

WATER PERMIT NO. 8788-3

Name of Applicant: **Bill Boyer**

Address: **4162 Birch Ave, Hawarden IA 51023**

Phone: **712-551-6308**

Amount of Water Claimed: **2.67 cfs**

Total Acres: **87**

Source of Water Supply: **Surface Pattee Creek**

Water to be used for: **Irrigation**

County: **Lincoln SD**

Type of Waste Disposal System:

Location: **Approx. 15 miles east of Beresford SD**

PRIORITY

Date Received: **8-7-23**

Application/License Fee: **\$750.00**

Corrected Application Received:

Period of Annual Use: **May 1 – October 1**

Remarks:

Diversion Point: **NE 1/4 NE 1/4 Section 26-T96N-R48W**

Land to be Irrigated: **NE 1/4, N 1/2 SE 1/4 Section 26-T96N-R48W**

Depth of Well: **N/A**

Well Driller: **N/A**

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **8-9-23**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8788-3**

Date of first receipt of application August 7, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8788-3 to Bill Boyer, 4162 Birch Avenue, Hawarden IA 51023 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. 8788-3 appropriates 1.56 cubic feet of water per second (cfs) from the Pattee Creek located in the NE 1/4 NE 1/4 Section 26 for irrigation of 87 acres located in the NE 1/4, N 1/2 SE 1/4 Section 26; all in T96N-R48W. This site is located approximately 15 miles east of Beresford 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: May 1 – October 31.
3. The date from which applicant may claim right is August 7, 2023.
4. The date of approval of Permit No. 8788-3 is October 16, 2023.
5. One-fifth of the construction is to be completed on or before April 16, 2026.
6. All construction is to be completed on or before October 16, 2028.
7. Water is to be put to beneficial use on or before October 16, 2032.
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. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. The irrigation intake for this project shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second and the intake is screen 1/4 inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.
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. 8788-3 authorizes a maximum diversion rate of 1.56 cfs for the irrigation of 87 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

NOV 09 2023

date



RECEIVED

AUG 07 2023

OFFICE OF
WATER**FORM 2: Application for irrigation in South Dakota**
(type or print)**PAID**

AUG 07 2023

Ck# 02761
Rec't# 877B3

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8788-3</u> Hydrologic Unit <u>10170203</u> Basin <u>Lower Big Sioux</u> Newspaper <u>Lennox Independent</u> <u>Argus Leader</u> (office use only)
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Application for Permit to Appropriate Water for Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. 7833-3
(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 Bill Boyer

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

Mailing Address 4162 Birch Ave Hawarden IA 51023

(Address) (City) (State) (Zip Code)

Phone 712-552-2308 Mobile 712-551-6308 Email Boyer4162@outlook.com

2. Amount of water claimed 2.67 1.56 *CFS or 1200 **GPM ***AF Total Acreage 87.0
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply surface water - Pattee Creek

4. Location of point of diversion NE 1/4 NE 1/4 Sec 26 - T96N-R48W (43.10904/-96.47318)

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

County Lincoln

5. County or counties where water will be used Lincoln

6. Annual period during which water is to be used May 1 - Oct 1

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
NW 1/4 NE 1/4	6.0	NW 1/4 SE 1/4	10.0
NE 1/4 NE 1/4	3.0	NE 1/4 SE 1/4	5.0
SW 1/4 NE 1/4	37.0		
SE 1/4 NE 1/4	26.0	ALL IN SEC 26-T96N-R48W	

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

I, Lee B. Boyer, 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.

2021-08

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)





0 0.075 0.15 0.3 0.45 0.6 Miles



Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date August 7, 2023

RECEIVED OF Boyer Service 4162 Birch Ave., Hawarden IA 51023

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

Fee for Application for Permit No. <u>8788-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>750.00</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. _____	\$ _____
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>750.00</u>

By Eric Gronlund
Chief Engineer
vm



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 24, 2023

Bill Boyer
4162 Birch Ave
Hawarden IA 51023

7833-3

Dear Mr. Boyer:

I'm writing you today in reference to Water Permit No. 7833-3. This permit authorized the diversion of 1.44 cfs from two wells for the irrigation of 80 acres in the SE ¼ of Section 26-T96N-R48W. I have enclosed a copy of the permit.

A recent inspection by staff engineer, Darrell DeBoer, has determined that your current system, as developed, is not covered by Permit No. 7833-3. You are irrigating more acres than are covered under your permit, in an area partially outside of the SE ¼, from a surface water source rather than wells, as identified in Permit No. 7833-3. For these reasons a new permit is needed.

I have taken the liberty to fill out portions of the application for you. You will need to complete the highlighted areas.

Please complete and return the enclosed application to our office with a check made payable to the SD Water Rights Program in the amount of \$750.00. Since you had already paid the licensing fee of \$200.00 under Permit No. 7833-3, another licensing fee would not be needed.

If you have any questions, you may contact myself or Ron Duvall at 605-773-3352.

Sincerely,

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

**SOUTH DAKOTA
WATER PERMIT NO. 7833-3**

Date of first receipt of application April 12, 2013.

Date of return to applicant for corrections, amendments or changes April 12, 2013.

Date of receipt of corrected application April 22, 2013.

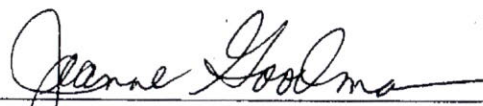
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7833-3 to Bill Boyer, 4162 Birch Ave, Hawarden IA 51023 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7833-3 appropriates 1.44 cubic feet of water per second from two wells to be completed into the Big Sioux:South Aquifer (35 feet deep) located in the S 1/2 SE 1/4 Section 26 for irrigation of 80 acres located in the SE 1/4 Section 26; all in T96N-R48W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 31.
3. The date from which applicant may claim right is April 12, 2013.
4. The date of approval of Permit No. 7833-3 is July 22, 2013.
5. One-fifth of the construction is to be completed on or before January 22, 2016.
6. All construction is to be completed on or before July 22, 2018.
7. Water is to be put to beneficial use on or before July 22, 2022.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 7833-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

AUG 29 2013

date



Water Rights Program - DENR

File Documentation

File No. 8788-3

County: Lincoln

Name of Person: Bill Boyer

Address: 4162 Birch Ave, Hawarden IA, 51023

Date: 8-22-2023 **Telephone:** 712-551-6308

RE: Requested diversion rate change

Comments:

I called Mr. Boyer about his application for a water permit to irrigate from Pantee Creek. I told Mr. Boyer as I was reviewing his water permit application I noticed the requested diversion rate of 1200 gpm (2.67 cfs) to irrigate 87 acres by center pivot is over double the statutory limit of 1 cfs per 70 irrigated acres as specified in SDCL 46-5-6. I told Mr. Boyer the Water Management Board has some flexibility in allowing for a greater diversion rate than the 1 cfs per 70 irrigated acres but there needs to be a reasonable justification for the increase.

Mr. Boyer indicated he wanted to put larger tips on the nozzles and put down more water for each revolution of the pivot. He said he would be willing to put in a 700 gpm (1.56 cfs) pump and it would still meet his management goal of applying additional water while with the center pivot.

I told Mr. Boyer I would amend his application to a diversion rate of 700 gpm, which he agreed.



Mark D Rath

Natural Resources Engineer III



**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. 8788-3, Bill Boyer**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8788-3, Bill Boyer, 4162 Birch Avenue, Hawarden IA 51023.

The Chief Engineer is recommending APPROVAL of Application No. 8788-3 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 of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. The irrigation intake for this project shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second and the intake is screen 1/4 inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.
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. 8788-3 authorizes a maximum diversion rate of 1.56 cfs for the irrigation of 87 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
August 29, 2023

REPORT ON WATER PERMIT APPLICATION NO. 8788-3

Bill Boyer

August 28, 2023

Application No. 8788-3, proposes to appropriate 1.56 cubic feet of water per second (cfs) from Pattee Creek located in the NE 1/4 NE 1/4 Section 26 for irrigation of 87 acres located in the NE 1/4, N 1/2 SE 1/4 Section 26; all in T96N-R48W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 15 miles east of Beresford SD in Lincoln 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 Project

The applicant proposes to pump directly from Pattee Creek at diversion rate of 1.56 cfs to irrigate 87 acres. The requested diversion rate is greater than the equivalent of 1 cfs per 70 acres as specified in SDCL 46-5-6 which states:

The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires.

The applicant submitted that part of his irrigation management strategy is to apply more irrigation water per revolution of his center pivot. He intends to install larger nozzles to handle the greater pump rate.

Review of the Water Source

The source of water for this application is Pattee Creek, a tributary to the Big Sioux River. There are no existing, nor has there been, any continuous stream gaging stations located on Pattee Creek (USGS. 2023). The United States Geological Survey (USGS) classifies Pattee Creek as a

perennial stream which means a stream that has continuous flow of surface water throughout the year (USGS. 2019).

Review of Existing Water Rights

There are two existing water rights/permits appropriating water from Pattee Creek, both are located approximately 9 miles upstream of this proposed project. SD Game Fish and Parks holds Water Right No. 1190-3 for an 1,100 acre-feet storage dam located on the creek with an annual appropriation of up to 278 acre-feet annually. There is a second existing water right on the creek, Water Right No. 5610-3 appropriating 1.34 cfs for irrigation of 260 acres. This water right is located approximately 1.6 miles upstream from this proposed project. This water permit was issued in April 1992. Since that time, that water permit holders have indicated on annual irrigation questionnaire they have irrigated 22 years out of 31 years. In seven of the nine years of non-irrigation, the reason given for not irrigating was due to sufficient moisture. There are no other existing rights located downstream of the proposed diversion point and Pattee Creek's confluence with the Big Sioux River.

The USGS classifies Pattee Creek as a perennial stream (USGS. 2019). A review of a nearby existing right's reported water usage shows water has historically been available for irrigation over the past 30 years. Based upon this information, I believe if this permit is approved, there would be sufficient water to satisfy this irrigation project including downstream domestic use during most years.

Conclusions

1. This application proposes to appropriate 1.56 cubic feet of water per second (cfs) from Pattee Creek for irrigation of 87 acres.
2. The requested diversion rate is greater than the equivalent of 1 cfs per 70 acres.
3. The applicant is requesting the greater diversion rate as part of his irrigation management strategy to apply more irrigation water per revolution of his center pivot by installing larger nozzles to handle the greater pump rate.
4. The USGS classifies Pattee Creek as a perennial stream.
5. There are no existing water rights located downstream from the proposed diversion point on Pattee Creek to the confluence with the Big Sioux River.
6. There is expected to be sufficient water to satisfy this irrigation project including downstream domestic use during most years.



Mark D. Rath
Natural Resources Engineer III

References

1. USGS. 2019. U.S. Geological Survey, 2019, National Hydrography Dataset at URL <https://www.usgs.gov/national-hydrography/access-national-hydrography-products>
2. USGS. 2023. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
3. Water Rights. 2023. Water Right/Permit Files. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



**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.**

September 27, 2023

Bill Boyer
4162 Birch Avenue
Hawarden IA 51023

Dear Mr. Boyer:

Water Permit Application No. 8788-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Lennox Independent printed in Lennox SD (Ph # 605 647-2284) and the Argus Leader printed in Sioux Falls SD (see attachment for contact number). 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,

Rachel Rodriguez

Rachel Rodriguez
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.

NOTICE OF APPLICATION NO. 8788-3 to Appropriate Water

Notice is given that Bill Boyer, 4162 Birch Avenue, Hawarden IA 51023 has filed an application for a water permit to appropriate 1.56 cubic feet of water per second (cfs) from the Pattee Creek located in the NE 1/4 NE 1/4 Section 26 for irrigation of 87 acres located in the NE 1/4, N 1/2 SE 1/4 Section 26; all in T96N-R48W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 15 miles east of Beresford SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8788-3 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.

Any person interested in opposing this application or recommendation 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 October 16, 2023.

The petition 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.

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 October 16, 2023.

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 recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of _

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, September 27, 2023 11:19 AM
To: legals@argusleader.com
Subject: 8788-3 Bill Boyer - Public Notice
Attachments: 8788-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 5, 2023.

Bill Boyer, 4162 Birch Avenue, Hawarden IA 51023, (712-552-2308 or 712-551-6308), email address: boyer4162@outlook.com has 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 Ave, Pierre SD 57501.

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, September 27, 2023 11:21 AM
To: publisher@lennoxnews.com
Subject: 8788-3 Bill Boyer - Public Notice
Attachments: 8788-3 public.short_final.docx; FORM8.FRM.doc

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Argus Leader

P.O. Box 677349, Dallas, TX 75267-7349

Account No.: 7125522308

Ad No.: 0005836612

PO #: 8788-3

Lines : 150

Ad Total: \$48.89

BILL BOYER
4162 BIRCH AVE
HAWARDEN, IA 51023

This is not an invoice

of Affidavits: 1

Account No.: 7125522308

Ad No.: 0005836612

Argus Leader AFFIDAVIT OF PUBLICATION

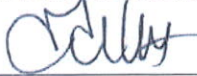
State of Wisconsin

County of Brown

I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper issue(s) :

Thursday, October 5, 2023

Sworn to and subscribed before me this 17 day of October, 2023.



Legal Clerk 

Notary Public, State of Wisconsin, County of Brown



My Commission expires

MARIAH VERHAGEN
Notary Public
State of Wisconsin

NOTICE OF
APPLICATION NO. 8788-3
to Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8788-3 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.

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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 October 16, 2023.

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 recommendation with no hearing held before the Water Management Board.

If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application.

Notice of the hearing will be given to the applicant and any person filing a petition.

Published Oct 5, 2023 at the total approximate cost of \$48.89 and may be viewed free of charge at www.sdpublicnotices.com.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

:SS

COUNTY OF LINCOLN

Julia Eng

being first duly sworn, disposes and says: That (he/she) is a resident of the County of Lincoln and State of South Dakota; that THE LENNOX INDEPENDENT is a weekly legal newspaper of general circulation, printed and published in Lennox, in said County and State, and is now, and has been such newspaper continuously, during all the times hereinafter mentioned; that the affiant is affiliated with said newspaper as employer or employee and has personal knowledge of all the facts stated in this affidavit, and the notice and advertisement headed

Notice of Application

NO. 8788-3 to Appropriate Water

a printed copy of which is hereonto attached and made a part hereof, was printed and published in the said newspaper 1 successive issues. That the first publication of said notice in said newspaper aforesaid was on Thursday the 5 day of October A.D., 2023 and that the succeeding publication was severally

on Thursday the _____ day of _____ A.D., 20_____
on Thursday the _____ day of _____ A.D., 20_____
on Thursday the _____ day of _____ A.D., 20_____
on Thursday the _____ day of _____ A.D., 20_____
on Thursday the _____ day of _____ A.D., 20_____
on Thursday the _____ day of _____ A.D., 20_____

that the fees charged for the printing and publication of said notice and advertisement in said newspaper as aforesaid were 39 Dollars and 76 Cents, and that said fees for the printing and publishing of said notice and advertisement, and for the affidavit as aforesaid, have been fully paid; that the full amount of the fee charged for the publishing of the said attached and annexed notice and advertisement inures to the benefit of the publishers of the said Lennox Independent, 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.

Julia Eng

Subscribed and sworn to before me this 10 day of

Oct, 2023.

Arnette Homan

Notary Public

Lincoln County, South Dakota

My Commission expires Oct. 26, 2024.

RECEIVED

OCT 13 2023

OFFICE OF
WATER

NOTICES

NOTICE OF APPLICATION NO. 8788-3 to Appropriate Water

Notice is given that Bill Boyer, 4162 Birch Avenue, Hawarden IA 51023 has filed an application for a water permit to appropriate 1.56 cubic feet of water per second (cfs) from the Pattee Creek located in the NE 1/4 NE 1/4 Section 26 for irrigation of 87 acres located in the NE 1/4, N 1/2 SE 1/4 Section 26; all in T96N-R48W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 15 miles east of Beresford SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8788-3 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.

Any person interested in opposing this application or recommendation 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 October 16, 2023.

The petition 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.

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 October 16, 2023.

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 recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of \$39.76 and can be viewed free of charge at www.sdpublicnotices.com. (10-05)

STATE OF SOUTH DAKOTA
County of Lincoln

IN THE CIRCUIT COURT
JUDICIAL CIRCUIT

vs.

Affidavit of Publication

The within Affidavit of Publication of

was filed in my office this _____

day of _____, 20_____.

Clerk of Circuit Court of the _____
Judicial Circuit of the State of South
Dakota within and for Lincoln County.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, September 27, 2023 12:06 PM
To: boyer4162@outlook.com
Subject: 8788-3 Bill Boyer - Public Notice
Attachments: 8788-3_rec.pdf; Letter.pdf; Public Notice.pdf; Argus Leader.pdf

Good afternoon Bill,

Attached is a copy of the report, chief engineer's recommendation and information regarding the public notice for your water permit application. As stated in the letter, **please contact the paper(s) as soon as possible to authorize publication and arrange for payment.** This information is also being mailed to you today.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

NOV 09 2023

Bill Boyer
4162 Birch Ave
Hawarden IA 51023

Dear Mr. Boyer:

Enclosed is Water Permit No. 8788-3 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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

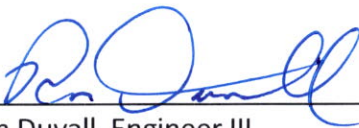
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 8788-3

Name of Applicant: Bill Boyer

Date of Posting: 10/2/2023

Date of Removal: 11/9/2023



Ron Duvall, Engineer III

11/9/2023

Date

Subscribed and sworn to before me, a notary public, this 9 day of Nov, 2023.



Notary Public - South Dakota
My commission expires:

(SEAL) Rachel Rodriguez
My Commission Expires
May 16, 2029

