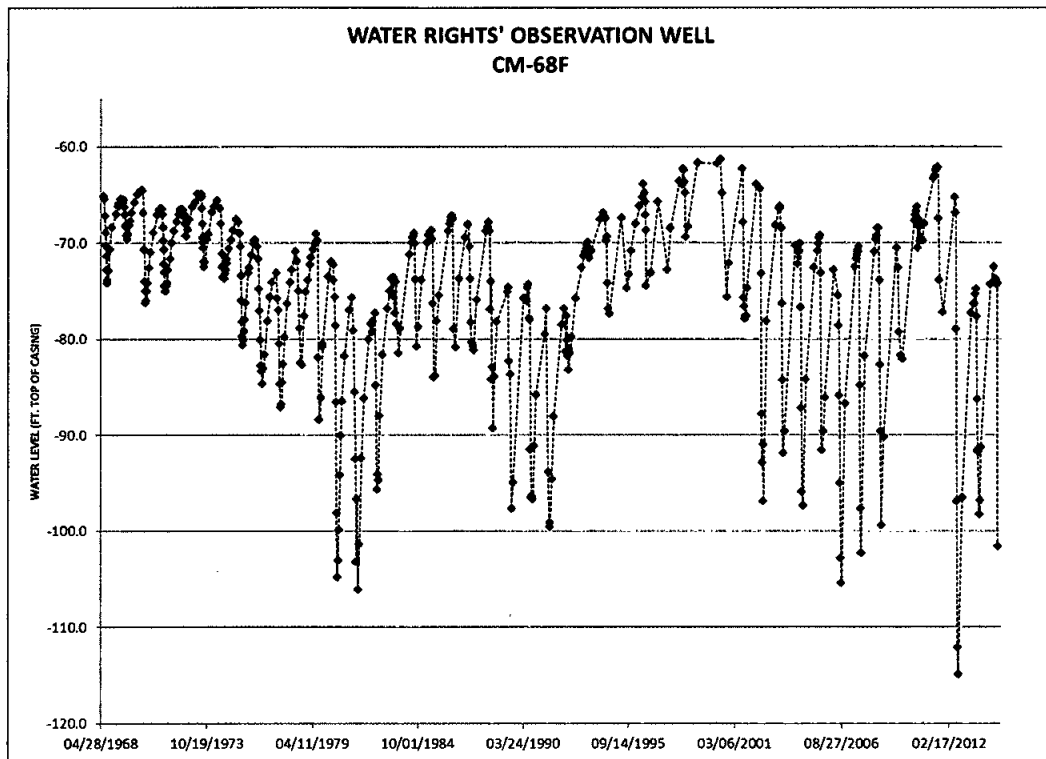


Figure 4: Hydrograph of Observation Well CM-68F (Water Rights, 2014a)

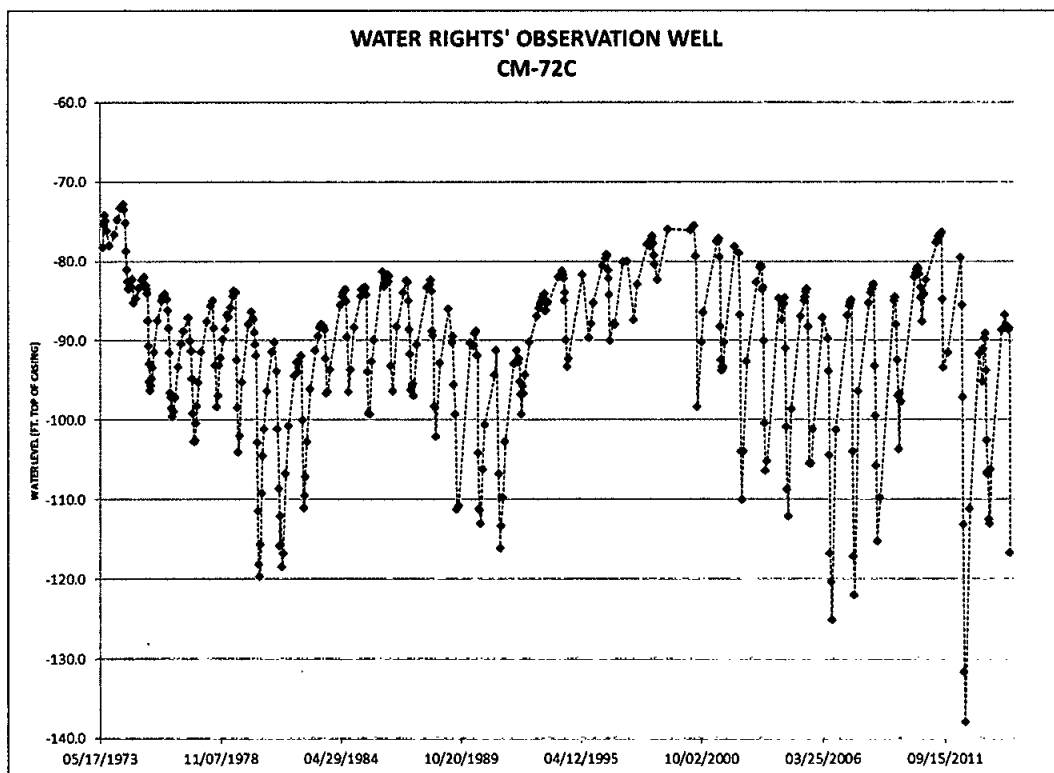


Figure 5: Hydrograph of Observation Well CM-72C (Water Rights, 2014a)

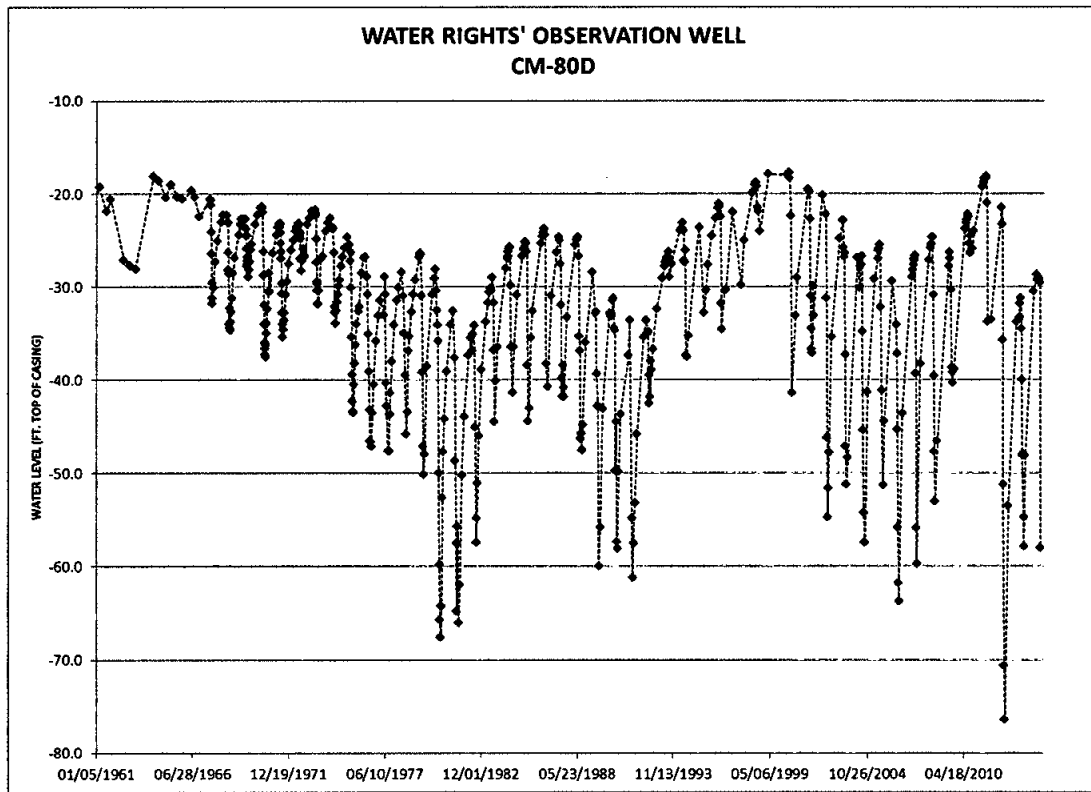


Figure 6: Hydrograph of Observation Well CM-80D (Water Rights, 2014a)

Existing Water Rights/Permits:

There are six water rights/permits diverting water from the Choteau: West aquifer within two miles of the location for this application. The location of the diversion points for these water rights/permits are shown in Figure 7 and summarized in Table 1. Water Permit No. 7607-3 authorizes the existing well that Application No. 8064-3 proposes to use for the irrigation of an additional 25 acres. The nearest water right/permit to the location of Water Permit No. 7607-3 and Application No. 8064-3 is Water Right No. 569-3 for the City of Wagner. Water Right No. 569-3 is about 2,000 feet north of the location of Application No. 8064-3. There are several domestic wells on file within two miles of this application with the SDDENR-Water Rights Program that could be completed into the Choteau: West aquifer.

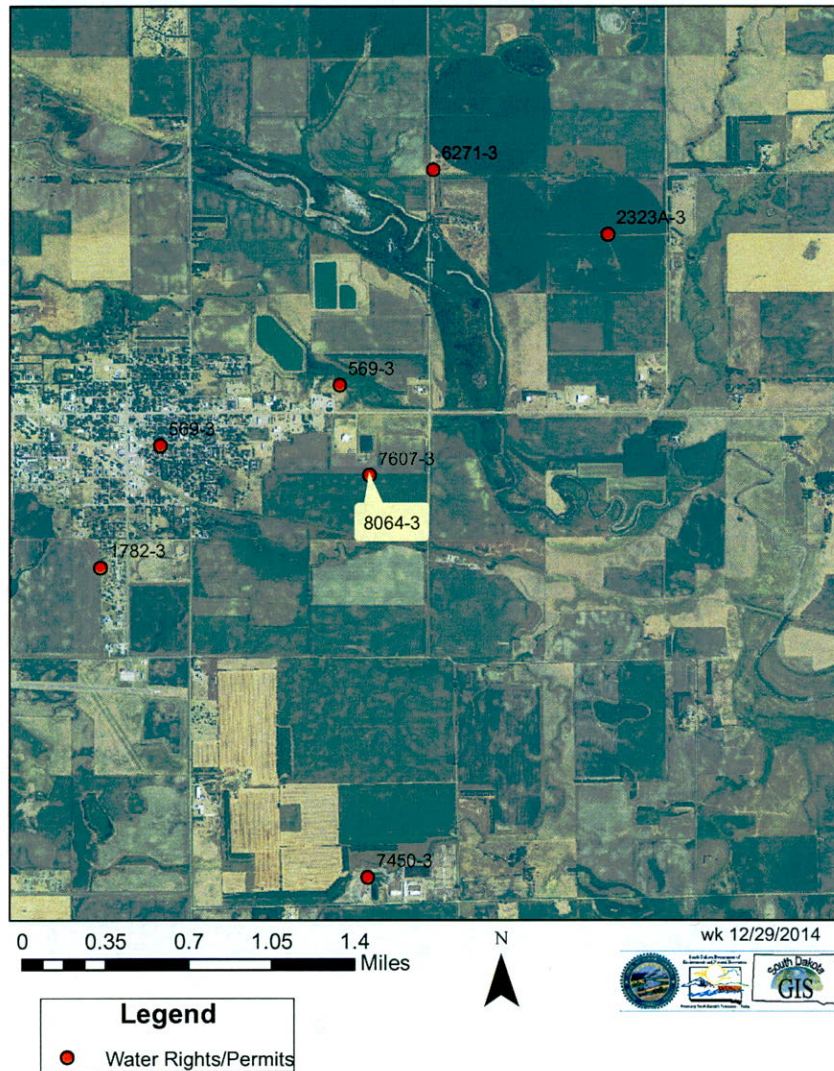


Figure 7: Location of Water Rights/Permits Completed into the Choteau: West Aquifer within Two Miles (cancelled Water Rights not shown) (Water Rights, 2014b)

Table 1: Water Rights/Permits Completed into the Choteau: West Aquifer within Two Miles (cancelled Water Rights not shown) (Water Rights, 2014b)

Permit No.	Name	Status	Use	Diversion Rate (cfs)	Acres
569-3	City of Wagner	LC	MUN	1.1	0
1782-3	City of Wagner	LC	MUN	0.89	0
2323A-3	Samuel D. & Angela M. Fousek	LC	IRR	2.44	204.44
6271-3	Sandra Eitemiller	LC	IRR	1.78	132
7450-3	Fischer Farms	PE	IRR	3.56	450
7607-3	Ken Swatek	PE	IRR	1.78	111

LC=license, PE=permit, MUN=municipal, IRR= irrigation

Water Permit Application No. 8064-3 does not propose to increase the maximum diversion rate authorized by Water Permit No. 7607-3, however the irrigation of 25 additional acres is likely to result in an additional water use of less than 25 acre-feet annually. Water Permit No. 7607-3 is likely to result in a water use of less than 111 acre-feet annually. The results in an average usage rate of 0.31 cfs over a 180 day period for 111 acre-feet of water and an average usage rate of 0.38 cfs over a 180 day period is 136 acre-feet of water. The theoretical increase in the amount of drawdown for this level of usage can be estimated utilizing the Theis equation.

Utilizing the information contained in Kume (1977) from an aquifer test done on one of the wells belonging to the City of Wagner in addition to area lithological data, the transmissivity of the aquifer at the location of this application can be estimated to be about 74,845 gpd/ft (SDGS, 2014) and a storage coefficient at the bottom end of the range of typical values for confined aquifers (Duffield, 2014). The resulting theoretical drawdown curves for 0.31 cfs and 0.38 cfs are shown in Figures 8 and 9. In examining Figures 8 and 9, it can be observed that at 2,000 feet from the location of this application the increase in theoretical drawdown would be about half a foot. Based on this analysis the irrigation of 25 additional acres with no increase in the maximum diversion rate authorized by Water Permit No. 7607-3 is unlikely to cause a significant increase in any drawdown that nearby wells might experience as a result of Water Permit No. 7607-3. Therefore, this application, if approved, is unlikely to adversely impact adequate wells in the area. An adequate well as defined by South Dakota Administrative Rules is “a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near as possible to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.”

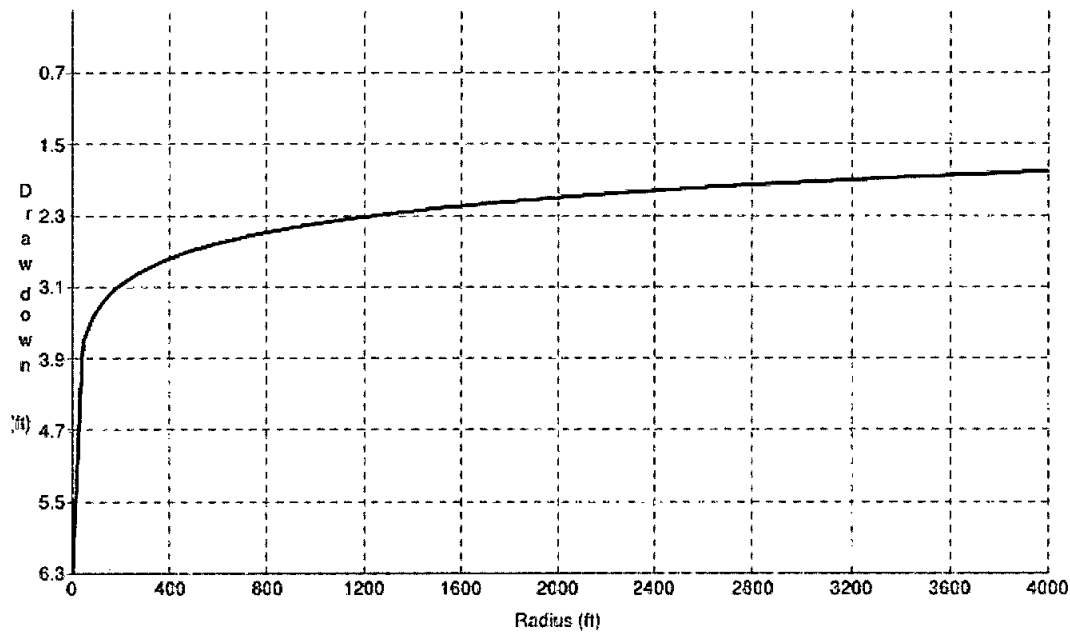


Figure 8: Theis Drawdown Curve (i•calcul⁸, 2015) transmissivity (T)=74,845 GPD/ft, Radius (r)=2,000 ft, storage coefficient(S)=0.00005, time(t)= 180 days, discharge(Q)= 0.31 cfs

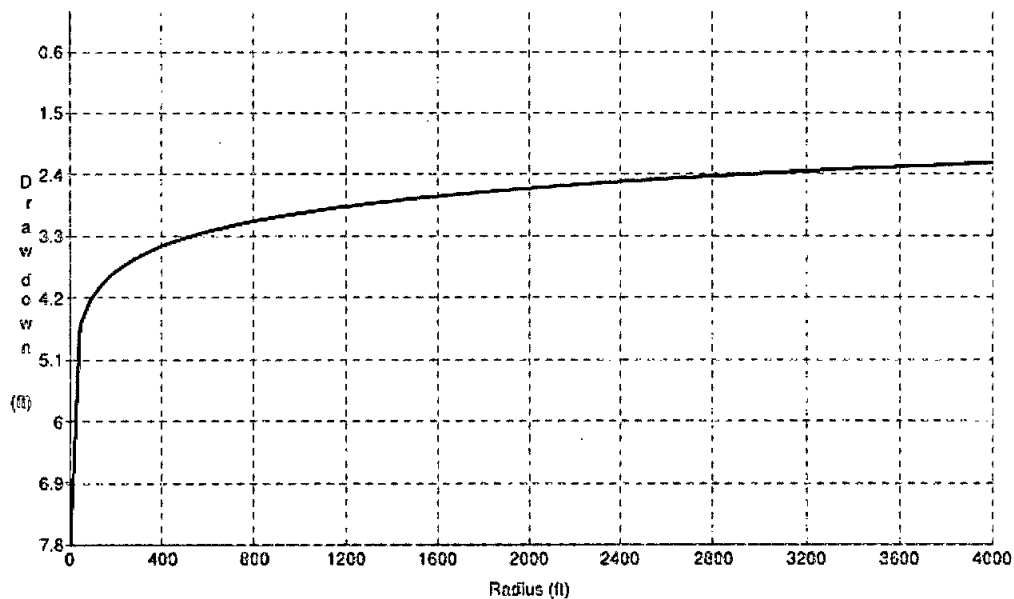


Figure 9: Theis Drawdown Curve (i•calcul⁸, 2015) transmissivity (T)=74,845 GPD/ft, Radius (r)=2,000 ft, storage coefficient(S)=0.00005, time(t)= 180 days, discharge(Q)= 0.38 cfs

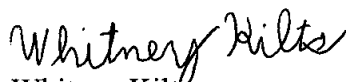
In the past the Water Management Board has recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. Additionally pursuant to SDCL 46-6-6.1 artesian head pressure is not protected as a means of groundwater delivery. However, in the

case of irrigation since reasonable domestic use must be insured first, the Water Management Board does need to give consideration to artesian head pressure.

In the 1950's in this area there was some concern over the impact of irrigation development on artesian head pressure (Stonesifer, 2013). This concern was part of a study reported on in Walker (1961). Walker (1961) concluded that irrigation pumping had caused some domestic wells to stop flowing or the need for pumps to be lowered as a result of the sensitivity of the piezometric surface to irrigation pumping. The concerns have since been dealt with, and there have been no further issues in the area for several years (Stonesifer, 2013). Concerns such as these are now addressed in SDCL 46-6-6.1 in which artesian head pressure is not protected as a means of groundwater delivery.

Conclusions:

1. Water Permit Application No. 8064-3 proposes to appropriate water for the irrigation of 25 acres in the E ½ NW ¼ Section 3-T95N-R63W using an existing well authorized under Water Permit No. 7607-3 completed into the Choteau: West.
2. Water Permit Application No. 8064-3 does not propose to increase the maximum diversion rate authorized by Water Permit No. 7607-3, however the irrigation of 25 additional acres is likely to result in an additional water use of less than 25 acre-feet annually.
3. There is reasonable probability that water is available to meet the needs of this application.
4. Application No. 8064-3 is unlikely to adversely impact adequate wells in the area.



Whitney Kilts

SDDENR-Water Rights Program

Approved by



Ken Buhler

SDDENR-Water Rights Program

References

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- In the Matter of Water Permit Application No. 6431-3, by Phillip W. Hines v. SD Department of Environment and Natural Resources, South Dakota Sixth Judicial Court Civ. No. HU04-37 (Memorandum Decision, April 29, 2005)
- In the Matter of Water Permit Application No. 7239-3, by Hanson County Dairy v. Robert Bender and Stace Nelson, South Dakota First Judicial Court Civ. No. 11-54 (Memorandum Decision, April 11, 2012)
- In the Matter of Water Permit Application 7209-3, Longview Farms, LLP v. South Dakota Dept. of Environment and Natural Resources, South Dakota First Judicial Court Civ. No. 11-146 (Memorandum Decision, May 17, 2012)
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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

STATE OF SOUTH DAKOTA)

)SS

FEB 25 2015

COUNTY OF CHARLES MIX)

WATER RIGHTS
PROGRAM

Melanie Novak, 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 Melanie M Novak, and has been such newspaper during the time herein mentioned; and that I, Melanie Novak, 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 18th day of February, 2015

2nd publication made on _____ day of _____, 2015

3rd publication made on _____ day of _____, 2015

4th publication made on _____ day of _____, 2015

5th publication made on _____ day of _____, 2015

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

Melanie M. Novak

Subscribed and sworn before me this 21 day of February, 2015.

Brian Roberts

Notary Public

My commission expires 10/22/16

PUBLIC NOTICE

NOTICE OF APPLICATION NO. 8064-3 TO APPROPRIATE WATER

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 has filed an application for a water permit to irrigate 25 new acres. Water Permit No. 7607-3 appropriates 1.78 cubic feet of water per second from one well completed into the Choteau West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 to irrigate 111 acres located in the NE 1/4, E 1/2 NW 1/4 Section 3; all in T95N-R63W. This application is to irrigate 25 new acres located in the E 1/2 NW 1/4 Section 3-T95N-R63W from the existing well. This application, if approved, does not authorize any increase in the authorized diversion rate.

Pursuant to SDCL 46-2A-2, the

Chief Engineer recommends APPROVAL of Application No. 8064-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 2, 2015.

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. Information concerning this application is available at <http://denr.sd.gov/public>. 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: February 18, 2015

RECEIVED

FEB 02 2015

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

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

Thursday, January 29, 2015

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the fees charged for the publication thereof are: \$65.36

Signed: Penny Hohbach

Subscribed and sworn to before me this 29th day of January, 2015.

Deb Townsend

Notary Public
County of Davison

My Commission Expires: 09-21-18

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

DEB TOWNSEND
Notary Public
SEAL
South Dakota

NOTICE OF
APPLICATION NO.
8064-3
to Appropriate Water

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 has filed an application for a water permit to irrigate 25 new acres. Water Permit No. 7607-3 appropriates 1.78 cubic feet of water per second from one well completed into the Choteau West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 to irrigate 111 acres located in the NE 1/4, E 1/2 NW 1/4 Section 3; all in T95N-R63W. This application is to irrigate 25 new acres located in the E 1/2 NW 1/4 Section 3-T95N-R63W from the existing well. This application, if approved, does not authorize any increase in the authorized diversion rate.

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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. Information concerning this application is available at <http://denr.sd.gov/public>. 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 \$65.36



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 22, 2015

Wagner Post
PO Box 187
Wagner SD 57380

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 8064-3 to Appropriate Water. Please publish the notice once on January 28, 2015. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Ken Swatek, 29804 395th Ave, Wagner SD 57380 (Ph # 605-384-3502).

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

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 22, 2015

Daily Republic
PO Box 1288
Mitchell SD 57301

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 8064-3 to Appropriate Water. Please publish the notice once on January 28, 2015. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Ken Swatek, 29804 395th Ave, Wagner SD 57380 (Ph # 605-384-3502).

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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.**

January 22, 2015

Ken Swatek
29804 395th Ave
Wagner SD 57380

Dear Mr. Swatek:

Water Permit Application No. 8064-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Wagner Post printed at Wagner SD (Ph # 605-384-5616) and the Daily Republic printed at Mitchell SD (Ph # 605-996-5514). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

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

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

Instruction to Newspaper - Publish the Notice on January 28, 2015. 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. 8064-3 to Appropriate Water

Notice is given that Ken Swatek, 29804 395th Ave, Wagner SD 57380 has filed an application for a water permit to irrigate 25 new acres. Water Permit No. 7607-3 appropriates 1.78 cubic feet of water per second from one well completed into the Choteau:West Aquifer (280 feet deep) located in the approximate center of the NE 1/4 Section 3 to irrigate 111 acres located in the NE 1/4, E 1/2 NW 1/4 Section 3; all in T95N-R63W. This application is to irrigate 25 new acres located in the E 1/2 NW 1/4 Section 3-T95N-R63W from the existing well. This application, if approved, does not authorize any increase in the authorized diversion rate.

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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

February 11, 2015

Ken Swatek
29804 395th Ave
Wagner SD 57380

Dear Mr. Swatek:

We have received the Affidavit of Publication from the Wagner Post for Water Permit Application No. 8064-3. There was an error in the publication. The legal description of the location of the 25 acres to be irrigated was not included (copy enclosed). Therefore, the notice of hearing needs to be readvertised to include the correct legal descriptions.

The information regarding the readvertisement has been sent to the Wagner Post. The date for petitions to be submitted will now be March 2, 2015.

The Notice in the Daily Republic was correct and will not have to be readvertised.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

NOTICE OF APPLICATION NO. 8064-3 to Appropriate Water

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Published once at the total approximate cost of _____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, February 11, 2015 1:24 PM
To: Wagner (announcer@hcinet.net)
Subject: Notice for Application No. 8064-3, Ken Swatek
Attachments: 8064-3public.short.docx

Barbra,

Attached is the Notice of Application No. 8064-3 for Ken Swatek that needs to be published again because line was left out of the first paragraph of the publication. The notice should be published on February 18, 2015. Please send me the affidavit ASAP.

Let me know if you have any questions.

Karen Schlaak
Water Rights Program
523 E Capitol Ave
Pierre SD 57501
Phone: 605 773-3352

Affidavit of Publication

STATE OF SOUTH DAKOTA)

)SS

COUNTY OF CHARLES MIX)

Melanie Novak, 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 Melanie M Novak, and has been such newspaper during the time herein mentioned; and that I, Melanie Novak, 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 28th day of January, 2015
2nd publication made on _____ day of _____, 2015
3rd publication made on _____ day of _____, 2015
4th publication made on _____ day of _____, 2015
5th publication made on _____ day of _____, 2015

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

\$ 25.52

Melanie M. Novak

Subscribed and sworn before me this 10 day of February, 2015.

Bandra Rogers

Notary Public

My commission expires 10/22/16

obtained. Information concerning this application is available at <http://denr.sd.gov/public>. 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: \$25.52.

Pub: January 28, 2015

PUBLIC NOTICE

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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

missing
line

RECEIVED

FEB 11 2015

WATER RIGHTS
PROGRAM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

MAR 19 2015

Ken Swatek
29804 395th Ave
Wagner SD 57380

Dear Mr. Swatek:

Enclosed is Water Permit No. 8064-3 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

8064-3



Wipf & Cotton, L.L.C.

A Professional Limited Liability Company
Attorneys at Law
107 South Main Avenue
Wagner, South Dakota 57380-0370

Kenneth W. Cotton

ASSOCIATE:
Steven R. Cotton

Owen R. Wipf (1927-2004)

Telephone (605) 384-5471
Fax (605) 384-5472

October 29, 2018

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

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

Dear Ms. McMath:

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

Thank you.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kenneth W. Cotton", written over a horizontal line.

Kenneth W. Cotton

KWC:gh
Enclosures

RECEIVED

OCT 30 2018

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

PAID

OCT 30 2018

Ck# 1516

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

No. 8064-3

Date: _____

I/We request that Water Permit No. 8064-3

formerly owned by: Ken Swatek

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

39569 SD Hwy 46, Wagner SD 57380

Telephone No. _____

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

25 acres - E 1/2 NW 1/4 Section 3, T95N, R63W

I/We understand that the validity of Water Permit No. 8064-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

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



(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date OCTober 30

, 20 18

RECEIVED OF

S & K Truck Repair 39569 SD Hwy 46 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	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>8064-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	

No. **08787**

By

Jeanne Goodman
Chief Engineer
7421

FILE COPY

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

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

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



Julie Pavel, Register of Deeds

Julie Pavel

WARRANTY DEED

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

Parcel 1:

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

also described as

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

Parcel 2:

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

also described as

8064-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 30, 2018

7607-3
8064-3

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

Dear Mr. & Mrs. Fousek:

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

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

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

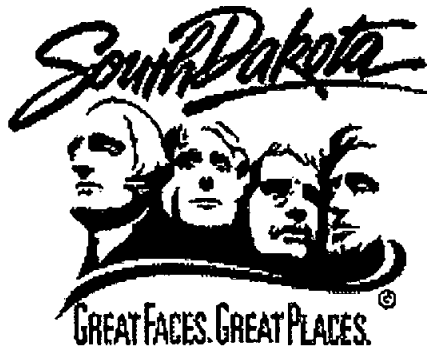
Enclosed for your records are Receipt Nos. 08787 and 08788 in the amount of \$50 each. If you have any questions or if you need me to mail a set of 2018 questionnaires directly to you, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

enclosures



8064-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 8, 2018

7607-3
8064-3

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

Dear Mr. & Mrs. Fousek:

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

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

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

Sincerely,

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

enclosure: Irrigation questionnaires and a postage paid envelope



8064-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 23, 2020

NOTICE

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

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7607-3 & 8064-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

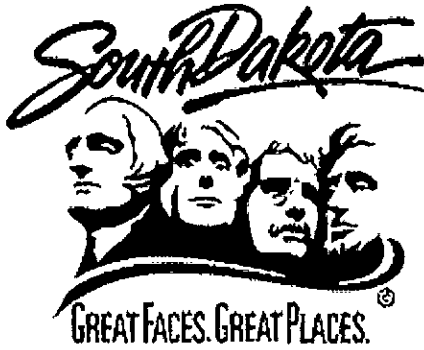
1. Suspend or cancel Permit No(s) 7607-3 & 8064-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: QTFXPV**

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

8064-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 2020

7607-3
8064-3

Steven & Kasi Fousek
39569 SD Hwy 46
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

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

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

If you have any questions, please contact me.

Sincerely,

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



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

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

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaire(s)

Our records indicate your 2020 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. The request for the Questionnaire was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7607-3 & 8064-3 qualification:

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

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 7607-3 & 8064-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: FXDKBQ**

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

8064-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 2021

7607-3
8064-3

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

Dear Mr. & Mrs. Fousek:

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

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

If you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink that reads "Genny McMath". The signature is fluid and cursive.

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

8064-3



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

January 20, 2022

NOTICE

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

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7607-3 & 8064-3 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 7607-3 & 8064-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: EKJGTZ**

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

8064-3



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

January 27, 2022

7607-3
8064-3

Steven & Kasi Fousek
39569 SD Hwy 46
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

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

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Permit Nos. 7607-3 and 8064-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



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

January 20, 2023

NOTICE

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

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7607-3 & 8064-3 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 7607-3 & 8064-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: DXDRRB**

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

8064-3



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

January 24, 2023

7607-3
8064-3

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

Dear Mr. & Ms. Fousek:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit Nos. 7607-3 & 8064-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



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

January 19, 2024

NOTICE

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

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

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7607-3 & 8064-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 7607-3 & 8064-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: NRSCZH**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 21, 2024

7607-3

8064-3

Steven & Kasi Fousek
39569 SD HWY 46
Wagner SD 57380

Dear Mr. & Ms. Fousek:

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

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

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us



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

January 14, 2025

NOTICE

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

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7607-3 & 8064-3. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7607-3 & 8064-3 qualification:

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

The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 7607-3 & 8064-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: XZUTUL**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 21, 2025

7607-3
8064-3

Steven & Kasi Fousek
39569 SD HWY 46
Wagner SD 57380

Dear Mr. & Ms. Fousek:

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

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 7607-3 & 8064-3. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us