

WATER PERMIT NO. 8183-3

Name of Applicant: Zenk Farms LLC

Address: 611 W 7th St. Webster SD 57274 Phone: 605 530-3306

Amount of Water Claimed: 0.67 cfs Total Acres: 40

Source of Water Supply: Rush Lake

Water to be used for: irrigation County: Day

Type of Waste Disposal System:

Location: 6 miles northwest of Webster

PRIORITY , Date Received: 10-1-15 Application/License Fee: \$ 700

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

Remarks: Requesting diversion rate greater than statutory limit

Diversion Point: SE 1/4 SE 1/4 Sec 13-T122N-
R55W

Land to be Irrigated: SE 1/4 SE 1/4 Sec 13-T122N-
R55W

Depth of Well: NA

Well Driller:

Remarks:

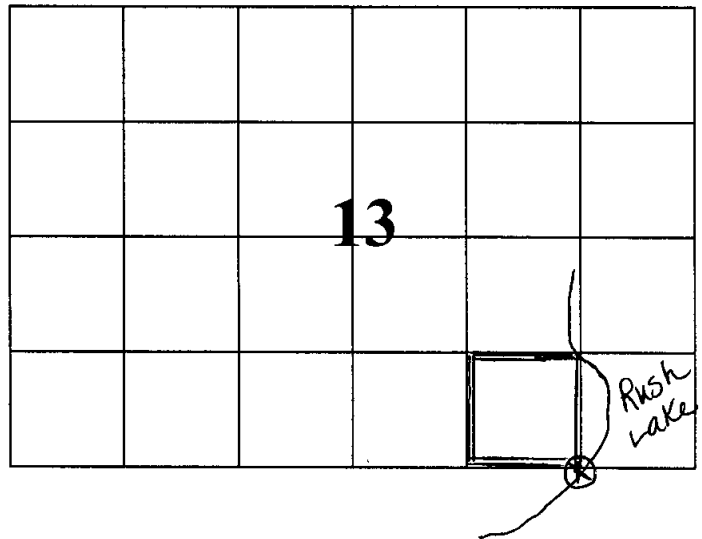
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 10-1-15

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota
(type or print)

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8183-3</u> (office use only) Hydrologic Unit <u>10160010</u>
	Basin <u>James River</u>
	Newspaper <u>Reporter & Farmer</u>
	<u>Public Opinion</u>

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OCT 01 2015
WATER RIGHTS
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Application For Permit To Appropriate Water For Irrigation

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

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

1. Name to Appear on Irrigation Permit Zenk Farms LLC
(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent Jim Zenk
(name and complete address if different than above name)
- Mailing Address 611 W. 7th St Webster SD 57274
(Address) (City) (State) (Zip Code)
- Home Phone 605 345-4097 Cell 605 530-3306 Email _____
2. Amount of water claimed 0.67 *CFS or 300 **GPM 40 ***AF Total Acreage 40
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Rush Lake
4. Location of point of diversion South corner of the SE 1/4 Sec 13 122N 55W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
- County Day
5. County or counties where water will be used Day
6. Annual period during which water is to be used May 1 - Sept 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
SE 1/4 of the SE 1/4 Sec 13 122N 55W	40		

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

Requesting a Diversion Rate greater than Statutory limit.

I, Zenk Farms by Jim Zenk, 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. 8183-3**

Date of first receipt of application October 1, 2015.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8183-3 to Zenk Farms LLC, c/o Jim Zenk, 611 W 7th St, Webster SD 57274 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. 8183-3 appropriates 0.67 cubic feet of water per second (cfs) from Rush Lake / Sunnybrook Slough between the SE 1/4 SE 1/4 Section 13 and the NE 1/4 NE 1/4 Section 24 to irrigate 40 acres located in the SE 1/4 SE 1/4 Section 13: all in T122N-R55W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is October 1, 2015.
4. The date of approval of Permit No. 8183-3 is December 17, 2015.
5. One-fifth of the construction is to be completed on or before June 17, 2018.
6. All construction is to be completed on or before December 17, 2020.
7. Water is to be put to beneficial use on or before December 17, 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. Permit No. 8183-3 authorizes diversion of water from Rush Lake / Sunnybrook Slough when the lake level is at or below elevation 1798.7 feet mean sea level. Further diversion under this permit shall be in accordance with written orders issued by the Chief Engineer as necessary to protect the prior rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
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. 8183-3 authorizes a maximum diversion rate of 0.67 cfs for the irrigation of 40 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. The irrigation intake in Rush Lake/Sunnybrook Slough for this project shall be constructed so that the intake velocities at the intake point do not exceed 0.25 feet per second and the intake is screened with ¼ intake diameter screen or 3/16 inch if slotted stainless steel or corrosion resistant screen to avoid entrainment and impinging fish.

WATER MANAGEMENT BOARD

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

JAN 13 2016
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 _____ Provide copy of log(s), if available. Drilled by _____
- c) Well Depth _____ Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____
- d) Distance to nearest existing domestic well:

On applicant's property _____

On property owned by others _____

Lake water
2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) water out of Rush Lake
- b) System Capacity (gallons) 300gal 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)

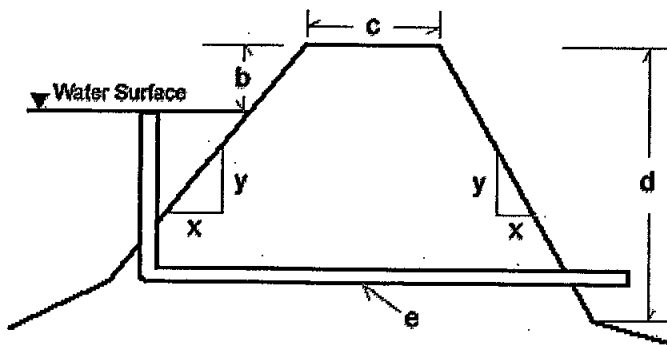
Upstream _____

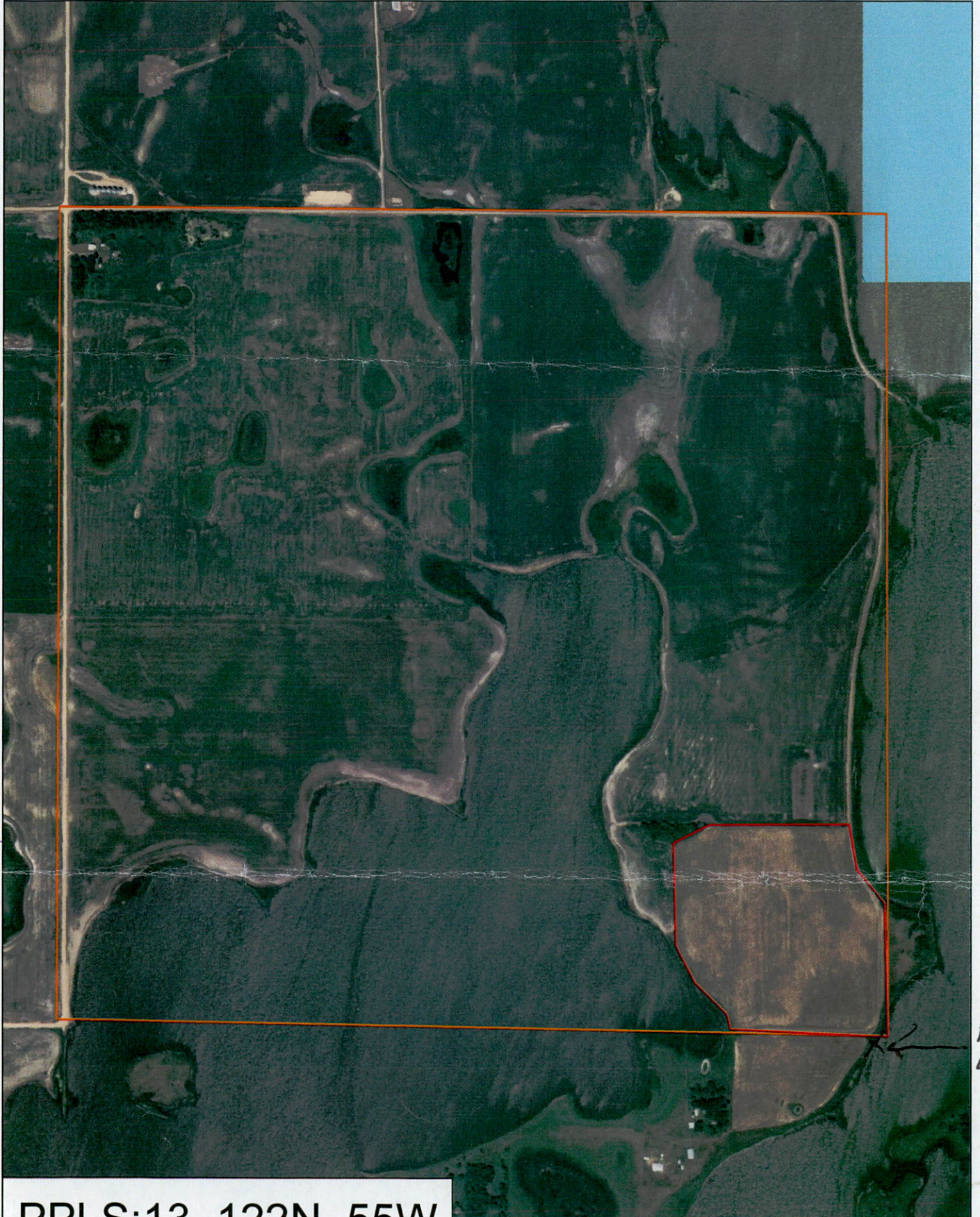
Downstream _____

- h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

- j) Drainage Area Above Dam _____ Acres





Rush Lake

PPLS:13 122N 55W

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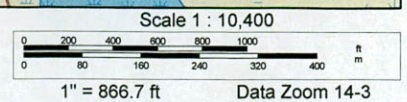
Data use subject to license.

© DeLorme. XMap® 7.

www.delorme.com

OCT 01 2015

WATER RIGHTS
PROGRAM



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/1, 20 15

RECEIVED OF Zenk Farms LLC 13920 440th Ave Webster SD 57274

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

Fee for Application for Permit No. <u>8183-3</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>8183-3</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. 07501

By

Jeanne Holman
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. 8183-3, Zenk Farms LLC**

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. 8183-3, Zenk Farms LLC, c/o Jim Zenk, 611 W 7th Street, Webster SD 57274.

The Chief Engineer is recommending APPROVAL of Application No. 8183-3 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. Permit No. 8183-3 authorizes diversion of water from Rush Lake / Sunnybrook Slough when the lake level is at or below elevation 1798.7 feet mean sea level. Further diversion under this permit shall be in accordance with written orders issued by the Chief Engineer as necessary to protect the prior rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
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. 8183-3 authorizes a maximum diversion rate of 0.67 cfs for the irrigation of 40 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. The irrigation intake in Rush Lake/Sunnybrook Slough for this project shall be constructed so that the intake velocities at the intake point do not exceed 0.25 feet per second and the intake is screened with ¼ intake diameter screen or 3/16 inch if slotted stainless steel or corrosion resistant screen to avoid entrainment and impinging fish.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
December 1, 2015

REPORT ON WATER PERMIT APPLICATION NO. 8183-3

Zenk Farms LLC

November 2, 2015

Zenk Farms LLC, % Jim Zenk, has filed Water Permit Application No. 8183-3 to appropriate 0.67 cubic feet of water per second (cfs) from Rush Lake/Sunnybrook Slough to irrigate 40 acres of land.

All elevations in this report are National Geodetic Vertical Datum of 1929 (NGVD 29).

PROPOSED PROJECT

Water Application No. 8183-3 is located 2 miles north and 3 miles west of the town of Waubay, SD in Day County. This project proposes to divert 0.67 cfs from a diversion point located between a point in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13 on Sunnybrook Slough and a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24 on Rush Lake; all in T122N-R55W. The 40 acres of land to be irrigated are located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, T122N-R55W. The annual period of use requested is from May 1 through September 30.

DISCUSSION

Rush Lake is a flat-bottomed natural lake of glacial origin. The lake has a surface area of 3,000 acres and a depth of 14 feet at the outlet elevation. Rush Lake spills south to Bitter Lake at an elevation of 1798.7 feet mean sea level (fmsl). The Water Management Board has not set the Ordinary High Water Mark or outlet elevation for Rush Lake.

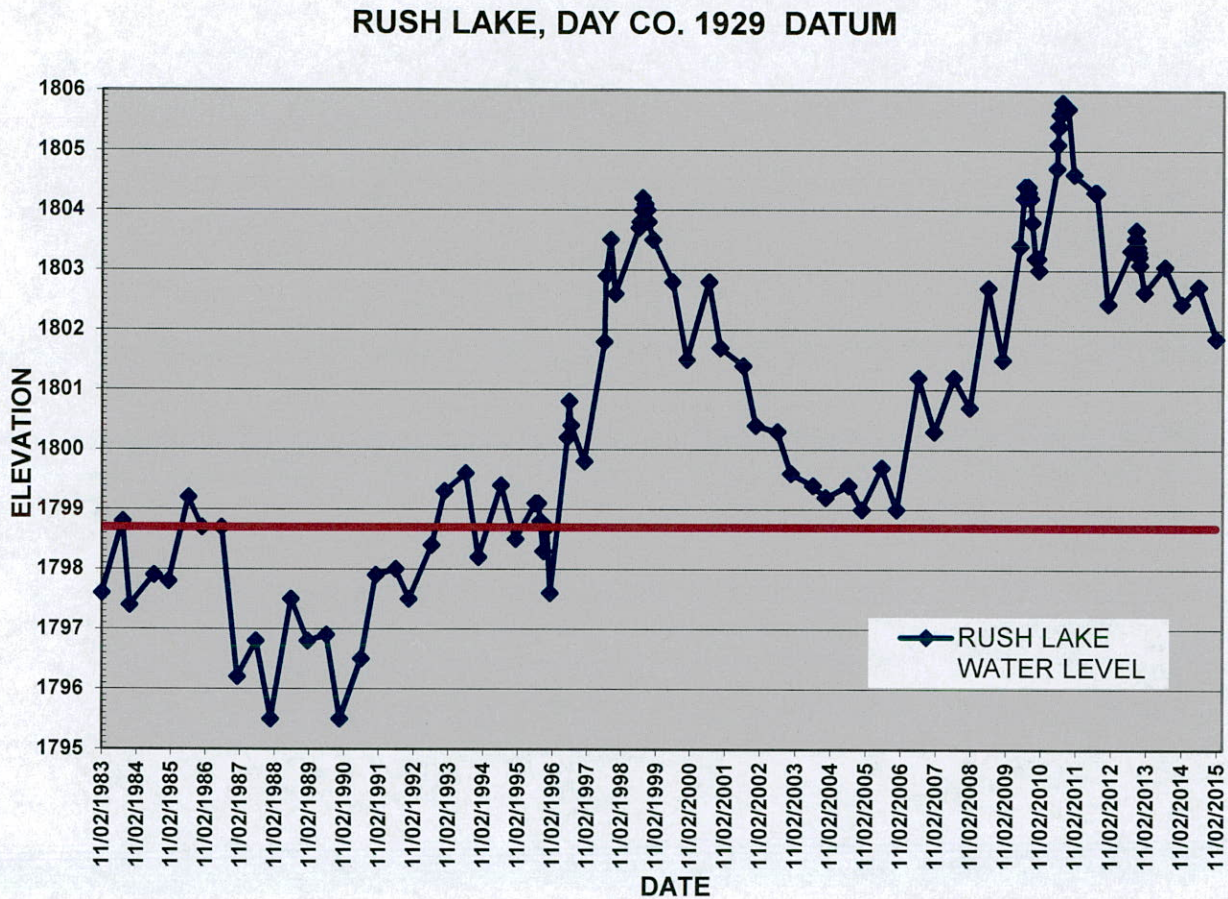
Rush Lake has experienced increasing water levels since 1983, when the Department of Environment and Natural Resources began measuring the lake. In the fall of 1983, Rush Lake was separated into two lakes, Rush Lake and Little Rush Lake. Also at that time, a water body known as Sunnybrook Slough was located just north of Rush Lake. Currently all three water bodies are connected and operate as one lake. By the spring of 2011, Rush Lake was at an elevation of 1805.7 fmsl, a new record for the period of record. Figure 1 shows the semi-annual water level measurements for Rush Lake taken by the Water Rights Program since 1983.

The proposed diversion point is to be located between a point in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13 and a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24; all in T122N-R55W. The diversion point location description is a point anywhere from the southwest edge of a water body known as Sunnybrook Slough, now connected to Rush Lake, to the very north end of Rush Lake. In the past Sunnybrook Slough has been separated from Rush Lake and is a shallow bowl shaped area next to the lake. A channel exists between the water bodies that is inundated when water levels are near or above an elevation of 1797 fmsl. It appears as though water is not available at the proposed pump site on Sunnybrook Slough when water levels drop below 1800 fmsl (see Map).

The outlet elevation and ordinary high water mark have not been set by the Water Management Board for Rush Lake, however the outlet elevation has been surveyed at an elevation of 1798.7 fmsl.

Rush Lake has remained connected to Sunnybrook Slough and above the Rush Lake outlet elevation of 1798.7 fmsl since 1997. Though Rush Lake has plenty of water currently, shallower conditions exist in the proposed area of the diversion point. During extended periods of dry climate water may not be available at the proposed pump site.

Figure 1. Measured water levels on Rush Lake, 1983 to present.



Lake levels will typically fluctuate from year to year depending on climatic conditions. A large change in lake level takes a multi-year shift from average, whether wetter or dryer. Rush Lake has experienced such a change and has been above the outlet elevation since 1997. Based on current water levels, water availability for this project is not expected to be a problem.

The applicant is asking for more than the statutory limit of 1 cfs per 70 acres. SDCL 46-5-6 allows for a greater diversion rate than the statutory limit due to time constraints, method of irrigation or soil type. The proposed system type and irrigation method to be used for this project requires the greater diversion rate. If approved the permit should be limited to 2 acre feet per acre, delivered on the land for the requested specified time each year.

EXISTING WATER RIGHTS

There are two existing water rights for Rush Lake. The Department of Game, Fish, and Parks holds Recognized Vested Water Right Claim 632-3, which has been public noticed for validation for “sufficient water to fill the lake annually to the outlet elevation or the elevation necessary to maintain the ordinary high water mark, whichever is lower.” The Ordinary High Water Mark and Outlet elevations have not been set for Rush Lake by the Water Management Board. The outlet elevation for

Rush Lake has been surveyed by the Department of Environment and Natural Resources at an elevation of 1798.7 fmsl.

The City of Waubay holds Flood Control Permit No. 26-3, which authorizes the construction of two levees to protect the City of Waubay from flooding due to rising water levels in Rush Lake. The levees were completed in 1998, built to a top elevation of 1809.5 fmsl.

The proposed pump site for Water Permit Application 8183-3 is self-limiting in that water may not be available when Rush Lake is at or below the outlet elevation. In order to protect Recognized Vested Water Right Claim 632-3, diversion from Rush Lake/Sunnybrook Slough when Rush Lake water level is at or below the outlet elevation of 1798.7 fmsl should only be allowed in accordance with written orders issued by the Chief Engineer.

Conclusions

1. Water Application No. 8183-3 proposes to appropriate 0.67 cubic feet per second of water from Rush Lake/Sunnybrook Slough to irrigate 40 acres of land.
2. Water levels in Rush Lake have exceeded the outlet level consistently since 1997.
3. If approved this permit should include the qualification that the pump site location is limited to the boundary of the point of diversion located in the SE¼ SE¼ Section 13 in T122N-R55W, unless alternative authorization is requested and subsequently approved by the Water Management Board.
4. If approved this permit should include the qualification that diversion is not allowed when Rush Lake is at or below the outlet elevation of 1798.7 fmsl unless in accordance with written orders issued by the Chief Engineer.
5. The applicant is asking for a diversion rate greater than the statutory limit, pursuant to SDCL 46-5-6, due to irrigation methods and needs.
6. If approved this permit should be limited to 2 acre feet per acre, delivered on the land for the requested specified time each year, pursuant to SDCL 46-5-6.
7. If approved, with qualifications, this permit should not impair existing water rights.
8. Issuance of this permit does not preclude the permit holder from the responsibility of obtaining any other state or federal permits nor gives the permit holder any implied ability to disregard any other federal or state requirement.



Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

References

South Dakota Department of Environment and Natural Resources, Water Rights Program Records, 2015.

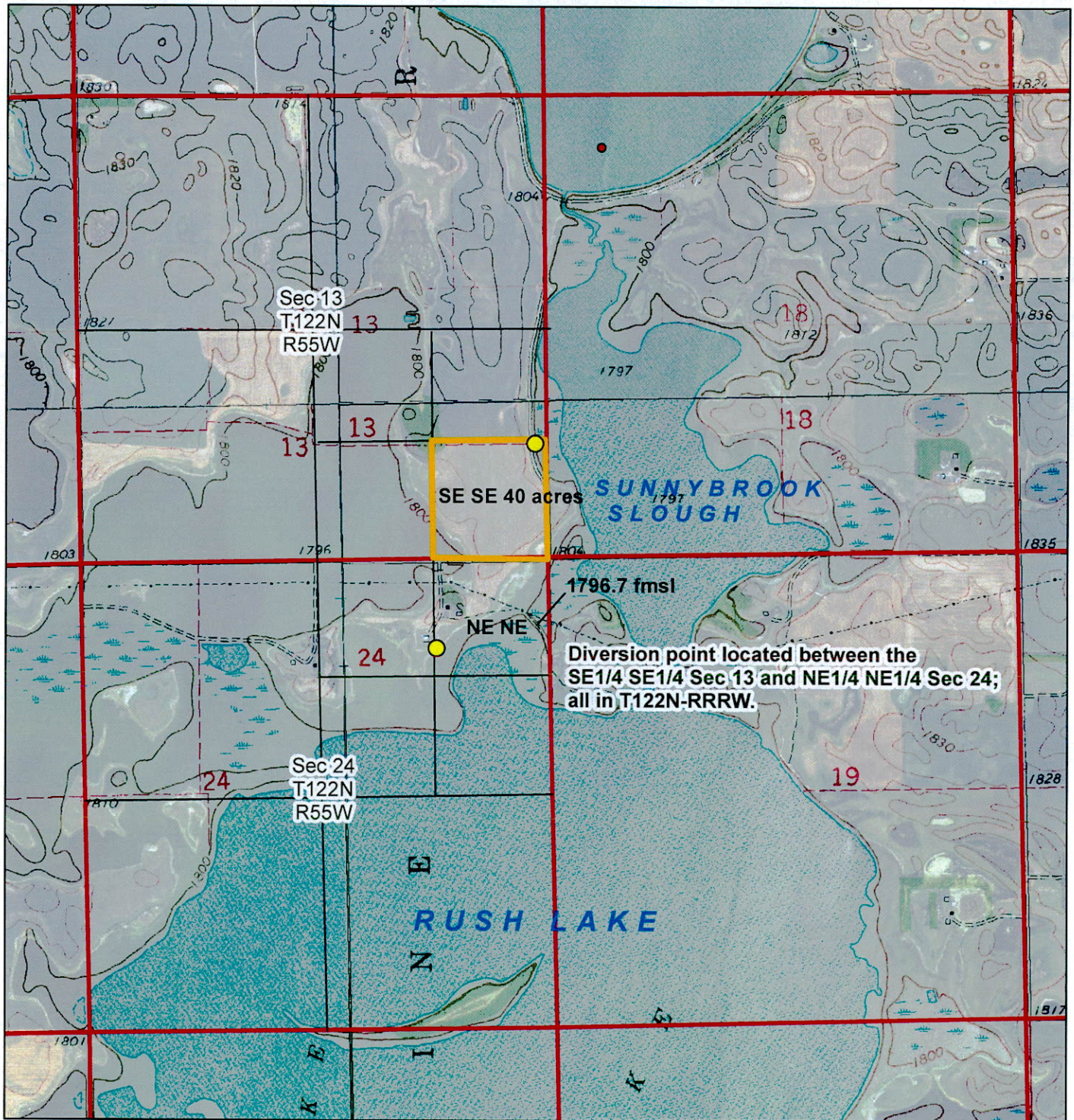
U.S. Department of the Interior Geologic Survey. (1999). Lake-Level Frequency Analysis for the Waubay Lakes Chain, Northeastern South Dakota (Water-Resources Investigations Report 99-4122). Rapid City, SD: Niehus, C. A., Vecchia, A. V., & Thompson, R. F.

U.S. Department of the Interior Geologic Survey. (1999). Supplement to Water-Resources Investigations Report 99-4122, Lake-Level Frequency Analysis for the Waubay Lakes Chain, Northeastern South Dakota (Water-Resources Investigations Report 99-4251). Rapid City, SD: Niehus, C. A., Vecchia, A. V., & Thompson, R. F.

Water Permit Application No. 8183-3

Zenk Farms LLC

November 9, 2015



Lynn Beck

Lynn Beck
Natural Resources Engineer III
SD DENR - Water Rights Program

SCALE

0 660 1,320 2,640 3,960 5,280 Feet

AFFIDAVIT OF PUBLICATION

County of Day
State of South Dakota,

}

SS.

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DEC 28 2015

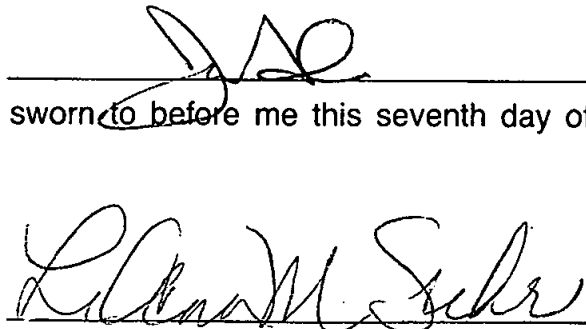
WATER RIGHTS
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John Suhr, of said county and state being duly sworn on oath, says: That the Reporter & Farmer is a legal weekly newspaper of general circulation, and an official newspaper as required by Session Laws of 1893, printed and published in Webster, in said county and state, by the Day County Printing Company and has been such newspaper during the time hereinafter mentioned, that I, John Suhr, the undersigned, am publisher of said newspaper, and have personal knowledge of all facts stated in this affidavit and that the advertisement headed, Water Application Zenk Farms, a printed copy of which is hereunto attached, was printed and published in the said newspaper one successive and complete issues as follows:

First Publication	Dec. 7, 2015;
Second Publication	;
Third Publication	;
Fourth Publication	;
Fifth Publication	;

That the full amount of fees for publication of the annexed notice is \$33.19 and inures solely to the Reporter & Farmer, published by The Day County Printing Company, that no arrangement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid any person whomsoever.

Subscribed and sworn to before me this seventh day of December, 2015.



Notary Public, Day County, South Dakota

LeAnn M. Suhr

Day County South Dakota

Commission Expires November 2, 2017

Water app

NOTICE OF APPLICATION Nos. 8182-3 and 8183-3 to Appropriate Water

Notice is given that Zenk Farms LLC, c/o Jim Zenk, 611 W. 7th St., Webster, SD 57274 has filed the following applications for a water permit.

Application No. 8182-3 proposes to appropriate 2.0 cubic feet of water per second (cfs) from Waubay Lake located in the NW1/4NW1/4 Section 11 and SE1/4SE1/4 Section 10 for irrigation of 180 acres located in the W1/2 Section 11; all in T122N-R55W.

Application No. 8183-3 proposes to appropriate 0.67 cfs from Rush Lake/Sunnybrook Slough between the SE1/4SE1/4 Section 13 and the NE1/4 NE1/4 Section 24 to irrigate 40 acres located in the SE1/4SE1/4 Section 13; all in T122N-R55W. The applicant is requesting a diversion rate greater than the statutory limit of one cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8182-3 and 8183-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting these applications or recommenda-

lication

tions 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 December 17, 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.

If the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendations with no hearing held before the Water Management Board. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

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

Published once at the total
approximate cost of \$33.19.

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DEC 11 2015

WATER RIGHTS
PROGRAM

Form 8

DEPARTMENT
OF
ENVIRONMENT
AND NATURAL
RESOURCES

NOTICE OF APPLICATION
NOS. 8182-3 and 8183-3 to
Appropriate Water

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Any person interested in opposing or supporting these applications or recommendations 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 December 17, 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.

If the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendations with no hearing held before the Water Management Board. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of \$65.36. (December 7, 2015)

All legal notices in the Public Opinion and other South Dakota newspapers can be found at
www.sdpublicnotices.com

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Codington) SS

I, Monica K. Saathoff

certify that the attached printed Notice was taken

from the Watertown Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

December 7th, 2015

Cost of Printing 67.46

Monica K. Saathoff
(Signature)

Bookkeeper

(Title)

December 7th, 2015

(Date Signed)



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.**

December 1, 2015

Zenk Farms LLC
Jim Zenk
611 W 7th St
Webster SD 57274

Dear Mr. Zenk:

Water Permit Application Nos. 8182-3 and 8183-3 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 Reporter and Farmer printed at Webster SD (Ph # 605-345-3356) and the Public Opinion printed at Watertown SD (Ph # 605-886-6901). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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.

NOTICE OF APPLICATION NOS. 8182-3 and 8183-3 to Appropriate Water

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Application No. 8182-3 proposes to appropriate 2.0 cubic feet of water per second (cfs) from Waubay Lake located in the NW 1/4 NW 1/4 Section 11 and SE 1/4 SE 1/4 Section 10 for irrigation of 180 acres located in the W 1/2 Section 11; all in T122N-R55W.

Application No. 8183-3 proposes to appropriate 0.67 cfs from Rush Lake / Sunnybrook Slough between the SE 1/4 SE 1/4 Section 13 and the NE 1/4 NE 1/4 Section 24 to irrigate 40 acres located in the SE 1/4 SE 1/4 Section 13; all in T122N-R55W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8182-3 and 8183-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting these applications or recommendations 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 December 17, 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.

If the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendations with no hearing held before the Water Management Board. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

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

JAN 13 2016

Zenk Farms LLC
Jim Zenk
611 W 7th St
Webster SD 57274

Dear Mr. Zenk:

Enclosed are Water Permit Nos. 8182-3 and 8183-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water licenses 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



8183-3
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 20, 2017

NOTICE

TO: ZENK FARMS LLC, JIM ZENK, 611 WEST 7TH ST, WEBSTER, SD 57274
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaire(s)

Our records indicate your 2016 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8182-3 & 8183-3. The request for the Questionnaire was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 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) 8182-3 & 8183-3 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 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) 8182-3 & 8183-3 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 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

January 31, 2017

8182-3
8183-3

Jim Zenk
Zenk Farms LLC
611 W 7th St
Webster SD 57274

Dear Mr. Zenk:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Permit Nos. 8182-3 and 8183-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



8183-3
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 25, 2019

NOTICE

TO: ZENK FARMS LLC, JIM ZENK, 611 WEST 7TH ST, WEBSTER, SD 57274
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8182-3 & 8183-3. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 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) 8182-3 & 8183-3 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, 2019 at 10:30 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) 8182-3 & 8183-3 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, 2019** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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

8183-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 5, 2019

8182-3
8183-3

Jim Zenk
Zenk Farms LLC
611 West 7th St
Webster SD 57274

Dear Mr. Zenk:

I am writing to acknowledge receipt of your 2018 irrigation questionnaires.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Permit Nos. 8182-3 and 8183-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Genny McMath'.

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



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: ZENK FARMS LLC, JIM ZENK, 611 WEST 7TH ST, WEBSTER, SD 57274

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) 8182-3 & 8183-3. 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) 8182-3 & 8183-3 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) 8182-3 & 8183-3 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: BJAGMG**

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 2, 2023

8182-3
8183-3

Jim Zenk
Zenk Farms LLC
611 W 7th St
Webster SD 57274

Dear Mr. Zenk:

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. 8182-3 & 8183-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 22, 2024

8183-3

Zenk Farms LLC
c/o Jim Zenk
611 W 7th St
Webster SD 57274

Dear Mr. Zenk:

I am writing you today in reference to an on-site inspection that was conducted by staff engineer Darrell DeBoer on September 13, 2023.

The inspection was for Permit No. 8183-3, authorizing the irrigation of 40 acres located in the SE ¼ SE ¼ Section 13, T122N, R55W, Day County.

In the inspection report, it was noted that due to a storm damaging the pivot system and subsequent flooding, the property had not been irrigated since 2018. Prior to issuing a license for the irrigation system, I'd like to confirm that you do intend to resume irrigation of the property.

If you have not made a decision, please let me know and we will wait for conditions in your area to dry out a bit before pursuing licensing any further. If you have decided to abandon the irrigation system and we will proceed with cancellation of the permit.

However you decide to proceed, please let me know in the form of a letter, telephone call, or email so that our office may proceed accordingly.

Sincerely,

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

Called Jim Zenk
@ 605.530.3306 to
confirm the irrigation
will be resumed.
left VM 9AM 10/10/23
left VM 10/16 @ 10:30 AM
left VM 10/24 @ 2 PM
left VM 11/13 @ 9:30 AM
left VM 12/11 @ 2:30 PM



**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: ZENK FARMS LLC, JIM ZENK, 611 WEST 7TH ST, WEBSTER, SD 57274

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) 8182-3 & 8183-3. 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) 8182-3 & 8183-3 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) 8182-3 & 8183-3 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: KPOAFG**

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 24, 2025

8182-3 & 8183-3

Zenk Farms LLC
c/o James Zenk
611 W 7th St
Webster SD 57274

Dear Mr. Zenk:

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). 8182-3 & 8183-3. 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