



DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

August 31, 2016

NOTICE OF CANCELLATION

TO: Mark E Venner Sr., 28127 200th St, Pierre SD 57501
FROM: Jeanne Goodman, Chief Engineer
Water Rights Program
SUBJECT: Cancellation of Water Right Nos. 1354-3 and 1920-3

Water Right Nos. 1354-3 and 1920-3 authorize diversion of water from the Missouri River for irrigation purposes. Records on file with the Water Rights Program indicate the land authorized for irrigation has not been irrigated since the 1980's. Comments written on the irrigation questionnaires within the last few years indicate irrigation systems are not in place and you were exploring options for different types of systems. Based on the lack of irrigation for several years and systems no longer in place, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right Nos. 1354-3 and 1920-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right Nos. 1354-3 and 1920-3 at 10:30 am, Thursday, October 13, 2016 (Central Time) in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate and the actual time of hearing may be later*).

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right Nos. 1354-3 and 1920-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by these water rights. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by October 3, 2016. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

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This hearing is an adversarial proceeding. Any party 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 State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by October 3, 2016.

Prior to October 3, 2016, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 12, 2016.

