

WATER PERMIT NO. 8523-3

Name of Applicant: Nick & Scott Bebo

Address: 17061 390th Ave, Redfield SD 57469

Phone: 605 460-0302

Amount of Water Claimed: 1.10 cfs

Total Acres: 154.6

Source of Water Supply: James River

Water to be used for: irrigation

County: Spink

Type of Waste Disposal System:

Location: 5 miles northeast of Redfield

PRIORITY

Date Received: 7-2-21

Application/License Fee: \$ 1050

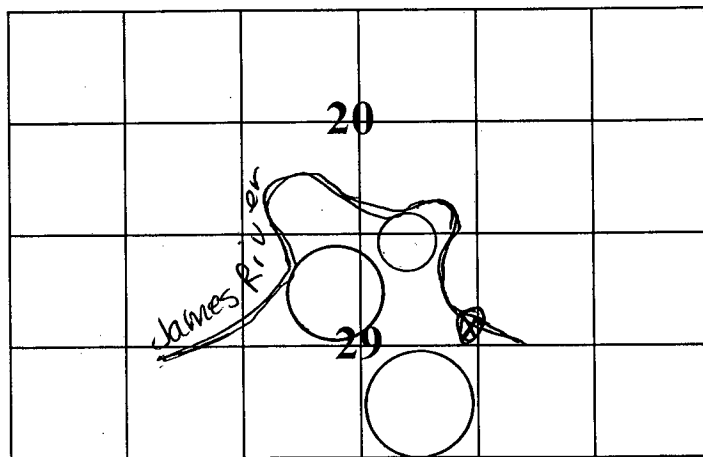
Corrected Application Received:

Period of Annual Use: April 1 – September 30

Remarks: Water Right No. 1172-3 was originally issued for 2.60 cfs and 260 acres. The license was reissued for 1.5 cfs and 105.4 acres. Requesting the original licensed amounts.

Diversion Point: SE 1/4 NE 1/4 Sec 29-T117N-R63W

Land to be Irrigated: S 1/2 SE 1/4 Sec 20, N 1/2, SE 1/4 Sec 29; all in T117N-R63W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 7-6-21

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8523-3 FOR IRRIGATION

Date of first receipt of application July 2, 2021.

The Water Management Board approved Water Permit No. 8523-3 on October 6, 2021 for Nick and Scott Bebo, 17061 390th Ave, Redfield SD 57469 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. 8523-3 appropriates 1.10 cubic feet of water per second (cfs) from the James River between points located in the NW 1/4 NW 1/4 Section 29 to SW 1/4 NW 1/4 Section 28 for irrigation of an additional 154.6 acres located in the S 1/2 SE 1/4 Section 20, N 1/2, SE 1/4 Section 29; all in T117N-R63W. Water Right No. 1172-3 authorizes 1.50 cfs from the James River to irrigate 105.4 acres. This permit and Water Right No. 1172-3 combined will authorize a total of 2.60 cfs and irrigation of 260 acres. This site is located approximately 5 miles northeast of Redfield SD.
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 July 2, 2021.
4. One-fifth of the construction is to be completed on or before April 6, 2024.
5. All construction is to be completed on or before October 6, 2026.
6. Water is to be put to beneficial use on or before October 6, 2030.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
2. This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the gage at Huron, SD after pumping.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

OCT 25 2021
date



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

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8523-3</u> (office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>
	Newspaper <u>Redfield Press</u> <u>American News</u>

PAID
JUL 02 2021
Ck# 4033
CK# 7926

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 1172-3
(Use predates Mar 2, 1955)

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

We are asking to add back the 1.1 CFS + ~~25~~ Acres to the original permit issued Aug 12, 1969

1. Name to Appear on Irrigation Permit Nick + Scott Bebo

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 17061 390th Ave Redfield SD 57469
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605-460-0302 Email _____

2. Amount of water claimed 1.1 *CFS or _____ **GPM _____ ***AF _____ Total Acreage 154.6 ~~25~~ Acres
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable

3. Source of water supply James River

4. Location of point of diversion SE of NE sec 29-63-T117

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Spink

5. County or counties where water will be used Spink

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

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 sec 29-63-T117	115		
NW 1/4 sec 29-63-T117	102		
NE 1/4 sec 29-63-T117	43		
3 1/2 SE 1/4 Sec 20-T117N-R63W			

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

We are wanting to restore the original permit to the full 2.6 CFS + 260 Acres. We would be adding a low pressure irrigation center pivot system to be more efficient.

I, Nick Bebo, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

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 ____

For either Existing or Proposed Wells:

c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) ____ Year Constructed ____

c) Connected to the City of ____ Sanitary System

3. Dugout Information

a) Surface Dimensions ____ Depth ____

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

4. Water Storage Dams

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

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

b) Freeboard ____

c) Crest Width ____

Crest Length ____

d) Height ____

e) Primary Outlet Capacity ____

If pipe, diameter ____

f) Secondary Spillway Capacity ____

Spillway Width ____

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

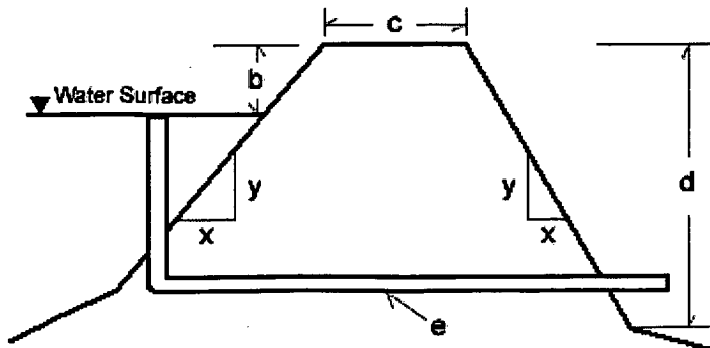
Upstream ____

Downstream ____

h) Surface Area of Impoundment ____

i) Storage ____ Acre Feet

j) Drainage Area Above Dam ____ Acres



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date July 6, 2021

RECEIVED OF Nick Bebo 17061 390th Avenue Redfield SD 57469

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

Fee for Application for Permit No. <u>8523-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>425.00</u>
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>8523-3</u>	\$ <u>100.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>525.00</u>

By Eric Gronlund
Chief Engineer
EM



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8523-3, Nick & Scott Bebo**

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. 8523-3, Nick & Scott Bebo, 17061 390th Ave, Redfield, SD 57469.

The Chief Engineer is recommending APPROVAL of Application No. 8523-3 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board with the following qualifications:

1. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
2. This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the gage at Huron, SD after pumping.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
July 28, 2021

REPORT ON WATER PERMIT APPLICATION NO. 8523-3

Nick and Scott Bebo

July 27, 2021

Application No. 8523-3, proposes to appropriate 1.10 cubic feet of water per second (cfs) from the James River between points located in the SE 1/4 NE 1/4 Section 29 to SW1/4 NW1/4 Section 28 for irrigation of an additional 154.6 acres located in the S 1/2 SE 1/4 Section 20, N 1/2, SE 1/4 Section 29; all in T117N-R63W. Water Right No. 1172-3 authorizes 1.50 cfs from the James River to irrigate 105.4 acres. This application, if approved, and Water Right No. 1172-3 combined will authorize a total of 2.60 cfs and irrigation of 260 acres. The James River diversion site is located approximately 5 miles northeast of Redfield SD in Spink County.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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 domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of the Proposed Water Source

Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are in South Dakota. During extended periods of low precipitation, the James River experiences extremely low flows and cannot be considered a reliable source of water.

The United States Geological Survey (USGS) operates a streamflow gaging station network in South Dakota. The USGS collects realtime stream flow data and retains a historical record of the flow data for each of these stations (USGS. 2021). Water Rights staff uses this flow data to help regulate water usage during dry periods and for performing flow analyses in determining the likelihood of water availability at a particular location. The USGS provides an online statistical package to help analyze the flow data.

Two of the measures considered are Mean, often referred to as average, and Median, otherwise referred to as 50th percentile, are statistical terms having a similar role in understanding the central tendency of a set of statistical results. Mean, often used to describe the middle value of a dataset, is calculated by determining the sum of the entries composing the dataset and then dividing that sum by the total number of entries in the dataset. Median, is the central value separating the higher half of values in a dataset from the lower half. The disadvantage of using mean to describe flow is the mean value can be significantly affected by any single value in the data set being very high or very low compared to the rest of the data values. In the analysis of long-term flow data, large flood event data values skew the calculated mean value giving an unreasonable expectation of a higher flow value over a period of time.

The USGS operates stream flow gaging station No. 06476000, on the James River at Huron, SD (USGS, 2021). Figure 1 shows plots of historical percentile data from 1943 to 2020 for this stream flow gage. Looking at the requested period of use at the 50th percentile, with flows at or below this level on average one out of two years, the median daily flow values range from over 650 cfs throughout May before steadily dropping to a low of 60 cfs by mid-August. During the period of proposed use at the 25th percentile level, flow is at this level or below on average one out of four years, shows the daily flow values ranging between 210 cfs in May before dropping below 20 cfs by mid to late August. During the period of proposed use at the 10th percentile level, flow is at this level or below on average one out of ten years, shows the daily flow values ranging between 40 cfs in May before near zero cfs by mid-July. Based upon the historical stream gaging data, there will be times when shutoff orders will need to be issued for this reach of the James River.

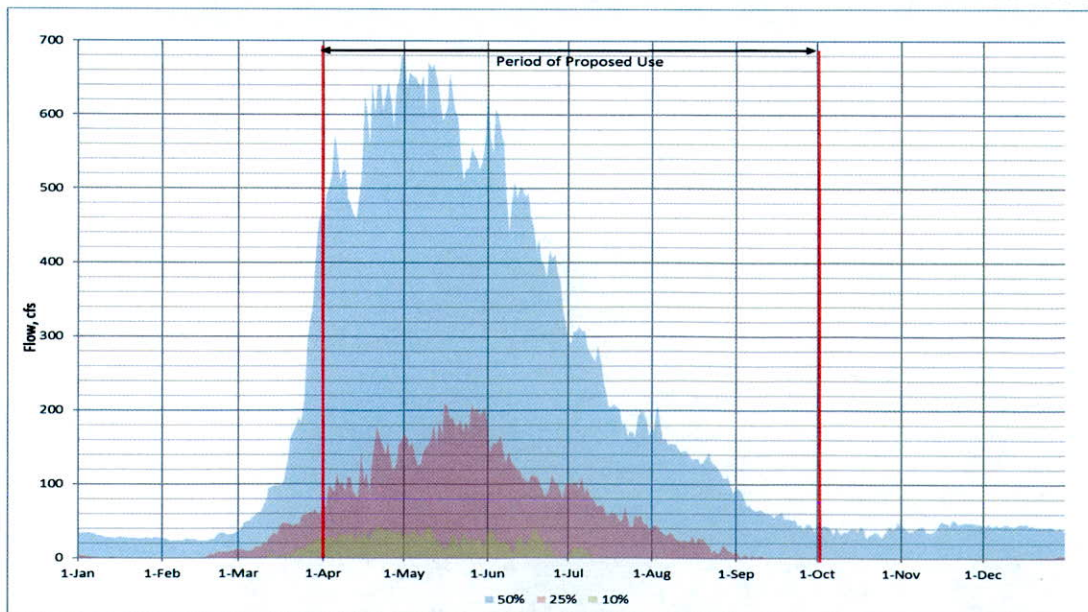


Figure 1. Daily percentile flow hydrograph for the USGS gaging station No. 06476000, 1943-2020, on the James River at Huron, SD, contributing drainage area 13,795 mi², (USGS, 2021).

Review of the James River Water Management Regulation

In 1965, the SD Water Rights Commission, a predecessor to the SD Water Management Board, placed maximum appropriation limits over sections of the James River in South Dakota. A 300 cfs appropriation limit restriction applies to the river reach between the North Dakota border to the Yankton-Hutchinson County Line (Water Rights. 2021). Of this restriction, a 200 cfs appropriation limit restriction was placed from the North Dakota border to the USGS gaging station in Huron, SD. The SD Water Management Board has adopted these appropriation limits.

In 2007, the SD Water Management Board adopted standardized qualifications and amended the existing water rights/permits for current and future James River water rights/permits. In order to address times when water availability is scarce from the James River, the Water Management Board has placed the following qualifications on James River permits with diversions located between the Ashton and Huron gaging stations:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from the James River when there is less than 20 cfs by-passing the gage at Huron, SD, after pumping.

If this application is approved, the water permit should contain these same qualifications.

Review of Existing Water Rights/Permits

Currently there are 74 water rights/permits appropriating 187.26 cfs of the 200 cfs appropriation limit between North Dakota border and the USGS gaging station at Huron, SD, and there are 117 water rights/permits appropriating 290.39 cfs of the 300 cfs appropriation limit between the North Dakota border and the Yankton-Hutchinson County Line. At the time this report was written there is 9.61 cfs available from the James River for appropriation (Water Rights. 2021). Although, there is one pending future use permit proposing to reserve 6,154 acre-feet of water at a diversion rate of 8.5 cfs. If this application and the pending future use permit are approved the 300 cfs appropriation limit will be reached.

There is Future Use Permit No. US594-3 bearing a priority date of November 7, 1963, held by the US Bureau of Reclamation for the reservation of 500 cfs from the James River and other sources. The majority of the water reserved by this permit and attributed to the James River would have come from runoff created by the defunded and non-constructed Oahe Project with the water being diverted at the James River pumping plant. Originally the reservation of water was by Future Use

Permit No. 1067-3 held by the Oahe Conservancy Sub-District but was transferred to the Bureau of Reclamation under Future Use Permit No. US594-3 in 1974. The remainder of Future Use Permit No. 1067-3 was cancelled by the Water Management Board in 2012. The status of this future use permit should be reviewed since the source of the majority of the water reserved was to be from a federal irrigation project that was never constructed and has been defunded (Water Rights. 2021).

Discussion

The applicant is proposing to appropriate an additional 1.1 cfs from James River to irrigate an additional 154.6 acres. This application supplements for an irrigation project authorizing 1.5 cfs to irrigate of 105.4 acres under Water Right No. 1172-3. A review of USGS stream gaging data indicates a reasonable probability unappropriated water is available. In addition the Water Management Board has continued to uphold a 300 cfs appropriation limit restriction applies to the river reach between the North Dakota border to the Yankton-Hutchinson County Line and a 200 cfs appropriation limit restriction was placed from the North Dakota border to the USGS gaging station in Huron, SD originally adopted in 1965. Currently 290.39 cfs of the 300 cfs appropriation limit between the North Dakota border and the Yankton-Hutchinson County Line is appropriated leaving 9.61 cfs available. At the time this report was written there is a pending future use permit No. 8512-3 by the City of Aberdeen proposing to reserve 8.5 cfs and a volume of 6,154 acre-feet. If both permits are approved the total amount of water appropriated from the James River will 299.99 cfs, just below the 300 cfs limit.

Conclusions

1. The applicant proposes to 1.1 cubic feet of water per second (cfs) from the James River.
2. The water source for the proposed irrigation project is the James River in Brown County. Approval of this permit will leave 0.01 cfs of the 300 cfs limit, set by the Water Management Board, remaining for future appropriation for the river reach from the North Dakota border to the Yankton-Hutchinson County Line.
3. Based upon a review of USGS stream gaging data for the James River, the review indicates a reasonable probability unappropriated water is available for this proposed project.
4. If approved the permit should contain the following qualifications:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year unless written orders have been issued by the Chief Engineer.

Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.

- This permit does not authorize diversions from the James River when there is less than 20 cfs by-passing the gage at Huron, SD, after pumping.



Mark D. Rath

Natural Resources Engineer III

References

1. Water Rights. 2021. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
2. USGS. 2021. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Talaya Purcell, being duly sworn on oath, say that THE REDFIELD PRESS is a weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS. I, Talaya Purcell, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#6014 NOTICE OF HEARING

was printed and published in said newspaper in 1 issue, to wit: The first publication being made on AUGUST 25TH 2021. That the full amount of the fee charged for publishing SIXTY SIX and .58/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, 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.

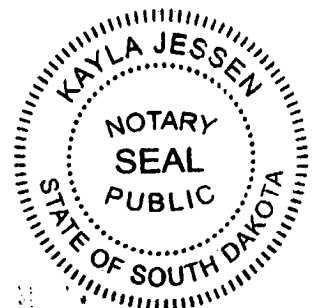
Talaya Purcell

Subscribed and sworn to before me this 25TH day of August, 2021

Kayla Jessen

Notary Public, South Dakota

My commission expires 09/26/2024



Notice of Hearing

#6014

NOTICE OF HEARING on Application No. 8523-3 to Appropriate Water

Notice is given that Nick & Scott Bebo, 17061 390th Ave, Redfield SD 57469 have filed an application for a water permit to appropriate 1.10 cubic feet of water per second (cfs) from the James River between points located in the NW 1/4 NW 1/4 Section 29 to SW 1/4 NW 1/4 Section 28 for irrigation of an additional 154.6 acres located in the S 1/2 SE 1/4 Section 20, N 1/2, SE 1/4 Section 29; all in T117N-R63W. Water Right No. 1172-3 authorizes 1.50 cfs from the James River to irrigate 105.4 acres. This application, if approved, and Water Right No. 1172-3 combined will authorize a total of 2.60 cfs and irrigation of 260 acres. This site is located approximately 5 miles northeast of Redfield SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8523-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 6, 2021 in the Legislative Conference Rm 414, State Capitol Bldg, 500 E Capitol Ave,

Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 7, 2021.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The October 6, 2021 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by September 7, 2021. If an automatic

delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by September 7, 2021.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is August 16, 2021. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD

74:02:01:01 thru 74:02:01:25:02;
74:02:01:35:01.

Published one time at the total approximate cost of \$66.58. (Aug. 25)

RECEIVED

SEP 13 2021

WATER RIGHTS
PROGRAM

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AUG 13 2021

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Talaya Purcell, being duly sworn on oath, say that THE REDFIELD PRESS is a weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS. I, Talaya Purcell, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#5087 NOTICE OF HEARING

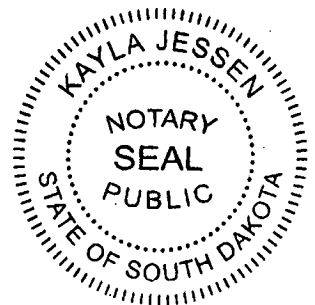
was printed and published in said newspaper in 1 issue, to wit: The first publication being made on AUGUST 4TH 2021. That the full amount of the fee charged for publishing SIXTY FIVE and .12/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or understanding 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.

Talaya Purcell

Subscribed and sworn to before me this 4TH day of August, 2021

Kayla Jessen

Notary Public, South Dakota



My commission expires 09/26/2024

Notice of Hearing

#5087

NOTICE OF HEARING on Application No. 8523-3 to Appropriate Water

Notice is given that Nick & Scott Bebo, 17061 390th Ave, Redfield SD 57469 have filed an application for a water permit to appropriate 1.10 cubic feet of water per second (cfs) from the James River between points located in the NW 1/4 NW 1/4 Section 29 to SW 1/4 NW 1/4 Section 28 for irrigation of an additional 154.6 acres located in the S 1/2 SE 1/4 Section 20, N 1/2, SE 1/4 Section 29; all in T117N-R63W. Water Right No. 1172-3 authorizes 1.50 cfs from the James River to irrigate 105.4 acres. This application, if approved, and Water Right No. 1172-3 combined will authorize a total of 2.60 cfs and irrigation of 260 acres. This site is located approximately 5 miles northeast of Redfield SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8523-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is

in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/> public or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 6, 2021 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the

applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by August 16, 2021.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The October 6, 2021 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by August 16, 2021. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by August 16, 2021.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify

the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is August 16, 2021. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01. Published once at the total approximate cost of \$65.12 (Aug. 4)

LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

PROOF OF PUBLICATION

Sd Dept Of Agriculture
Sd Dept Of Agriculture
523 CAPITOL AVE E
Foss Building
Pierre SD 57501-3182

RECEIVED

AUG 09 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

The AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, and has been such a newspaper during the times hereinafter mentioned; and personal knowledge of the facts herein state that the notice hereto annexed was Published in said newspapers in the issue:

08/04/2021

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.
Sworn to and subscribed before on 08/04/2021

Linda Pitt
Legal Clerk

Sarah Bertelsen
Notary, State of WI, County of Brown
7/27/25

My commission expires

Publication Cost: \$85.08

Order No: 6122427

of Copies:

Customer No: 561459

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

SARAH BERTELSEN
Notary Public
State of Wisconsin

NOTICE OF HEARING on
Application No. 8523-3 to
Appropriate Water

Notice is given that Nick & Scott Bebo, 17061 390th Ave, Redfield SD 57469 have filed an application for a water permit to appropriate 1.10 cubic feet of water per second (cfs) from the James River between points located in the NW 1/4 NW 1/4 Section 29 to SW 1/4 NW 1/4 Section 28 for irrigation of an additional 154.6 acres located in the S 1/2 SE 1/4 Section 20, N 1/2, SE 1/4 Section 29; all in T117N-R63W. Water Right No. 1172-3 authorizes 1.50 cfs from the James River to irrigate 105.4 acres. This application, if approved, and Water Right No. 1172-3 combined will authorize a total of 2.60 cfs and irrigation of 260 acres. This site is located approximately 5 miles northeast of Redfield SD.

South Dakota Codified Law (SDCL) 46-2A-4(10)

provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8523-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at

<https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 6, 2021 in the Legislative Conference Rm 414, State Capitol Bldg, 500 E Capitol Ave, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by August 16, 2021.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The October 6, 2021 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by August 16, 2021. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

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Published once at the total approximate cost of \$85.06.
August 4, 2021 #6122427



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

July 29, 2021

Nick & Scott Bebo
17061 390th Ave
Redfield SD 57469

Dear Sirs:

Water Permit Application No. 8523-3 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 Redfield Press printed at Redfield SD (Ph # 605 472-0822) and the American News printed at Aberdeen SD (Ph # 605 225-4100). You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publishers have been instructed to publish your notice. The newspapers have 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,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, July 28, 2021 2:17 PM
To: Aberdeen News Legals (aan-legals@aberdeennews.com)
Subject: 8523-3, Nick & Scott Bebo
Attachments: 8523-3public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 4, 2021.

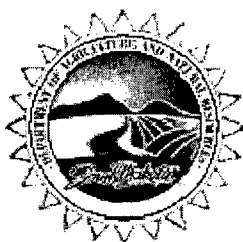
Nick & Scott Bebo, 17061 390th Ave, Redfield SD 57469 (605 460-0302) have been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, July 28, 2021 2:11 PM
To: tzens-purcell@redfieldpress.com
Subject: 8523-3, Nick & Scott Bebo
Attachments: 8523-3public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 4, 2021.

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Published once at an approximate cost of_____.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

OCT 25 2021

Nick & Scott Bebo
17061 390th Ave
Redfield SD 57469

Dear Sirs:

Enclosed is Water Permit No. 8523-3 authorizing construction of the 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,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

8523-3
RECEIVED

JUL 07 2022

OFFICE OF
WATERNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 7-1-22TO: Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181FROM: Nick and Scott Bebo
(name)
17061 390th Ave
(address)
Redfield SD 57469 6054600302
(city, state, zip) (phone)

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

Water Permit No. 8523-3
1172-3 states that the water use system is to be constructed by
18.6.26, and water is to be put to beneficial use by 128.30
(date) (date)The water use system was completed on 7-1-22
(date)Applying the water to beneficial use was completed on 7.1.22
(date)

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

Scott Bebo Nick Bebo
(signature)



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 13, 2022

8523-3

Nick & Scott Bebo
17061 390th Ave
Redfield SD 57469

Dear Sirs:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system authorized under Water Permit No. 8523-3.

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

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

Sincerely,

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