

*South Dakota*  
Department of Environment  
& Natural Resources  
Protecting SD's Tomorrow... Today

## WATER MANAGEMENT BOARD

March 7, 2018

Floyd Matthew Training Center

Joe Foss Building

523 E Capitol Avenue

Pierre SD

Scheduled hearing times are Central Time

### AGENDA

Scheduled times are estimates only. Agenda items may be delayed due to prior scheduled items.

Live audio of the meeting can be heard at [www.sd.net/mtc](http://www.sd.net/mtc)

- 8:30 AM Call to Order  
Adopt Final Agenda  
Conflicts Disclosures and Requests for State Board Waivers  
December 7, 2017, Board Minutes  
May 2 - 3, 2018 Meeting Location (Pierre suggested)  
Status and Review of Water Rights Litigation – Ann Mines Bailey  
Administer Oath to Department of Environment and Natural Resources Staff
- 8:45 AM Consideration of Findings of Fact, Conclusions of Law and Final Decision on Water Permit Application No. 8284-3, Berg Farms
- 9:00 AM Training Session on Dams – Tim Schaal
- 10:00 AM Violations for Failure to Report on Irrigation Questionnaire – Genny McMath  
  
Appointment of 2018 Rapid Valley Water Master – Aaron Tieman  
  
Cancellation Consideration – Eric Gronlund  
  
Future Use Reviews – Eric Gronlund
- 10:30 AM Water Permit Application No. 8319-3, Ducks Unlimited – Tim Schaal
- 11:00 AM Water Permit Application No. 8278-3, Sonstegard Food Company – Adam Mathiowetz

**Lunch break at the discretion of the Board**

### ADJOURN

Board members are reminded that effective July 1, 2016, members are subject to SDCL 3-23-1 to 3-23-5 (Disclosure Laws) which address the disclosure of any conflicts of interest a member may have regarding contracts with the State of South Dakota. Board members should report any potential conflicts to the board and seek a waiver where appropriate.

Notice is given to individuals with disabilities that this meeting is being held in a physically accessible location. Please notify the Department of Environment and Natural Resources at (605) 773-3352 at least 48 hours before the meeting if you have a disability for which special arrangement must be made.

# WATER MANAGEMENT BOARD MEETING

## March 7, 2018

<b>Qualifications:</b> wi - well interference wcr - well construction rules iq - irrigation questionnaire lf - low flow
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No.	Name	Address	County	Amount	Use	Source	Qualifications
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### Water Permit Applications to be Considered as Scheduled

8278-3	Sonstegard Food Company	Sioux Falls	TU	1.11 cfs	commercial	2 wells-Vermillion East Fork:Montrose Aquifer	wi, wcr, 5 special
8319-3	Ducks Unlimited	Bismarck ND	DA	119.4 AF	fwp	runoff & backwater from Waubay Lake (3 small dams)	1 special

### Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

1972-1	Timber Lake School Dist.	Timber Lake	DW	0.10 cfs	2 acres	1 well-Fox Hills Aquifer	wi, iq, 1 special
2777-2	Dale Boydston	New Underwood	PE	35.6 AF	livestock	runoff	lf, 1 special
2778-2	Western Construction Inc.	Rapid City	PE	0.17 cfs	ind/com	1 well-Inyan Kara Aquifer	wi, wcr, 2 special
8309-3	Otter Tail Power Company	Fergus Falls MN	DU	0.22 cfs	ind/com	1 well-Altamont Aquifer	wi, wcr, 2 special
8311-3	John Daly	Pukwana	BF	no add'l	130 acres	2 wells-Crow Creek Aquifer	wi, iq
8312-3	Ronald Olson	Waubay	DA	1.78 cfs	130 acres	1 well-Prairie Coteau Aquifer	wi, wcr, iq
8314-3	Cody Schelling	Armour	DG	0.07 cfs	commercial	1 well-Codell Aquifer	wi, wcr, 4 special
8315-3	Steven M Maag	Watertown	CD	2.22 cfs	160 acres	1 well-Big Sioux:North Aquifer	wi, wcr, iq
8316-3	Alexandria Gravel Products	Alexandria MN	ML	1.33 cfs	industrial	excavation pond	lf, 3 special
8318-3	Fawn Lamb	Carpenter	CK	0.022 cfs	commercial	1 well-Altamont Aquifer	wi
8321-3	Grant-Roberts RWS, Inc.	Milbank	CD	307 AF	rws	6 wells-Antelope Valley Aqu	wi, 2 special
8322-3	Shaun Guthmiller	Yankton	YA	1.11 cfs	36 acres	1 well-Missouri:Elk Point Aqu	wi, iq, 1 special
8323-3	James H Jepsen	Flandreau	MY	1.56 cfs	138 acres	1 well-Big Sioux:Moody Aqu	wi, wcr, iq
8324-3	John Freeburg	Gayville	CL	no add'l	128 acres	1 well-Missouri:Elk Point Aqu	wi, iq

(continued)

## Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
3574-3	East Dakota WD District	Brookings	BG	144,000 AF	rws	Missouri River	none
3574A-3	Clay Rural Water System	Wakonda	CL	1,000 AF	rws	Missouri River	none
4798-3	City of Parker	Parker	TU	340 AF	municipal	groundwater (less than 100 ft)	none
4817-3	South Lincoln RWS	Beresford	UN	1,448 AF	rws	Dakota Aquifer	none
4860-3	City of Hoven	Hoven	PT	410 AF	municipal	Bowdle Aquifer	none
6869-3	Lewis & Clark RWS	Tea	LN	3,535 AF	rws	Missouri:Elk Point Aquifer	none
& 6869A-3							
7208-3	Lewis & Clark RWS	Tea	LN	9,465 AF	rws	Missouri:Elk Point Aquifer	none

**CANCELLATIONS – March 7, 2018**

Number	Original Owner	Present Owner(s) & Other Persons Notified	County	Amount C.F.S.	Use	Reason	Source	Date Notified	Letters
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**DIVISION II WATER PERMITS**

PE 1932-2	Skyline Lodge	Kirk Simet	PE	0.013	COM	A/F	ground water, one well Unkpapa Aquifer	1-18-18	
PE 2262-2	Skyline Drive - Rushmore Inn	Kirk Simet	PE	0.04	COM	A/F	ground water, one well Minnelusa Aquifer	1-18-18	
PE 2618-2	Prairie Fire Investments	City of Rapid City, Prairie Fire Investments, Al Sage, Terracotta Estates Homeowners Assn	PE	0.31	SHD	A	ground water, one well Inyan Kara	1-17-18	
PE 2625-2	Raymond J Yager	same	GY	0.86	IRR	A	ground water, one well Ogallala Aquifer	1-17-18	

**DIVISION III WATER PERMITS and WATER RIGHTS**

RT 2674-3A	Morris Simon	Pat Simon	PT	0.44	IRR	A/F	ground water, four wells Bowdle Lebanon	1-16-18	
RT 2980-3	Doyle Dean Thompson	same	DU	0.89	IRR	A	ground water, one well Pleistocene Series: U	1-16-18	
RT 4621-3	Heine Farms	Heine Farms (% Ron Heine)	YA	2.67	IRR	A/F	Missouri River	1-16-18	
RT 4704A-3	Steven G Friesen	same	HT	0.89	IRR	A/F	ground water, one well Upper Vermillion Missouri	1-17-18	
PE 7141-3	The Boys Partnership	same (% Aaron Ness)	BF	9.14	IRR	NC	Missouri River	1-18-18	
PE 7507-3	Shawn Vannorsdel	same	TU	2.22	IRR	NC	ground water, one well Niobrara Aquifer	1-17-18	
PE 7623-3	Darrell Osborn	same	TU	1.89	IRR	A	ground water, one well Upper Vermillion Missouri South	1-18-18	
PE 8256-3	City of Huron	City of Huron (% Brett Runge, City Engineer)	BD	1.55	IRR	A	ground water, one well Warren West James	1-16-18	
PE 8273-3	Keith Toczek	same	YA	0.018	COM	A	ground water, one well Niobrara Aquifer	1-18-18	

**ABBREVIATIONS**

N/C = NON-CONSTRUCTION	A/F = ABANDONMENT OR FORFEITURE	A = ABANDONMENT	F = FORFEITURE
FL = WATER RIGHT FILING	VR = VESTED WATER RIGHT	PE = WATER PERMIT	RT = WATER RIGHT
IRR = IRRIGATION	POW= POWER GENERATION	COM = COMMERCIAL	MUN = MUNICIPAL
INS = INSTITUTIONAL	GWR = GROUND WATER REMEDIATION	DOM = DOMESTIC	IND = INDUSTRIAL



The audio recording for this meeting is available on the South Dakota Boards and Commissions Portal at <http://boardsandcommissions.sd.gov/Meetings.aspx?Boardid=106>

MINUTES OF THE 207<sup>th</sup> MEETING OF THE  
WATER MANAGEMENT BOARD  
FLOYD MATTHEW TRAINING CENTER  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA

December 7, 2017

CALL TO ORDER: Vice Chairman Tim Bjork called the meeting to order at 8:55 a.m. CST. A quorum was present.

Mr. Bjork announced that the meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

The following were present at the meeting:

Board Members: Tim Bjork, Rodney Freeman, Everett Hoyt, Leo Holzbauer, Chad Comes, and Peggy Dixon. Jim Hutmacher was absent.

Department of Environment and Natural Resources (DENR): Jeanne Goodman, Eric Gronlund, Karen Schlaak, Tim Schaal, Adam Mathiowetz, Ron Duvall, Aaron Tieman, Whitney Kilts, and John Farmer, Water Rights Program; Doug Miller, Ground Water Quality Program; Kelli Buscher, Surface Water Quality Program; Kent Woodmansey and Dan Gerhardt, Feedlot Program; Julie Smith, Drinking Water Program.

Attorney General's Office: Matt Naasz and Ann Mines Bailey.

Legislative Oversight Committee: Representative Mary Duvall.

Water Permit Application Nos. 2771-2 and 2772-2, Milligan Mace Boies Flannery LLC: Lindsey Riter-Rapp, counsel for Tom Milligan, and Tom Milligan

Water Permit Application No. 8284-3, Berg Farms: Ken Berg, Mark Lounsbery, Kay Lounsbery, Kristi Mogen, Patricia Meyer, Chris Healy, and Bart Johnson

ADOPT FINAL AGENDA: At the October meeting, Matt Naasz, Assistant Attorney General, briefed the board on the status of an open meetings compliant filed by George Ferebee regarding the use of the word "deliberation" in the language used prior to going into executive session. At that time, Mr. Hoyt had asked that at the next meeting the board be provided with new proposed language to use when going into executive session. He noted that this matter was not included on today's agenda.

Mr. Naasz stated that this matter is still pending action by the Open Meetings Commission, therefore, it would not be appropriate to discuss it. He noted that discussion will take place after receiving final guidance from the Open Meetings Commission.

Mr. Hoyt requested that this matter be kept as a continuing agenda request.

CONFLICT DISCLOSURES AND REQUESTS FOR STATE BOARD WAIVERS: None.

APPROVAL OF MINUTES FROM OCTOBER 4-5, 2017, MEETING: Motion by Comes, seconded by Holzbauer, to approve the minutes from the October 4-5, 2017, Water Management Board meeting. A roll call vote was taken, and the motion carried unanimously.

MARCH 2018 MEETING LOCATION: The next Water Management Board meeting is scheduled for March 7-8, 2018, in Pierre.

Mr. Bjork noted that he will not be available for the March meeting.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: Mr. Naasz reported the South Dakota Supreme Court dismissed the appeal by Mr. Ferebee regarding the Water Management Board's dismissal of petitions for declaratory relief.

Regarding the Open Meetings Commission complaint filed by Mr. Ferebee regarding the October 2016 meeting, there was a hearing scheduled for early November 2017. At that hearing Mr. Ferebee requested and was granted a motion to continue. The matter will now be heard telephonically on December 21, 2017.

In the meantime, the Associated School Boards of South Dakota have submitted an amicus curiae brief in support of the Water Management Board's position in that matter. Mr. Naasz stated the Open Meetings Commission will determine whether or not they have the authority to receive and consider amicus curiae briefs and, if it is determined that they do, the brief will disseminated to the Open Meetings Commission members, then the hearing will continue.

ADMINISTER OATH TO DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR) STAFF: The court reporter administered the oath to DENR staff who intended to testify during the meeting.

BRIEFING ON DENR PROPOSED SURFACE WATER QUALITY PROGRAM FEES: Kelli Buscher, DENR Surface Water Quality Program, reported that in October 2017, the Water Management Board approved amendments to the Surface Water Discharge and Concentrated Animal Feeding Operations permitting rules. The proposed rules were approved by the Interim Rules Review Committee in November, and the rules were filed with the Secretary of State.

Ms. Buscher provided an overview of draft legislation which would revise the fees imposed for surface water discharge permits. The fees for surface water discharge permits were established in 1992 and have not been revised since that time.

Ms. Buscher presented the following options that were considered when drafting the legislation.

- Base the municipal fees on the most recent federal census instead of the 1990 census. This would result in a net increase of \$45,000 in revenue.
- Raise the maximum fee from \$100,000 to \$125,000. This would raise the city of Sioux Falls' fee and result in a net increase of \$25,000 in revenue.
- Charge fees for storm water permits. This would result in an increase in fee revenue of nearly \$400,000.

Ms. Buscher noted that by implementing the new and revised fees, DENR will be able to offer improved electronic reporting, improved access to training, and local control of the permitting program to the people impacted by the fees.

REQUEST TO ADVERTISE AMENDMENTS TO ARSD 74:56:01, UNDERGROUND STORAGE TANKS: Doug Miller, DENR Groundwater Program, reported that the environmental regulation of underground storage tanks began in the early 1980's when concerns were raised about potential releases from the country's aging underground storage tank systems. To address these concerns Congress passed Subtitle I in 1984, which directed EPA to develop a regulatory program. South Dakota adopted its rules for regulating underground storage tanks in November 1987, which was before EPA's rules became effective in 1988.

Rather than attempting to implement this nationwide program on its own, EPA recognized that individual states would be better suited to handle it through a franchised approach. Under this approach, there would be general consistency in the regulations across the country. The expectation was that as long as the state programs were in substantial compliance with the federal rules, EPA would provide operating grants. EPA retained authority over underground storage tanks located within established reservation boundaries.

Since 1987, DENR has had to make revisions to its underground storage tank rules on several occasions to ensure continued federal funding. The most recent changes were in 2009. During this time, however, EPA did not make the changes to its own existing rules. This changed in 2015 when EPA incorporated all the changes it had required the states to make into its own rules.

EPA also used this opportunity to insert some additional requirements. These additions include requirements for monthly walk-through inspections, periodic testing of tank components, expansion of regulation over field constructed tanks, and emergency generator tanks. The revisions also allow the DENR to update references in the rules and add clarifying definitions. Mr. Miller noted that these new requirements are already in effect in those areas where EPA retained authority.

Mr. Miller has discussed these changes with some of the shareholders in the regulated community and has their support.

Mr. Miller requested permission to advertise for a public hearing to be held on March 7, 2018, to consider amendments to ARSD 74:56:01, Underground Storage Tanks.

Mr. Miller answered questions from the board.

Motion by Feeman, seconded by Comes, to authorize the Department of Environment and Natural Resources to advertise for a public hearing to consider amendments to ARSD 74:56:01, Underground Storage Tanks. Motion carried unanimously.

BAWDON WITHDRAWAL OF PETITION FOR A DECLARATORY RULING ON IMPAIRMENT OF WATER RIGHTS: Eric Gronlund, DENR Water Rights Program, reported that a declaratory ruling petition was filed last year in regards to a downstream landowner claiming that his dam was impacted by another person's dam that was built upstream. This was on the Hand/Hyde County line just southeast of Highmore.

The hearing for the declaratory ruling petition was scheduled for the March 1, 2017, Water Management Board meeting. A motion for continuance was filed, and Mr. Freeman, as the prehearing officer, granted motion for a continuance.

Since that time, the situation has been resolved, and Mr. Bawdon withdrew the petition for a declaratory ruling.

No board action was required.

CANCELLATION CONSIDERATION OF WATER RIGHT FILING NO. 0465-2: Ron Duvall, DENR Water Rights Program, reported that Water Right Filing No. 0465-2 was located by Robert Wittke on October 5, 1878.

The filing claimed all the water in French Creek for mining, milling, ditching, fluming, and domestic purposes and was known as the Grave Yard Water Right. According to the filing, a dam was located one mile below Custer City on French Creek at which point the lower road from Eureka and Custer Gulch, so called Grave Yard Diggings, leads to said dam.

The department received a written request from Martha Carr to investigate the status of Filing No. 0465-2. The basis for the request was the possibility of transferring ownership of the filing to Ms. Carr and her sister since the original filing was made by their great grandfather, Robert Wittke. At that time, Mr. Duvall informed Ms. Carr that Filing No. 0465-2 may be subject to cancellation due to forfeiture or abandonment of the water right.

An investigation was conducted to determine whether any diversion or use of French Creek exists as described on the water right filing. The investigation consisted of a review of 2012 mapping imagery of the general area described in the filing, historical survey maps obtained from the U.S. Bureau of Land Management, information regarding the location of a historic graveyard, and a French Creek visit of the general area described in Water Right Filing No. 0465-2. No evidence was found of a dam on French Creek being used to divert water for mining, milling, ditching, fluming, and domestic purposes or affiliated structures such as a ditch or flume for conveying water.

Based on the results of the investigation, the Chief Engineer of the Water Rights Program recommended cancellation of Water Right Filing No. 0465-2 pursuant to ARSD 74:02:01:36 and 74:02:01:38 due to either abandonment or forfeiture, or both.

Mr. Duvall noted that the city of Custer submitted a letter in support of the Chief Engineer's recommendation for cancellation.

Mr. Duvall stated that the Notice of Cancellation was published in the Custer County Chronicle and the Rapid City Journal. Affidavits of Publication were received from both newspapers. Notice was also given to Ms. Carr and her sister, Ken and Karen Spring, and the city of Custer.

No petitions opposing the cancellation were submitted as a result of the public notice.

Mr. Duvall noted that cancellation of No. 0465-2 will not preclude certain domestic uses of water from French Creek, such as livestock watering, since present-day law provides that those domestic uses do not require having a water right and take preference over other uses that do require having a water right.

Mr. Duvall answered questions from the board.

Motion by Freeman, seconded by Hoyt, to cancel Water Right Filing No. 0465-2, Robert Wittke due to abandonment, forfeiture, or both. A roll call vote was taken, and the motion carried unanimously.

FUTURE USE REVIEWS: Future use permits are required to be reviewed by the Water Management Board every seven years for anticipated development and future need.

Mr. Gronlund reported that letters from the two permit holders, Affidavits of Publication, and the Chief Engineer's recommendations were included in the board packet.

Future Use Permit No. 2086-2 is held by the city of Rapid City and reserves 4,075 acre-feet of water from the Madison Aquifer.

Future Use Permit No. 4839A-3 is held by the city of Tyndall and reserves 410 acre-feet of water from wells less than 160 feet deep.

Mr. Gronlund read an email submitted by the city of Tyndall requesting that the city be allowed to retain the future use permit.

No petitions to intervene were received in response to the public notices.

The Chief Engineer recommended that both Future Use Permits remain in effect for an additional seven years.

Motion by Freeman, seconded by Holzbauer, that Future Use Permit No. 2086-2, city of Rapid City, remain in effect for 4,075 acre-feet of water annually, and that Future Use Permit No. 4839A-3, city of Tyndall remain in effect for 410 acre-feet of water annually. A roll call vote was taken, and the motion carried unanimously.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION ON APPLICATION NO. 8268-3, LENNY PETERSON: Mr. Freeman recused himself from participation in this matter.

Ann Mines Baily, Assistant Attorney General, appeared on behalf of DENR. No other parties were present.

Ray Rylance, attorney for the applicant, and Jack Hieb, attorney for the city of Redfield, were not present.

Mr. Naasz stated that prior to the meeting, the board received proposed Findings of Fact, Conclusions of Law and Final Decision submitted by Ann Mines Baily on behalf of DENR, objections to DENR's proposed Findings of Fact, Conclusions of Law and Final Decision and alternative Findings of Fact, Conclusions of Law and Final Decision from Ray Rylance, attorney for the applicant. There were no filings regarding the Findings of Fact, Conclusions and Final Decision from the city of Redfield.

Mr. Naasz noted that he sent the proposed rulings on the parties' submissions and proposed Findings of Fact and Conclusions of Law to the board and counsel.

Board discussion took place on Mr. Naasz's proposed rulings.

Mr. Hoyt proposed the following amendments:

AMEND Paragraph A to read as follows:

"A. DENR's proposed Findings of Fact are accepted by the board as consistent with and supported by the administrative record and the board's oral decision with the following changes:

1. In Proposed Finding of Fact #9, insert "not" between "would" and "unlawfully."

2. Change the last sentence of Proposed Finding of Fact #15 to read as follows: "Based upon these sources and his education and experience, Mr. Rath opined that while there is reasonable probability that there is unappropriated water available from Turtle Creek for applicant's proposed use prior to June 1 in most years, there is reasonable probability that there is not unappropriated water available from Turtle Creek for applicant's proposed use after June 1 in most years."

3. Change the last sentence of Proposed Finding of Fact #18 to read as follows: "This analysis supports Mr. Rath's conclusion that while there is reasonable probability that there is unappropriated water available from Turtle Creek for applicant's proposed use prior to June 1 in most years, there is reasonable probability that there is not unappropriated water available from Turtle Creek for applicant's proposed use after June 1 in most years."

4. In Proposed Finding of Fact #21, insert "Tulare gage-site" between "construction of the" and "bridge where the water quality monitoring site is located."

5. Change Proposed Finding of Fact #31 to read as follows: "The board finds that while the evidence supports that there is reasonable probability that there is unappropriated water available from Turtle Creek for applicant's proposed use prior to June 1 in most years, the

evidence supports that there is reasonable probability that there is not unappropriated water available from Turtle Creek for applicant's proposed use after June 1 in most years.

And AMEND Paragraph B to read as follows:

"B. DENR's Proposed Conclusions of Law are accepted by the board as consistent with and supported by the administrative record, the board's oral decision and the Findings of Fact adopted by the board in the above rulings, with the following changes:

1. Change Proposed Conclusion of Law #7 to read as follows: "There is reasonable probability that there is unappropriated water available from Turtle Creek for applicant's proposed use prior to June 1 in most years, but there is reasonable probability that there is not unappropriated water available from Turtle Creek for applicant's proposed use after June 1 in most years.

Discussion took place with Mr. Hoyt answering questions regarding his proposed amendments.

Motion by Hoyt, seconded by Comes, to amend Water Management Board counsel's draft of proposed Water Management Board's rulings on parties' submissions of proposed Findings of Fact, Conclusions of Law and Decision in the matter of Application No. 8268-3, Lenny Peterson, and board counsel's draft of proposed Findings of Fact, Conclusions of Law and Final Decision, as presented. A roll call vote was taken, and the motion carried with Holzbauer, Hoyt, Comes, and Bjork voting aye. Dixon abstained because she did not participate in the hearing.

Motion by Hoyt, seconded by Comes, to adopt the rulings on proposed Findings of Fact Conclusions of Law and Decision as drafted by board counsel and as amended by the board; to adopt the Findings of Fact, Conclusions of Law and Decision as drafted by board counsel and as amended by the board; and to authorize Tim Bjork, Vice Chair of the Water Management Board, to execute the Findings of Fact, Conclusions of Law and Decision on behalf of the Water Management Board. A roll call vote was taken, and the motion carried with Holzbauer, Hoyt, Comes, and Bjork voting aye. Dixon abstained because she did not participate in the hearing.

UNOPPOSED NEW WATER PERMITS ISSUED BY THE CHIEF ENGINEER WITHOUT A HEARING BEFORE THE BOARD: Prior to the meeting the board received a copy of the table listing the unopposed new water permits issued by the chief engineer. (See attachment.)

WATER PERMIT APPLICATION NO. 8293-3, BRIAN SCHNECK: Ann Mines Bailey represented the Water Rights Program.

The applicant, Mr. Schneck, was not present.

Kenneth Siyaka, Bellevue, NE, who filed a petition opposing the water permit application was not present.

Adam Mathiowetz, DENR Water Rights Program, resented his report on the application.

Water Permit Application No. 8293-3 proposes to authorize the irrigation of up to 195 acres at a maximum diversion rate of 2.66 cubic feet of water per second (cfs) from up to three wells to be completed into the Veblen aquifer. The wells are for irrigation and are to be located in Grant County approximately seven miles southeast of Milbank, SD.

The Veblen aquifer is glacial outwash deposits underlying portions of Roberts, Grant and Deuel counties in South Dakota, and Big Stone, Swift and Lac Qui Parle counties in Minnesota. There have been several different mappings of this aquifer. All of the mappings indicate there is likely a hydrologic or physical separation or, at the very least, a significant constriction of aquifer materials between a northern and southern portion of the aquifer somewhere between Wilmot and Peever, approximately 10 to 15 miles north into Roberts County from its southern border. Figure 1 in the report is a map depicting the three principle delineations of the Veblen aquifer. The individual sand and gravel units that comprise the Veblen aquifer are not continuous throughout the entire mapped extent, but there is some inter-connection between the outwash deposits in some locations. Mr. Mathiowetz noted that for the purposes of this report, the Veblen aquifer was considered as the group of buried outwash deposits in Grant and southern Roberts counties that are found within the areal extents and intervals of altitude defined by Hansen (1990) and Barr (2007) as used by Buhler (2016).

The Veblen aquifer is primarily a buried outwash consisting of medium to coarse sand and fine gravel under confined conditions. Based on area lithologic logs and well completion reports, the top of the Veblen aquifer near the proposed well sites can be found from near ground surface to approximately 60 feet below grade. The aquifer thickness ranges from 30 to 80 feet where present. The static water level is variable and dependent on land surface elevation, ranging from less than 10 feet to nearly 50 feet. The aquifer, when confined, is confined by a layer of glacial till. It is underlain by till or bedrock, depending on location.

The Water Rights Program monitors 34 observation wells completed into the Veblen aquifer with 16 completed into the southern portion of the Veblen aquifer this application proposes to use. The report included a map showing the location of the observation wells completed into the southern portion of the Veblen aquifer as well as the well sites proposed by this application. There are four observation wells within approximately five miles of the proposed well sites. The hydrographs for these observation wells are included in the report.

These hydrographs are representative and consistent with the hydrographs for the other observation wells in the southern portion of the Veblen aquifer. The observation well hydrographs show the water level over the period of record has been stable to rising. The observation wells show good response to climatic conditions. The water levels rise during wet periods when recharge exceeds natural discharge plus withdrawals, and gradually decline during drier periods when natural discharge plus withdrawals exceed recharge. Some of the hydrographs for observation wells completed into the southern portion of the Veblen aquifer show the effects of nearby pumping on the aquifer. However, these effects are minor and are masked by the effects climatic conditions have on the water levels. The dominance of climatic conditions on the water levels means that recharge to and natural discharge from the aquifer greatly exceeds pumping. Recognizing natural discharge from an aquifer can be captured for pumping, the hydrographs document there is unappropriated water available for this proposed appropriation.



Recharge to the Veblen aquifer in Grant County occurs through direct infiltration of precipitation where the aquifer is at land surface and possibly leakage from the till as well as any directly adjacent aquifers. The estimated recharge rate to the Veblen aquifer is 0.24 inches per year (in/yr.) for the entire aquifer based on regional flow-net analysis. The estimated recharge rate to the unconfined portions of the aquifer is 5.2 in/yr.

Discharge from the Veblen aquifer occurs through well withdrawals, discharge to the Whetstone River in northern Grant County, the Yellow Bank River, Big Stone Lake, the granite quarries east of Milbank, and to the Minnesota River .

There are 38 water rights/permits authorized to withdraw water from the southern portion of the Veblen aquifer located in Grant and southern Roberts Counties.

The estimated average annual use is based on pumping at the maximum permitted diversion rate for 60 percent of the time. Water Permit Nos. 7649-3, 7931-3, and 8227-3 are limited by an annual appropriation volume and are assumed to pump the full volume. The City of Big Stone City (Water Right No. 4050-3) buys water from the City of Ortonville, MN; therefore, the estimated use under Water Right No. 4050-3 is likely at or near zero acre-feet per year.

Average annual irrigation use from the Veblen aquifer in Grant and southern Roberts counties as reported to the Water Rights Program through annual irrigation questionnaires is 947.3 acre-feet per year. Over the period of record, there has been a slow and steady build out of irrigation systems withdrawing water from the southern portion of the Veblen aquifer. In addition to appropriative rights, there are a number of well completion reports on file with the Water Rights Program for domestic wells that appear to be completed into the Veblen aquifer. The annual withdrawal due to domestic wells is not expected to be significant to the hydrologic budget of the aquifer.

The irrigation application rate in eastern South Dakota is generally less than 10 in/yr. If this application is approved, it is likely to pump less than 163 acre-feet per year. The estimated average annual use from the Veblen aquifer in Grant and southern Roberts Counties is 4,600 acre-feet per year, assuming no pumping under Water Right No. 4050-3. The areal extent of the aquifer was estimated at approximately 166,400 acres in only Grant County. The areal extent of the aquifer in Grant and Roberts County is approximately 246,500 acres. The range of recharge rates required to supply existing appropriations and this application, based on the previously mentioned areal extents, is 0.23 to 0.34 in/yr.

There is a reasonable probability unappropriated water is available for this proposed appropriation, and this is supported by the observation well data.

The nearest water right/permit authorized to withdraw water from the Veblen aquifer to the well sites proposed by this application is Water Right No. 5525-3, which is approximately 1.3 miles northeast of the proposed well sites. There are also a number of domestic wells on file with the Water Rights Program in the vicinity of the proposed wells sites that appear to be completed into the Veblen aquifer.

Although the Veblen aquifer is generally under confined conditions, there are areas where the aquifer is unconfined. In the vicinity of the proposed well sites, observation wells GT-79F and GT-77Q are under unconfined conditions while GT-79G and GT-77P are under confined conditions. The hydrographs for those observation wells do not show any effect on water levels caused by nearby pumping. The proximity of the applicant's three proposed wells to each other compared to the distance to other appropriative wells means the applicant is far more likely to impact his own wells first and would likely manage the irrigation system to prevent or limit the potential impacts.

The nearest well completion report on record for a domestic well completed into the Veblen aquifer is approximately 0.75 miles south of the proposed well sites. There are also a number of rural dwellings that may have wells completed into the Veblen aquifer within 0.5 miles of the proposed well sites. Precise estimates of drawdown cannot be determined without aquifer testing. However, the observation well hydrographs show that under confined and unconfined conditions within the Veblen aquifer there is little impact on water levels caused by pumping appropriative wells. Pumping this proposed diversion is not expected to unlawfully impact existing adequate wells as defined in ARSD 74:02:04:20(6).

The Water Management Board has promulgated rules to protect adequate domestic wells from nearby pumping. ARSD 74:02:04:20(7) states:

“a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs”.

Nearby adequate wells are not expected to be adversely impacted as defined in ARSD 74:02:04:20(7).

The chief engineer recommended approval of Water Permit No. 8293-3, Brian Schneck with the following qualifications:

1. The wells approved under Permit No. 8293-3 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. 8293-3 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.

Mr. Mathiowetz answered questions from the board.

Mr. Hoyt requested that future staff reports on water permit applications reference SDCL 46-2A-9, Appropriation of water--When permit may be issued.

Motion by Freeman, seconded by Dixon, to approve Water Permit No. 8293-3, Brian Schneck, subject to the qualifications set forth by the chief engineer. A roll call vote was taken, and the motion carried unanimously.

WATER PERMIT APPLICATION NOS. 2771-2 AND 2772-2, MILLIGAN MACE BOIES FLANNERY LLC: Ann Mines Baily represented the Water Rights Program.

Lindsey Riter Rapp, attorney from Pierre, represented the applicant, Tom Milligan.

Mr. Naasz stated that the Rosebud Sioux Tribe submitted a petition to intervene, but no representatives of the tribe were present.

Ms. Mines Bailey stated that the Rosebud Sioux Tribe's letter to the Chief Engineer contested not the water availability or granting the permit, but rather contested the state's jurisdiction to provide for a permit for a non-member of the tribe within the exterior boundaries of the Rosebud Sioux Reservation.

Mr. Naasz went over what was included in the board packet for this matter.

Ms. Riter Rapp stated that Mr. Milligan filed two water permit applications: one application is for the construction of one new well that would feed an existing well, and the second application is for two wells. Under these permits, no additional acreage is being requested to be irrigated; however, they are to complement existing sources. Ms. Riter Rapp stated that jurisdiction over these permits does vest with the state Department of Environment and Natural Resources as Mr. Milligan owns the land that is the subject of these permits, the land is within the exterior boundaries of the Rosebud Sioux Reservation, and Mr. Milligan is not Native American. Ms. Riter Rapp stated that Mr. Milligan will discuss the applications.

Ms. Mines Bailey offered Exhibit 1, the agency file for Water Permit Application No. 2771-2; Exhibit 2, the agency file for Water Permit Application No. 2772-2; and Exhibit 3, the curriculum vita of John Farmer. The exhibits were admitted into the record.

Ms. Mines Bailey called John Farmer, DENR Water Rights Program, to testify.

Mr. Farmer testified regarding his education, employment history, and current duties. Mr. Farmer then presented his report on the applications.

Water Permit Application No. 2771-2 proposes to appropriate water at a maximum diversion rate of 1.25 cubic feet per second (cfs) from two wells to be completed into the Arikaree aquifer. The wells will be used to irrigate 80 acres, and these acres are currently licensed under Water Right No. 444-2, which is for diversion of water from Antelope Creek.

Water Permit Application No. 2772-2 proposes to appropriate water at a maximum diversion rate of 0.62 cfs from a well to be completed into the Arikaree aquifer. The well will be used for

irrigation of 89 acres that are currently licensed to irrigate under Water Right Nos. 1258-2 and 1915-2. The existing water licenses draw from both groundwater and surface water.

The High Plains aquifer is a regional aquifer that extends from southern South Dakota to Texas and underlies approximately 174,000 square miles. Within South Dakota, the High Plains aquifer underlies approximately three million acres (4,750 square miles). Within Todd County, the High Plains aquifer is present throughout, but absent from the extreme northeast corner of the county, and consists mainly of one or more late Tertiary or Quaternary age geologic units that are hydraulically connected. Within South Dakota, the Tertiary aged portions of the High Plains aquifer are made up of the Arikaree Formation, the Batesland Formation and the Ogallala Formation. The overlying Quaternary aged deposits consist of alluvial and eolian deposits. The aquifer material in each of these formations can vary greatly, so the extent of individual water bearing deposits cannot be determined. For water management purposes, the South Dakota Department of Environment and Natural Resources Water Rights Program and the South Dakota Water Management Board have historically considered appropriations from the High Plains aquifer to be either from the Ogallala aquifer or from the Arikaree aquifer.

The Arikaree aquifer in Todd County is estimated to encompass an area of 738,560 acres and contains 2,215,680 acre-feet of recoverable water. It is estimated that in Todd County the average thickness of the Arikaree aquifer is 290 feet. The aquifer is half unconfined and half confined in Todd County.

Recharge to the Arikaree aquifer in South Dakota occurs through infiltration of precipitation on the outcrop of the Arikaree Formation. Although recharge is spatially variable, studies estimated that the average recharge rate for the period of 1978-2008 for the Arikaree aquifer is 1.45 inches per year on the outcrop. The estimated average annual recharge to the Arikaree aquifer in Todd County is approximately 24,635 acre-feet per year.

In this portion of the aquifer, discharge occurs through well withdrawals for irrigation and domestic use. Average withdrawals from irrigation in Todd County is approximately 170 acre-feet per year. The estimate was determined by looking at irrigation questionnaire data submitted to the Water Rights Program by the irrigation permit holders. The estimated average annual withdrawal does not include all water uses of the Arikaree aquifer because of the tribal land in Todd County. Tribal members on tribal owned land are not required to report their water usage to the state, so it is possible that the average annual withdrawal is greater than 170 acre feet per year.

The Water Rights Program monitors five observation wells in the Arikaree aquifer in Todd County. The nearest observation well monitored by the Water Rights Program is located approximately 6.75 miles to the southwest of the well locations.

The Rosebud Sioux Tribe has several monitoring wells within Todd County. Only one of those wells, which is located approximately five miles east of the well locations, has been identified as being in the Arikaree aquifer.

The hydrographs for Rosebud Sioux Tribe observation well and the Water Rights observation well are included in Mr. Farmer's report. The hydrographs for these monitoring wells show that

the aquifer responds well to climatic conditions and that these monitoring wells respond in a fashion similar to the rest of the monitoring wells in the Arikaree aquifer. The water levels rise during periods when recharge to the aquifer exceeds the sum of withdrawals and natural discharge from the aquifer, and the water levels decline when the sum of withdrawals and natural discharge from the aquifer is greater than the recharge to the aquifer. Over the period of record, the water level shown in the hydrograph has remained stable with climatic variability showing a difference of about 10 feet between wetter and drier periods. The overall difference between the maximum and minimum is greater due to the temporal impacts caused by irrigation pumping; however, between irrigation seasons, the aquifer generally returns to a level similar to the pre-pumping condition. This means that the amount of recharge to and the natural discharge from the aquifer greatly exceeds pumping. The observation well data indicates that there is a reasonable probability that there is unappropriated water available from the Arikaree aquifer.

There are four water rights in Todd County. The nearest existing water right not held by the applicant is Water Right No. 1257-2, which is held by the Rosebud Sioux Tribe. There are also several domestic wells in the area. Mr. Milligan's domestic well is located closest in proximity to the proposed wells.

Mr. Farmer testified that there is a reasonable probability that the appropriations as proposed by these applications will not adversely impact adequate wells for existing water rights and domestic use.

The Chief Engineer recommended approval of Water Permit Application No. 2771-2, Milligan Mace Boies Flannery LLC with the following qualifications:

1. The wells approved under this Water Permit No. 2771-2 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. 2771-2 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. 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. 2771-2 authorizes a maximum diversion rate of 1.25 cfs for the irrigation of 80 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.

The Chief Engineer also recommended approval of Water Permit Application No. 2772-2, Milligan Mace Boies Flannery LLC with the following qualifications:

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1. The well approved under this Water Permit No. 2772-2 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 well authorized by Permit No. 2772-2 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. 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, Water Right/Permit Nos. 1258-2, 1915-2 and 2772-2 authorize a combined maximum diversion rate of 1.89 cfs for the irrigation of 89 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.

Ms. Riter Rapp cross-examined Mr. Farmer. There were no questions from the board members.

Ms. Riter Rapp called Thomas A. Milligan to testify. Mr. Milligan was administered the oath by the court reporter, and testified regarding the two water permit applications.

Ms. Mines Bailey cross-examined Mr. Milligan, and Mr. Milligan answered questions from the board.

Ms. Mines Bailey and Ms. Riter Rapp provided closing statements.

Motion by Dixon, seconded by Hoyt, to approve Water Permit Application No. 2771-2 and Water Permit Application 2772-2, Milligan Mace Boies Flannery LLC, subject to the qualification of the chief engineer. A roll call vote was taken, and the motion carried unanimously.

Ms. Mines Bailey and Ms. Riter Rapp waived Findings of Fact and Conclusions of Law.

WATER PERMIT APPLICATION NO. 8284-3, BERG FARMS: Vice Chairman Bjork opened the hearing at 1:00 p.m.

Mr. Naasz went over what was included in the board packet. He stated that 20 letters opposing the water permit application were submitted. The letter submitted by Mr. Bart Johnson was received after the deadline for intervention.

Motion by Hoyt, seconded by Freeman, to accept the late letter and allow Mr. Johnson to intervene in this matter. A roll call vote was taken, and the motion carried unanimously.

Chris Healy, attorney from Sioux Falls, represented Berg Farms.

Ann Mines Bailey represented the Water Rights Program.

The following intervenors were present:

Kristi Mogen, Twin Brooks  
Patricia Meyer, Milbank  
Kay Lounsbury, Revillo  
Mark Lounsbury, Revillo  
Bart Johnson, Revillo

The parties offered opening statements.

Ms. Bailey offered the following exhibits:

Exhibit 1, Agency file on Water Permit Application No. 8284-3  
Exhibit 2, John Farmer's curriculum vita  
Exhibit 4, Map showing the location of the wells in the area  
Exhibit 5, Figure 3 from Mr. Farmer's report (hydrographs for observation wells)  
Exhibit 6A, Geologic cross-section from 1990 USGS report  
Exhibit 6B, Map showing where the cross-section was taken

The exhibits were admitted into the record.

John Farmer testified regarding his education, employment history, and current duties. He then presented his report on the application.

Water Permit Application No. 8284-3 proposes to appropriate water at a maximum instantaneous diversion rate of 0.09 cfs and a maximum annual appropriation of 39 acre-feet per year. The diversion points for this application are two new wells that will be completed into the Revillo aquifer at a depth of approximately 170 feet. The water will be used for commercial use in a swine concentrated animal feeding operation (CAFO) located approximately two miles southeast of Revillo and 18 miles south of Milbank.

The Revillo aquifer is a confined glacial outwash deposit that lies in a buried, preglacial bedrock valley. The aquifer may extend beyond the boundaries of these counties, but it has not been identified on the presently available maps. The top of the Revillo aquifer is approximately 160 feet below land surface. The thickness of the sand and gravel unit that comprises the Revillo aquifer is 40 to 45 feet thick. The Revillo aquifer in Roberts County underlies approximately 86.7 square miles and is estimated to contain 315,200 acre-feet of water in storage. The Revillo aquifer in Grant County underlies approximately 190 square miles and is estimated to contain one million acre-feet of water in storage.

Recharge to the Revillo aquifer is thought to occur primarily from direct infiltration and subsequent percolation of precipitation and by leakage from till. Recharge may also occur where the overlying glacial outwash lenses are hydraulically connected to the Revillo aquifer. In

northern Grant County, the Revillo aquifer is separated from the Veblen aquifer by a buried shale bedrock ridge, however there may be some hydraulic connection in Roberts County. No quantification of the average annual recharge to the Revillo aquifer has been published.

For confined aquifers, it has been determined that for aquifer management purposes, the estimated range of the recharge rate is 0.15 to 0.60 inches per year. Assuming the entirety of the Revillo aquifer is confined, the estimated annual recharge rate is 2,213 to 8,854 acre-feet per year.

Discharge from the Revillo aquifer is thought to occur primarily through well withdrawals and possible outflow to overlying glacial outwash lenses.

From the 2015 irrigation data, there were 12 water rights/permits appropriating water from the Revillo aquifer for irrigation. Annual reported irrigation data from the entire period of record, 1979 to 2015, is shown in Figure 2 of Mr. Farmer's report. It shows the appropriation amount, the reported pumpage, the number of acres permitted for irrigation, and the number of acres that were actually irrigated. Using the irrigation data over the entire period of record from 1979 to 2015, the average irrigation application rate on all irrigated acreage was 0.43 acre-feet per acre per year. Applying the average irrigation application rate to the current permitted acreage for irrigation, the average annual withdrawals for irrigation would be an estimated 1,080 acre-feet per year.

The city of Milbank currently appropriates water for their municipal system from the Revillo aquifer. In addition to their current appropriation, they have a future use permit reserving 808 acre-feet of water per year. The town of Wilmot also currently uses the Revillo aquifer as a backup source of water. The total estimated municipal use is 1,494 acre-feet per year, with an additional 808 acre-feet per year reserved for future use.

The estimated recharge to the Revillo aquifer is 2,213 to 8,854 acre-feet per year. The estimated withdrawals from the Revillo aquifer are 1,080 acre-feet per year for irrigation, 1,494 acre-feet per year for municipal use, and 808 acre-feet per year for future use. This application is seeking to appropriate 39 acre-feet per year, increasing the total estimated average annual withdrawal to 3,421 acre-feet per year. This number falls between the estimated recharge rates for a confined aquifer. Therefore, there is a reasonable probability that unappropriated water is available from the Revillo aquifer to support the proposed application.

In determining the availability of unappropriated water for a permit application Administrative Rule 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated annual recharge.

The Water Rights Program monitors five observation wells completed in the Revillo aquifer. The nearest observation well is GT-77K, located approximately 19.5 miles to the northwest of the well locations. Observation well GT-79D is located approximately 22 miles to the northwest of the proposed well locations. Observation wells RB-77N, RB-77M, and RB-77L are respectively located approximately 32, 34, and 36 miles to the north northwest of the well locations. The hydrographs for these observation wells are shown in Figure 3 of Mr. Farmer's



report and show that the aquifer responds well to climatic conditions, recharging during wet periods and declining during dry periods. By comparing the shape of the hydrograph between the observation wells, the climatic effects mask the temporal effects of well withdrawals (Figure 3). The observation well measurements show that the effects from pumping are temporal, and that the aquifer generally returns to pre-pumping conditions. The observation well data indicates that there is a reasonable probability that there is unappropriated water available from the Reville aquifer.

There is a difference between the observation wells in terms of the amplitude of their response to climatic conditions and seasonal withdrawals. The observation wells located in Roberts County (RB) have a difference of about 23 feet between their maximum and minimum recorded levels. The observation wells located in Grant County (GT) have a difference of about 41 feet between their maximum and minimum recorded levels. Currently it is unknown why there is a difference between the GT observation wells and the RB observation wells, but it may be due to differences in the local geology of the aquifer.

The nearest existing water right/permit identified as completed in the Reville aquifer is located approximately 19 miles to the northwest of the proposed well locations and is for the City of Milbank. There are some domestic wells located nearby; however, from the well completion reports on file, it appears that few, if any, are placed into the Reville aquifer. From the well completion reports, these domestic wells are placed into sand lenses within the glacial till above the Reville aquifer and are unlikely to be affected by this proposed appropriation.

Given the large distance between wells in this area of the aquifer and the low production rate for the intended use, this proposed appropriation is unlikely to cause any adverse impacts to the adequate wells of domestic users and existing water rights.

The Reville aquifer is generally under artesian conditions, and due to the physics of artesian head pressure, the drawdown from pumping may extend a considerable distance from the pumped well. SDCL 46-6-6.1 does not protect artesian head pressure as a means of delivery, and the Water Management Board has consistently recognized that to place water to maximum beneficial use, a certain amount of drawdown may occur. In order to balance interests between irrigation use and delivery of water by artesian pressure, the Water Management Board defined an "adversely impacted domestic well" in ARSD 74:02:04:20(7) as:

"a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs"

Depending on the specific characteristics of the Reville aquifer at the well site proposed by this application, some existing well owners may need to lower their pumps to accommodate for deeper water levels. This permit, if approved, is not expected to adversely impact adequate wells in the area.

Ms. Mines Bailey asked if Mr. Farmer reviewed the petitions filed in response to the public notice of Application No. 8284-3. Mr. Farmer stated the petitions involved the proposed

facility's location, potential dewatering of existing wells and total amount of water to be used. Mr. Farmer stated if there are adequate wells in the area it is unlikely they will be unlawfully impaired based on the proposed diversion rate and distance.

The Chief Engineer recommended approval of Water Permit Application No. 8284-3, Berg Farms with the following qualifications which are typical for a confinement facility.

1. The wells approved under Water Permit No. 8284-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits shall control 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. 8284-3 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. Water Permit No. 8284-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
4. Water Permit No. 8284-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
  - a) Chapter 74:54:01 Ground Water Quality Standards,
  - b) Chapter 74:54:02 Ground Water Discharge Permit,
  - c) Chapter 74:51:01 Surface Water Quality Standards,
  - d) Chapter 74:51:02 Uses Assigned to Lakes,
  - e) Chapter 74:51:03 Uses Assigned to Streams, and
  - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
5. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Reville aquifer.
6. Water Permit No. 8284-3 authorizes a total annual diversion of 39 acre feet of water.

Mr. Farmer in response to a question from Mr. Healy, counsel for the applicant, showed on Exhibit 6A the location of the Altamont aquifer. Mr. Farmer also stated that the top of the Reville aquifer is 1,000 – 1,100 feet mean sea level and varies below ground surface 150 – 750 feet.

Ms. Mogen asked if drain tile in the area would affect the recharge rate. Mr. Farmer responded he was not aware of it or the effect it would have.

Mark Lounsbery indicated there was a domestic well within one mile of the applicant's proposed well. Mr. Farmer stated he was not aware of this well or if it is completed into the Reville aquifer. He asked if the area wells would be afforded protection. Mr. Farmer stated yes if they are constructed as adequate wells.

Mr. Johnson asked if as part of the application review whether neighbors were questioned. Mr. Farmer stated he did not make inquiry of neighbors as part of his review.

Mr. Healy called Ken Berg, who was administered the oath by the court reporter.

Mr. Healy offered the following exhibits:

Exhibit A, Article regarding research on economic impact of the hog industry in the state of South Dakota by Gary Taylor

Exhibit B, Tax information from Grant County auditor, Karen Layher

Exhibit C, Information regarding tax assessed values in Adams Township from the Grant County director of equalization

The exhibits were admitted into the record.

Mr. Berg testified regarding his education, his past hog farming practices, Berg Farms, LLC, the proposed hog operation, and the water permit application. Mr. Berg lives at Gary SD and Berg Farms LLC is comprised of his two sons, Robert Drake and himself. The water will be consumed by the animals, by people working at the facility as this is a shower in – shower out facility and to wash down and disinfect the facility. He stated a similar facility's water use is six million gallons per year. He stated Berg Farms is in the process of responding to DENR's comment letter regarding the general water pollution control permit for the facility. He stated the biggest issue is getting another soil boring completed. He testified that the county conditional use permit denial is being appealed to the court. He testified that this facility will have 2,500 sows and a study shows the economic impact is \$2,500 per sow each year. Mr. Berg testified that the use of water for the hog facility is a beneficial use and in the public interest.

In response to question from Ms. Mines-Bailey, Mr. Berg stated he understood he must obtain coverage under the state general water pollution control permit, must report annual water use and understood domestic uses of water takes precedence over appropriative rights.

Ms. Mogen inquired regarding the total number of hogs on-site. Mr. Berg stated there would be 2,500 sows and about 500 gilt developers which will become replacement sows. In response to other questions regarding traffic into and out of the facility, Mr. Berg said there would be three semi loads of feed, two loads of weaner pigs and a load of gilt developers from time to time.

Mr. Meyer asked about the commitment he made to the county if there is damage to the road. Mr. Berg stated if there is damage attributed to their facility, Berg Farms has committed to regrade the road.

Mr. Lounsbury asked if anyone will live at the facility. Mr. Berg stated that no one will live on-site but hopes employees live in the community.

Ms. Lounsbury asked Mr. Berg to explain the bio-filter. He stated that exhaust fans force air through a filter comprised of wood chips to reduce odor annoyance 98 – 99% of the time at one half mile from the facility.

Mr. Johnson asked how many gallons of water does a sow use a day. Mr. Berg responded 4 – 6 gallons. He inquired how long Berg Farms has owned the land to which Mr. Berg stated a little over a year. Mr. Johnson asked if Mr. Berg had spoken with the local elevator about feed. Mr. Berg responded that he did talk to the local elevator but did not get a quote from them.

In redirect from Mr. Healy, Mr. Berg stated there would be 2,500 sows and 406 replacement gilt developers on site.

Board member Ev Hoyt asked whether alternate water sources were investigated. Mr. Berg stated that the rural water system did not have sufficient capacity. In regards to odor abatement, Mr. Berg told Mr. Hoyt that although he has not had previous experience with bio filters, Berg Farms is committed to put in bio filters to limit odor.

Kristi Mogen was administered the oath by the court reporter and testified that she was opposed to the water permit application because it is not in the public interest or beneficial for Grant County and its residents. In response to a question from Mr. Healy, Ms. Mogen testified she lives 12 miles from Reville but has land within 1 ½ miles of the proposed facility.

Patricia Meyer was administered the oath by the court reporter, and testified that she was opposed to the Berg Farm LLC project because it is not in the public interest.

Mark Lounsbury was administered the oath by the court reporter and testified that he was opposed to the water permit because it will have a negative impact on his family and neighbors. He has lived 1 ¼ miles from the proposed site his entire life. As a close neighbor this facility is not a benefit to the area. In response to a question from Board member Holzbauer, Mr. Lounsbury stated everyone in the area are very progressive farmers using new technology so they are not afraid of change.

Kay Lounsbury was administered the oath by the court reporter and testified in opposition to the proposed hog CAFO stating that it will negatively affect the quality of life for her family, her neighbors, the community of Reville, and the surrounding area. She asked the Board to please deny the application. In response to a question from Ms. Mogen, Ms. Lounsbury indicated her understanding that pathogens can travel three miles. Since they are 1 ¼ miles from the proposed facility they have concerns with the health of nearby residents.

Bart Johnson was administered the oath by the court reporter and testified that he is opposed to the water permit because there is not enough water available to support a hog confinement operation of this magnitude and stating the Berg Farms LLC is a Minnesota-based hog farm. He stated when his Uncle Walter had an irrigation well there was an impact within hours when the system was turned on. Therefore, he tried to manage the system as not to impact neighbors and ultimately gave up irrigation. Mr. Johnson stated that the taxes paid by Berg Farms will be the only positive impact of the proposed facility. He stated his belief that the only reason Berg Farms is locating in South Dakota is because our rules are not as strict as they are in Minnesota.

Mr. Healy asked Mr. Johnson if the old irrigation permit of his uncle's was from the Altamont aquifer. Mr. Johnson stated that the two sources could be connected.

Mr. Holzbauer asked a question regarding if anyone has filed a complaint on manure not being properly knifed into the ground. Mr. Johnson said not that he's aware of.

Mr. Hoyt inquired whether an irrigation well pumping at a greater rate would put more of a strain on the aquifer. Mr. Johnson acknowledged an irrigation pump rate is greater. Ms. Meyer asked the time of irrigation pumping compared to a confinement facility. Mr. Johnson stated the irrigation season is June through September and confinement facilities use water every day of the year.

The evidentiary portion of hearing was closed.

The parties offered closing statements.

Mr. Hoyt asked Board counsel Matt Naasz to discuss the Board's role in determining public interest as it relates to a water permit application. Mr. Naasz stated that the Legislature has tasked the Water Management Board with determining whether the proposed use is a beneficial use and in the public interest. The Legislature has not defined public interest. The Legislature has defined beneficial use in SDCL 46-1-6 as any use of water within or outside the state that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies.

Mr. Naasz said the scope of the Water Management Board regarding public interest is the best utilization of water supply, therefore the jurisdiction of the board is to consider the public interest in the utilization of the water, which therefore, would tend to lend items that don't weigh on the utilization of the water outside of the Water Management Board's jurisdiction.

Mr. Naasz stated that SDCL 46-1-4 states, in part, "It is hereby declared that, because of conditions prevailing in this state, the general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable."

Board discussion:

Mr. Hoyt stated the Board's role is with the use of water. The Board is not to substitute their judgment with other jurisdictions such as that held by the local county.

Mr. Holzbauer stated his belief that laws are in place to handle issues with the facility.

Motion by Comes, seconded by Holzbauer, to approve Water Permit Application No. 8284-3, Berg Farms, LLC subject to the qualifications set forth by the chief engineer. In making the motion Mr. Comes states that he is convinced by the report that water is available and that protections are in place.

Rodney Freeman apologized for having to be on a conference call that took longer than the break and therefore missed a portion of the testimony. He will refrain from the vote.

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A roll call vote was taken, and the motion carried with Dixon, Hoyt, Comes, Holzbauer, and Bjork voting aye. Freeman abstained from voting.

The proposed Findings of Fact, Conclusions of Law and Final Decision are due February 15, 2018, and objections are due February 23, 2018.

ADJOURN: Vice Chairman Bjork declared the meeting adjourned at 5:25 p.m.

A court reporter was present for the meeting and a transcript may be obtained by contacting Stephanie Moen & Associates, PO Box 684, Mitchell, SD 57301, telephone number 605-995-0955.

Approved this 7<sup>th</sup> day of March, 2018.

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Chairman, Water Management Board

\_\_\_\_\_  
Secretary, Water Management Board

DRAFT

# WATER MANAGEMENT BOARD MEETING

## December 7, 2017

<b>Qualifications:</b>
wi - well interference
wcr - well construction rules
iq - irrigation questionnaire
lf - low flow

### Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

No.	Name	Address	County	Amount	Use	Source	Qualifications
1969-1	Terry Trojan Well No 2	Lead	LA	0.22 cfs	shd	1 well-Deadwood Aquifer	wi, wcr, 2 special
1970-1	Boulder Canyon Country Club	Sturgis	LA	no add'l	29 acres	1 well-Minnelusa	wi, wcr, iq, 1 special
2773-2	Arrowhead Country Club	Rapid City	PE	1.11 cfs	100 acres	1 well-Madison or Minnelusa	wi, wcr, iq, 3 special
2774-2	Ellsworth AFB	Ellsworth	PE	0.45 cfs	no add'l ac	Box Elder Creek	lf, iq, 3 special
2775-2	Chace & Leslie Larsen	Hill City	PE	0.044 cfs	commercial	1 well-Crystalline Rock	wi, 2 special
2776-2	Smith Cattle LLC	Milesville	HK	3.56 cfs	248 acres	Cheyenne River	lf, iq, 1 special
6210A-3	City of Sioux Falls	Sioux Falls	MA	no add'l	238 acres	Big Sioux River	lf, 3 special
8236-3	Arnie Beisch	Waubay	DA	2.22 cfs	180 acres	3 wells-Prairie Coteau	wi, wcr, iq, 1 special
8300-3	Samual and Adam Arens	Yankton	YA	1.56 cfs	100 acres	1 well-Lower James Missouri	wi, wcr, iq, 1 special
8301-3	Fox Run RE LLC	Pipestone MN	TU	0.11 cfs	commercial	2 wells-Sioux Quartzite	wi, 4 special
8303-3	Frank Pravecek	Scotland	BH	0.12 cfs	commercial	2 wells-Codell	wi, 4 special
8304-3	Don Schell Family LLP	Sioux Falls	CL	no add'l	15 acres	1 well-Missouri:Elk Point	wi, iq
8307-3	Rodney R Ballinger	Jefferson	UN	2.0 cfs	231 acres	1 well-Missouri:Elk Point	wi, iq
8313-3	Bon Homme Httm Brethren	Tabor	BH	7.12 cfs	680 acres	Missouri River	iq, 1 special

DRAFT

ATTENDANCE SHEET  
 WATER MANAGEMENT BOARD  
 Date Dec. 7, 2017

<u>NAME (PLEASE PRINT)</u>	<u>MAILING ADDRESS</u>	<u>CITY, STATE &amp; ZIP</u>	<u>ITEM OF INTEREST</u>
Mary Duvall		Pierre	Legis Oversight
Kelli Boscher	Joe Foss Building	Pierre	Legislation
Lindsay Riter-Rapp		Pierre	Hearing
Tom Milligan			2771-2 2772-2
Mark Hounsbary	16453 482 Av	Reville 57259	Berg Farms
Kay Hounsbary	" " "	" "	" "
Kristi Mogen	15160 4171 <sup>st</sup> Av	Twin Brooks 57069	Berg farm
PATRICIA MEYER	15452 486 AVE	MILBANK SD 57252	" "
Chris Healy	315 S. Phillips Ave	Sioux Falls SD	Berg Farms
Ken Berg	2676 Edgewater Dr.	Gary, S.D. 57237	Berg Farms
Bart Johnson	16565 403 Av R.	Reville SD	Berg



**REPORT ON  
IRRIGATION QUESTIONNAIRE VIOLATIONS  
March 7, 2018**

On October 20, 2017, 3,855 irrigation questionnaires were mailed by first class mail to irrigators for reporting water use for 2017. The permit holders were given until December 1, 2017 to return the forms. The cover letter included the following examples of how questionnaires could be completed and returned:

3 easy options to return your irrigation questionnaire(s)	1. Online (preferred method),	2. Mail, or	3. Fax
	<a href="http://denr.sd.gov/iq.aspx">http://denr.sd.gov/iq.aspx</a>	Use the enclosed postage paid return envelope	Fax the completed form(s) to 605 773-4068
For assistance completing your form(s), contact Genny McMath at 605 773-3352 or by email: <a href="mailto:genny.mcmath@state.sd.us">genny.mcmath@state.sd.us</a>			

On January 26, 2018, 183 notices (involving 305 permits) were mailed to those irrigators who had not returned their irrigation questionnaires. Additional questionnaire forms were included with the mailing. All of the notices were sent by "certified mail."

The January 26<sup>th</sup> notice advised permit holders that the Board may take one or more of the following actions pursuant to SDCL 46-1-12 and SDCL 46-1-14:

- The permit(s) could be suspended for:
  - 1 A period of up to one year (first violation); or
  2. A period of up to three years (second violation - includes one previous suspension);
- The permit(s) could be canceled for a third violation (includes at least two previous suspensions);
- The permit(s) could be amended to include the mandatory irrigation questionnaire qualification;
- Postpone any action or take no action.

**The Water Rights Program is recommending the Board take the following action for those permits with irrigation questionnaires not received by March 7, 2018:**

- Suspend or Cancel the permits/rights (listed on attachment) as follows:
  1. First Violation - one year suspension – effective April 7, 2018;
  2. Second Violation – three year suspension – effective April 7, 2018
  3. Third Violation – cancellation – effective April 7, 2018

*If the irrigator sends in the questionnaire prior to April 7<sup>th</sup> no suspension will occur. Following the March 7<sup>th</sup> hearing, all permit holders are sent a notice informing them of the Board action with the opportunity to submit the questionnaire by April 7<sup>th</sup> to avoid suspension. All follow-up notices will be sent by certified mail.*

- Amend the permits/rights (listed on attachment) to include the following qualification:

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

*The amendment of the water permits or rights will be effective immediately.*

# Permits/Rights Subject to Amendment, Suspension or Cancellation

## 2017 Irrigation Questionnaire Report Violations

March 7, 2018

Permit Nos.	Name	County	Irr Ques Violation
<b>Violation: 1</b>			
8226-3	JEFFREY ALBRECHT	KG	1
7306-3	TYLER AMMANN	RB	1
7341-3	TYLER AMMANN	RB	1
7530-3	TYLER AMMANN	RB	1
7535-3	DONALD BENSON	TU	1
4472-3	DARREL BIDDLE	CM	1
6414-3	GALEN DEAN BOMGAARS	BG	1
2647-2	CODY BURULL	LY	1
2701-2	CODY BURULL	LY	1
1411A-1	BARB & RON CLINE	BU	1
635-2	DAKOTA HILLS INC	FR	1
2547-3	GENE DE VRIES	BD	1
2548-3	GENE DE VRIES	BD	1
3085-3	GENE DE VRIES	BD	1
6381-3	DE VRIES INC	BD	1
6440-3	DE VRIES INC	BD	1
2673-2	DIOCESE OF RAPID CITY	PE	1
7550-3	ESTELLINE ALUMNI ASSOC	HM	1
2698-2	NEIL & LUPITA FANNING	BT	1
2721-2	NEIL & LUPITA FANNING	BT	1
5764-3	FREEMAN AREA GOLF COURSE	HT	1
3005-3	DAN HANSON	UN	1
4255-3	DAN HANSON	UN	1
4702-3	DANIEL J HANSON	UN	1
6190-3	DAN HANSON	UN	1
7159-3	DAN & SCOTT HANSON	UN	1
7172-3	DAN & SCOTT HANSON	UN	1
8287-3	DAN & SCOTT HANSON	UN	1
6878-3	SCOTT HANSON, MGR	UN	1
2895-3	DANIEL J HANSON, RENTER	UN	1
2935-3	DANIEL J HANSON, RENTER	UN	1
2936-3	DANIEL J HANSON, RENTER	UN	1
8019-3	MARK HOHN	DN	1
96B-3	JANET M KEGLER	SP	1

Violations:  
 1 = First violation, one year suspension  
 2 = Second Violation, three year suspension      A = Amendment to add IQ qualification

Permit Nos.	Name	County	Irr Ques Violation
<b>Violation: 1</b>			
1213B-1	CHARLES & CATHY KIMBRIL	BU	1
1233-1	ED & KATHY KLING	BU	1
7114-3	MICHAEL A KOSLOWSKI	DA	1
7336-3	MICHAEL A KOSLOWSKI	DA	1
7286-3	BRIAN KOZAK	BH	1
7543-3	BRIAN KOZAK	BH	1
6961-3	NORMAN KRAMER	UN	1
6962-3	NORMAN KRAMER	UN	1
6963-3	NORMAN KRAMER	UN	1
7233-3	NORMAN KRAMER	CL	1
3628-3	KELVIN KRONAIZL	CL	1
1270-2	LARSON WHITE RIVER RANCH LLC	LY	1
1564-2	LARSON WHITE RIVER RANCH LLC	TR	1
7265-3	LEESMAN RANCH	SU	1
7265A-3	LEESMAN RANCH	SU	1
5441-3	BARRY LITTLE	HM	1
6408A-3	BARRY LITTLE	HM	1
7118-3	BARRY LITTLE	HM	1
5735-3	MARK MCCLOUD	HY	1
1923-1	JIM MONTIETH	LA	1
2664-2	O'NEILL CATTLE CO INC	TD	1
2710-2	O'NEILL CATTLE CO INC	BT	1
962B-1	STEVE OLINGER	BU	1
2074-2	PRAIRIE GARDENS, INC	CU	1
1612-3	PRAIRIE WINDS GOLF CLUB	CD	1
1997-3	PRAIRIE WINDS GOLF CLUB	CD	1
7615-3	WAYNE REIERSON	CA	1
7616-3	WAYNE REIERSON	CA	1
5566-3	WAYNE REIERSON, RENTER	CA	1
2106-2	STUART RICE	PE	1
2696-3A	DANNY SCHMIDT, OPERATOR	CK	1
4292-3	STANLEY S SCHULZ	CK	1
1554A-1	DONALD J STANGE	BU	1
1935-1	DONALD J STANGE	BU	1
7788-3	JON SWENSON	BN	1
8164-3	TODD SWENSON	JE	1
8166-3	TODD SWENSON	JE	1
8165-3	TODD SWENSON	JE	1

Violations:

1 = First violation, one year suspension

2 = Second Violation, three year suspension

A = Amendment to add IQ qualification

Permit Nos.	Name	County	Irr Ques Violation
<b>Violation: 1</b>			
2954-3	LANE TEKRONY	DU	1
5227-3	CODY WARNE	SU	1
311-3	CLETUS WIECHMANN-OPERATOR	CM	1
<b>Violation: 2</b>			
1714-2	MELVIN E BRASSFIELD	PE	2
2063-2	MELVIN E BRASSFIELD	PE	2
400-2	MELVIN E BRASSFIELD	PE	2
401-2	MELVIN E BRASSFIELD	PE	2
495-2	HARLAN EISENBRAUN	PE	2
1530-2	VIOLA KESZLER, OPERATOR	TR	2
6426-3	TERRILL WHEELER	CK	2
6507-3	TERRILL WHEELER	CK	2
<b>Violation: 3</b>			
3937-3	WENDELL SCHUBLOOM	KG	3
<b>Violation: A</b>			
3471-3	DONALD BENSON	TU	A
1397-2	CODY BURULL	LY	A
410-2	JOHN ANTHONY DERUNGS	FR	A
4309B-3	RONALD J GORDER	DU	A
1374-3	SCOTT HANSON, RENTER	UN	A
179-3	SCOTT HANSON, RENTER	UN	A
2357-3	SCOTT HANSON, RENTER	UN	A
2358-3	SCOTT HANSON, RENTER	UN	A
4360-3	DARRELL MULLER	LK	A
2983-3	SKIP RAU, OPERATOR	WL	A
394-1	LARRY B REINHOLD	MD	A
2350-3	RIVER VALLEY FARMS	UN	A
4332-3	KASH VAN DYKE	BG	A
928-1	CHARLES WENNBERG	LA	A

Violations:  
 1 = First violation, one year suspension  
 2 = Second Violation, three year suspension      A = Amendment to add IQ qualification



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 18, 2018

**NOTICE OF CANCELLATION**

TO: Kirk Simet, 1115 Indian Hills Rd, Brookings SD 57006

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

A handwritten signature in black ink, appearing to read "Ron Duvall", is positioned to the right of the "FROM:" field.

SUBJECT: Cancellation of Water Permit Nos. 1932-2 and 2262-2

Water Permit No. 1932-2, issued to Skyline Lodge, authorizes diversion of water from one well (Unkpapa Aquifer) for commercial purposes. Water Permit No. 2262-2, issued to Skyline Drive – Rushmore Inn, authorizes diversion of water from one well (Minnelusa Aquifer) for commercial purposes. Both permits involve the same property located at 1760 Tablerock Road in Rapid City, SD. The motel located on the site has been demolished and a senior living center has been constructed at that location. Steve Quissell with our program conducted an investigation of the area and was unable to find the wells authorized under the two permits. On October 30, 2017, an email communication between you and Eric Gronlund in our program confirmed the wells have been plugged. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 1932-2 and 2262-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit Nos. 1932-2 and 2262-2 at 10:00 am, Wednesday, March 7, 2018 (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 Permit Nos. 1932-2 and 2262-2 based upon facts presented at the public hearing. 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 February 23, 2018. 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.

January 18, 2018  
Kirk Simet  
Page 2

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.

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 February 23, 2018.

Prior to February 23, 2018, 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 January 29, 2018.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER PERMIT NO. 1932-2, SKYLINE LODGE AND  
WATER PERMIT NO. 2262-2, SKYLINE DRIVE – RUSHMORE INN**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Nos. 1932-2 and 2262-2, now owned by Kirk Simet.

The Chief Engineer is recommending cancellation of the above water permits due to abandonment and/or forfeiture.

During an investigation of the area for possible licensing purposes, Steve Quissell was unable to find any evidence of the permitted wells. The motel at the site located at 1760 Tablerock Road in Rapid City, SD was demolished. A senior living center has been constructed at the same location and is hooked to city water. In an email communication with Eric Gronlund, Mr. Simet indicated the wells were plugged and the two permits could be cancelled.

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 18, 2018



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 17, 2018

NOTICE OF CANCELLATION

TO: Dale Tech, Public Works Director, City of Rapid City, 300 Sixth St,  
Rapid City SD 57701  
Prairie Fire Investments, 4507 Lookout Mountain Rd, Rapid City SD 57702  
Al Sage, System Operator, 5310 Ebony Place, Piedmont SD 57769  
Terracotta Estates Homeowners Association, 6655 Zamia St, Rapid City SD 57703

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 2618-2

Water Permit No. 2618-2, issued to Prairie Fire Investments, authorizes diversion of 0.31 cfs from ground water (Inyan Kara Aquifer) located in the NE ¼ Section 26, T1N, R8E for suburban housing development. On January 2, 2018, a letter was received from you indicating the City of Rapid City had purchased the water supply system and associated well. It is our understanding the water quality in the well was unsuitable for the City's potable water system and in November, 2017, the well was plugged. Your letter outlined the City's intent to abandon the water permit associated with the well. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 2618-2 due to abandonment.

The Water Management Board will consider cancellation of Water Permit No. 2618-2 at 10:00 am, Wednesday, March 7, 2018 (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 Permit No. 2618-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. 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 February 23, 2018. 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.



January 17, 2018

Dale Tech, City of Rapid City

Prairie Fire Investments

Al Sage

Terracotta Estates Homeowners Association

Page 2

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.

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 February 23, 2018.

Prior to February 23, 2018, 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 January 29, 2017.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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<http://denr.sd.gov>

**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER PERMIT NO. 2618-2, PRARIE FIRE INVESTMENTS**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 2618-2, now owned by the City of Rapid City.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment.

A letter was received from the Public Works Director for the City of Rapid City on January 2, 2018. The letter included documentation the city purchased the water supply system from the Terracotta Estates Homeowners Association. The Inyan Kara Aquifer well acquired with the property was not suitable for use in the City's potable water system and was plugged on November 20, 2017. The city requests the associated water permit be cancelled since the well has been plugged and they have no use for maintaining the water permit.

A handwritten signature in black ink, appearing to read "Ron Duvall".

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 17, 2018

**Note:**

Cancellation of the water permit does not prohibit a new application for this project in the future.



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701

## Public Works Department

300 Sixth Street

Telephone: (605) 394-4165 FAX: (605) 355-3083

Web: [www.rcgov.org](http://www.rcgov.org)

RECEIVED

JAN 02 2018

WATER RIGHTS  
PROGRAM

December 28, 2017

Eric Gronlund  
SD Department of Environment and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

Ref: Water Right Permit No. 2618-2  
Water Right Abandonment Request

Dear Mr. Gronlund,

The City of Rapid City (City) purchased a water supply well and associated water right from the Terracotta Estates Homeowners Association per the enclosed agreement. The acquired well has been abandoned as documented by the enclosed South Dakota Well and Test Hole Plugging Report.

The water right, held under Water Right Permit No. 2618-2, is for 0.31 cfs of groundwater from the Inyan Kara aquifer. The quality of water from the Inyan Kara aquifer is not suitable for use in the City's potable water system. Therefore, the City has no use for this water right. In-lieu of transfer of this water right permit to the City the City of Rapid City requests abandonment of the water right associated with Water Right Permit No. 2618-2.

If you have questions concerning this request please contact Dan Coon at (605) 394-4154.

Sincerely,

Dale Tech, PE  
Public Works Director



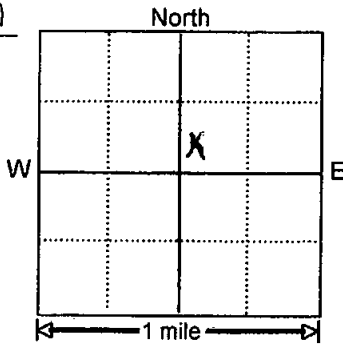
EQUAL OPPORTUNITY EMPLOYER

**SOUTH DAKOTA WELL AND TEST HOLE PLUGGING REPORT 11-02**

Location SW 1/4 NE 1/4 Sec 26 Twp 1 N Rg BE

County Pennington

Please mark well location with an "X"



Plugging Completion Date Nov 20, 2017

Well Owner:

Name: City of Rapid City

Address: 300 6th Street

City, State, Zip: Rapid City, SD 57701

Comments: #2618-2  
Well being abandoned, service supplied by the city of Rapid City - Well originally drilled for Prairie Fire Investments.

**CHECK APPROPRIATE BOX**

EXISTING WELL <input checked="" type="checkbox"/>	TEST HOLE <input type="checkbox"/>
Well depth <u>2000'</u>	Hole depth _____
Casing material <u>steel</u>	Hole size _____
Casing size(s) <u>7"</u>	
Casing condition <u>Far - trimie line indicated wall corrosion.</u>	

Describe plugging procedure: Removed well pump drop pipe & wire. Ran trimie line in well, pumped 200 sacks of cement, pulled trimie out and flushed line. Waited 24 hrs, ran trimie back in well, tagged cement at 500', pumped additional 80 sacks, good returns to surface.

Describe grout or plugging material: Best cement - Hills Red-Mix

Type of non-slip plug: \_\_\_\_\_

This well or test hole was plugged under license # 511 and this report is true and accurate.

Drilling firm: DBS Drilling LLC

Signature of Licensed Representative: Dump V. Johnson

Signature of Well Owner: [Signature]

Date: 11-30-17



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 17, 2018

NOTICE OF CANCELLATION

TO: Raymond J Yager, PO Box 7, Burke SD 57523-0007

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 2625-2

Water Permit No. 2625-2 authorizes diversion of ground water (Ogallala Aquifer) for irrigation of 60 acres in the N ½ SE ¼ and S ½ NE ¼ Section 13, T96N, R72W in Gregory County. On December 21, 2017, a letter was received from you indicating you wished to abandon the water permit. The letter explained your orchard has been scaled back to the point drip irrigation with rural water would be economically feasible. Based on your letter, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 2625-2 due to abandonment.

The Water Management Board will consider cancellation of Water Permit No. 2625-2 at 10:00 am, Wednesday, March 7, 2018 (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 Permit No. 2625-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. 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 February 23, 2018. 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.

January 17, 2018  
Raymond J Yager  
Page 2

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 February 23, 2018.

Prior to February 23, 2018, 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 January 29, 2017.



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**RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER PERMIT NO. 2625-2, RAYMOND J YAGER**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 2625-2.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment.

The permit holder submitted a letter indicating his intent to abandon the water permit. Mr. Yager stated in his letter that he has scaled back the orchard and could utilize drip irrigation with water supplied by the rural water system.

A handwritten signature in black ink, appearing to read "Ron Duvall".

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 17, 2018

**Note:**

Cancellation of the water permit does not prohibit a new application for this project in the future.

RECEIVED

DEC 27 2017

WATER RIGHTS  
PROGRAM

December 21, 2017

Jeanne Goodman  
Chief Engineer  
Water Rights Program

Please consider this as formal notice that I am abandoning my water right Permit Number 2625-2.

While I remain convinced that my project, high value crops for small farms, is viable the current sociological climate in the Burke/Gregory area make a project of this kind unrealistic. My orchard has been scaled back to the point where drip irrigation with rural water is economically feasible. I will continue isolating desirable cultivars while searching for a less hostile environment.

Thank you for your time and patience.



Raymond Yager  
P.O. Box 7  
Burke, SD 57523





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January 16, 2018

**NOTICE OF CANCELLATION**

TO: Pat Simon, 16050 S Pine St, Lebanon SD 57455

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Right No. 2674-3A

Water Right No. 2674-3A, listed in the name of Morris Simon, authorizes diversion of ground water from four wells to irrigate 60 acres in the S ½ NE ¼ Section 4, T118N, R74W in Potter County. On November 20, 2017, during a phone conversation with Genny McMath in our program, you indicated the land has not been irrigated for many years and if water was to be used for irrigation again, the wells would have to be worked on. Based on the years of non-use and your confirmation no irrigation was being done, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 2674-3A due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 2674-3A at 10:00 am, Wednesday, March 7, 2018 (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 No. 2674-3A based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. 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 February 23, 2018. 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.

January 16, 2018

Pat Simon

Page 2

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 February 23, 2018.

Prior to February 23, 2018, 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 January 26, 2018.



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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NO. 2674-3A, MORRIS SIMON**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 2674-3A, with land now owned by Pat Simon.

The Chief Engineer is recommending cancellation of the above water right due to abandonment and/or forfeiture.

Pat Simon submitted the 2017 irrigation questionnaire for Water Right No. 2674-3A. On the questionnaire, he indicated water use had been abandoned. A follow-up letter was written to Mr. Simon to find out if it was his intent to abandon the water right. A review of past irrigation questionnaires show irrigation was last reported in 1989. In response to the letter, Mr. Simon called and confirmed they have not irrigated for many years and if they were to irrigate again, the pumps would have to be pulled and work done on the wells.

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 16, 2018

**Note:**

Cancellation of the water right does not prohibit a new application for this project in the future.

**WATER RIGHTS PROGRAM -- FILE DOCUMENTATION**

**NAME & ADDRESS:** Pat Simon, 16050 S Pine St, Lebanon SD 57455

**DATE:** November 20, 2017

**RE:** Water Right No. 2674-3A, Morris Simon

**COMMENTS:**

Pat Simon called in response to a letter we directed to Morris Simon concerning his 2017 irrigation questionnaire. The form had indicated the use had been abandoned. A letter was sent to Morris Simon concerning the "abandonment" issue and Pat (son) called to followup.

He indicated that Morris had passed away. The land has not been irrigated for years and if they were to use it again they would have to pull the pumps and do some work on the wells. They used to irrigate alfalfa for cattle but the cattle are gone and there isn't any need to irrigate.

He asked questions on how to go about getting a new permit if they decided at some future time to irrigate. I went over the process with him and as long as they were able to refile at a later time, he had no problem letting the water right get cancelled.

**RECOMMENDED ACTION:**

Schedule the water right for cancellation consideration at the March, 2018 WMB Meeting.



Genny McMath  
Water Rights Program



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November 15, 2017

2674-3A

Morris Simon  
16001 317<sup>th</sup> Ave  
Gettysburg SD 57442.

Dear Mr. Simon:

Thank you for sending in the 2017 irrigation questionnaire for Water Right No. 2674-3A. Water Right No. 2674-3A authorizes diversion of water from four wells to irrigate 60 acres located in the S 1/2 NE 1/4 Section 4-T118N-R74W.

On the form, you checked the box "use abandoned". Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. A review of the records shows the land was last irrigated in 1989.

If the use has been abandoned and you do not intend to irrigate in the future, the water right could be scheduled for cancellation consideration. Prior to doing that, I wanted to touch base with you to verify your intentions regarding the water right.

Please take a few minutes and give me a call concerning the water right. Thank you in advance for your help.

Sincerely,

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



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January 16, 2018

NOTICE OF CANCELLATION

TO: Doyle Thompson, 48670 181<sup>st</sup> St, Gary SD 57237-5542

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Right No. 2980-3

Water Right No. 2980-3 authorizes diversion of ground water to irrigate 99.8 acres in the W ½ SE ¼ and SW ¼ Section 16, T115N, R47W in Deuel County, SD. On December 11, 2017, Genny McMath with our program spoke with you concerning the information reported on your 2017 irrigation questionnaire. You confirmed you no longer wished to irrigate and indicated the irrigation system blew over and you were not going to repair or replace it. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 2980-3 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 2980-3 at 10:00 am, Wednesday, March 7, 2018 (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 No. 2980-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. 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 February 23, 2018. 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.

January 16, 2018  
Doyle Thompson  
Page 2

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 February 23, 2018.

Prior to February 23, 2018, 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 January 26, 2018.



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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NO. 2980-3, DOYLE DEAN THOMPSON**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 2980-3.

The Chief Engineer is recommending cancellation of the above water right due to abandonment.

The 2017 irrigation questionnaire submitted by the water right holder was marked "use abandoned" and contained a statement indicating the wind blew over the system and it would not be repaired or replaced. On December 11, 2017, in response to a letter sent to him regarding his irrigation questionnaire, Mr. Thompson called and spoke to Genny McMath with the Water Rights Program. Mr. Thompson confirmed he no longer wished to irrigate and indicated the water right could be cancelled.

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 16, 2018

**Note:**

Cancellation of the water right does not prohibit a new application for this project in the future.



**WATER RIGHTS PROGRAM -- FILE DOCUMENTATION**

**NAME & ADDRESS:** Doyle Thompson

**DATE:** December 11, 2017

**TELEPHONE:** 605 272-5637

**RE:** Water Right No. 2980-3

**COMMENTS:**

Mr. Thompson reported on his 2017 irrigation questionnaire that his irrigation system blew over and he would not be repairing or replacing it. He also checked the box "use abandoned".

A follow-up letter was written to him to have him contact us to ensure his intent was to abandon the use. He reported irrigation in 2016.

On December 11<sup>th</sup>, he called and confirmed no longer wished to irrigate and we could cancel his water right. He asked what to do with the well and I told him to have to capped or plugged. He said currently there is a pump in the well however when he removes that he intends to weld a lid over it.

**RECOMMENDED ACTION:**

Schedule for cancellation at the March, 2018 WMB Meeting.



Genny McMath  
Water Rights Program



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November 14, 2017

2980-3

Doyle Dean Thompson  
48670 181<sup>st</sup> St  
Gary SD 57237-5542

Dear Mr. Thompson:

Thank you for sending in the 2017 irrigation questionnaire for Water Right No. 2980-3. Water Right No. 2980-3 authorizes diversion of water from one well to irrigate portions of the W 1/2 SE 1/4, SW 1/4 Section 16-T115N-R47W.

On the form, you checked the box "use abandoned" and stated the wind blew over the system and it will not be repaired or replaced. Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. A review of the records shows the land was last irrigated in 2016.

If the use has been abandoned and you do not intend to irrigate in the future, the water right could be scheduled for cancellation consideration. Prior to doing that, I wanted to touch base with you to verify your intentions regarding the water right.

Please take a few minutes and give me a call concerning the water right. Thank you in advance for your help.

Sincerely,

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



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January 16, 2018

NOTICE OF CANCELLATION

TO: Ron Heine, Heine Farms, 617 Applewood Dr., Yankton SD 57078

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Right No. 4621-3

Water Right No. 4621-3 authorizes diversion of water from the Missouri River to irrigate 230 acres in portions of Section 8 & 17, T93N, R54W. The land described in the water right is also authorized for irrigation from ground water (Missouri Elk Point Aquifer) under Water Permit No. 7340-3. On December 20, 2017, during a phone conversation with Genny McMath in our program, you confirmed the river pump site is no longer used. The land is irrigated using ground water only. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 4621-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 4621-3 at 10:00 am, Wednesday, March 7, 2018 (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 No. 4621-3 based upon facts presented at the public hearing. Our records show Heine Farms to be the owner of property covered by this water right. 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 February 23, 2018. 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.

January 16, 2018  
Ron Heine – Heine Farms  
Page 2

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 February 23, 2018.

Prior to February 23, 2018, 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 January 26, 2018.



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**RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER RIGHT NO. 4621-3, HEINE FARMS**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 4621-3.

The Chief Engineer is recommending cancellation of the above water right due to abandonment and/or forfeiture.

The 2017 irrigation questionnaire submitted by Heine Farms for Water Right No. 4621-3, indicated the use had been abandoned. On December 20, 2017, during a phone conversation with Genny McMath, Ron Heine confirmed they no longer used the river pump site described in the water right. Irrigation of the land is done using the well authorized under Water Permit No. 7340-3.

A handwritten signature in black ink, appearing to read "Ron Duvall".

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 16, 2018

**Notes:**

Cancellation of the water right does not pertain to irrigation done from ground water authorized under Water Permit No. 7340-3.

**WATER RIGHTS PROGRAM -- FILE DOCUMENTATION**

**NAME & ADDRESS:** Ron Heine, Heine Farms, 617 Applewood Dr, Yankton SD 57078

**DATE:** December 20, 2017

**RE:** Water Right No. 4621-3

**COMMENTS:**

Mr. Heine called to inquire about specific irrigation questionnaires and also to clarify that they were no longer using the Missouri River pump site authorized under Water Right No. 4621-3.

Water Right No. 4621-3 authorizes diversion of water from the Missouri River to irrigate 230 acres in portions of Section 8 and 17, T93N, R54W. The same land is authorized for irrigation under Water Right No. 7340-3 from ground water.

Mr. Heine confirmed they have abandoned the Missouri River pump site and will only be using the well to irrigate the acreage. I explained to him that if they no longer intended to use the river, Water Right No. 4621-3 would be scheduled for cancellation. He agreed and stated that is what he would like to have happen.

**RECOMMENDED ACTION:**

Schedule Water Right No. 4621-3 for cancellation consideration.



Genny McMath  
Water Rights Program



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January 17, 2018

NOTICE OF CANCELLATION

TO: Steven G Friesen, 103 N Cedar St, Freeman SD 57029-2204

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Right No. 4704A-3

Water Right No. 4704A-3 authorizes diversion of water from the Upper Vermillion Missouri Aquifer for irrigation of 96 acres in the SW ¼ Section 14, T99N, R56W in Hutchinson County. On December 5, 2017, you called and spoke with Genny McMath in our program to discuss the information reported on your irrigation questionnaire which indicated irrigation had been abandoned. During the phone conversation you verified you were not irrigating and did not think you would be irrigating for quite some time mainly because your irrigation system was in bad shape and needed repair prior to using it. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 4704A-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 4704A-3 at 10:00 am, Wednesday, March 7, 2018 (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 No. 4704A-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. 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 February 23, 2018. 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.

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.

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Prior to February 23, 2018, 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 January 29, 2018.





DEPARTMENT of ENVIRONMENT  
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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NO. 4704A-3, STEVEN G FRIESEN**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 4704A-3.

The Chief Engineer is recommending cancellation of the above water right due to abandonment and/or forfeiture.

The 2017 irrigation questionnaire submitted by the water right holder indicated the use had been abandoned. In a follow-up conversation with Genny McMath in our program, Mr. Friesen confirmed he was not irrigating. He indicated his irrigation system was in bad shape and needed repair. The well is in working order and is currently capped.

A handwritten signature in black ink, appearing to read "Ron Duvall".

RON DUVAL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 17, 2018

**Note:**

Cancellation of the water right does not prohibit a new application for this project in the future.

**WATER RIGHTS PROGRAM -- FILE DOCUMENTATION**

**NAME & ADDRESS:** Steven Friesen, 103 N Cedar St, Freeman SD 57029-2204

**DATE:** December 5, 2017

**RE:** Water Right No. 4704A-3

**COMMENTS:**

Mr. Friesen submitted his 2017 irrigation questionnaire indicating the use had been abandoned. The last time irrigation was reported was in 2006. In response to his questionnaire, a letter was sent to him asking his intent and if he truly meant to abandon the water right.

Mr. Friesen called today and verified that he was not irrigating and didn't feel like he would for at least another 4-5 years and maybe not even then. He said his system was in bad shape and needed repair. He did comment about some of the years of non-use were due to sufficient moisture.

I discussed legal excuse with him and he said that bottom line, he is not irrigating and does not wish to repair the system at this time. He was okay with scheduling the water right for cancellation and knew that if he wanted to begin irrigation again he could reapply. I mentioned to him that he would be getting a "Notice of Cancellation" from us sometime after the first of the year and if he felt at that time that we had a miscommunication, he could call and discuss the matter.

I asked about the well authorized for irrigation and he said the well still works and at the present time it is capped.



Genny McMath  
Water Rights Program



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

November 16, 2017

4704A-3

Steven G Friesen  
103 N Cedar St  
Freeman SD 57029-2204

Dear Mr. Friesen:

Thank you for sending in the 2017 irrigation questionnaire for Water Right No. 4704A-3. Water Right No. 4704A-3 authorizes diversion of water from one well to irrigate 96 acres located in the SW 1/4 Section 14-T99N-R56W.

On the form, you checked the box "use abandoned". Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. A review of the records shows the land was last irrigated in 2006.

If the use has been abandoned and you do not intend to irrigate in the future, the water right could be scheduled for cancellation consideration. Prior to doing that, I wanted to touch base with you to verify your intentions regarding the water right.

Please take a few minutes and give me a call concerning the water right. Thank you in advance for your help.

Sincerely,

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

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



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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<http://denr.sd.gov>

January 18, 2018

NOTICE OF CANCELLATION

TO: Aaron Ness, The Boys Partnership, PO Box 156, Yankton SD 57078-0156

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 7141-3

Water Permit No. 7141-3 authorizes diversion of water from the Missouri River to irrigate 640 acres located in the S ½ Section 5 and N ½ Section 8, T107N, R72W, Buffalo County. The 2017 irrigation questionnaire submitted for this permit was marked "system not constructed". On November 9, 2017, Eric Gronlund received an email communication from Rob Ness confirming the project was not constructed and the Partnership was agreeable to cancellation of the permit. The time limit for completion of works, as specified on the permit, expired on July 20, 2014. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7141-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 7141-3 at 10:00 am, Wednesday, March 7, 2018 (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 Permit No. 7141-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. 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 February 23, 2018. 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.

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 February 23, 2018.

Prior to February 23, 2018, 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 January 29, 2018.



DEPARTMENT of ENVIRONMENT  
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RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER PERMIT NO. 7141-3, THE BOYS PARTNERSHIP

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 7141-3.

The Chief Engineer is recommending cancellation of the above water permit due to non-construction.

The 2017 irrigation questionnaire submitted for Water Permit No. 7141-3 reflected the system was not constructed. In a November 9, 2017, email communication with Rob Ness, confirmation was received the project had not been developed. The time limit for completion of works as specified in the permit expired on July 20, 2014.

A handwritten signature in black ink, appearing to read "Ron Duvall".

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 18, 2018

**Note:**

Cancellation of the water permit does not prohibit a new application for this project in the future.



DEPARTMENT of ENVIRONMENT  
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January 17, 2018

**NOTICE OF CANCELLATION**

TO: Shawn Vannorsdel, 45442 288<sup>th</sup> St, Viborg SD 57070

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 7507-3

Water Permit No. 7507-3 authorizes diversion of ground water from the Niobrara Aquifer to irrigate 156 acres located in the NE ¼ Section 2, T96N, R53W in Turner County. On January 8, 2018, Eric Gronlund with our program spoke with you regarding your water permit. It is our understanding the well was drilled but the system was not installed due to poor water quality from the well. The time limit for completion of works as specified in Permit No. 7507-3 will expire on February 11, 2018. During the conversation you indicated you may decide to develop a system in the future however that would require drilling into a different aquifer. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7507-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 7507-3 at 10:00 am, Wednesday, March 7, 2018 (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 Permit No. 7507-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. 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 February 23, 2018. 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.

January 17, 2018  
Shawn Vannorsdel  
Page 2

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 February 23, 2018.

Prior to February 23, 2018, 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 January 29, 2018.





DEPARTMENT of ENVIRONMENT  
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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER PERMIT NO. 7507-3, SHAWN VANNORSDEL**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 7507-3.

The Chief Engineer is recommending cancellation of the above water permit due to non-construction.

The water permit specifies a February 11, 2018 date for completion of works with water to be placed to beneficial use by February 11, 2022. The 2017 irrigation questionnaire submitted by Mr. Vannorsdel indicated he had abandoned the well. In a follow-up conversation with Eric Gronlund, Mr. Vannorsdel stated the well had been drilled but due to the poor water quality, he did not set up an irrigation system. He may develop a system at a later time but would want to drill deeper into a different aquifer.

A handwritten signature in black ink, appearing to read "Ron Duvall".

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 17, 2018

**Note:**

Cancellation of the water permit does not prohibit a new application for this project in the future.

**7507-3**

Water Rights Program - DENR  
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7507-3, Shawn Vannorsdel

ADDRESS: 45442 288<sup>th</sup> Street, Viborg SD 57070 COUNTY: Turner

DATE: January 8, 2018 TELEPHONE:

RE: status of Water Permit No. 7507-3

COMMENTS:

Mr. Vannorsdel contacted DENR regarding Water Permit No. 7507-3 which has a date to complete construction of February 11, 2018. Mr. Vannorsdel indicated that the well is drilled but the system is not in place. The water quality was so poor that he stopped the order of the irrigation system. He wanted to know if there is a way to keep his permit so that if he decides to develop in the future he can. He thought he might go to a deeper aquifer.

First, I explained that he could apply for an extension of time but needs justification as to physical or engineering difficulties which could not have been reasonably anticipated, operation of law beyond his power to control, or exigent circumstances.

I also stated that Permit No. 7507-3 is to appropriate water from the Niobrara aquifer. If he goes to a different aquifer, a new water permit will be required.

I indicated there isn't the ability for DENR to allow the permit to stay in place without an intent to develop.

Mr. Vannorsdel indicated he was just checking into options. He didn't want to go through a formal application process that would require a fee and public. He stated his willingness to just let the permit go. I explained the cancellation process and that he'd get notice. Also stated that in the future he can reapply if he chooses.

NAME: Eric Trumbull



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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[www.denr.sd.gov](http://www.denr.sd.gov)

December 12, 2017

7507-3

Shawn Vannorsdel  
45442 288<sup>th</sup> St  
Viborg SD 57070

Dear Mr. Vannorsdel:

Thank you for sending in the 2017 irrigation questionnaire for Water Permit No. 7507-3. Water Permit No. 7507-3 authorizes diversion of water from the Niobrara Aquifer to irrigate 156 acres. Located in the NE 1/4 Section 2-T96N-R53W.

On the form, you checked the box "use abandoned". The construction period is up on February 11, 2018. It is my understanding the permit was never developed for irrigation because, as you indicated on the form, the water quality is poor.

If the use has been abandoned and you do not intend to irrigate in the future, the water right could be scheduled for cancellation consideration. Prior to doing that, I wanted to touch base with you to verify your intentions regarding the water right.

Please take a few minutes and give me a call concerning the water right. Thank you in advance for your help.

Sincerely,

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

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



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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January 18, 2018

**NOTICE OF CANCELLATION**

TO: Darrell Osborn, 28838 463<sup>rd</sup> Ave, Centerville SD 57014

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 7623-3

Water Permit No. 7623-3 authorizes diversion of water from the Upper Vermillion Missouri South Aquifer (UVM:S) to irrigate 140 acres in the NW ¼ and W ½ NE ¼ Section 24, T97N, R52W, Turner County. On November 21, 2017, Eric Gronlund spoke with you concerning the irrigation questionnaires for your water permits. You currently hold two water permits to irrigate the same land, one from the Parker Centerville Aquifer and one from the Upper Vermillion Missouri South Aquifer. During the discussion you indicated you did not develop the UVM:S water source authorized under No. 7623-3 due to poor water quality. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7623-3 due to abandonment.

The Water Management Board will consider cancellation of Water Permit No. 7623-3 at 10:00 am, Wednesday, March 7, 2018 (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 Permit No. 7623-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. 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 February 23, 2018. 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.

January 18, 2018  
Darrell Osborn  
Page 2

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 February 23, 2018.

Prior to February 23, 2018, 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 January 29, 2018.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER PERMIT NO. 7623-3, DARRELL OSBORN

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 7623-3.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment.

Mr. Osborn holds two water permits for irrigation of the same land. No. 7623-3 authorizes irrigation from the Upper Vermillion Missouri Aquifer and No. 7793-3 from the Parker Centerville Aquifer. On November 21, 2017, Mr. Osborn called and spoke with Eric Gronlund to discuss submission of his irrigation questionnaires. Mr. Osborn indicated he was irrigating the land from the Parker Centerville as authorized under No. 7793-3. Due to poor water quality, he did not develop the source authorized under Water Permit No. 7623-3 and does not intend to.

A handwritten signature in black ink that reads "Ron Duvall".

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 18, 2018

**Note:**

Cancellation of the water permit does not prohibit a new application for this project in the future.

**7623-3**

Water Rights Program - DENR  
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 7623-3, Darrell Osborn

ADDRESS: 28838 463 Ave., Centerville SD COUNTY: Turner County

DATE: November 21, 2017 TELEPHONE: 605 354-9006

RE: Water Permit No. 7623-3

COMMENTS:

Mr. Osborn called in regarding submittal of the 2017 irrigation questionnaire for Water Permit No. 7793-3. The water source for this application is the Parker Centerville aquifer.

In the course of the discussion, I brought up whether he developed under Water Permit No. 7623-3. This is for the same lands authorized by No. 7793-3 from a well to be completed in the Upper Vermillion Missouri:South (UVM:S) aquifer. The date to complete construction under No. 7623-3 is March 2019. Mr. Osborn stated he did not develop the well authorized by No. 7623-3 due to poor water quality. I inquired whether he had any intention to develop the UVM:S well or should the water permit be cancelled. He indicated he does not plan to develop under No. 7623-3 and the permit can be cancelled. I explained he will receive notice of cancellation in regard to this permit.

NAME: *Eve Tremblay*



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

January 16, 2018

NOTICE OF CANCELLATION

TO: Brett Runge, City Engineer, City of Huron, PO Box 1369, Huron SD 57350

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 8256-3

Water Permit No. 8256-3 authorizes diversion of ground water from the Warren West James Aquifer to irrigate 50 acres of softball and soccer fields. On November 27, 2017, we received notification from you that the City does not intend to develop the authorized well and is requesting the water permit be cancelled. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 8256-3 due to abandonment.

The Water Management Board will consider cancellation of Water Permit No. 8256-3 at 10:00 am, Wednesday, March 7, 2018 (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 Permit No. 8256-3 based upon facts presented at the public hearing. Our records show the City of Huron to be the owner of property covered by this water permit. 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 February 23, 2018. 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.



January 16, 2018  
Brett Runge, Huron City Engineer  
Page 2

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 February 23, 2018.

Prior to February 23, 2018, 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 January 26, 2017.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

**RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER PERMIT NO. 8256-3, CITY OF HURON**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 8256-3.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment.

On November 27, 2017, Brett Runge, City Engineer with the City of Huron notified the Water Rights Program that due to lack of water, the City of Huron did not intend to develop the permitted well and requested the water permit be cancelled.

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 16, 2018

**Note:**

Cancellation of the water permit does not prohibit a new application for this project in the future.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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PIERRE SOUTH DAKOTA 57501-3182  
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January 18, 2018

**NOTICE OF CANCELLATION**

TO: Keith Toczek, 263 Kniest Ave, Yankton SD 57078

FROM: Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 8273-3

Water Permit No. 8273-3 authorizes diversion of water from the Niobrara Aquifer for commercial use in a directional boring business. On January 9, 2018, you visited with Eric Gronlund in our program and indicated you had made a decision not to use the well for your business because the water was too hard and didn't mix well. Your use of water from the well for lawn and orchard watering falls under domestic use and does not require a permit. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 8273-3 due to abandonment.

The Water Management Board will consider cancellation of Water Permit No. 8273-3 at 10:00 am, Wednesday, March 7, 2018 (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 Permit No. 8273-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. 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 February 23, 2018. 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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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 February 23, 2018.

Prior to February 23, 2018, 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 January 29, 2018.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER PERMIT NO. 8273-3, KEITH TOCZEK**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 8273-3.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment.

On January 9, 2018, Mr. Toczek spoke with Eric Gronlund and indicated he was not going to use the Niobrara well authorized under the permit in his commercial business. The water was too hard and did not mix well for his directional boring business. The current use of water for lawn and orchard watering falls under domestic use and does not require permitting.

A handwritten signature in black ink, appearing to read "Ron Duvall".

RON DUVALL, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 18, 2018

**Note:**

Domestic use of water does not require an appropriative water permit if the use does not exceed 25,920 gallons per day (which is 18 gpm pumped 24 hours per day) or a peak diversion rate of 25 gallons per minute (gpm) for:

- Individual farm or ranch use including livestock water;
- Individual household use for drinking, washing, sanitary, culinary, and other ordinary household purposes; and
- Irrigation of a noncommercial family garden, trees, lawn, shrubbery, or orchard that is no larger in area than one acre. Lawn, tree, and garden watering within a city, town, or from other common water distribution systems is covered by the system water right.

Drip irrigation systems for noncommercial purposes and not exceeding 18 gpm do not need to be permitted even if the irrigated area exceeds one acre.

## Water Rights Program - File Documentation

**NAME:** Keith Toczek

**ADDRESS:** Yankton SD

**DATE:** 1-9-18

**RE:** Water Use for 2017

**COMMENTS:**

Keith Toczek reported they did not use any water for commercial use in a directional boring business. The water was too hard and didn't mix well. He only used water for yard and orchard using a lawn watering tractor.

Eric Gronlund talked with Keith and explained the construction period dates. Keith reiterated his only use of the well water would be for lawn watering and a private orchard. Keith indicated he was agreeable to the permit being cancelled since the commercial use did not work out as originally intended.

*Karen Schlaak*

Karen Schlaak  
Water Rights Program



RECEIVED  
JAN 04 2018  
WATER RIGHTS  
PROGRAM

January 2, 2018

Karen Schlaak  
Water Rights Program  
Department of Environment and Natural Resources  
523 East Capitol Avenue  
Pierre, South Dakota 57501

**RE: Future Use Water permit No. 3574-3**

Dear Ms. Schlaak:

The Board of Directors of the East Dakota Water Development District discussed the above referenced Future Use Water Permit at its December 21, 2017, meeting, and has decided to seek to retain its current appropriation of the water currently reserved from the Missouri River. The permit, for 144,000 acre-feet on an annual basis, was first obtained in 1977 (albeit for a significantly larger volume), and was intended to hold in reserve sufficient water for use by municipal public water systems, industrial users and rural water systems within the District.

The Board has concluded that the amount of water covered in the current permit is reasonable to meet the needs of the public water suppliers (PWSs) within our area for the foreseeable future. A survey in 2003 of all of the major PWSs within the District found that in 2002, a total of about 14,730,000,000 gallons, or about 45,200 acre-feet, of water were used. The projected full-capacity operational needs of the Lewis and Clark Regional Water System (LCRWS), which will serve the southern portion of the District when completed, adds an additional 27,000 acre-feet to this annual usage. The current amount of 144,000 acre-feet of Missouri River water represents approximately twice the volume of water used by the current and future PWSs in the District.

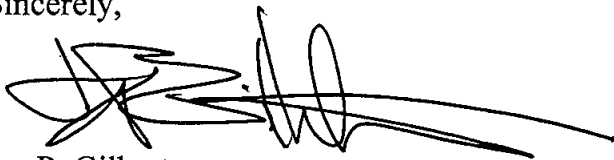
The diversion points identified in the permit remain reasonable, and represent the most likely conduits for delivering water to the District. The District, working in concert with one or more public water suppliers, would be most likely to draw water from the Missouri River in Walworth, Hughes, Clay and Union Counties. The first three represent the points of origin

of the WEB, Mid-Dakota and Lewis and Clark Rural Water Systems, which either extend into the District or serve areas immediately adjacent to it. The proximity of Union County to the southern, and most populated, part of the District also makes it a likely candidate should the need to access the water ultimately develop.

The Board believes that the reasonable need outlined in the original permit to the East Dakota Conservancy Sub-District remains valid. There has been dramatic growth and development in the City of Sioux Falls and along the I-29 corridor since 1977, and this is projected to continue well into the future. In order for this area to continue to grow, access to reliable water sources will be critical. The Board believes that retaining the Future Use Water Permit will provide one assurance of the availability of such water. Further, this action is wholly consistent with the overall mission of water development districts described in South Dakota Codified Laws, Chapters 46A-3A through 46A-3E.

If you have any questions about the Board's intent or rationale regarding Future Use Water Permit 3574-3, please let me know. Otherwise, I look forward to hearing from you regarding the formal review and hearing process in front of the Water Management Board.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jay P. Gilbertson', with a long horizontal flourish extending to the right.

Jay P. Gilbertson  
Manager/Treasurer





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 3574-3, East Dakota Water Development District

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 Future Use Water Permit No. 3574-3, East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Dr., Brookings SD 57006.

The Chief Engineer is recommending that Future Use Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3574-3, 2) the district has demonstrated a reasonable need for the water reserved by Permit No. 3574-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 3574-3 is subject to payment of the \$12,500.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the district after the Board hearing.

A handwritten signature in black ink that reads "Jeanne Goodman". The signature is fluid and cursive.

Jeanne Goodman, Chief Engineer  
January 17, 2018

**AFFIDAVIT OF PUBLICATION**

RECEIVED

FEB 20 2018

WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA, }  
County of Kingsbury. SS.

David Tritle of said

county being first duly sworn on oath, says that he is the publisher of THE DE SMET NEWS, a weekly newspaper printed and published in De Smet in said County of Kingsbury and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of a least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

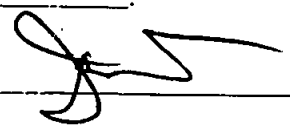
Notice of Hearing to Review  
Future Use Water Permit

No. 3574-3, a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least

once in each week for 1 successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

1/24/2018; \_\_\_\_\_ 20\_\_\_\_  
\_\_\_\_\_ 20\_\_\_\_; \_\_\_\_\_ 20\_\_\_\_  
\_\_\_\_\_ 20\_\_\_\_; \_\_\_\_\_ 20\_\_\_\_  
\_\_\_\_\_ 20\_\_\_\_; \_\_\_\_\_ 20\_\_\_\_

that the full amount of the fee charged for the publication of said notice accrues to the benefit of the publisher of said newspaper; 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, and that the fees charged for the publication thereof are

\$ 48.13  


Subscribed and sworn to before me this 14th  
day of February A.D. 2018  
Margaret A. Wilde  
Notary Public  
Kingsbury County, South Dakota

**NOTICE OF HEARING  
TO REVIEW FUTURE USE WATER  
PERMIT NO. 3574-3**

Notice is given that the Water Management Board will review Future Use Permit No. 3574-3 held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574-3. This permit was approved 1977 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according

127

to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is: Water Rights Program, Joe Boss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3832) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, Board Rules ARSD 74:02:01-25.01 thru 74:02:01-25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3832) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the future use permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$48.13.

1-24-18vc

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA  
COUNTY OF DEUEL

Ken Reiste being first duly sworn, on oath says: That he is publisher of the Clear Lake Courier, a weekly newspaper published in the City of Clear Lake, Deuel County, South Dakota; that he has full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Deuel and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the

Notice Of Hearing  
Future Use Water Permit No.3574-3

a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for one successive week(s) to wit:

January 24, 2018

That the full amount of the fee charged for publication of the attached public notice insures to the sole benefit of the publisher; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$46.64

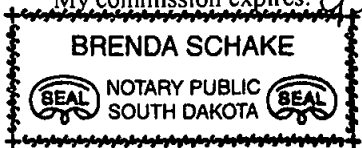
*Ken Reiste*  
Ken Reiste

Subscribed and sworn to before me

this 9<sup>th</sup> day of February 2018

*Brenda Schake*  
Notary Public, South Dakota

My commission expires: 2-21-21



Public notice

NOTICE OF HEARING TO  
REVIEW FUTURE USE WATER  
PERMIT NO. 3574-3

Notice is given that the Water Management Board will review Future Use Permit No. 3574-3 held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574-3. This permit was approved 1977 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD, 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

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FEB 12 2018

WATER RIGHTS PROGRAM

The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018.

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

Published once at the approximate cost of \$46.64. (49-1/138)

RECEIVED

FEB 05 2018

Affidavit of Publication  
WATER RIGHTS PROGRAM

State of South Dakota

ss

County of Brookings

Katherine Foiles of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

Legal 105, 1x, 1/24  
NOTICE OF HEARING  
TO REVIEW FUTURE  
USE WATER PERMIT  
NO. 3574-3  
Notice is given that the  
Water Management  
Board will review Future Use  
Permit No. 3574-3 held by East Dakota  
Water Development District, c/o Jay  
Gilbertson, Manager, 132B Airport Drive,  
Brookings SD 57006 for progress made in the  
development of the water reserved by the  
Permit and future plans for development of the  
water reserved by Permit No. 3574-3. This

permit was approved 1977 and currently reserves 144,000 acre-foot of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN IN EFFECT for 144,000 acre-feet annually because (1) the reserved water may be developed, (2) there is need for the reserved water (3) the proposed use will be a beneficial use and (4) it is in the public interest. The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, 506 Foss Bldg, 523 E Capitol Pierre SD. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to (1) allow the permit to remain in effect, (2) amend the permit by adding qualifications, (3) cancel the permit for no development or no planned future development, or (4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is Water Rights Program, 506 Foss Building, 523 E. Capitol Ave, Pierre SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel, if legal counsel is obtained. The permit owner need not file a petition. The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, Board Rules ARSD 374:02:01:25:01 thru 74:02:01:25:03 and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit owner of any person, after filing a petition, has the right to be present or to be represented by a lawyer. Steno and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law. Any person wishing a copy of the Chief Engineer's recommendation further information from this permit, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing, impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner, or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018. According to SDCL 1-26-1(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 any party chooses 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 Ave, Pierre SD by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$43.86.

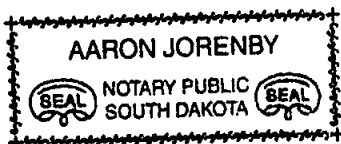
Leg#105 Notice of Hearing- East Dakota Water District

same was published, is hereto attached marked Exhibit said newspaper for \_\_\_\_\_ 1 times, to-wit:

January 24, 2018

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Forty-Three Dollars and Eighty-Six Cents \$43.86



K.M. Furtz

31 day of

2018

January

Notary Public in and for the County of Brookings, South Dakota. My Commission expires February 22, 2020.

**NOTICES • LEGAL**

RECEIVED

FEB 01 2018

WATER RIGHTS PROGRAM

**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574-3**

Notice is given that the Water Management Board will review Future Use Permit No. 3574-3, held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574-3. This permit was approved 1977 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding

upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address

**AFFIDAVIT OF PUBLICATION**

STATE OF SOUTH DAKOTA, County of Miner: ss.

Carla Poulson of said County and State, being duly sworn, on her oath says: That the Miner County Pioneer is a legal newspaper of general circulation, printed and published in Howard, said County and State, by Carla Poulson, and has been such newspaper during the time hereinafter mentioned: and that I, Carla Poulson the undersigned, am publisher of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the advertisement or notice headed

Notice of Hearing to Review Future water use - Permit # 3574-3

A printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in a supplement, once each week for .....1..... successive weeks, the first publication being made on the .....25 day of Jan..... 2018..

And the last publication on the ..... day of ..... 20.....

The first publication being made on the ..... day of ..... 20.....

The second publication being made on the ..... day of ..... 20.....

The third publication being made on the ..... day of ..... 20.....

The fourth publication being made on the ..... day of ..... 20.....

The fifth publication being made on the ..... day of ..... 20.....

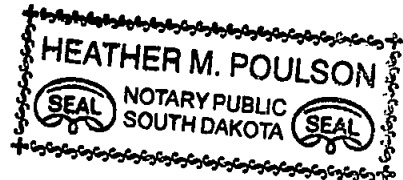
That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies weekly, and has been published within the County of Miner, for more than fifty-two successive weeks next prior to the first publication of said notice, and is printed in on office maintained in Howard, South Dakota, the place of publication of said newspaper. That the full amount of fees for publication of the annexed notice is \$ ~~43.36~~ and insures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any person whomsoever

*CR*

Subscribed and sworn to me this ...25... day of ...Jan... 2018...

*[Signature]*

My commission expires the .....10..... day of ...Oct..... 2019



is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published one time at the approximate total cost of \$43.36.

(January 25)

RECEIVED

JAN 31 2018

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )
County of Hamlin ) SS

I, LeeAnne Dufek

certify that the attached printed Notice was taken from the Hamlin County Republican

printed and published in Castlewood County of Hamlin and

state of South Dakota. The notice was published in the newspaper on the following date:

Jan. 24, 2018

Cost of Printing \$44.48

LeeAnne Dufek (Signature)

Owner (Title)

1-26-2018 (Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574-3

Notice is given that the Water Management Board will review Future Use Permit No. 3574-3 held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574-3. This permit was approved 1977 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building,

523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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Published Jan. 24, 2018, at total cost of \$44.48.



# Printer's Affidavit of Publication

RECEIVED

STATE OF SOUTH DAKOTA  
COUNTY OF GRANT

} ss.

JAN 29 2018

WATER RIGHTS  
PROGRAM

Ashlie Schweitzer

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574-3

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Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or the planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

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of said County and State, being first duly sworn, on oath says that the Grant County Review is a legal weekly newspaper of general circulation, printed and published in Milbank, in said County of Grant and State of South Dakota, by Grant County Review, Inc., and has been such newspaper during the times hereinafter mentioned; that said newspaper is a legal newspaper; and that it has a bona fide circulation of more than two hundred copies weekly, and has been published within said County of Grant in the English language and has been admitted to the United States mail under second class mailing privilege, for at least one year next prior to the publication of the Notice herein mentioned, and has been printed wholly in an office maintained at the said place of publication, that I, the undersigned, Bookkeeper of said newspaper, in charge of the accounts receivable department thereof, have personal knowledge of all the

facts stated in this affidavit; that the advertisement headed Notice of Hearing to Review Future Use Water Permit No. 3574-3 - East Dakota Water Development District

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet and is made a part of this Affidavit, was published in said newspaper at least once each week for one successive weeks, on the day of each week on which the said newspaper was regularly published, to-wit:

<u>January 24</u> 20 <u>18</u>	_____	20
_____	_____	20
_____	_____	20

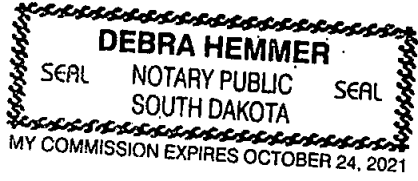
That \$ 49.10, being the full amount of the fee charged for the publication of said Notice, inures to the benefit of the publisher of the Grant County Review; that no agreement or understanding for the division thereof has been made with any person, and that no part has been agreed to be paid to any person whomsoever.

Ashlie Schweitzer

Subscribed and sworn to before me this 24th day of Jan 2018

Debra Hemmer

Notary Public, Grant County, South Dakota



Publication Fee \$ 49.10  
 Notarial Fee \$ \_\_\_\_\_  
 Total \$ 49.10

Printer's Affidavit of Publication

and Attorney's Affidavit Ex-Rel. Fees

In \_\_\_\_\_ Court

STATE OF SOUTH DAKOTA }  
COUNTY OF GRANT } ss.

Filed in the office of \_\_\_\_\_

on the \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_

Attorney for \_\_\_\_\_

The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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Published once at an approximate cost of \$49.10.

RECEIVED

JAN 29 2018

WATER RIGHTS  
PROGRAM

# AFFIDAVIT OF PUBLICATION

PLAIN TALK

EAST DAKOTA WATER DEVELOPMENT DISTRICT  
JAY GILBERTSON  
132B AIRPORT DR  
BROOKINGS SD 57006

STATE OF SOUTH DAKOTA  
COUNTY OF CLAY

TERA SCHMIDT, BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT (S)HE IS THE CLASSIFIED MANAGER OF YANKTON MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED NOTICE OF HEARING TO REVI WATER PERMIT NO 3574-3 TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 26th DAY OF January, 2018 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID NOTICE TO WIT \$43.94 ENSURES TO THE BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO AGREEMENT AND 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.

PUBLISHED ON: 01/26/2018

FILED ON: 01/26/2018

*Tera A Schmidt*

SUBSCRIBED AND SWORN TO BEFORE ME THIS 26th DAY OF January, 2018

*Angela M. Schild*

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES 08/19/2021

Ad text : NOTICE OF HEARING

TO REVIEW FUTURE USE WATER PERMIT NO. 3574-3

Notice is given that the Water Management Board will review Future Use Permit No. 3574-3 held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574-3. This permit was approved 1977 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$43.94.

Publish: January 26, 2018.

RECEIVED  
JAN 29 2018  
WATER RIGHTS  
PROGRAM

Form 8

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )

County of Codington ) SS

I, Jackie Wettestad

certify that the attached printed Notice was taken

from the Watertown Public  
Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 24, 2018

Cost of Printing \$90.99

Jackie Wettestad  
(Signature)

Accounting Clerk  
(Title)

1/26/18  
(Date Signed)

**DEPARTMENT  
OF  
ENVIRONMENT  
AND NATURAL  
RESOURCES**

**NOTICE OF HEARING TO  
REVIEW FUTURE USE WATER  
PERMIT NO. 3574-3**

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Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

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The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 48-1-14, 46-2-5, 48-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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Published once at the approximate cost of \$85.99. (January 24, 2018)

JAN 29 2018

Wednesday, Jan. 24

AFFIDAVIT OF PUBLICATION

WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA }
} ss.
County of Lake }

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574-3
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Aubrey Larsen of the City of Madison, County of Lake, State of South Dakota, being first duly sworn on oath, deposes and says:

The Madison Daily Leader is a daily legal newspaper of general circulation, printed and published in the City of Madison, in said County of Lake, by Hunter Publishing, Inc., Jon M. Hunter, publisher, and has been such legal newspaper during the times hereinafter mentioned; that the said Madison Daily Leader has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said time had, and how has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Secretary of the said newspaper, in charge of the advertising department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed

East Dakota Water Development District

Hearing to Review Future Use Water Permit No 3574-3

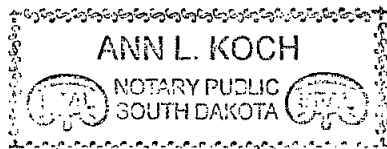
printed copy of which hereunto attached, was printed and published in the said newspaper for One successive weeks, once each week and on the same day of the week, on the following dates, to-wit:

- On Wednesday, the 24th day of January, 2018;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;

That \$ 48.14 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publisher of the said newspaper; that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Aubrey Larsen (signature)

Subscribed and sworn to before me this 25th day of January, 2018



Ann L. Koch (signature)
Notary Public, Lake County, South Dakota

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use, and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and

Publication Fees \$
Notary Fees \$
Total \$

Received Payment,

In ..... Court

County of .....

**AFFIDAVIT OF PUBLICATION**

Filed in the office of .....

..... on the

..... day of .....

20 .....

Attorneys for .....

present evidence or cross-examine witnesses according to SDCL 1-26; must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is: Water Rights Program, Joe Boss Building, 523 E. Capitol Ave., Pierre, SD, 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

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M: .....

Court and State Supreme Court as provided by law.

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STEVEN M. PIRNER  
Secretary, Department of  
Environment and  
Natural Resources  
Published once at the total  
approximate cost of \$48.14

# Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF MOODY) SS

MARY LYNN HEADRICK, of said county, being first duly sworn on oath says that she is the bookkeeper of the Moody County Enterprise, a weekly newspaper printed and published in said county of Moody and State of South Dakota, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least 200 copies weekly, and has been published within said county for 52 consecutive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the advertisement headed:

RECEIVED  
JAN 29 2018  
WATER RIGHTS PROGRAM

## Notice of Hearing To Review

### Future Use Water Permit

No. 3574-3

a printed copy of which, taken from the newspaper in which the same was published, is attached to this sheet and is made a part of this affidavit, was published in said newspaper at least once in each week for 1 successful weeks, on the day of each week on which said newspaper was regularly published, to wit:

1-24-18

that the full amount of the fee charged for the publication of said Notice inures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any person, and that no part thereof has been agreed to be paid to any person whomsoever, and that the fees charged for the publication thereof are

\$ 47.50

M. Headrick bookkeeper  
Subscribed and sworn to before me this

25<sup>th</sup> day of January AD 2018

Notary Public, County of Moody, South Dakota

ROGER W JANSSEN

NOTARY PUBLIC  
SOUTH DAKOTA

My commission expires 2/16/18

### NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574-3

Notice is given that the Water Management Board will review Future Use Permit No. 3574-3, held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574-3. This permit was approved 1977 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief

Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any per-

son, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018.

The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$47.50



600 Public Notice

RECEIVED  
JAN 29 2018  
WATER RIGHTS  
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County of Hughes ) SS

I, Marylinn Baker

certify that the attached printed Notice was taken  
from the Capital Journal

printed and published in Pierre

County of Hughes and

state of South Dakota. The notice was published

in the newspaper on the following date:

1-24-18

Cost of Printing \$ 49.56

Marylinn Baker  
(Signature)

Business Office Asst.  
(Title)

1-25-18  
(Date Signed)

ington, Hamlet, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest. The Water Management Board will conduct the hearing to review Future Use Permit No 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave Pierre, SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition. The hearing to review Future Use Permit No 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, Board Rules A R S D 74:02:01.25:01 thru 74:02:01.25:03 and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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. Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26 2018. 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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pinner, Secretary Department of Environment and Natural Resources. Published once at the top proximate cost of \$49.56

SDCL 46-2A-2  
NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574-3  
Notice is given that the Water Management Board will review Future Use Permit No 3574-3 held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No 3574-3. The permit was approved 10/77 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Waltham, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Cod-

# AFFIDAVIT OF PUBLICATION

State of South Dakota )

:ss

County of Union )

Bruce L. Odson,

the publisher of the Leader-Courier, deposes and says that

## The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

### Notice of Hearing to Review

#### Future Use Water Permit No. 3574-3

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 25 day of January, 2018

and that the succeeding publications were

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 45.48, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, 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 other person whomsoever.



Subscribed and sworn to before me

this 25 day of January, 2018

My commission expires 7-12-23



Notary Public

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574-3

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Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN in EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

RECEIVED

JAN 29 2018

WATER RIGHTS PROGRAM

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605

773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel, if legal counsel is obtained. The permit owner need not file a petition.

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Published Jan 25, 2018. Published once at the total approximate cost of \$45.48.

CUSTOMER NUMBER:	78306	<h1>Argus Leader</h1>	P.O. Box 677349, Dallas, TX 75267-7349
INVOICE NUMBER:	2674835		
RUN DATES:	1/25, 2018	AMOUNT DUE:	\$107.99 pd.

**RECEIVED**  
**JAN 29 2018**  
**WATER RIGHTS PROGRAM**

Attn: Karen Schlaak  
Water Rights Program  
523 E. Capital - Jose Foss Building  
Pierre, SD 57501-0000

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

**AFFIDAVIT OF PUBLICATION-**

Customer Number: 78306  
Invoice Number: 902065

523 E. Capital - Jose Foss Building

## Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

Sara Kruse being duly sworn, says: That The **Argus Leader** is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-2.1, as amended 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 upon

Thursday, the 25 day of January, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

and that \$107.99 pd. was charged for publishing the same

Sara Kruse  
Subscribed and sworn to before me 1/25/18

Betty Gates  
Notary Public, South Dakota

My Commission expires March 11, 2022

**NOTICE OF HEARING TO REVIEW FUTURE USE PERMIT NO. 3574-3**  
 Notice is given that the Water Management Board will review Future Use Permit No. 3574-3 held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Minner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN IN EFFECT, for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 of 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capital, Pierre SD. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearings.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capital Ave, Pierre, SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

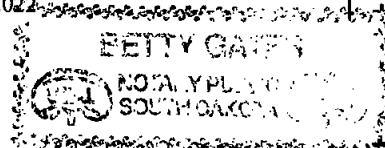
The hearing to review Future Use Permit No. 3574-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1) Board Rules ARSD 174:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired, may contact Eric Granlund, Water Rights Program, (605) 773-3352 by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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Published once at the approximate cost of \$107.99.  
2674835 Jan 25, 2018



RECEIVED

FEB 05 2018

WATER RIGHTS PROGRAM

# Affidavit of Publication

STATE OF SOUTH DAKOTA

COUNTY OF WALWORTH

I, Cris Holder, having first duly sworn under oath say: The Mobridge Tribune is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Bridge City Publishing, Inc., in Mobridge, in said county and state, and has been such legal newspaper during the time hereinafter mentioned; that during all of said time as an employee or officer of said newspaper I have had personal knowledge of the facts stated in this affidavit; that the advertisement headed:

Water board to review future use permit held by East Dakota Water Development District

Water Management Board

a printed copy of which is hereto attached, was printed and published in said newspaper for one successive weeks upon the following dates, to-wit:

January 24, 2018

that the full amount of the fees charged for publishing the same to-wit: the sum of \$47.73 inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.

*Cris Holder*

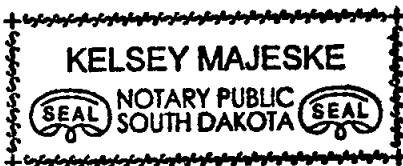
Subscribed and sworn to before me this 30<sup>th</sup> day of January, 2018

*Kelsey Majeske*

Kelsey Majeske, Notary Public  
State of South Dakota

My commission expires September, 2018

(Seal)



## Water board to review future use permit held by East Dakota Water Development District

NOTICE OF HEARING TO REVIEW FUTURE USE, WATER PERMIT NO. 3574-3.

Notice is given that the Water Management Board will review Future Use Permit No. 3574-3 held by East Dakota Water Development District, c/o Jay Gilbertson, Manager, 132B Airport Drive, Brookings SD 57006 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574-3. This permit was approved 1977 and currently reserves 144,000 acre-feet of water from the Missouri River. The Missouri River diversion points could be located in Walworth, Hughes, Clay and/or Union counties. The East Dakota Water Development District includes the counties of Grant, Codington, Hamlin, Deuel, Brookings, Kingsbury, Miner, Lake, Moody and Minnehaha. The water is for rural water system, municipal and industrial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Program recommends that Permit No. 3574-3 REMAIN IN EFFECT for 144,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

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E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

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Published once at the approximate cost of \$47.73.



# CRWS

*Clay Rural Water System*

30376 SD HWY 19  
Wakonda SD 57073-6416  
Phone: 605-267-2088  
Fax: 605-267-2085  
Email: office@clayruralwater.com

December 19, 2017

Eric Gronlund  
DENR – Water Rights Program  
Foss Building – 523 E Capital  
Pierre SD 57501-3182

RE: Future Use Permit

Dear Mr. Gronlund:

In response to Karen Schlack's letter of December 6, 2017, regarding review of our Future Use Permit No. 3574A-3, I offer the following information in support of the renewal of the permit.

The permit is for future withdrawals from the Missouri River. The Missouri forms the southern border of our service area from near Gayville, SD to near North Sioux City, SD, approximately 46 miles. This area has historically shown consistent growth and a need for reliable water supplies. Retaining this permit will allow us to meet future demand from this source.

The Clay RWS currently has groundwater withdrawal permits for its water treatment plants located near Wakonda and McCook Lake. By retaining the Missouri River permit, we will have an alternate source in the event one of our groundwater sources would become contaminated.

And finally, the Clay RWS tries to play an active role in economic development in our service area. The water available from the future use permit can be an important tool in attracting development to our area.

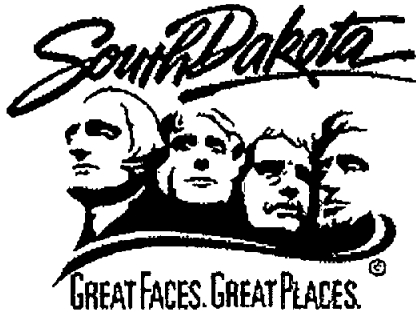
For these reasons, we wish to request renewal of the future use permit.

Thank you for your consideration and feel free to contact me if you need any additional information.

Sincerely,

Greg Merrigan  
System Manager

**RECEIVED**  
**DEC 22 2017**  
**WATER RIGHTS PROGRAM**



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 3574A-3, Clay Rural Water System

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 Future Use Water Permit No. 3574A-3, Clay Rural Water System, c/o Greg Merrigan, System Manager, 30376 SD Hwy 19, Wakonda SD 57073.

The Chief Engineer is recommending that Future Use Permit No. 3574A-3 REMAIN in EFFECT for 1,000 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3574A-3, 2) the system has demonstrated a reasonable need for the water reserved by Permit No. 3574A-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 3574A-3 is subject to payment of the \$145.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.

A handwritten signature in black ink that reads "Jeanne Goodman". The signature is fluid and cursive.

Jeanne Goodman, Chief Engineer  
January 17, 2018

Form 8

RECEIVED

JAN 31 2018

WATER RIGHTS PROGRAM

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
County of Turner ) SS

I, Dawn Rye

certify that the attached printed Notice was taken  
from the New Century Press,  
publisher

printed and published in The New Era  
County of Turner and

state of South Dakota. The notice was published  
in the newspaper on the following date:

Thurs. Jan. 25th 2018

Cost of Printing \$ 54.61

Dawn Rye  
(Signature)

Office Manager  
(Title)

1/25/18  
(Date Signed)



**Notice of hearing to review  
future use water permit NO.**

**3574A-3**

Notice is given that the Water Management Board will review Future Use Permit No. 3574A-3 held by Clay Rural Water System, c/o Greg Merrigan, System Manager, 30376 SD Hwy 19, Wakonda SD 57073 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574A-3. This permit was approved 1977 and currently reserves 1,000 acre-feet of Missouri River water from not yet specified points in Clay or Union County for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574A-3 REMAIN in EFFECT for 1,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574A-3 at 10 a.m. on Wednesday, March 7 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel. If legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 3574A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01, thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired, may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by

Monday, Feb. 26.

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 any party chooses 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 Ave, Pierre SD) by Monday, Feb. 5; Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the approximate cost of \$54.61 (N0125-5)

# AFFIDAVIT OF PUBLICATION

State of South Dakota )

:ss

County of Union )

Bruce L. Odson,

the publisher of the Leader-Courier, deposes and says that

## The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

### Notice of Hearing to Review

#### Future Use Water Permit No. 3574A-3

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 25 day of January, 2018

and that the succeeding publications were

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 42.71, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, 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 other person whomsoever.

Subscribed and sworn to before me

this 25 day of January, 2018

My commission expires 7-12-23

SUSAN ODSON  
NOTARY PUBLIC  
SOUTH DAKOTA

Notary Public

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574A-3

Notice is given that the Water Management Board will review Future Use Permit No. 3574A-3 held by Clay Rural Water System, c/o Greg Merrigan, System Manager, 30976 SD Hwy 19, Wakonda SD 57073 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574A-3. This permit was approved 1977 and currently reserves 1,000 acre-feet of Missouri River water from not yet specified points in Clay or Union County for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574A-3 REMAIN in EFFECT for 1,000 acre-feet annually because 1) the reserved water may be developed; 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574A-3 at 10:00 am on March 7, 2018 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

RECEIVED

JAN 29 2018

WATER RIGHTS PROGRAM

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Ross Building, 523 E Capitol Ave, Pierre, SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 3574A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38, Board Rules ARSD 74-02-01-25 01 thru 74-02-01-25 03 and contested case procedures contained in

SDCL 1-26. This hearing is an adversary proceeding. The permit owner or any person after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing, impaired may contact Eric Grönlund, Water Rights Program, (605-773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018.

Steven M. Pinner, Secretary, Department of Environment and Natural Resources  
Published Jan. 25, 2018  
Published once at the total approximate cost of \$42,718.  
45-189000 OT 21M  
STAY IN THE KNOW

# Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF LINCOLN

RECEIVED  
JAN 29 2018  
WATER RIGHTS  
PROGRAM

## ANDY WILCOX

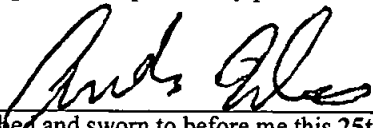
being first duly sworn on his oath says; that the Sioux Valley News is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Sioux Valley News, Inc., in Canton, in said county and State, and has been such legal newspaper during the time hereinafter mentioned; that he is and during all of said time was publisher of said newspaper and has personal knowledge of the facts stated in this affidavit; that the advertisement headed:

### Notice of Hearing Water Permit NO. 3574A-3

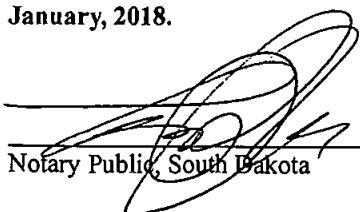
a printed copy of which is hereto attached, was printed and published in said newspaper for ONE successive week(s) upon the following dates, to-wit:

January 25, 2018

that the full amount of the fees charged for publishing the same to-wit: the sum of \$43.56 inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.



Ascribed and sworn to before me this 25th day of  
January, 2018.



Notary Public, South Dakota

(Seal)



### NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3574A-3

Notice is given that the Water Management Board will review Future Use Permit No. 3574A-3 held by Clay Rural Water System, c/o Greg Merrigan, System Manager, 30376 SD Hwy 19, Wakonda SD 57073 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574A-3. This permit was approved 1977 and currently reserves 1,000 acre-foot of Missouri River water from not yet specified points in Clay or Union County for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3574A-3 REMAIN in EFFECT for 1,000 acre-foot annually because 1) the reserved water may be developed; 2) there is need for the reserved water; 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 3574A-3 at 10:00 am on March 7, 2018 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for

petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

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This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published in the Sioux Valley News on January 25, 2018, at the total approximate cost of \$43.56.

My Commission Expires  
December 9, 2020

# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED  
JAN 29 2018  
WATER RIGHTS  
PROGRAM

CLAY RURAL WATER SYSTEM  
30376 SD HWY 19  
WAKONDA SD 57073

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

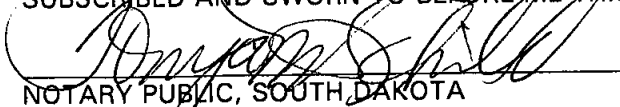
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED 1 + 25 NOTICE OF HEARING TO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 25th DAY OF January, 2018 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID NOTICE TO WIT \$42.19 ENSURES TO THE BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO AGREEMENT AND 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.

PUBLISHED ON: 01/25/2018

FILED ON: 01/25/2018

  
SUBSCRIBED AND SWORN TO BEFORE ME THIS 25th DAY OF January, 2018

  
NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES 08/19/2021

Ad text : 1 +25

NOTICE OF HEARING TO  
REVIEW FUTURE USE  
WATER PERMIT NO. 3574A-3

RECEIVED  
JAN 29 2018  
WATER RIGHTS  
PROGRAM

Notice is given that the Water Management Board will review Future Use Permit No. 3574A-3 held by Clay Rural Water System, c/o Greg Merrigan, System Manager, 30376 SD Hwy 19, Wakonda SD 57073 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574A-3. This permit was approved 1977 and currently reserves 1,000 acre-feet of Missouri River water from not yet specified points in Clay or Union County for rural water system use.

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Published once at the approximate cost of \$42.19.

RECEIVED

JAN 29 2018

WATER RIGHTS  
PROGRAM

# AFFIDAVIT OF PUBLICATION

PLAIN TALK

\*CLAY RURAL WATER SYSTEM  
30376 SD HWY 19  
WAKONDA SD 57073-6416

STATE OF SOUTH DAKOTA  
COUNTY OF CLAY

TERA SCHMIDT BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT (S)HE IS THE CLASSIFIED MANAGER OF YANKTON  
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE  
PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED  
IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF  
THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN  
THIS AFFIDAVIT; THAT THE ANNEXED  
NOTICE OF HEARING TO REVI  
WATER PERMIT NO 3574A-3  
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
NEWSPAPER ON THE 26th DAY OF January, 2018  
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$41.32 ENSURES TO THE  
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO  
AGREEMENT AND 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.

PUBLISHED ON: 01/26/2018

FILED ON: 01/26/2018

*Tera A Schmidt*

SUBSCRIBED AND SWORN TO BEFORE ME THIS 26th DAY OF January, 2018

*Angela Schild*

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES 08/19/2021

Ad text : NOTICE OF HEARING  
TO REVIEW FUTURE USE  
WATER PERMIT NO. 3574A-3

RECEIVED  
JAN 29 2018  
WATER RIGHTS  
PROGRAM

Notice is given that the Water Management Board will review Future Use Permit No. 3574A-3 held by Clay Rural Water System, c/o Greg Merrigan, System Manager, 30376 SD Hwy 19, Wakonda SD 57073 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 3574A-3. This permit was approved 1977 and currently reserves 1,000 acre-feet of Missouri River water from not yet specified points in Clay or Union County for rural water system use.

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Published once at the total approximate cost of \$41.32.  
Publish: January 26, 2018.





Life's a Little Bigger in a Small Town

[www.parkersd.org](http://www.parkersd.org)

CITY OF PARKER

PO Box 265  
Parker, SD 57053-0265  
Ron Nelson, Mayor  
Adam Jans, Finance Officer

January 12, 2018

RECEIVED

JAN 12 2018

WATER RIGHTS  
PROGRAM

SD DENR  
PMB 2020  
Joe Foss Building  
523 E Capitol  
Pierre, SD 57501-3182

Karen Schlaak  
Environmental Scientist  
Water Rights Program

Dear Ms. Schlaak:

I am writing in response to the City of Parker's Future Use Water Permit No. 4798-3. The City of Parker would like to retain this permit for possible future use. Currently Parker uses water from Lewis & Clark. However, in the event the cities supply gets eliminated or we reach our max allocation, the City will be dependent on our current use permit to serve existing and or new customers.

The City of Parker is asking the SD Department of Environment and Natural Resources to allow the city to retain its Future Use Permit No. 4798-3 for the entire 340 acres for the next seven (7) years.

Please feel free to contact me if you have any questions or concerns.

Sincerely,

Adam Jans  
Finance Officer

*Cc: Travis Friman, City of Parker Water Superintendent  
Ron Nelson, Mayor—City of Parker*

Phone: 605-297-4453  
Fax: 605-297-2149  
Email address: [cityofparker@iw.net](mailto:cityofparker@iw.net)



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 4798-3, City of Parker

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 Future Use Water Permit No. 4798-3, City of Parker, c/o Adam Jans, Finance Officer, PO Box 265, Parker SD 57053

The Chief Engineer is recommending that Future Use Permit No. 4798-3 REMAIN in EFFECT for 340 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4798-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4798-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 4798-3 is subject to payment of the \$85.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

A handwritten signature in cursive script that reads "Jeanne Goodman".

Jeanne Goodman, Chief Engineer  
January 17, 2018

CUSTOMER NUMBER:	78306	<b>Argus Leader</b>	P.O. Box 677349, Dallas, TX 75267-7349
INVOICE NUMBER:	2674348		
RUN DATES:	1/25, 2018	AMOUNT DUE:	\$101.76

**RECEIVED**  
**JAN 29 2018**  
**WATER RIGHTS PROGRAM**

Attn: Karen Schlaak  
Water Rights Program  
523 E. Capital - Jose Foss Building  
Pierre, SD 57501-0000

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

**AFFIDAVIT OF PUBLICATION-**

Customer Number: 78306 523 E. Capital - Jose Foss Building  
Invoice Number: 902065

## Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

Sara Kruse being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-2.1, as amended 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 upon

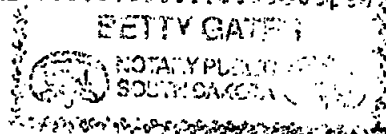
Thursday, the 25 day of January 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2018,

and that \$101.76 was charged for publishing the same

*Sara Kruse*  
Subscribed and sworn to before me 1/25/18

*Betty Gates*  
Notary Public, South Dakota

My Commission expires March 11, 2022



**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4798-3**

Notice is given that the Water Management Board will review Future Use Permit No. 4798-3 held by the City of Parker, Adam Jans, Finance Officer, PO Box 265, Parker SD 57053 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4798-3. This permit was approved in 1981 and currently reserves 340 acre-feet from groundwater (less than 100 feet deep) located within the city limits and Parker Township in Sections 7, 8, 9, 15, 16, 17 and 18, all in T99N-R33W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4798-3 REMAIN in EFFECT for 340 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4798-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Jose Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) attend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is Water Rights Program, Jose Foss Building, 523 E Capitol Ave, Pierre SD 57501, (605) 773-3352 and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit; the reasons for petitioner's opposition to or support of continuing the future use permit; and the signature and mailing address of the petitioner or his legal counsel. If legal counsel is obtained, the permit owner need not file a petition.

The hearing to review Future Use Permit No. 4798-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, ARSD 74-02:01:25.01 through 74-02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing, impaired may contact Eric Gronlund, Water Rights Program, (605) 773-3352 by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$101.76 + 2674348 Jan 25, 2018



Form 8

RECEIVED

JAN 31 2018

WATER RIGHTS PROGRAM

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
County of Turner ) SS

I, Dawn Rye

certify that the attached printed Notice was taken  
from the New Century Press,  
publisher

printed and published in The New Era  
County of Turner and

state of South Dakota. The notice was published  
in the newspaper on the following date:

Thurs. Jun 25th 2018

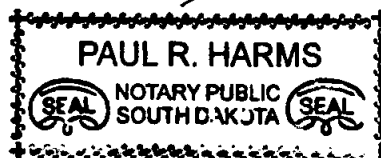
Cost of Printing \$ 54.61

Dawn Rye  
(Signature)

office manager  
(Title)

1/25/18  
(Date Signed)

Paul R Harms



**Notice of hearing to review  
Future use water permit NO.  
4798-3**

Notice is given that the Water Management Board will review Future Use Permit No. 4798-3 held by the City of Parker, Adam Jans, Finance Officer, PO Box 265, Parker SD 57053 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4798-3. This permit was approved 1981 and currently reserves 340 acre-feet from groundwater (less than 100 feet deep) located within the city limits and Parker Township in Sections 7, 8, 9, 15, 16, 17 and 18; all in T99N-R53W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4798-3 REMAIN in EFFECT for 340 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4798-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4798-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired

may contact Eric Grönlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer, by Monday, Feb. 26.

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 any party chooses 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 Ave, Pierre SD) by Monday, Feb. 5: Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$54.61  
(N0125-2)

*SOUTH LINCOLN RURAL WATER SYSTEM, INC.*

28647 472<sup>ND</sup> AVE.  
Beresford, SD 57004  
Phone: 605-777-9905

December 15, 2017

RECEIVED

DEC 20 2017

WATER RIGHTS  
PROGRAM

South Dakota Department of Environment and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3182

Re: Future Use Water Permit No. 4817-3

Dear Ms. Schlaak,

South Lincoln Rural Water System has many reason for keeping its Future Use Water Permit 4817-3.

South Lincoln continues to add 25 to 40 new customer annually. We have seen an increase in request for water in northern Lincoln and Turner counties from people wanting to be close to Sioux Falls, but wanting to enjoy the rural setting. We have been in discussions with an area community looking to partner with South Lincoln as their primary source for water. If we add this community to our system, this will double our current output.

Rural dairy development is also on the rise. Dakota Plains Dairy, with a 4200 head herd, is tripling in size by the end of 2018. Hog and other livestock confinements continues to increase in southern Lincoln and north Union counties.

South Lincoln is working with engineering on a \$9.9 million dollar improvements project. This project addresses future piping and storage needed to accommodate the growth South Lincoln is anticipating.

We ask that you allow South Lincoln to keep its Future Use Water Permit 4817-3, as it is an essential component to meeting our future water needs in Lincoln, Turner and Union counties.

Respectfully,



Thomas Rausch  
General Manager  
South Lincoln Rural Water



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 4817-3, South Lincoln Rural Water System, Inc.

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 Future Use Water Permit No. 4817-3, South Lincoln Rural Water System, Inc., c/o Thomas Rausch, Manager, 28647 472<sup>nd</sup> Ave, Beresford SD 57004.

The Chief Engineer is recommending that Future Use Permit No. 4817-3 REMAIN in EFFECT for 1,448 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4817-3, 2) the system has demonstrated a reasonable need for the water reserved by Permit No. 4817-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 4817-3 is subject to payment of the \$185.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 17, 2018

# Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF LINCOLN

RECEIVED  
JAN 29 2018  
WATER RIGHTS  
PROGRAM

## ANDY WILCOX

being first duly sworn on his oath says; that the Sioux Valley News is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Sioux Valley News, Inc., in Canton, in said county and State, and has been such legal newspaper during the time hereinafter mentioned; that he is and during all of said time was publisher of said newspaper and has personal knowledge of the facts stated in this affidavit; that the advertisement headed:

### Notice of Hearing Water Permit NO. 4817-3

a printed copy of which is hereto attached, was printed and published in said newspaper for ONE successive week(s) upon the following dates, to-wit:

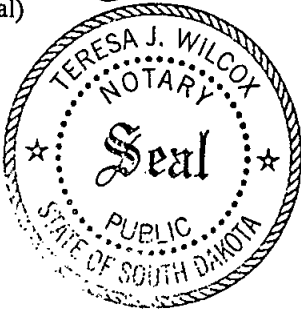
January 25, 2018

that the full amount of the fees charged for publishing the same to-wit: the sum of \$50.51 inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.

Ascribed and sworn to before me this 25th day of  
January, 2018.

Notary Public, South Dakota

(Seal)



My Commission Expires  
December 9, 2020

### NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4817-3

Notice is given that the Water Management Board will review Future Use Permit No. 4817-3 held by South Lincoln Rural Water System, Inc., c/o Thomas Rausch, Manager, 28647 472nd Ave, Beresford SD 57004 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4817-3. This permit was approved 1982 and currently reserves 1,448 acre-feet from the Dakota Aquifer, located in Sections 13 thru 16, 21 thru 28, 33 thru 36; all in T98N-R51W; Section 1 thru 4, 9 thru 16, 21 thru 28, 33 thru 36; all in T97N-R51W; Sections 1 thru 4, 9 thru 11, 12 thru 16, 21 thru 28, 33 thru 36; all in T96N-R51W; Sections 13 thru 36; all in T98N-R50W; Sections 1 thru 36; all in 97N-R50W; Sections 1 thru 27; W 1/2 Sections 30 and 31; 34 thru 36; all in T96N-R50W; Sections 16 thru 21, 28 thru 36, S 1/2 Sections 26 and 27; all in T98N-R49W; Sections 1 thru 36; all in T97N-R49W; Sections 1 thru 36; all in T96N-R49W; S 1/2 Section 31-T98N-R48W; Sections 6, 14 thru 23, 26 thru 35; all in T97N-R48W; and Sections 2 thru 11, 14 thru 36; all in T96N-R48W. This description does not include areas in and adjacent to the cities of Canton and Beresford. This water is for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4817-3 REMAIN in EFFECT for 1,448 acre-feet annually because 1) the reserved water may be developed; 2) there is need for the reserved water; 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4817-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4817-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.



This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published in the Sioux Valley News on January 25, 2018, at the total approximate cost of \$50.51.

Form 8

RECEIVED

JAN 31 2018

WATER RIGHTS PROGRAM

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
County of Turner ) SS

I, Dawn Rye

certify that the attached printed Notice was taken  
from the New Century Press,  
publisher

printed and published in The New Era  
County of Turner and

state of South Dakota. The notice was published  
in the newspaper on the following date:

Thurs. Jan. 25th 2018

Cost of Printing \$162.89

Dawn Rye  
(Signature)

office manager  
(Title)

1/25/18  
(Date Signed)

**Notice of hearing to review future use water permit NO. 4817-3.**

Notice is given that the Water Management Board will review Future Use Permit No. 4817-3 held by South Lincoln Rural Water System, Inc., c/o Thomas Rausch, Manager, 28647 472nd Ave, Beresford SD 57004 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4817-3. This permit was approved 1982 and currently reserves 1,448 acre-feet from the Dakota Aquifer located in Sections 13 thru 16, 21 thru 28, 33 thru 36; all in T98N-R51W; Section 1 thru 4, 9 thru 16, 21 thru 28, 33 thru 36; all in T97N-R51W; Sections 1 thru 4, 9 thru 11, 12 thru 16, 21 thru 28; 33 thru 36; all in T96N-R51W; Sections 13 thru 36; all in T98N-R50W; Sections 1 thru 36; all in 97N-R50W; Sections 1 thru 27; W 1/2 Sections 30 and 31; 34 thru 36; all in T96N-R50W; Sections 16 thru 21, 28 thru 36, S 1/2 Sections 26 and 27; all in T98N-R49W; Sections 1 thru 36; all in T97N-R49W; Sections 1 thru 36; all in T96N-R49W; S 1/2 Section 31-T98N-R48W; Sections 6, 14 thru 23, 26 thru 35; all in T97N-R48W; and Sections 2 thru 11, 14 thru 36; all in T96N-R48W. This description does not include areas in and adjacent to the cities of Canton and Beresford. This water is for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4817-3 REMAIN in EFFECT for 1,448 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4817-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no-planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

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of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4817-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund; Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by Monday, Feb. 26.

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Published once at the approximate cost of \$62.89 (NO 125-4)

# Argus Leader

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

## Affidavit of Publication

SOUTH LINCOLN RURAL WATER  
28647 472ND AVE  
Beresford CA 57004

I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended 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 upon

1/25/2018

Account Number: SFA-055347

Ad Number: 0002684115

Total Ad Cost: \$116.48

(Signed): Erin Göttinger Date: 1/31/18  
Legal Clerk

Signed and sworn to before me

[Signature]

Notary Public,  
Brown County, Wisconsin

My commission expires 12-14-2021

BERGEN GORNOWICH  
Notary Public  
State of Wisconsin

**NOTICE OF HEARING TO  
REVIEW FUTURE USE  
WATER PERMIT NO. 4817-  
3**

Notice is given that the Water Management Board will review Future Use Permit No. 4817-3 held by South Lincoln Rural Water System, Inc., c/o Thomas Rousch, Manager, 28347 42nd Ave, Beresford SD 57004 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4817-3. This permit was approved 1992 and currently reserves 1,448 acre-feet from the Dakota Aquifer located in Sections 13 thru 16, 21 thru 23, 33 thru 35, all in T89N-R51W, Section 1 thru 4, 9 thru 16, 21 thru 23, 33 thru 35, all in T97N-R51W, Sections 1 thru 4, 9 thru 11, 12 thru 16, 21 thru 23, 33 thru 35, all in T89N-R51W, Sections 13 thru 33, all in T89N-R50W, Sections 1 thru 35, all in 97N-R50W, Sections 1 thru 27, W 1/2 Sections 30 and 31, 34 thru 35, all in T89N-R50W, Sections 16 thru 21, 26 thru 35, S 1/2 Sections 25 and 27, all in T89N-R49W, Sections 1 thru 35, all in T97N-R49W, Sections 1 thru 35, all in T89N-R49W, S 1/2 Section 31-T89N-R49W, Sections 6, 14 thru 21, 26 thru 35, all in T87N-R49W, and Sections 2 thru 11, 14 thru 33, all in T89N-R48W. This description does not include areas in and adjacent to the cities of Canton and Beresford. This water is for rural water system use.

Pursuant to SDCL 45-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4817-3 REMAIN in EFFECT for 1,448 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4817-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board

decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-23, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

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described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources  
Published once at the approximate cost of \$116.48  
2684115 Jan 25, 2018

# AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

SS

RECEIVED

COUNTY: UNION

FEB 26 2018

CITY: BERESFORD

WATER RIGHTS PROGRAM

**NOTICE OF HEARING  
TO REVIEW FUTURE  
USE WATER PERMIT NO.  
4817-3**

NEWSPAPER: BERESFORD REPUBLIC

Notice is given that the Water Management Board will review Future Use Permit No. 4817-3 held by South Lincoln Rural Water System, Inc., c/o Thomas Rausch, Manager, 28647 472nd Ave, Beresford SD 57004 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4817-3. This permit was approved 1982 and currently reserves 1,448 acre-feet from the Dakota Aquifer located in Sections 13 thru 16, 21 thru 28, 33 thru 36; all in T98N-R51W; Section 1 thru 4, 9 thru 16, 21 thru 28, 33 thru 36; all in T97N-R51W; Sections 1 thru 4, 9 thru 11, 12 thru 16, 21 thru 28, 33 thru 36; all in T96N-R51W; Sections 13 thru 36; all in T98N-R50W; Sections 1 thru 36; all in 97N-R50W; Sections 1 thru 27; W 1/2 Sections 30 and 31; 34 thru 36; all in T96N-R50W; Sections 16 thru 21, 28 thru 36, S 1/2 Sections 26 and 27; all in T98N-R49W; Sections 1 thru 36; all in T97N-R49W; Sections 1 thru 36; all in T96N-R49W; S 1/2 Section 31-T98N-R48W; Sections 6, 14 thru 23, 26 thru 35; all in T97N-R48W; and Sections 2 thru 11, 14 thru 36; all in T96N-R48W. This descrip-

Allyson M. Hill, being first duly sworn, on oath, says that the BERESFORD REPUBLIC IS a weekly newspaper published in said city and county, State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, and has met all the requirements for at least one year next prior to the first publication of the attached public notice, and that said notice, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper

1 time(s) as follows: that the first publication of said notice in said newspaper aforesaid was on Thursday the

25 day of January, 2018, and that the succeeding publications were severally on

Thursday, the \_\_\_ day of \_\_\_\_\_, 2018;

Thursday, the \_\_\_ day of \_\_\_\_\_, 2018;

Thursday, the \_\_\_ day of \_\_\_\_\_, 2018

Affiant further says that the full amount of the fees charged for the publication of said notice inures to the benefit of the publishers of said newspaper; that no agreement of understanding for the division thereof has been made with any other person, that no part therefore has been agreed to be paid to any person whomsoever; and that the fees charges for the publication thereof are:

DOLLARS \$ 42<sup>76</sup>

X Allyson M. Hill, Allyson M. Hill

Subscribed and sworn to before me this 31 day of January, 2018.

[Signature]

Notary Public

My commission expires 11/14/2018.



Thursday, January 25, 2018

tion does not include areas in and adjacent to the cities of Canton and Beresford. This water is for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4817-3 REMAIN in EFFECT for 1,448 acre-feet annually, because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4817-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E. Capitol, Pierre, SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is: Water Rights Program, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4817-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38, Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person after filing a petition 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave., Pierre SD) by February 5, 2018. Steven M. Pimer, Secretary, Department of Environment and Natural Resources. Published once at the approximate cost of \$42.76.

## Schlaak, Karen

---

**From:** Wendy Stethem <w\_stethem@yahoo.com>  
**Sent:** Wednesday, January 03, 2018 11:43 AM  
**To:** Schlaak, Karen  
**Subject:** Re: [EXT] Bowdle aquifer

Okay, yes I understand it now. We would like to retain this permit.

**Wendy Rausch, City Of Hoven Finance Officer**  
**605-948-2257**

---

**From:** "Schlaak, Karen" <Karen.Schlaak@state.sd.us>  
**To:** 'Wendy Stethem' <w\_stethem@yahoo.com>  
**Sent:** Wednesday, December 27, 2017 2:43 PM  
**Subject:** RE: Bowdle aquifer

Wendy Rausch,

After receiving your response regarding the 7 year review of Future Use Permit No. 4860-3, DENR wants to make sure the city fully understands that the future use permit reserves water for future development and is not for the current wells.

Currently, the city of Hoven holds Water Right No. 2855B-3 authorizing the city's use of water from 5 wells. Your email indicates that the north well is used. I am assuming that Mid Dakota supplies the city also. It is perfectly acceptable for the city to use this well and maintain the existing wells for standby purposes as long as they are maintained in working condition for immediate use upon demand. Based on your email the wells or at least the north well is maintained in working condition.

The future use permit reserves water for future development in the event the city wants to increase their diversion from the Bowdle Aquifer. An example would be if the city wants to drill an additional well, they would apply to construct and place to use water reserved by the future use permit. This could occur due to an increase in population or to supply a new business or industry that locates to the area.

Future Use Permit No. 4860-3 reserves 410 acre feet of water annually from groundwater (Bowdle Aquifer). Does the city desire to retain the future use permit for future needs?

Please contact Eric Gronlund or me , if you have additional questions.

**Karen Schlaak**  
SD DENR, Water Rights Program  
(605) 773-3352



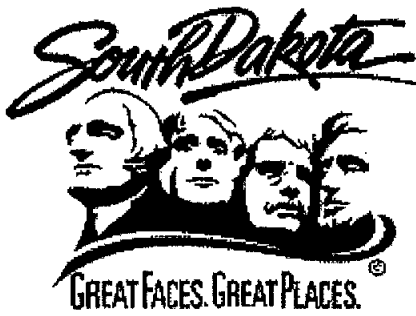
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**From:** Wendy Stethem [mailto:w\_stethem@yahoo.com]  
**Sent:** Wednesday, December 27, 2017 11:14 AM  
**To:** Schlaak, Karen  
**Subject:** [EXT] Bowdle aquifer



Hello this is Wendy Rausch the Finance Officer with the City of Hoven. We would like to retain the use of this aquifer. The meter broke this last summer so I don't have actual gallons used but the North Well as we call it is very vital to our City. In dry summers like this last one it runs almost daily to help supply the City with water. Even though we put restrictions on the water tower can not keep up with the City demands. Also it is our back up for Fire prevention. A couple of years ago when our school burnt down this well was activated to try to help fight the fire. Our water tower was completely drained. It is also is used when the Fire men are filling trucks to go fight Fires. As I said before this well is vital to keeping our community safe and is very vital to our water needs throughout the summer.

Wendy Rausch, City Of Hoven Finance Officer  
605-948-2257



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

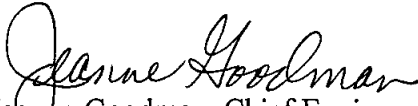
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 4860-3, City of Hoven

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 Future Use Water Permit No. 4860-3, City of Hoven, c/o Wendy Rausch, Finance Officer, PO Box 157, Hoven SD 57450.

The Chief Engineer is recommending that Future Use Permit No. 4860-3 REMAIN in EFFECT for 410 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4860-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4860-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 4860-3 is subject to payment of the \$95.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

  
Jeanne Goodman, Chief Engineer  
January 17, 2018

RECEIVED

FEB 01 2018

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )

County of Edmunds ) SS

Paulette Maursetter

certify that the attached printed Notice was taken from the Hoven Review

printed and published in Potter

County of Hoven and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 25, 2018

Cost of Printing \$46.92

Paulette Maursetter  
(Signature)

Business Manager  
(Title)

1/25/18

(Date Signed)

PUBLIC NOTICE

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4860-3

Notice is given that the Water Management Board will review Future Use Permit No. 4860-3 held by City of Hoven, Wendy Rausch, Finance Officer, PO Box 157, Hoven SD 57450 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4860-3. This permit was approved 1982 and currently reserves 410 acre-feet from the Bowdle Aquifer located in Sections 25 thru 28, 33 thru 36, T121N-R74W and Sections 1 thru 4, T120N-R74W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4860-3 REMAIN in EFFECT for 410 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4860-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD, 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's

interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4860-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$46.92 (January 25, 2018).

Form 8

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )

County of Brown ) SS

I, Mary Bastian

certify that the attached printed Notice was taken

from the Aberdeen News

printed and published in Aberdeen

County of Brown and

state of South Dakota. The notice was published

in the newspaper on the following date:

Jan 25, 2018

Cost of Printing 72.13

Mary Bastian  
(Signature)

Adv. Betty Speer  
(Title)

RECEIVED

JAN 29 2018

WATER RIGHTS PROGRAM

(No. 404762)

(January 25, 2018 - 1T)

**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4860-3**

Notice is given that the Water Management Board will review Future Use Permit No. 4860-3 held by City of Hoven, Wendy Rausch, Finance Officer, PO Box 157, Hoven SD 57450 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4860-3. This permit was approved 1982 and currently reserves 410 acre-feet from the Bowdle Aquifer located in Sections 25 thru 28, 33 thru 36, T121N-R74W and Sections 1 thru 4, T120N-R74W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4860-3 REMAIN IN EFFECT for 410 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4860-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit

No. 4860-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$72.13.



December 22, 2017

Karen Schlaak  
SD Department of Environment & Natural Resources  
Water Rights Program  
523 East Capitol  
Pierre, SD 57501-3182



**RECEIVED**  
**DEC 27 2017**  
**WATER RIGHTS PROGRAM**

Dear Ms. Schlaak,

This letter is in response to your December 6, 2017 letter regarding the Water Management Board's seven year review of Future Use Water Permits Nos. 6869A-3 and 7208-3.

Lewis & Clark Regional Water (L&C) does intend to retain these permits. L&C is roughly 70% complete and we will definitely need these Future Use Permits in the coming years as we complete our system and new and existing members fully utilize their ability to receive water from L&C.

As I am sure you are aware, L&C is a vital water supplier to 14 public water systems in the tristate region, with six more public water systems to be connected in the coming years. L&C provides or will provide water to systems in Turner, Lincoln, Minnehaha, Union, Lake, Clay and McCook counties in South Dakota; as well as Rock and Nobles counties in Minnesota; and Lyon, Sioux, Osceola and O'Brien counties in Iowa. In order to supply these systems with their contracted amounts, L&C will need to construct water supply pumping capacity of approximately 49.6 million gallons per day (mgd).

Since we started delivering water to our first members in July of 2012, our production has increased exponentially. Our diversions from the Missouri: Elk Point aquifer by year have been: 2012 1.25 billion, 2013 3.05 billion, 2014 3.75 billion, 2015 5.08 billion and 2016 5.56 billion gallons of water. Currently, we have appropriated water rights that allow a diversion rate of roughly 34.53 mgd. Our peak day so far has been nearly 24 mgd. We will be appropriating the water available under the Future Use Water Permits as we connect more members and the existing members utilize more water from L&C. The timing of the L&C system completion is entirely dependent upon future federal funding for construction. Given recent levels of funding, our current estimate is that our system will be nearing completion in the year 2031.

Please let me know if you have any questions.

Sincerely,

Jim Auen  
Operations Manager  
Lewis & Clark Regional Water System  
46986 Monty Street  
Tea, SD 57064



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

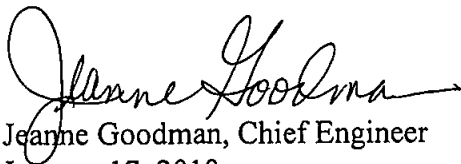
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NOS. 6869-3 and 6869A-3, Lewis & Clark Regional Water System

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 Future Use Water Permit Nos. 6869-3 and 6869A-3, Lewis & Clark Regional Water System, Jim Auen, Operations Manager, 46986 Monty St, Tea SD 57064.

The Chief Engineer is recommending that Future Use Permit Nos. 6869-3 and 6869A-3 REMAIN in EFFECT for 3,535 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under permits, 2) the system has demonstrated a reasonable need for the water reserved by the permits, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit Nos. 6869-3 and 6869A-3 are subject to payment of the \$355.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.



Jeanne Goodman, Chief Engineer  
January 17, 2018



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 7208-3, Lewis & Clark Regional Water System

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 Future Use Water Permit No. 7208-3, Lewis & Clark Regional Water System, Jim Auen, Operations Manager, 46986 Monty St, Tea SD 57064

The Chief Engineer is recommending that Future Use Permit No. 7208-3 REMAIN in EFFECT for 9,465 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 7208-3, 2) the system has demonstrated a reasonable need for the water reserved by Permit No. 7208-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 7208-3 is subject to payment of the \$845.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 17, 2018

Form 8

RECEIVED

JAN 31 2018

WATER RIGHTS PROGRAM

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
County of Turner ) SS

I, Dawn Rye

certify that the attached printed Notice was taken

from the New Century Press,  
publisher

printed and published in The New Era

County of Turner and

state of South Dakota. The notice was published

in the newspaper on the following date:

Thurs. Jan. 25, 2018

Cost of Printing \$71.16

Dawn Rye  
(Signature)

office manager  
(Title)

1/25/18  
(Date Signed)



**Notice of hearing to review  
future use water permit  
NOS. 6869-3, 6869A-3 and  
7208-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 held by Lewis & Clark Regional Water System, c/o Jim Auen, Operations Manager, 46986 Mority St, Tea SD 57064 for progress made in the development of the water reserved and future plans for development of the water reserved by the permits.

Permit Nos. 6869-3 and 6869A-3 currently reserve 3,535 acre-feet from the Missouri Elk Point Aquifer located in the S 1/4 Section 20, Lot A of Lot X, Lot X and acreage below Lots 3 and 4 Section 16, Lot A Section 22, The River Preserve Sections 22, 23, 26, 27 and Lots, 1, 2, 3, 4 and NW N&W Lot H1, Section 26; all in T92N, R52W; Lot A Missouri River Accretion Land NW 1/2 SW 1/4 Section 15, NW 1/4 Section 22, Sutherland Farm in Sections 10, 11, 14 and 15, Lot A Sutherland Farm, Lot D of Frost Tract 1 SW 1/4 and SE 1/4 Section 15, NW 1/4 NE 1/4 Section 22, Parcels X, Y Z of Lot H1 and N 1/2 Section 15, Brewer Lot 1 and Lot 2 SW 1/4 and NW 1/4 Section 27, Brewer Lot 1 SW 1/4 Section 22, Blickle Lot 1 NW 1/4 Section 22, Blickle Lot 1 Lot H1, Section 21, Plowland Section 22 and 27, and Pasture Section 22; All in T32N, R04E and between Section 26 and 35 extending E HWY to N & S Dixon Line thence NE Section 24, T92N, R52W.

Permit No. 7208-3 was approved in 2011 and currently reserves 9,465 acre-feet from the Missouri Elk Point Aquifer located in same area as described above.

Lewis & Clark Regional Water System provides water to systems in

Turner, Lincoln, Minnehaha, Union, Lake, Clay and McCook counties in South Dakota; as well as Rock and Nobles counties in Minnesota; and Lyons, Sioux, Osceola and O'Brien counties in Iowa.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6869-3 and 6869A-3, combined REMAIN in EFFECT for 3,535 acre-feet annually and Permit No. 7208-3 REMAIN in EFFECT for 9,465 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to: 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 6869A-3 and 7208-3 will be conducted pursuant to the provisions of SDCL 46-1:14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by Monday, Feb. 26.

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 any party chooses 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 Ave, Pierre SD) by Monday, Feb. 5. Steven M. Plmer, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$71.16

(N0125:3)

# Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF LINCOLN

**ANDY WILCOX**

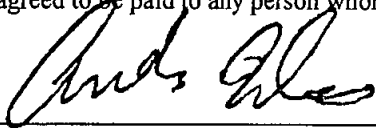
being first duly sworn on his oath says; that the Sioux Valley News is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Sioux Valley News, Inc., in Canton, in said county and State, and has been such legal newspaper during the time hereinafter mentioned; that he is and during all of said time was publisher of said newspaper and has personal knowledge of the facts stated in this affidavit; that the advertisement headed:

**Notice of Hearing  
Water Permit NO. 6869-3, 6869A-3, 7208-3**

a printed copy of which is hereto attached, was printed and published in said newspaper for ONE successive week(s) upon the following dates, to-wit:

**January 25, 2018**

that the full amount of the fees charged for publishing the same to-wit: the sum of \$57.47 inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.



Ascribed and sworn to before me this 25th day of  
January, 2018.

  
Notary Public, South Dakota  
(Seal)

**NOTICE OF HEARING TO  
REVIEW FUTURE USE WATER  
PERMIT NOS. 6869-3, 6869A-3 and  
7208-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 held by Lewis & Clark Regional Water System, c/o Jim Auen, Operations Manager, 46986 Monty St, Tea SD 57064 for progress made in the development of the water reserved and future plans for development of the water reserved by the permits.

Permit Nos. 6869-3 and 6869A-3 currently reserve 3,535 acre-feet from the Missouri:Elk Point Aquifer located in the S 1/4 Section 20, Lot A of Lot X, Lot X and acreage below Lots 3 and 4 Section 16, Lot A Section 22, The River Preserve Sections 22, 23, 26, 27 and Lots, 1, 2, 3, 4 and NW N&W Lot H1, Section 26; all in T92N, R52W; Lot A Missouri River Accretion Land NW 1/2 SW 1/4 Section 15, NW 1/4 Section 22, Sutherland Farm in Sections 10, 11, 14 and 15, Lot A Sutherland Farm, Lot D of Frost Tract 1 SW 1/4 and SE 1/4 Section 15, NW 1/4 NE 1/4 Section 22, Parcels X, Y Z of Lot H1 N 1/2 Section 15, Brewer Lot 1 and Lot 2 SW 1/4 and NW 1/4 Section 27, Brewer Lot 1 SW 1/4 Section 22, Blickle Lot 1 NW 1/4 Section 22 Blickle Lot 1 Lot H1, Section 21, Plowland Section 22 and 27, and Pasture Section 22; ALL in T32N, R04E and between Section 26 and 35 extending E HWY to N & S Dixon Line thence NE Section 24, T92N, R52W.

Permit No. 7208-3 was approved in 2011 and currently reserves 9,465 acre-feet from the Missouri:Elk Point Aquifer located in same area as described above.

Lewis & Clark Regional Water System provides water to systems in Turner, Lincoln, Minnehaha, Union, Lake, Clay and McCook counties in South Dakota; as well as Rock and Nobles counties in Minnesota; and Lyons, Sioux, Osceola and O'Brien counties in Iowa.

Pursuant to SDCL 46-2A-2 the Chief

Engineer of the Water Rights Program recommends that Permit Nos. 6869-3 and 6869A-3, combined REMAIN in EFFECT for 3,535 acre-feet annually and Permit No. 7208-3 REMAIN in EFFECT for 9,465 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 6869A-3 and 7208-3 will be conducted pursuant to the provisions

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PROGRAM

My Commission Expires  
December 9, 2020

of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

Published in the Sioux Valley News on January 25, 2018, at the total approximate cost of \$57.47.

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CUSTOMER NUMBER:	78306	<b>Argus Leader</b>	P.O. Box 677349, Dallas, TX 75267-7349
INVOICE NUMBER:	2675764		
RUN DATES:	1/25, 2018	AMOUNT DUE:	\$128.94 pd.

Attn: Karen Schlaak  
 Water Rights Program  
 523 E. Capital - Jose Foss Building  
 Pierre, SD 57501-0000

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

**AFFIDAVIT OF PUBLICATION-**

Customer Number: 78306 523 E. Capital - Jose Foss Building  
 Invoice Number: 902065

**Argus Leader**  
**AFFIDAVIT OF PUBLICATION**

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

Sara Kruse being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-2.1, as amended 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 upon

Thursday, the 25 day of January 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018,

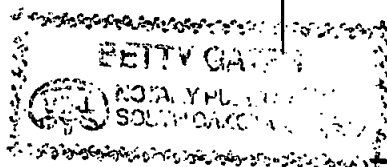
and that \$128.94 pd. was charged for publishing the same

*Sara Kruse*  
 Subscribed and sworn to before me 1/25/18

*Betty Gates*

Notary Public, South Dakota

My Commission expires March 11, 2022



**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6869-3, 6869A-3 AND 7208-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 held by Lewis & Clark Regional Water System, c/o Jim Auen, Operations Manager, 46786 Monty St, Tea SD 57064 for progress made in the development of the water reserved and future plans for development of the water reserved by the permits.

Permit Nos. 6869-3 and 6869A-3 currently reserve 3,535 acre-feet from the Missouri Elk Point Aquifer located in the S 1/4 Section 20, Lot A of Lot X, Lot X and acreage below Lots 3 and 4 Section 16, Lot A Section 22, The River Preserve Sections 22, 23, 26, 27 and Lots 1, 2, 3, 4 and NW N&W Lot H1, Section 26; all in T92N, R52W; Lot A Missouri River Accretion Land NW 1/2 SW 1/4 Section 15, NW 1/4 Section 22, Sutherland Farm. In Sections 10, 11, 14 and 15, Lot A Sutherland Farm, Lot D of Frost Tract 1 SW 1/4 and SE 1/4 Section 15, NW 1/4 NE 1/4 Section 22, Parcels X, Y, Z of Lot H1 N 1/2 Section 15, Brewer Lot 1 and Lot 2 SW 1/4 and NW 1/4 Section 27, Brewer Lot 1 SW 1/4 Section 22, Blickle Lot 1 NW 1/4 Section 22, Plowland Section 22 and 27, and Pasture Section 22; ALL in T32N, R04E, and between Section 26 and 35 extending E HWY to N & S Dixon Line thence, NE Section 24, T92N, R52W.

Permit No. 7208-3 was approved in 2011 and currently reserves 9,465 acre-feet from the Missouri Elk Point Aquifer located in same area as described above. Lewis & Clark Regional Water System provides water to systems in Turner, Lincoln, Minnehaha, Onion, Lake, Clay and McCook counties in South Dakota; as well as Rock and Nobles counties in Minnesota; and Lyons, Sioux, Osceola and O'Brien counties in Iowa.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6869-3 and 6869A-3, combined REMAIN in EFFECT for 3,535 acre-feet annually and Permit No. 7208-3 REMAIN in EFFECT for 9,465 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest. The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E. Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program, Jose Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 6869A-3 and 7208-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-2-5, 46-5-38.1; Board Rules ARSD 74:02-01:25.01 through 74:02-01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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 \$5,000.00. If any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirper, Secretary, Department of Environment and Natural Resources.

Published once of the approximate cost of \$128.94. 2675764 Jan-25, 2018



# AFFIDAVIT OF PUBLICATION

State of South Dakota )  
:ss  
County of Union )

Bruce L. Odson,

the publisher of the Leader-Courier, deposes and says that

## The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

### Notice of Hearing to Review

Future Use Water Permit Nos. 6869-3, 6869A-3, 7208-3

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 25 day of January, 2018

and that the succeeding publications were

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_,

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_,

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_,

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were


\$ 56.85, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, 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 other person whomsoever.



Subscribed and sworn to before me

this 25 day of January, 2018

My commission expires 7-12-23

  
SUSAN ODSON  
NOTARY PUBLIC  
SOUTH DAKOTA  
Notary Public

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6869-3, 6869A-3 AND 7208-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 held by Lewis & Clark Regional Water System, c/o Jim Auen, Operations Manager, 46986 Monty St, Tea SD 57064 for progress made in the development of the water reserved and future plans for development of the water reserved by the permits.

Permit Nos. 6869-3 and 6869A-3 currently reserve 3,535 acre-feet from the Missouri:Elk Point Aquifer located in the S 1/4 Section 20, Lot A of Lot X, Lot X and acreage below Lots 3 and 4 Section 16, Lot A Section 22, The River Preserve Sections 22, 23, 26, 27 and Lots, 1, 2, 3, 4 and NW N&W Lot H1, Section 26; all in T92N, R52W; Lot A Missouri River Accretion Land NW 1/2 SW 1/4 Section 15, NW 1/4 Section 22, Sutherland Farm in Sections 10, 11, 14 and 15, Lot A Sutherland Farm, Lot D of Frost Tract 1 SW 1/4 and SE 1/4 Section 15, NW 1/4 NE 1/4 Section 22, Parcels X, Y Z of Lot H1 N 1/2 Section 15, Brewer Lot 1 and Lot 2 SW 1/4 and NW 1/4 Section 27, Brewer Lot 1 SW 1/4 Section 22, Blicke Lot 1 NW 1/4 Section 22 Blicke Lot 1 Lot H1, Section 21, Plowland Section 22 and 27, and Pasture. Section 22; ALL in T32N, R04E and between Section 26 and

35 extending E-HWY to N & S Dixon Line thence NE Section 24, T92N, R52W.

Permit No. 7208-3 was approved in 2011 and currently reserves 9,465 acre-feet from the Missouri:Elk Point Aquifer located in same area as described above.

Lewis & Clark Regional Water System provides water to systems in Turner, Lincoln, Minnehaha, Union, Lake, Clay and McCook counties in South Dakota; as well as Rock and Nobles counties in Minnesota; and Lyons, Sioux, Osceola and O'Brien counties in Iowa.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6869-3 and 6869A-3, combined REMAIN in EFFECT for 3,535 acre-feet annually and Permit No. 7208-3 REMAIN in EFFECT for 9,465 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned

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future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court, as provided by law. Any person wishing a decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26 must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is: Water Rights Program, Use Permits, Fossil Building, 523 E. Capitol Ave., Pierre, SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to, or support of, continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel. If legal counsel is obtained, the permit owner need not file a petition. The hearing to review Future Use Permit Nos. 6869A-3 and 7208-3 will be conducted pursuant to the provisions of SDCL 46-11-46-2-5, 46-2-9, 46-2-11, 46-5-38, 1- Board Rules ARSD 74:02:01.25.01 thru 74:02:01.25.03 and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit owner or any person after filing a petition 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. Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the future Use Permits. The request for a delay must be filed with the Chief Engineer by February 26, 2018 and 5004 107. 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 any party chooses 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 Ave. Pierre (SD), by February 5, 2018. Steven M. Erner, Secretary, Department of Environment and Natural Resources. Publish Jan. 25, 2018. Published once at the total approximate cost of \$56.85. 44-185.

44-185

Form 8

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
County of McCook ) SS

I, Troy Schwans

certify that the attached printed Notice was taken

from the Salem Special

printed and published in Salem

County of McCook and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 25, 2018

Cost of Printing \$56.62



(Signature)

Troy Schwans

Owner

(Title)

January 26, 2018

(Date Signed)

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JAN 29 2018

WATER RIGHTS PROGRAM

# Public Notice

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6869-3, 6869A-3 and 7208-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 held by Lewis & Clark Regional Water System, c/o Jim Auen, Operations Manager, 46980 Monty St, Tea SD 57064 for progress made in the development of the water reserved and future plans for development of the water reserved by the permits.

Permit Nos. 6869-3 and 6869A-3 currently reserve 3,535 acre-feet from the Missouri Elk Point Aquifer located in the S 1/4 Section 20, Lot A of Lot X, Lot X and acreage below Lots 3 and 4 Section 16, Lot A Section 22, The River Preserve Sections 22, 23, 26, 27 and Lots, 1, 2, 3, 4 and NW N&W Lot H1, Section 26; all in T92N, R52W; Lot A Missouri River Accretion Land NW 1/2 SW 1/4 Section 15, NW 1/4 Section 22, Sutherland Farm in Sections 10, 11, 14 and 15, Lot A Sutherland Farm, Lot D of Frost Tract 1 SW 1/4 and SE 1/4 Section 15, NW 1/4 NE 1/4 Section 22, Parcels X, Y Z of Lot H1 N 1/2 Section 15, Brewer Lot 1 and Lot 2 SW 1/4 and NW 1/4 Section 27, Brewer Lot 1 SW 1/4 Section 22, Blickle Lot 1 NW 1/4 Section 22 Blickle Lot 1 Lot H1, Section 21, Plowland Section 22 and 27, and Pasture Section 22; ALL in T32N, R04E and between Section 26 and 35 extending E HWY to N & S Dixon Line thence NE Section 24, T92N, R52W.

Permit No. 7208-3 was approved in 2011 and currently reserves 9,465 acre-feet from the Missouri Elk Point Aquifer located in same area as described above.

Lewis & Clark Regional Water System provides water to systems in Turner, Lincoln, Minnehaha, Union, Lake, Clay and McCook counties in South Dakota; as well as Rock and Nobles counties in Minnesota; and Lyons, Sioux, Osceola and O'Brien counties in Iowa.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6869-3 and 6869A-3, combined REMAIN in

EFFECT for 3,535 acre-feet annually and Permit No. 7208-3 REMAIN in EFFECT for 9,465 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 F Capitol, Pierre SD.

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The hearing to review Future Use Permit Nos. 6869A-3 and 7208-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38-1; Board Rules ARS10 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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Published once at the total approximate cost of \$56.62.



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WATER RIGHTS  
PROGRAM

# AFFIDAVIT OF PUBLICATION

PLAIN TALK

LEWIS & CLARK RURAL WATER SYSTEM  
31474 SD HWY 19  
VERMILLION SD 57069

STATE OF SOUTH DAKOTA  
COUNTY OF CLAY

TERA SCHMIDT, BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT (S)HE IS THE CLASSIFIED MANAGER OF YANKTON MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED NOTICE OF HEARING TO REVI 6869-3, 6869A-3 & 7208-3 TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 26th DAY OF January, 2018 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID NOTICE TO WIT \$54.99 ENSURES TO THE BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO AGREEMENT AND 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.

PUBLISHED ON: 01/26/2018

FILED ON: 01/26/2018

Tera A Schmidt

SUBSCRIBED AND SWORN TO BEFORE ME THIS 26th DAY OF January, 2018

Gregory Smith

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES 08/19/2021

Ad text : NOTICE OF HEARING  
TO REVIEW FUTURE USE WATER PERMIT NOS.  
6869-3, 6869A-3 and 7208-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 held by Lewis & Clark Regional Water System, c/o Jim Auen, Operations Manager, 46986 Monty St, Tea SD 57064 for progress made in the development of the water reserved and future plans for development of the water reserved by the permits.

Permit Nos. 6869-3 and 6869A-3 currently reserve 3,535 acre-feet from the Missouri:Elk Point Aquifer located in the S 1/4 Section 20, Lot A of Lot X, Lot X and acreage below Lots 3 and 4 Section 16, Lot A Section 22, The River Preserve Sections 22, 23, 26, 27 and Lots, 1, 2, 3, 4 and NW N&W Lot H1, Section 26; all in T92N, R52W; Lot A Missouri River Accretion Land NW 1/2 SW 1/4 Section 15, NW 1/4 Section 22, Sutherland Farm in Sections 10, 11, 14 and 15, Lot A Sutherland Farm, Lot D of Frost Tract 1 SW 1/4 and SE 1/4 Section 15, NW 1/4 NE 1/4 Section 22, Parcels X, Y Z of Lot H1 N 1/2 Section 15, Brewer Lot 1 and Lot 2 SW 1/4 and NW 1/4 Section 27, Brewer Lot 1 SW 1/4 Section 22, Blickle Lot 1 NW 1/4 Section 22 Blickle Lot 1 Lot H1, Section 21, Plowland Section 22 and 27, and Pasture Section 22; ALL in T32N, R04E and between Section 26 and 35 extending E HWY to N & S Dixon Line thence NE Section 24, T92N, R52W.

Permit No. 7208-3 was approved in 2011 and currently reserves 9,465 acre-feet from the Missouri:Elk Point Aquifer located in same area as described above.

Lewis & Clark Regional Water System provides water to systems in Turner, Lincoln, Minnehaha, Union, Lake, Clay and McCook counties in South Dakota; as well as Rock and Nobles counties in Minnesota; and Lyons, Sioux, Osceola and O'Brien counties in Iowa.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6869-3 and 6869A-3, combined REMAIN in EFFECT for 3,535 acre-feet annually and Permit No. 7208-3 REMAIN in EFFECT for 9,465 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 6869A-3 and 7208-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

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

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JAN 29 2018  
WATER RIGHTS  
PROGRAM

controversy exceeds \$2,500.00. If any party chooses 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 Ave, Pierre SD) by February 5, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.  
Published once at the total approximate cost of \$54.99.  
Publish: January 26, 2018.

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JAN 29 2018

WATER RIGHTS  
PROGRAM

JAN 29 2018

AFFIDAVIT OF PUBLICATION

Madison Daily Leader 1M

WATER RIGHTS PROGRAM

Thursday, Jan. 25

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
County of Lake } ss.

Aubrey Larsen of the City of Madison, County of Lake, State of South Dakota, being first duly sworn on oath, deposes and says:

The Madison Daily Leader is a daily legal newspaper of general circulation, printed and published in the City of Madison, in said County of Lake, by Hunter Publishing, Inc., Jon M. Hunter, publisher, and has been such legal newspaper during the times hereinafter mentioned; that the said Madison Daily Leader has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said time had, and how has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Secretary of the said newspaper, in charge of the advertising department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed

Lewis & Clark Regional Water System

Hearing Future Use Water Permit Nos 6869-3 6869A-3 7208-3

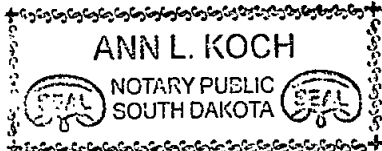
printed copy of which hereunto attached, was printed and published in the said newspaper for One successive weeks, once each week and on the same day of the week, on the following dates, to-wit:

- On Thursday, the 25th day of January, 2018;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;
On ... the ... day of ... 20...;

That \$ 58.77 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publisher of the said newspaper; that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Aubrey Larsen (Signature)

Subscribed and sworn to before me this 26th day of January, 2018



Ann L. Koch (Signature)
Notary Public, Lake County, South Dakota

NOTICE OF HEARING TO REVIEW FUTURE USE WATER

PERMIT NOS. 6869-3, 6869A-3 and 7208-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6869-3, 6869A-3 and 7208-3 held by Lewis & Clark Regional Water System, c/o Jim Auen, Operations Manager, 46986 Monty St, Tea SD 57064 for progress made in the development of the water reserved and future plans for development of the water reserved by the permits.

Permit Nos. 6869-3 and 6869A-3 currently reserve 3,535 acre-feet from the Missouri: Elk Point Aquifer located in the S 1/4 Section 20, Lot A of Lot X, Lot X and acreage below Lots 3 and 4 Section 16, Lot A Section 22, The River Preserve Sections 22, 23, 26, 27 and Lots, 1, 2, 3, 4 and NW N&W Lot H1, Section 26; all in T92N, R52W; Lot A Missouri River Accretion Land NW 1/2 SW 1/4 Section 15, NW 1/4 Section 22, Sutherland Farm in Sections 10, 11, 14 and 15, Lot A Sutherland Farm, Lot D of Frost Tract 1 SW 1/4 and SE 1/4 Section 15, NW 1/4 NE 1/4 Section 22, Parcels X, Y Z of Lot H1 N 1/2 Section 15, Brewer Lot 1 and Lot 2 SW 1/4 and NW 1/4 Section 27, Brewer Lot 1 SW 1/4 Section 22, Blickle Lot 1 NW 1/4 Section 22 Blickle Lot 1 Lot H1, Section 21, Plowland Section 22 and 27, and Pasture Section 22; ALL in T32N, R04E and between Section 26 and 35 extending E HWY to N & S Dixon Line thence NE Section 24, T92N, R52W.

Permit No: 7208-3 was approved in 2011 and currently reserves 9,465 acre-feet from the Missouri: Elk Point Aquifer located in same area as described above.

Lewis & Clark Regional Water System provides water to systems in Turner, Lincoln, Minnehaha, Union, Lake, Clay and McCook counties in South Dakota; as well as Rock and Nobles counties in Minnesota; and Lyons, Sioux, Osceola and O'Brien counties in Iowa.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6869-3 and 6869A-3, combined REMAIN in EFFECT for 3,535 acre-feet annually and Permit No. 7208-3 REMAIN in EFFECT for 9,465 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos: 6869-3, 6869A-3 and 7208-3 at 10:00 am on March 7, 2018 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

In ..... Court

County of .....

**AFFIDAVIT OF PUBLICATION**

Filed in the office of .....

on the .....

day of .....

20 .....

Attorneys for .....

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26 must file a written petition with BOTH the permit owner and the Chief Engineer by February 26, 2018. The Chief Engineer's address is: Water Rights Program, Joe Foss Building, 523 E Capitol Ave, Pierre, SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review future use permit Nos. 6869A3 and 72003 will be conducted pursuant to the provisions of SDCL 46-14, 46-21, 46-29, 46-7, 46-9, 46-11, 46-5, 38-1; Board Rules ARSD 74:02:01:25.01, thru 74:02:01:25.03 and contested case

procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person after filing a petition 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.

Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 26, 2018. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 26, 2018.

According to SDCL 1-26(1)(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 any party chooses 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 Ave, Pierre SD) by February 5, 2018.

STEVEN M. PIRNER  
Secretary, Department of  
Environment and Natural  
Resources

Published once at the total  
approximate cost of \$58.77

Report on  
Water Permit Application No. 8319-3  
Ducks Unlimited, c/o Maddie Saylor  
November 30, 2017

Ducks Unlimited, c/o Maddie Saylor, has filed Water Permit Application No. 8319-3 to appropriate and impound 119.4 acre-feet of water by constructing ditch plugs in drainage ditches located in the S ½ of Section 19-T122N-R55W, in Day County. The source of water will be surface water runoff and backwater from Waubay Lake during high water levels. The stored water will be in three separate impoundments which individually store 51.3, 47.3 and 20.8 acre-feet of water. The water will be used for fish and wildlife purposes.

Discussion

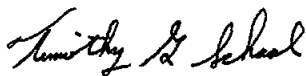
The project involves the restoration of shallow wetlands for habitat conservation purposes on property adjacent to and southeast of Waubay Lake. The project contains drainage ditches that are proposed to be filled with compacted fill to restore these wetlands. The project contains nine shallow earthen embankments to maintain eight wetlands/impoundments. The ditch plugs/embankments vary in height from two to four feet high and storage of 0.1 acre-feet to 51.3 acre-feet. Three of the impoundments are included in Water Permit Application for a total of 119.4 acre-feet of storage and the other five impoundments have been included in Location Notice No. 77334 with a total storage capacity of 15.0 acre-feet.

Section 74:02:08:01(7) of the Safety of Dams, Chapter 74:02:08, rules state that a barrier is not considered a dam for the purposes of this chapter if the height does not exceed 6 feet regardless of storage capacity. Therefore, the ditch plugs/embankments mentioned above do not need to meet the requirements of Chapter 74:02:08.

The source of water for this application will be surface water runoff and backwater from Waubay Lake during high water levels. The Department of Game, Fish and Parks holds Vested Water Right No. 639-3 for 28,320 acre-feet of water in Waubay Lake. Approval of Water Permit Application No. 8319-3 should not have any adverse effects on Vested Water Right No. 639-3 or Waubay Lake.

Conclusions:

1. Water Permit Application No. 8319-3 should be approved since unappropriated water is available and approval should not have any adverse effects on existing Water Rights.



Timothy G. Schaal, P.E.  
Engineer IV  
SD DENR, Water Rights Program



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 8319-3, Ducks Unlimited**

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. 8319-3, Ducks Unlimited, c/o Maddie Saylor, 2525 River Rd, Bismarck SD 58503.

The Chief Engineer is recommending APPROVAL of Application No. 8319-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and, 4) it is in the public interest with the following qualification:

Water Permit No. 8319-3 authorizes storage of 119.4 acre feet of water in three impoundments.

See report on application for additional information.

Jeanne Goodman, Chief Engineer  
December 5, 2017

NOTE: Please be aware that water from Waubay Lake and surface drainage may not be a reliable water source capable of consistently producing the quantity of water annually that is requested.

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DEC 14 2017

WATER RIGHTS  
PROGRAM

12-13-2017

Dear Sirs or madams:

My name is Steve Breske, I am the operator/caretaker of the Judy Breske farmland located both north and south of your application number 8319-3 to appropriate water in the December 11, 2017 edition of the newspaper. "Reporter and Farmer"

At this time we regret to inform you, we oppose your request for application to appropriate water, based upon the following criteria:

Unknown locations of proposed dam's or drainage plugs.

Unknown elevations of proposed dam's or drainage plugs.

Unknown intentions if ducks unlimited is proposing to keep run-off water in and Waubay Lake water out.

Unknown topographic view of affected areas in question, and being a neighbor what potential water elevation deviations-may or may not affect our property and adjoining waterways.

Potential Webster city storm drain-run off plan.

Enclosed are maps highlighted ducks unlimited 300 acres from years 1995,2006, and 2014. The 1995 map visibly shows the drainage ditch, and with rising water the ditch seems to disappear into 2014, but I strongly feel the acting State and project engineers need to know this information, and potential ramifications that may occur from proposed dam's locations, and proposed elevations.

Any questions or comments with this opposition can be directed toward myself or the land-owner. We have a great understanding of conservation and its place on our farm, however living in a flood plain we feel we all have to be communicative and work together to assure we are not flooding our property or our neighbors in any way shape or form.

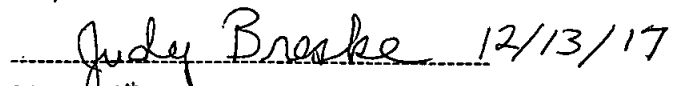
Respectfully

Steve Breske-operator



14041 437<sup>th</sup> ave  
Webster SD 57274  
605.881.8275  
605.345.3582

Judy Breske-land owner



211 w. 10<sup>th</sup> ave  
Webster SD 57274  
605.345.3537



524.70.  
Breske, Jacob M., SENW,  
266.01.  
Breske, Jacob M., E1/2 SW  
and NWSW, 639.79.  
Breske, Jacob M., SE ex

**Highland Township**  
Shepherd, Ryan, Shepherd  
Addition in SW (14.5 acres),  
452.96.  
**Andover Town**  
Clynick, Susan A., Lots

Feist, Cory, Lots 13, 14,  
and 15, Blk16 Lemmon's 6th  
Addn, 224.54.  
**Roslyn Town**  
Okroi, Adam and Kather-  
ine, S1/2 of Lots 8, 9 and 10

M., E 67' of Lots 21 and 22  
Orig Plat Blk 9, 469.35.  
Abraham, Caroline, N 65'  
of Lot 14, Blk11 Prior's Third,  
967.00.  
Karst, James, Lot 4, Blk

Wortley's, 91.67.  
Northland Auto Center  
Inc., Lot 6B Sandvig's, 4,872.70.  
Northland Auto Center  
Inc., N Pt of 8, 9 and 11 Sand-  
vig's, 400.27.

Vacated Stree  
Goehring,  
Tchida Addn,  
Published  
approximate

# Two notices of applications to appropriate water

## NOTICE OF APPLICATION NO. 8319-3 TO APPROPRIATE WATER

Notice is given that Ducks Unlimited, c/o Maddie Saylor, 2525 River Road, Bismarck, ND 58503 has filed an application for a water permit to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately two miles northeast of Webster, SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

This wetland restoration project consists of eight impoundments totaling 134.4 acre feet of water in storage capacity. The other five impoundments each store less water than the amount requiring a water permit and a location notice has been filed for these impoundments.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information,

or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 21, 2017.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the 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.

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

Published once at the total  
approximate cost of 34.94.

## NOTICE OF APPLICATION NO. 8312-3 TO APPROPRIATE WATER

Notice is given that Ronald Olson, 44228 150th St., Waubay, SD 57273 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Prairie Coteau Aquifer (100 feet deep) located in the approximate center of the SE 1/4 Section 34 for irrigation of 130 acres located in the SE 1/4 Section 34; all in T121N-R54W which is approximately six miles south of Waubay, SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8312-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and

Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 21, 2017.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the 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.

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

Published once at the total  
approximate cost of \$30.24.

# Butler declares su

## OFFICIAL PROCEEDINGS BUTLER TOWN REGULAR MEETING December 5, 2017

President Kristen Marko brought the meeting to order at 6:30 p.m. at her residence. Members present were James Marko and Duane Huwe.

Motion to read and approve the minutes of the previous meeting was made by Marko, second Huwe, carried. Minutes were approved as read.

Motion to submit and pay bills was made by Huwe, second Marko, carried. Presented for payments were NorthWestern Energy \$110.44; Reporter & Farmer \$12.98; Dependable Sanitation \$197.00;

Colin Johns  
gager Stack P  
Delaney, Niel  
\$1,779.70; Jam  
Diana Marko  
roll \$6,390.00.

Motion f  
dumpster as s  
was made by  
Huwe, carried.  
Motion w  
journal the me  
second Huwe  
meeting adjou

The next  
held on Janua  
the Kristen M  
Emily An  
Secretary/  
Published  
approximate

# Grenville will cele 100 years in June

## OFFICIAL PROCEEDINGS TOWN OF GRENVILLE REGULAR MEETING December 5, 2017

The Town Board of Grenville, SD met in regular session on Monday, December 5, 2017. The meeting was called to order by Chairman Gonzales. Answering roll call were M. Gonzales and R. Grajczyk. Pledge of Allegiance was said by everyone at the meeting. Motion to approve the agenda, by M. Gonzales, second by R. Grajczyk. The minutes were read and approved on motion by M. Gonzales; second by R. Grajczyk. Motion to approve the finance report by M. Gonzales, second by R. Grajczyk. No new building permits.

Warrants: Dacotah Bank CC \$240.54; Porter Dist. \$91.10; CWD \$2,245.14; Ameripride \$118.28; Harry's Frozen Food \$203.00; Otter Tail \$719.57;

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Ordinance #2  
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to pass it. Al  
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established in  
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ond by R. Graj

# Andover hears concerns over smoke and dust

# Delinquent leased sites

OFFICE OF  
DAY COUNTY TREASURER  
711 WEST FIRST STREET

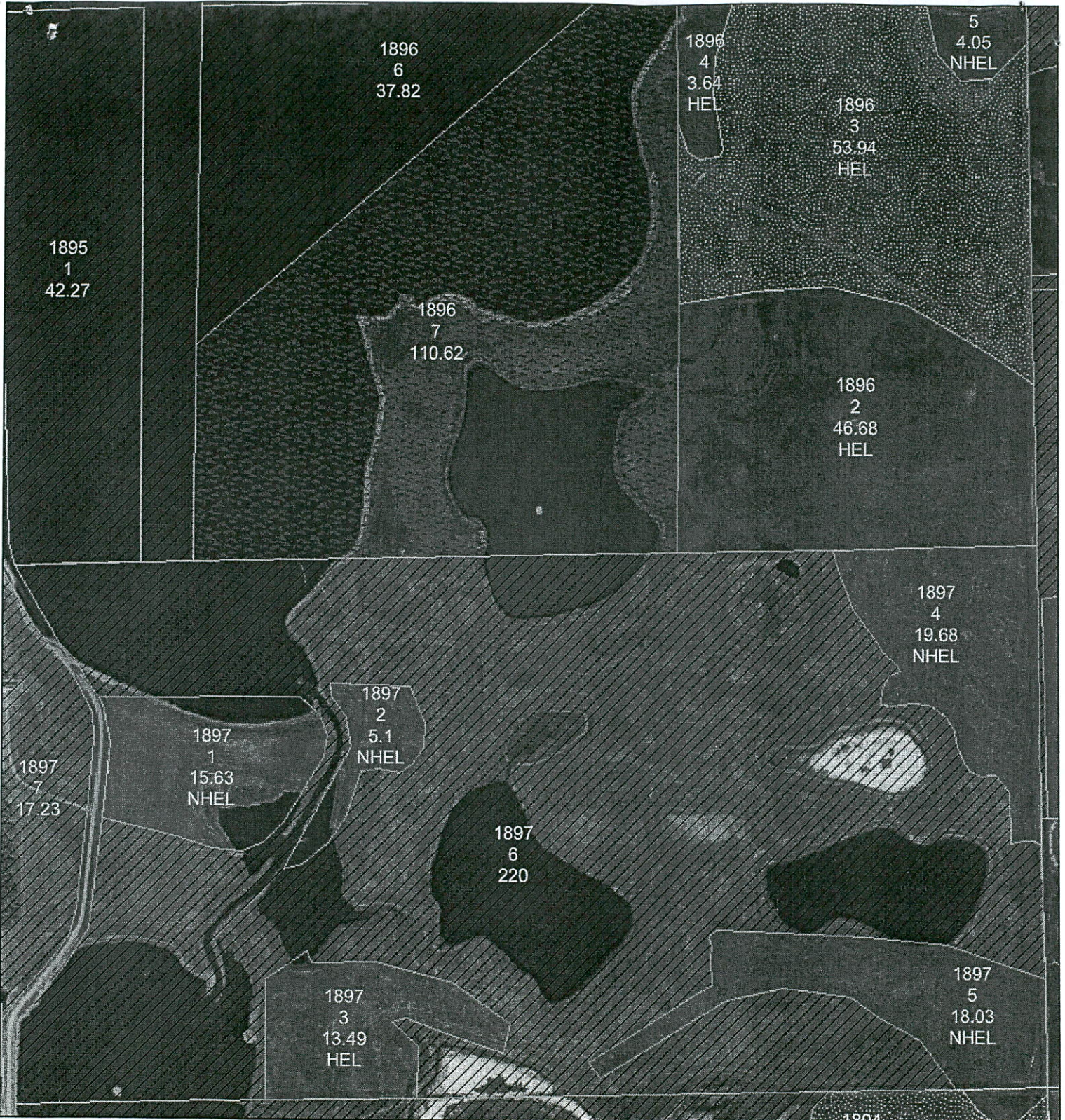
Morton Twp. 5.28  
Herrick, Barbara (LS)  
Kosciusko Twp. 2.041.67

Dec 11-2017

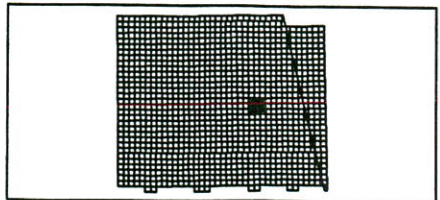








**USDA** U.S. Dept. of Agriculture  
Farm Service Agency



# South Dakota

## Day County

19-122N-55W

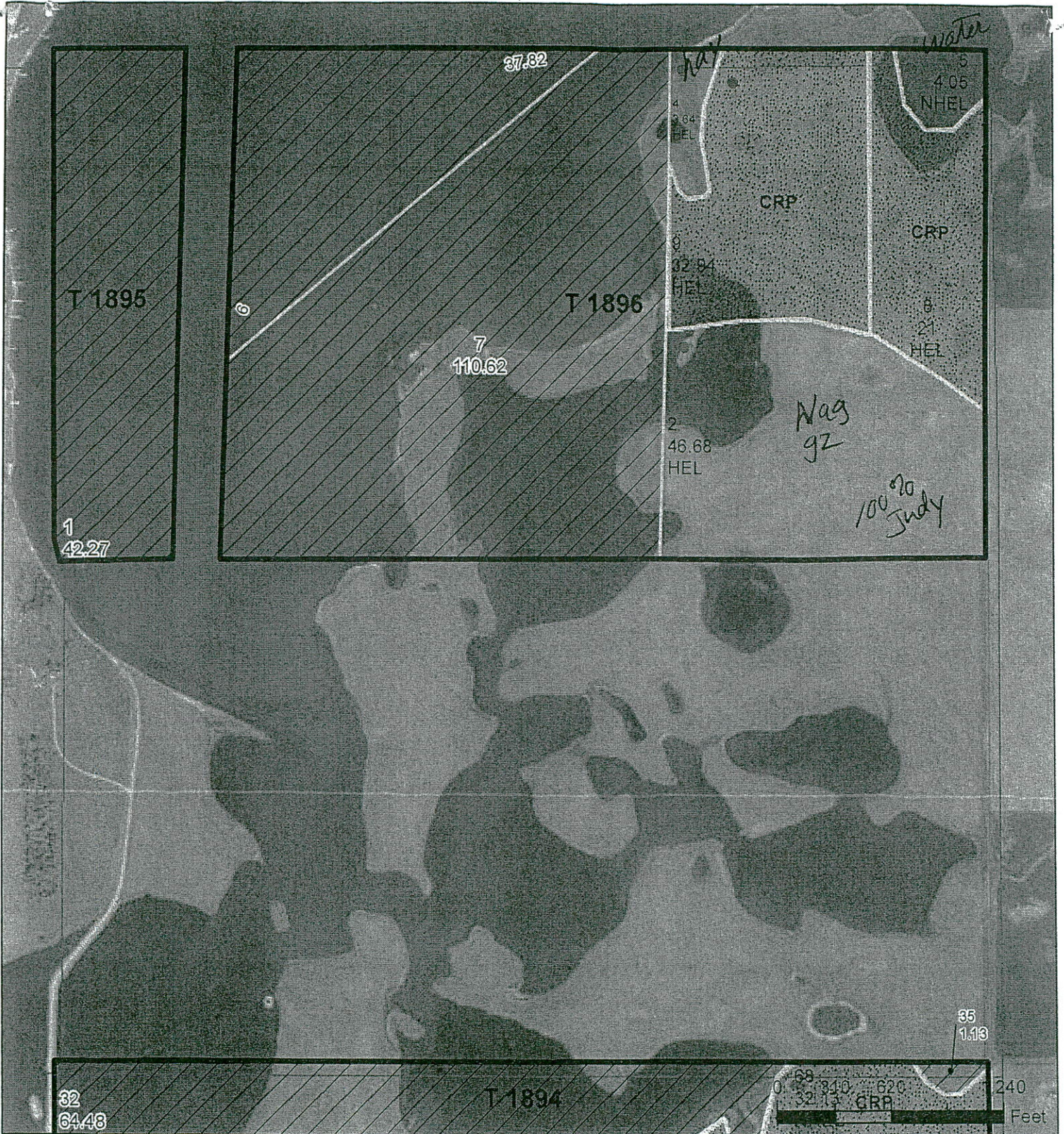
**Legend**

- Wetlands
- ▭ Tract Boundaries
- ▭ Section-Township-Range
- ▭ Easements
- ▭ CRP
- ▭ Field Boundaries
- ▭ Rangeland

USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or the 2004 ortho rectified imagery for South Dakota. The producer accepts the data "as is" and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs.

May 01, 2006





- Common Land Unit**  
 Cropland / Non-cropland  
 Conservation Reserve Program
- Wetland Determination Identifiers**  
 ● Restricted Use  
 ▼ Limited Restrictions  
 ■ Exempt from Conservation Compliance Provisions
- Tract Boundary    Section Line



2012 Ortho-Photography - not to scale

2014 Program Year

Map Created March 31, 2014

Farm 897

19 -122N -55W

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland Identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

December 28, 2017

**NOTICE OF HEARING**

TO: Maddie Saylor  
Ducks Unlimited  
2525 River Road  
Bismarck ND 57503

Danny R. Smeins  
Day County States Attorney  
506 Main Street  
Webster SD 57274

Steve Breske  
14041 437<sup>th</sup> Avenue  
Webster SD 57274

Judy Breske  
211 W 10<sup>th</sup> Avenue  
Webster SD 57274

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 8319-3, Ducks Unlimited

Petitions were filed in the matter Water Permit Application No. 8319-3 in response to the Notice of Application published in the Report & Farmer and Public Opinion. This notice schedules a hearing on Application No. 8319-3 before the South Dakota Water Management Board.

Water Permit Application No. 8319-3 proposes to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S 1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately 2 miles northeast of Webster SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

The Water Management Board will consider Application No. 8319-3 at 10:30 AM (Central Time) on Wednesday, March 7, 2018, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate. Parties will be provided written notice if there is a change to the hearing time or date.

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 the application after it reaches a conclusion based on the facts presented at the public hearing.

The March 7, 2018, 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 or support the application. The request for an automatic delay must be filed by February 23, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Contact Eric Gronlund at the above Chief Engineer's address to request the staff report, recommendation, application or any other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment 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.

Enclosed is a copy of the report, recommendation, affidavits of publication and the petitions filed in the matter of Water Permit Application No. 8319-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing.

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 direct mail to you, and the applicable date to give notice to the Chief Engineer is January 7, 2018. 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, and 46-5-46; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

enclosures

c: Ann Mines Bailey, Assistant Attorney General

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )
County of Codington ) SS

I, Jackie Wettestad

certify that the attached printed Notice was taken

from the Watertown

Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

December 11, 2017

Cost of Printing \$64.30

Jackie Wettestad (Signature)

Accounting Clerk (Title)

12/21/17 (Date Signed)

RECEIVED DEC 22 2017 WATER RIGHTS PROGRAM

NOTICE OF APPLICATION NO. 8319-3 to Appropriate Water Notice is given that Ducks Unlimited, c/o Maddie Saylor, 2525 River Road, Bismarck ND 58503 has filed an application for a water permit to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S 1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately 2 miles northeast of Webster SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes. This wetland restoration project consists of eight impoundments totaling 134.4 acre feet of water in storage capacity. The other five impoundments each store less water than the amount requiring a water permit and a location notice has been filed for these impoundments. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at http://denr.sd.gov/public or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below. Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 21, 2017. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. If the applicant does not contest the 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. Steven M. Pimer, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of \$59.30 (December 11, 2017)

RECEIVED

DEC 14 2017

WATER RIGHTS PROGRAM

AFFIDAVIT OF PUBLICATION

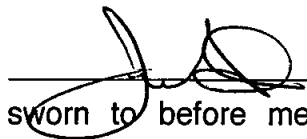
County of Day  
State of South Dakota,

} ss.

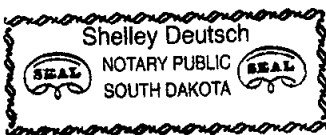
John Suhr, of said county and state being duly sworn on oath, says: That the Reporter & Farmer is a legal weekly newspaper of general circulation, and an official newspaper as required by Session Laws of 1893, printed and published in Webster, in said county and state, by the Day County Printing Company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

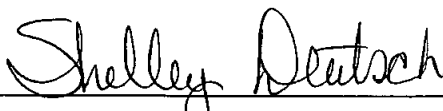
First Publication December 11;  
Third Publication ;  
Fourth Publication ;  
Fifth Publication ;

That the full amount of fees for publication of the annexed notice is \$34.94 and inures solely to the Reporter & Farmer, published by The Day County Printing Company, that no arrangement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid any person whomsoever.

  
\_\_\_\_\_

Subscribed and sworn to before me this 11th day of December, 2017.



  
\_\_\_\_\_

Notary Public, Day County, South Dakota

My Commission Expires  
October 21 2022



**NOTICE OF APPLICATION  
NO. 8319-3 TO  
APPROPRIATE WATER**

Notice is given that Ducks Unlimited, c/o Maddie Saylor, 2525 River Road, Bismarck, ND 58503 has filed an application for a water permit to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately two miles northeast of Webster, SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

This wetland restoration project consists of eight impoundments totaling 134.4 acre feet of water in storage capacity. The other five impoundments each store less water than the amount requiring a water permit and a location notice has been filed for these impoundments.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information,

or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 21, 2017.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the 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.  
Steven M. Pirner,  
Secretary, Department of  
Environment and Natural  
Resources.

Published once at the total  
approximate cost of 34.94.

REPORT TO THE CHIEF ENGINEER  
ON  
WATER PERMIT APPLICATION NO. 8278-3  
SONSTEGARD FOOD COMPANY  
C/O  
JOHN E. TAYLOR  
TAYLOR LAW FIRM  
JUNE 26, 2017

Water Permit Application No. 8278-3 proposes to authorize the diversion of water from the Vermillion East Fork aquifer at a maximum diversion rate of 1.11 cubic feet of water per second (cfs) for commercial use in an avian production facility. This application proposes to appropriate 222.2 acre-feet of water per year (ac-ft/yr.) from up to two wells (approximately 60 feet deep). The wells are to be located in the NE ¼ NW ¼ and SE ¼ NE ¼ Sec. 3-T99N-R53W in Turner County. The water will be transported via pipeline to an avian production facility to be located in the SW ¼ Section 36-T100N-R54W.

**AQUIFER: Vermillion East Fork: Montrose (VEF: M)**

**Aquifer Characteristics:**

The Vermillion East Fork aquifer is a surficial aquifer associated with East Fork Vermillion River valley (Hedges et al., 1982). The aquifer is comprised of fine sand to medium pebble gravel (Lindgren and Hansen, 1990). The aquifer extends from Clark County into Turner County where it blends into the Parker Centerville aquifer (Hedges et al., 1982). The Vermillion East Fork aquifer has been subdivided into several management units (see Figure 1). Hedges and others (1985) discuss the Montrose management unit (Vermillion East Fork: Montrose). However, the boundaries of the management unit are not preserved in any report. Consistent with the criteria used to establish management units developed by Hedges and others (1982), the Montrose management unit is considered to extend from the border between the Vermillion East Fork aquifer and the Parker Centerville aquifer at the south end to the Kingsbury/Miner County line which is the southern border of an unnamed management unit identified by Stonesifer (2014).

Figure 1 is a map of the well sites proposed by Application No. 8278-3 and the management units of the Vermillion East Fork aquifer. Figure 2 is a map of the water rights/permits authorized to withdraw water from and DENR-Water Rights Program observation wells completed into the Vermillion East Fork: Montrose aquifer. Table 1 is a list of the water rights/permits and future use permit authorized to withdraw water or reserve water from the Vermillion East Fork: Montrose aquifer. Groundwater movement in the Vermillion East Fork aquifer is generally south and towards the East Fork Vermillion River (Hansen, 1986). The aquifer is almost entirely under unconfined conditions. Based on the groundwater movement and the location of water rights/permits within the Vermillion East Fork aquifer, it is appropriate to assess only the Vermillion East Fork: Montrose aquifer as determined by Buhler (2016) and in particular the portion of the management unit that is in Turner County.

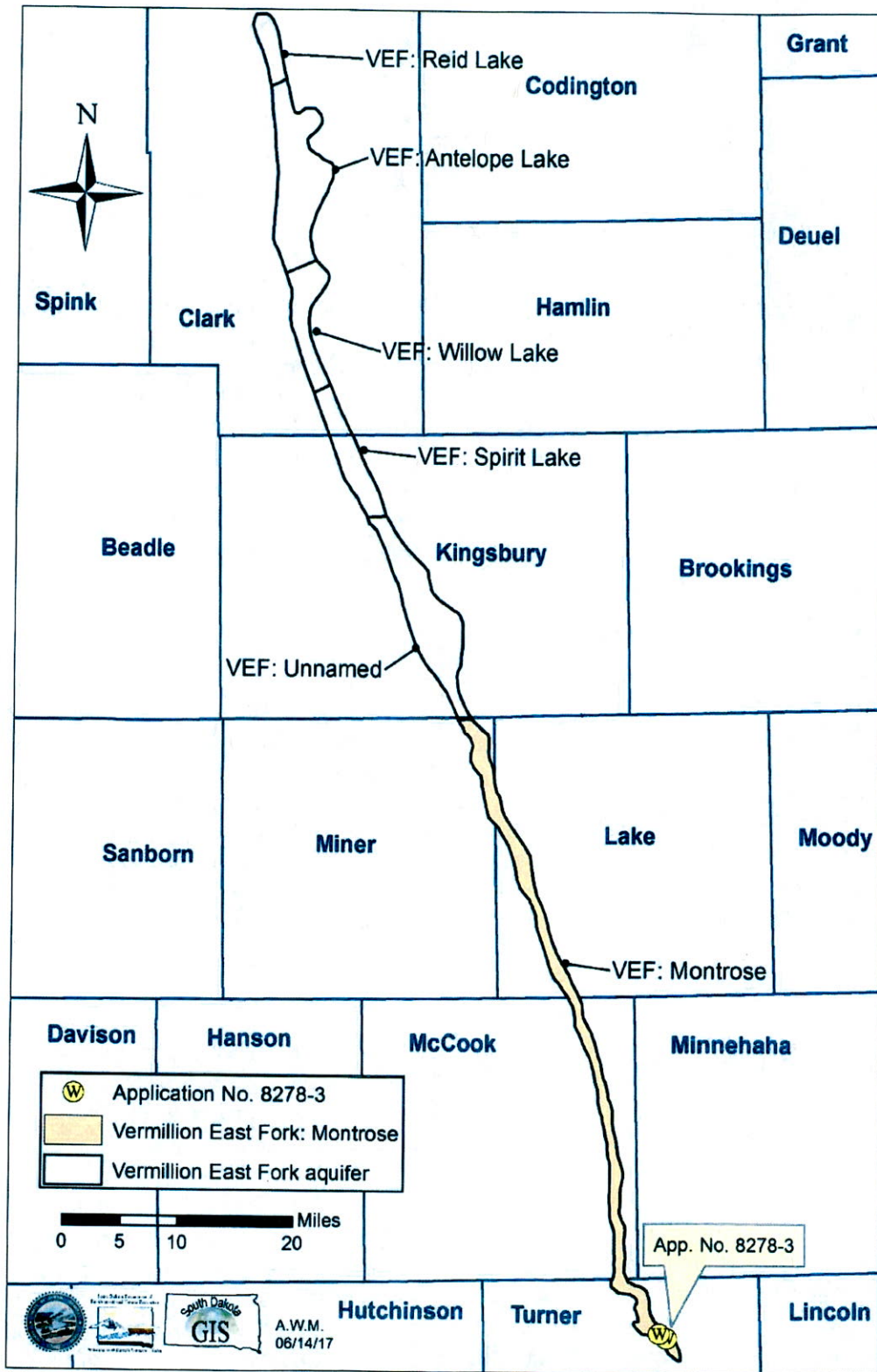


Figure 1-Map of the well sites proposed by Application No. 8278-3 and the management units of the Vermillion East Fork aquifer in South Dakota (modified from: Buhler, 2016; Hedges et al., 1982)



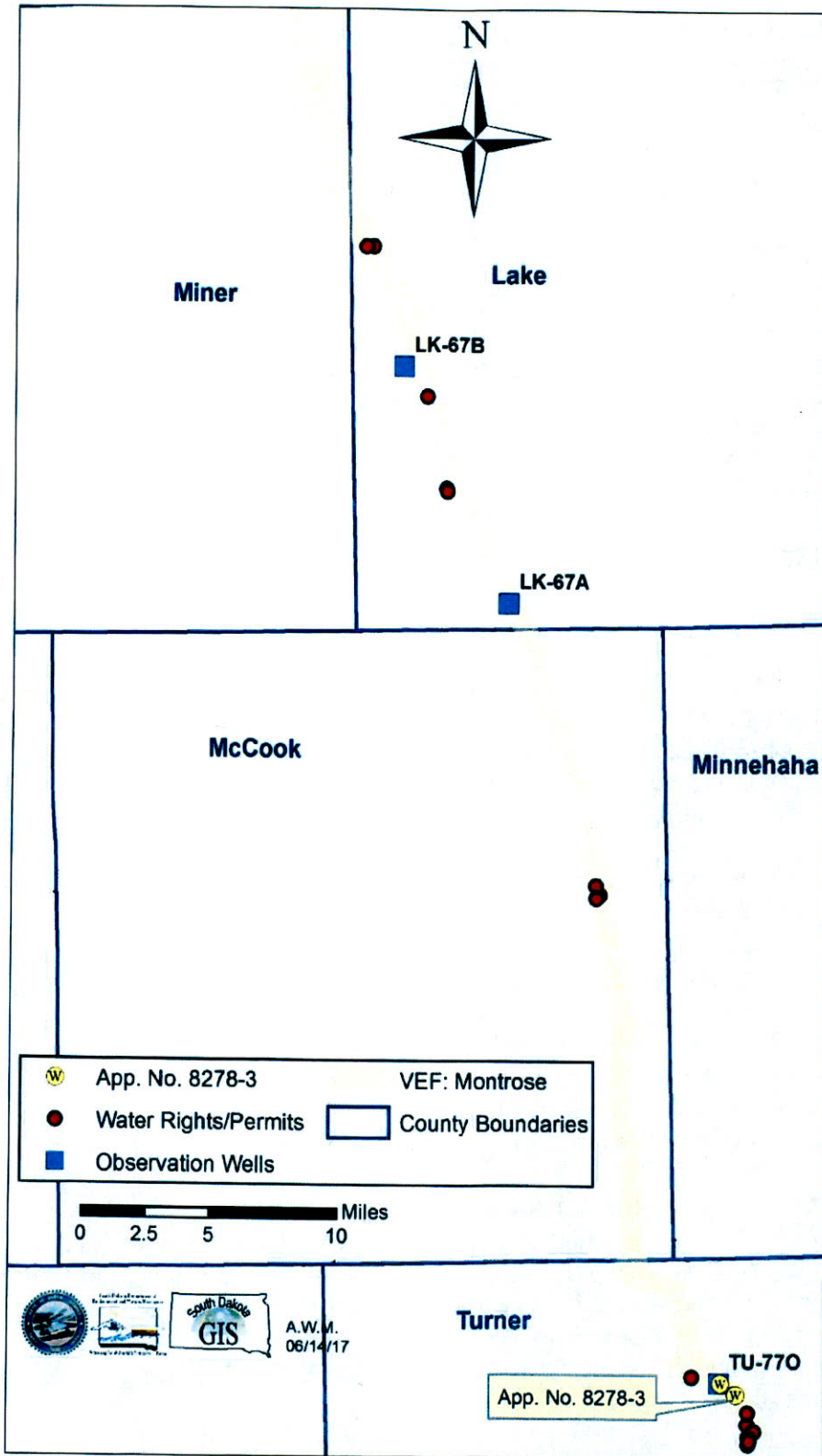


Figure 2- Map of Vermillion East Fork: Montrose with water rights/permits, future use permits, and well sites proposed by Application No. 8278-3 (Water Rights, 2017a and 2017b)

Table 1- Water rights/permits and Future Use permit authorized to withdraw water or reserve water from the Vermillion East Fork: Montrose (Water Rights, 2017b)

Permit No.	Name	County	Status	Use	Rate (cfs)	Acres	Permitted Vol. (ac-ft)
1009-3	City of Montrose	MC	LC	MUN	0.44		
2989A-3	Palmer Reinicke	LK	LC	IRR	0.3	21	
4039-3	City of Montrose	MC	FU	MUN			42
4680-3	Gracevale Htrn Brth	LK	LC	IRR	1.78	132	
5389-3	Ken Plucker Jr	TU	LC	IRR	2	160	
5914-3	Berens Farms	TU	LC	IRR	1.71	120	
6075-3	Weeg Family Farms LLP	TU	LC	IRR	1.56	132	
6401-3	Michael J Johnson	LK	LC	COM	5.56		
6434-3	DLK&M LLC	TU	LC	IRR	1.23	83	
6491-3	Joseph Plucker	TU	LC	IRR	1.11	92	
7594-3	Joseph Plucker	TU	PE	IRR	0.67	50	
7596-3	Joseph Plucker	TU	PE	IRR	0.44	20	
7597-3	Joseph Plucker	TU	PE	IRR	0.44	0	
8245-3	Gracevale Htrn Brth	LK	PE	IRR	0	132	

MC= McCook, LK= Lake, TU= Turner, LC= Water Right, FU= Future Use, PE= Water Permit, MUN= Municipal, IRR= Irrigation, COM= Commercial

The Vermillion East Fork: Montrose underlies portions of McCook, Miner, Lake, and Turner Counties (Hedges et al., 1982). Buhler's delineation of the Vermillion East Fork: Montrose based on Hedges and others (1982) map of the Vermillion East Fork aquifer shows the Vermillion East Fork: Montrose covering approximately 34,800 acres with an estimated 5,800 acres underlying Turner County. Lindgren and Hansen (1990) estimate there is 22,000 ac-ft of water in storage in the aquifer in Turner County.

The maximum aquifer thickness of the Vermillion East Fork: Montrose in Turner County is greater than 54 feet with an average thickness of 29 feet (Lindgren and Hansen, 1990). Lithologic log reports (SDGS, 2017), and completion reports for observation wells, appropriative wells, and domestic wells (Water Rights, 2017a, 2017b, and 2017c) indicate there is sand and gravel from near land surface to nearly 60 feet below grade in some locations within one-quarter mile of the well sites proposed by this application. The water level at observation well TU-770 was 8.14 feet below ground surface on June 1, 2017. Observation well TU-770 is completed into the Vermillion East Fork: Montrose aquifer and is approximately 325 feet away from the nearest well site proposed by this application.

#### **South Dakota Codified Law (SDCL) 46-2A-9**

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for this applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will address the availability of unappropriated water and effects on existing rights from the aquifer that are pertinent to this application.



**WATER AVAILABILITY:**

This application proposes to appropriate water from the Vermillion East Fork: Montrose aquifer. The probability of unappropriated water available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older or lower than the Greenhorn Formation and a water distribution system has applied for a permit, the Board need not consider the recharge/withdrawal issue. In this case, the aquifer is not stratigraphically lower than the Greenhorn Formation and the applicant is not a water distribution system.

**Observation Well Data:**

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

The DENR-Water Rights Program monitors three observation wells completed into the Vermillion East Fork: Montrose aquifer (Water Rights, 2017a). Observation well TU-770 is approximately 325 feet west of the northwestern well site proposed by Application No. 8278-3, and observation wells LK-67A and LK-67 B are approximately 31 and 40.4 miles north-northwest of the northwestern well site proposed by this application (see Figure 2) (Water Rights, 2017a). The hydrographs for TU-770, LK-67A, and LK-67B are shown in Figures 4, 5, and 6, respectively.

The hydrographs for TU-770, LK-67A, and LK-67B show stable (TU-770) or rising (LK-67A and LK-67B) water levels over their respective periods of record. All three hydrographs show the effects of climatic conditions on water levels. Water levels rise (recharge) during wetter periods and slowly decline during drier periods. The effects of climatic conditions on water levels are clear in the hydrographs for LK-67A and LK-67B but are subtle in the hydrograph for TU-770. The hydrograph for TU-770 shows a water level that seasonally fluctuates less than five feet per year in general. The hydrograph shows the water level in the aquifer is higher in the spring following recharge from direct infiltration of snowmelt and precipitation. As spring and summer progress, water levels decline to a stable level. This stable water level indicates the aquifer is not being stressed by pumping. The slight variation in the stable water level across the period of record for TU-770 documents the effects of climatic conditions dominating the water level instead of effects caused by pumping from wells.

When climatic conditions have a dominant effect on water levels, recharge to and natural discharge from an aquifer significantly exceeds pumping. Natural discharge from an aquifer is available for appropriation. Therefore, the hydrographs document there is unappropriated water available for this proposed appropriation.



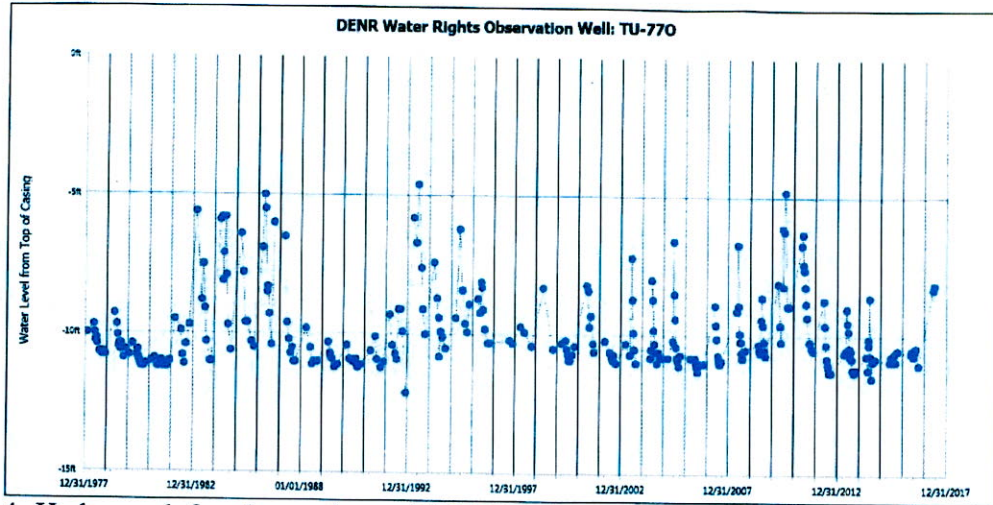


Figure 4- Hydrograph for observation well TU-770 (Water Rights, 2017a)

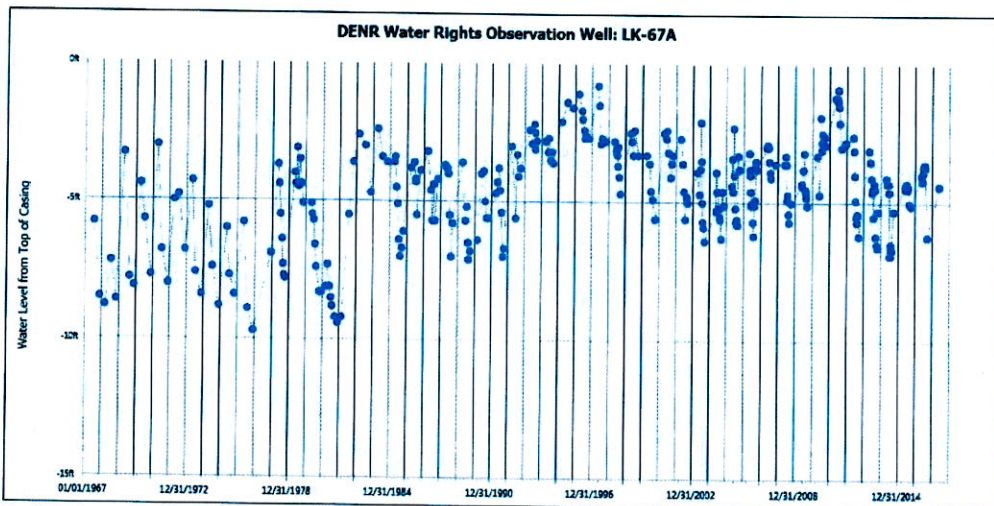


Figure 5- Hydrograph for observation well LK-67A (Water Rights, 2017a)

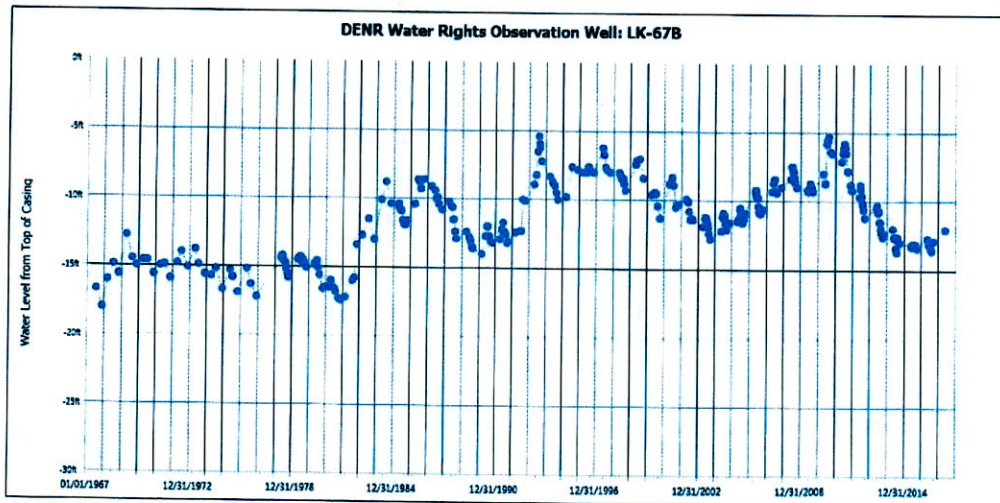


Figure 6- Hydrograph for observation well LK-67B (Water Rights, 2017a)



## **Recharge and Discharge:**

### *Recharge:*

Recharge to the Vermillion East Fork: Montrose aquifer is primarily through infiltration of precipitation and snowmelt (Hansen, 1986; Lindgren and Hansen, 1990). Hedges and others (1985) estimated an average annual recharge to the Vermillion East Fork: Montrose aquifer of 3.4 inches per year (in/yr.) using observation well analysis. Buhler's (2016) mapping of the Vermillion East Fork: Montrose aquifer estimated the areal extent to be approximately 34,800 acres with approximately 5,800 acres in Turner County alone. Based on those estimated areas and Hedges and others (1985) recharge rate, the recharge rate to the entire Vermillion East Fork: Montrose is approximately 9,860 ac-ft/yr. and 1,643 ac-ft/yr. in Turner County alone. Lindgren and Hansen (1990) stated there is about 240 ac-ft/yr. inflow from a portion of the Vermillion East Fork: Montrose in McCook County into the Turner County portion of the aquifer.

### *Discharge:*

The Vermillion East Fork: Montrose aquifer discharges through evapotranspiration, discharge to the East Fork Vermillion River when the potentiometric surface of the aquifer is at a higher elevation than the stage of the river, groundwater outflow to the Parker Centerville aquifer, and well withdrawals (Lindgren and Hansen, 1990). The water rights/permits authorized to withdraw water and future use permit authorized to reserve water from the Vermillion East Fork: Montrose are shown in Figure 2 and listed in Table 1 earlier in this report.

The City of Montrose is supplied by Kingbrook Rural Water System, and the water rights are maintained only as a back-up supply for uses like fire protection (Friedeman, 2017). Subsequently, the withdrawals under the water right held by the City of Montrose (Water Right No. 1009-3) are assumed to be negligible. The City of Montrose also holds Future Use Permit No. 4039-3. The Water Management Board last reviewed Future Use Permit No. 4039-3 in 2006, and it was allowed to remain in effect to reserve 42 ac-ft/yr. from the Vermillion East Fork: Montrose aquifer for future development. The Water Rights Program is currently working with the City of Montrose to determine if they wish to maintain the future use permit. Water Right No. 6401-3 for Michael J. Johnson is for a non-consumptive use of water in a commercial gravel washing operation. Therefore, withdrawals under Water Right No. 6401-3 are also considered to be negligible.

Table 2 shows the historic annual irrigation withdrawals from the Vermillion East Fork: Montrose aquifer. The historic annual irrigation data shows that the number of permits and appropriated acres has varied over the period of record but development has been increasing in the last 15 years. Furthermore, the volume pumped fluctuates with climate and agricultural markets. The average annual irrigation withdrawal from the Vermillion East Fork: Montrose aquifer is 340.05 ac-ft/yr. The average annual pumpage from 2002-2016, the last 15 years of complete data, is 578.95 ac-ft/yr. Furthermore, Water Permit No. 8245-3 was approved in January 2017 for the irrigation of 132 acres, so it is not yet accounted for in the historic irrigation pumping average. In general, irrigators in southeastern South Dakota apply 10 inches of water or less per year. The acres currently permitted for irrigation using water from the Vermillion East Fork: Montrose aquifer is 942 acres with 657 of those acres in Turner County. Therefore, it would be more appropriate to assume annual irrigation pumpage from the Vermillion East Fork: Montrose to be less than 785 ac-ft/yr. and less than 548 ac-ft/yr. in Turner County alone.



Table 2- Historic irrigation pumpage from the Vermillion East Fork: Montrose aquifer (Water Rights, 1979-2017)

Year	No. of Permits Reporting	Appropriation (ac-ft)	Pumpage (ac-ft)
2016	10	2065	416.57
2015	9	2002	542.5
2014	10	2065	542.93
2013	10	2065	625.27
2012	7	1925	686.94
2011	7	1925	487.3
2010	7	1925	0
2009	7	1925	213.59
2008	7	1925	558.65
2007	7	1925	804.95
2006	7	1925	818.29
2005	7	1925	978.19
2004	7	1925	753.46
2003	5	1575	621.09
2002	5	1575	634.6
2001	5	1575	410.88
2000	5	1575	346.03
1999	5	1575	321.13
1998	5	1629	180.52
1997	5	1629	192
1996	5	1629	185.06
1995	4	1389	189.8
1994	4	1389	212.61
1993	4	1229	16
1992	4	2216	17.3
1991	5	2768	262
1990	5	2768	199
1989	5	2908	314
1988	4	2448	252.3
1987	4	2448	85
1986	4	2448	63
1985	4	2448	102
1984	5	3888	42
1983	4	2448	125.25
1982	4	2448	106.33
1981	7	4440	261.41
1980	7	4440	299.72
1979	7	4440	145.71
<b>Max</b>	<b>10</b>	<b>4440</b>	<b>978.19</b>
<b>Min</b>	<b>4</b>	<b>1229</b>	<b>0</b>
<b>Avg.</b>	<b>5.87</b>	<b>2232.82</b>	<b>342.46</b>

*Hydrologic Budget:*

The estimated average annual withdrawal, assuming full development of Future Use Permit No. 4039-3, from the Vermillion East Fork: Montrose is expected to be less than 827 ac-ft/yr. This application, if approved, could pump up to 222.2 ac-ft/yr. That is a total of 1,049.2 ac-ft/yr. The estimated average annual recharge to the Vermillion East Fork: Montrose is 9,860 ac-ft/yr. with 1,643 ac-ft/yr. in only Turner County. The Turner County portion of the Vermillion East Fork: Montrose also receives subsurface inflow of 240 ac-ft/yr. from the McCook County portion of the aquifer. A comparison of the estimated average annual recharge and withdrawals supports the observation well analysis. Therefore, there is a reasonable probability there is unappropriated water available for this proposed appropriation.



**EXISTING WATER RIGHTS:**

Figure 7 is a map of the project area around Application No. 8278-3 including the proposed well sites, locations of wells sites for water rights/permits and observation wells completed into the Vermillion East Fork: Montrose aquifer, water rights/permits completed into the Vermillion West Fork and Parker Centerville aquifers, and the proposed avian production facility where the water pumped under this application, if it is approved, will be used. Table 3 is a table that lists the water rights/permits and future use permits shown in Figure 7.

The nearest wells authorized by water rights/permits to withdraw water from the Vermillion East Fork: Montrose aquifer to the two well sites proposed by this application are the wells authorized by Water Right Nos. 5389-3, 6075-3, and 6434-3 at approximately 0.8 miles southeast, 1.1 miles west, and 460 feet west of the nearest proposed well site, respectively. The well authorized by Water Right No. 6434-3 is held by DLK&M LLC. The applicant, Sonstegard Food Company, has reached an agreement with DLK&M LLC to have the option to purchase the land that is associated with Water Right No. 6434-3 pending an approval of Application No. 8278-3 per documentation included with this application and a June 20, 2017, phone conversation with John Taylor. They intend to immediately transfer Water Right No. 6434-3 to Sonstegard Food Company. This means the applicant for this application will also be the holder of Water Right No. 6434-3 and will manage both appropriations in such a way as to not adversely impact their own wells.

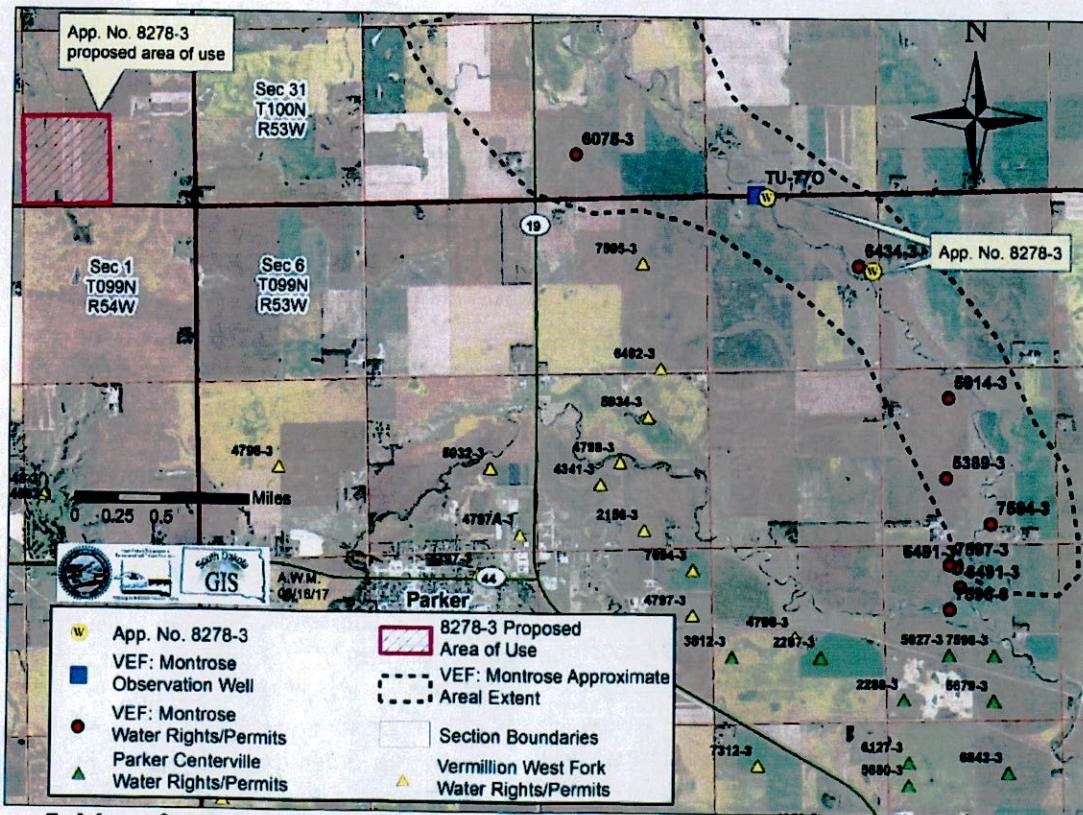


Figure 7- Map of area around Application No. 8278-3 including locations of wells sites for water rights/permits and observation wells completed into the Vermillion East Fork: Montrose (Water Rights, 2017a and 2017b)



Table 3- List of water rights/permits and future use permits shown in Figure 7 (Water Rights, 2017b)

Permit No.	Name	Status	Aquifer	Use	Rate (cfs)	Acres
5389-3	Ken Plucker Jr	LC	VEF	IRR	2	160
5914-3	Berens Farms	LC	VEF	IRR	1.71	120
6075-3	Weeg Family Farms LLLP	LC	VEF	IRR	1.56	132
6434-3	DLK&M LLC	LC	VEF	IRR	1.23	83
6491-3	Joseph Plucker	LC	VEF	IRR	1.11	92
7594-3	Joseph Plucker	PE	VEF	IRR	0.67	50
7596-3	Joseph Plucker	PE	VEF	IRR	0.44	20
7597-3	Joseph Plucker	PE	VEF	IRR	0.44	0
2287-3	Robert L Merrill	LC	PAC	IRR	1.88	133
2288-3	Allen or Kristi Merrill	LC	PAC	IRR	1	76
3812-3	Marlene Rance	LC	PAC	IRR	1.83	128
5679-3	Ballacostain LLP	LC	PAC	IRR	1.52	107
5680-3	Ballacostain LLP	LC	PAC	IRR	1.11	78
5927-3	Joseph Plucker	LC	PAC	IRR	0.87	61
6127-3	Ballacostain LLP	PE	PAC	IRR	0.86	60
6843-3	Ballacostain LLP	LC	PAC	IRR	1.56	105
7598-3	Joseph Plucker	PE	PAC	IRR	0.91	30
2156-3	Roger Ihnen	LC	VWF	IRR	1.28	90
4341-3	Weeg Family Farms LLLP	LC	VWF	IRR	0.89	62
4562-3	Lawrence R Strawbridge Living Trust	LC	VWF	IRR	0.89	74
4797-3	City of Parker	LC	VWF	MUN	1.33	N/A
4797A-3	City of Parker	PE	VWF	IRR	0.27	30
4798-3	City of Parker	FU	VWF	MUN	N/A	N/A
5932-3	James P Van Derostyne	LC	VWF	IRR	0.7	49
5934-3	James P Van Derostyne	LC	VWF	IRR	1.67	120
6492-3	Glenn Kleinsasser MD	LC	VWF	IRR	1.78	136
7312-3	Allen Merrill	PE	VWF	IRR	1.11	75
7595-3	Joseph Plucker	PE	VWF	IRR	1.78	136
7648-3	Par Mar Valley Country Club	PE	VWF	IRR	0.89	50
7694-3	Joseph Plucker	PE	VWF	IRR	1.56	33

VEF= Vermillion East Fork, VWF= Vermillion West Fork, PAC= Parker Centerville

There are several water rights/permits authorized to withdraw water from the Vermillion West Fork and Parker Centerville aquifers within approximately one to 2.5 miles of the proposed well sites. Since the Vermillion East Fork: Montrose, Vermillion West Fork, and Parker Centerville aquifers are hydraulically connected in this area, the potential for effects caused by pumping these proposed diversions should be considered. There are also a number of farms sites that may have domestic wells completed into the Vermillion East Fork: Montrose aquifer in the vicinity of the well sites proposed by this application.

The Vermillion East Fork: Montrose aquifer is an unconfined aquifer. Any drawdown created from pumping a well completed into an unconfined aquifer is minimal within a short distance of the well. The proposed wells are likely within a short distance, less than 0.5 miles, of an aquifer boundary on two sides. As the radius of influence from pumping expands and encounters the low permeability/impermeable aquifer boundaries, drawdown in the other directions will increase. However, the river is a recharge boundary. Increased drawdown from pumping will increase capture from the river. Increased capture from the river will decrease the extent of drawdown around the pumped wells. The nearest water right/permit authorized to withdraw water from the East Fork Vermillion River to the proposed well sites is 11.7 miles upstream (Water Rights,

2017b). There would be no impact to surface water appropriations of the East Fork Vermillion River if this application were approved. During periods of no flow in the East Fork Vermillion River, there will not be any water available for capture from the river.

Any very low/no flow conditions of the river may impact domestic users of the river. In the past the East Fork Vermillion River has experienced low flow conditions several times since the beginning of the period of record in October 1995 at the U.S. Geological Survey stream gage approximately one mile north of the northern proposed well site (USGS, 2017). If pumping captures groundwater that would normally discharge to the river, it may increase the frequency and duration of very low/no flow conditions in the East Fork Vermillion River.

The unconfined nature of the aquifer means the drawdown cone created from pumping either well will not be significant far from the well. The Vermillion East Fork: Montrose aquifer is relatively thin with an average thickness of 29 feet in Turner County (Lindgren and Hansen, 1990). That means management of the well system to prevent pumping either well dry will be critical for the applicant to minimize impacts to their avian production facility. This also means that impacts on nearby users will also be reduced. If the applicant does not purchase the lands associated with Water Right No. 6434-3 and therefore become owner of said water right, there is a potential to adversely impact the well authorized by Water Right No. 6434-3. At the proposed maximum appropriation volume, 222.2 ac-ft/yr., the continuous pump rate equivalent for this application will be 0.307 cfs. Assuming a transmissivity of 7,150 ft<sup>2</sup>/d based on the specific capacity of appropriate wells completed into the Vermillion East Fork: Montrose aquifer (Aqtesolv, 2017; Water Rights, 2017b and 2017c), a storativity of 0.1, a pump time of 365 days, and the average diversion rate of 0.307 cfs, drawdown at a well 460 feet away is expected to be less than two feet based on the Theis Equation (Utah, 2017). The transmissivity value used for that calculation is likely on the low end of likely transmissivity values for the aquifer. That means drawdown is likely less than the estimate.

Observation well TU-770 is approximately 0.7 miles (3,750 feet) northwest of the well authorized by Water Right No. 6434-3. That well is authorized to divert water from the Vermillion East Fork: Montrose aquifer at a maximum rate of 1.23 cfs. The well has pumped water for irrigation every year from 2004 through 2016 with the exception of 2010. There is no apparent effect on the water level shown in the hydrograph for TU-770 during that time period that could be attributed to pumping under Water Right No. 6434-3. Considering the distance from the proposed well locations to other wells, the relatively low average diversion rate, and the unconfined nature of the aquifer, there is a reasonable probability this proposed diversion can be made without impacting existing appropriate users.

In the past, the Water Management Board has recognized that to place water to maximum beneficial use, a certain amount of drawdown may occur. Since the aquifer is under unconfined conditions, drawdown due to pumping would not be significant far from the proposed well sites. There has also been a history of large capacity wells from this aquifer without well interference complaints. Furthermore, the Water Management Board has defined an adversely impacted domestic well in ARSD 74:02:04:20(7) as:

“a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.”

The Vermillion East Fork: Montrose aquifer is a relatively thin aquifer with a limited amount of water in storage. While the average annual withdrawal would not exceed average annual recharge to the aquifer, conditions may occur when the withdrawal exceeds recharge. When this occurs, water will be removed from storage, consequently reducing the saturated thickness of the aquifer. This is not anticipated to be a long term effect; however if the saturated thickness is reduced to the extent that water rights/permits can no longer pump at their developed or “historically established” diversion rates, this may be considered an adverse impact. If approved and as a precaution, the water permit should include a qualification that the well owner should control their withdrawals so there is not a reduction of needed water supplies for adequate domestic wells or for adequate wells having prior water rights. The proposed diversion is not expected to adversely impact existing appropriative or domestic users when all of the above factors are considered.

The river flood plain (i.e. the aquifer) is relatively narrow in the area of the proposed well sites. To minimize any potential impacts to the river even though any potential impacts are expected to be negligible, a setback distance for the wells from the river could be considered. Setback distances have been used similarly in the past for permits near the Vermilion River, Big Sioux River, Sand Creek, and most recently West Fork Vermillion River. These setbacks were all for high capacity irrigation wells and were usually one-quarter mile setbacks or 1,320 feet. In general, the setbacks were set at 660 ft per 1 cfs of diversion rate. Using that same premise, a setback from the East Fork Vermillion River of 730 feet if the applicant intends to pump only one well at a time or 365 feet if the applicant intends to pump both wells at the same time at one-half of the maximum diversion rate (0.555 cfs) is recommended for this application.

#### **CONCLUSIONS:**

1. Application No. 8278-3 proposes to divert water from the Vermillion East Fork: Montrose aquifer at a maximum diversion rate of 1.11 cfs for commercial use in an avian production facility with a maximum annual volume of 222.2 ac-ft.
2. The avian production facility is to be located in the SW ¼ Section 36 T100N-R54W in Turner County. The wells are to be located in the NE ¼ NW ¼ and SE ¼ NE ¼ Sec. 3-T99N-R53W. The water is to be piped underground from the wells to the place of use.
3. The Vermillion East Fork: Montrose aquifer is a surficial aquifer composed of sand and gravel that primarily occupies the flood plain of the East Fork Vermillion River in Turner, McCook, Lake, and Miner Counties.
4. The hydrographs for observation well TU-77O, LK-67A, and LK-67B show stable to rising water levels over the period of record. These water levels are dominated by

climatic conditions and thus recharge to and natural discharge from the aquifer irrespective of changing appropriative use.

5. The observation well data document there is a reasonable probability unappropriated water is available for this proposed appropriation.
6. Based on a hydrologic budget, there is a reasonable probability unappropriated water is available for this proposed appropriation.
7. When considering the unconfined nature of the aquifer, the distance between wells, and the relatively low average diversion rate, there is a reasonable probability this proposed diversion can be made without adversely impacting existing appropriative or domestic users.
8. If a setback distance is considered, a setback of 730 feet from the East Fork Vermillion River if only one well is to be pumped at a time or 365 feet if both wells are to be pumped at the same time at one-half of maximum proposed diversion rate.



Adam Mathiowetz, PE  
SD DENR-Water Rights Program

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**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 8278-3, Sonstegard Food Company**

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. 8278-3, Sonstegard Food Company, c/o John E Taylor, Taylor Law Firm, 4820 E 57<sup>th</sup> St, Suite B, Sioux Falls SD 57108.

The Chief Engineer is recommending APPROVAL of Application No. 8278-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and, 4) it is in the public interest with the following qualifications:

1. The two wells approved under Water Permit No. 8278-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits shall control 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 two wells authorized by Permit No. 8278-3 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. Water Permit No. 8278-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
4. Water Permit No. 8278-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
  - a) Chapter 74:54:01 Ground Water Quality Standards,
  - b) Chapter 74:54:02 Ground Water Discharge Permit,
  - c) Chapter 74:51:01 Surface Water Quality Standards,
  - d) Chapter 74:51:02 Uses Assigned to Lakes,
  - e) Chapter 74:51:03 Uses Assigned to Streams, and
  - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

(continued)



5. The two production wells for Permit No. 8278-3 shall be located from the top of the bank next to the East Fork Vermillion River a minimum of 780 feet in any direction if only one well is to be pumped at a time or 365 feet in any direction if both wells are to be pumped at the same time at a rate for each well of no more than 0.555 cubic feet of water per second (250 gallons per minute).
6. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Vermillion East Fork:Montrose aquifer.
7. Water Permit No. 8278-3 authorizes a total annual diversion of 222.2 acre feet of water from the Vermillion East Fork:Montrose aquifer. Water Permit Nos. 8221-3 and 8278-3 which are from different aquifers are limited to a combined total annual diversion of 222.2 acre feet of water to supply the avian production facility.

See report on application for additional information.



Jeanne Goodman, Chief Engineer

June 26, 2017



Form 8

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
County of Turner ) SS

I, Dawn Rye

certify that the attached printed Notice was taken  
from the New Era

printed and published in City of Parker

County of Turner and

state of South Dakota. The notice was published

in the newspaper on the following date:

Thursday, July 6, 2017

Cost of Printing \$36.41

Dawn Rye  
(Signature)

Office Manager  
(Title)

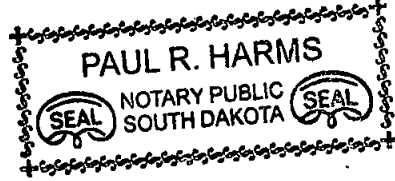
7/6/17  
(Date Signed)

Paul R Harms

Notice of application No. 8278-3 to appropriate water. Notice is given that Sonstegard Food Company, c/o John E Taylor, Taylor Law Firm, 4820 E 57th St, Suite B, Sioux Falls SD, 57108 has filed an application for a water permit to appropriate 222.2 acre feet of water annually at a maximum diversion rate of 1.11 cubic feet of water per second from two wells to be completed into the Vermillion East Fork Montrose Aquifer (60 feet deep) located in the NE 1/4 NW 1/4 and SE 1/4 NE 1/4 Section 3 T99N R53W approximately two miles northeast of Parker SD. The water will be transported via a pipeline to an avian production facility to be located in the SW 1/4 Section 36 T100N R54W approximately three miles northwest of Parker SD. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8278-3, with qualifications because: 1) unappropriated water is available; 2) existing rights will not be unlawfully impaired; 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below. Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is Water Rights Program, Fossil Building, 523 E

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WATER RIGHTS PROGRAM

Capitol Pierre SD 57501 (605 773 3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 17, 2017. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. If the applicant does not contest the 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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$36.41 (N0706-2)



Dear Dept of Environment -

I am a concerned person that lives close to the water permit 8278-3 by Sonstegard Food Company by Parker SD.

I am opposing this permit, since I live at 45435 272nd St Parker SD. with 12 acres.

I am concerned that the permit allowing the food company to pull a large amount of water daily, which will lower the water levels on our property. It will affect well water that we have on our property.

I am very worried that we will have to change to rural water. It will be very expensive for us to afford.

Please keep us informed us on any new information on this water permit.

Joy Hill  
Joyce Willoughby  
45435 272nd St  
Parker SD 57053

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JUL 17 2017  
WATER RIGHTS  
PROGRAM

July 13, 2017

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre SD 57501

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JUL 17 2017  
WATER RIGHTS  
PROGRAM

Sonstegard Food Company  
c/o John E. Taylor  
Taylor Law Firm  
4820 E. 57<sup>th</sup> St., Suite B  
Sioux Falls SD 57108

RE: Water rights application No. 8278-3

To: Whom it may concern;

In regards to Sonstegard Food Company water rights application no. 8278-3 I would like to voice my opposition for the following reasons:

I am a landowner north of the proposed sight of the well digging. My property is in section 33 of Brothersfield township which is ½ mile north of the proposed sight.


My **only** source of water on my place is my shallow well. We use the well water for all of our water use.

I am very concerned that the pumping of water of these proposed wells would have a large impact on our water supply. I do not want to dig a deeper well or be forced to have rural water due to the additional expense.

Please consider this petition of opposition.

Thank you.

Sincerely,



Charlene Ritter  
27253 455<sup>th</sup> Ave  
Parker, SD 57053

PETITION OBJECTING TO APPLICATION PERMIT TO APPROPRIATE WATER NO. 8278-3

July 13, 2017

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre SD 57501

**RECEIVED**

**JUL 17 2017**

**WATER RIGHTS  
PROGRAM**

Sonstegard Food Company  
c/o John E. Taylor  
Taylor Law Firm  
4820 E. 57<sup>th</sup> St., Suite B  
Sioux Falls SD 57108

Gentlemen:

My name is Darlene A. Goosen. My address is 27312 South Dakota Highway 19, P.O. Box 101, Parker, South Dakota 57053. I live in Section 4 of Parker Township approximately one mile west of the proposed location for test well No. 1 in the application.

I was born and raised on that farm, moved away after high school and moved back home in approximately December 1998. I have lived there ever since. I use my well for domestic use and some livestock (sheep). I also have chickens, ducks, and guineas.

Approximately two or three years ago my well went dry. The old well was approximately 25 feet deep. At around the same time the well went dry, four irrigation systems in the same approximately section had been put in. I was forced to drill a new well. That well was approximately 55 feet deep and it is my recollection that that well was drilled to granite.

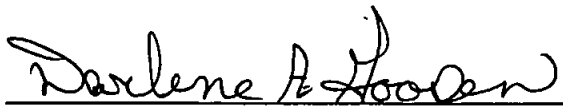
I do not want rural water.

I am filing this Petition to object to Sonstegard Food Company appropriating water from this aquifer, because I fear it will cause my well to go dry. I contacted the South Dakota Department of Environment and Natural Resources after I drilled my new well, explaining how my old well went dry by the increased use of irrigation wells. I was told that if my new well went dry that they would shut down the irrigation.

I am specifically objecting to the Sonstegard Food Company's wells and would, at the very least, ask as a condition that if my well goes dry that they cease operation of their wells and that I be provided with a supply of water at their expense.

Also, I object if any permit is granted to using any power of eminent domain or other means to cross my land. I do not consider Sonstegard's use of this water to be a public use. I consider it to be a private use. I also do not think that the wells proposed by Sonstegard and the appropriation of water from this aquifer is in the public interest. It is strictly for Sonstegard's own private interest.

Respectfully submitted,

A handwritten signature in cursive script that reads "Darlene A. Goosen". The signature is written in black ink and is positioned above a horizontal line.

Darlene A. Goosen  
27312 South Dakota Hwy 19  
PO Box 101  
Parker, SD 57053

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JUL 12 2017

WATER RIGHTS  
PROGRAM

Attn. Chief Engineer  
Water Rights Program,

7-10-2017

This is a letter to let you know our concerns about the 2 wells Sonstegard Food Company want to take 2 hundred thousand gallons of water a day out of for their chicken farm.

We own land on each side ... north and south of the wells, we have cattle on each side, we live on the north side for over 50 yrs, we also use ~~our~~ well water here, not only for cattle, but for our house needs. We don't have rural water.

Our deep concern is that the water won't last if 2 hundred thousand gallons a day are taken out. There is also a crop irrigation system on their land where the 2 wells are.

Please Don't GIVE THE PERMIT for them to take the water.

Sincerely,

Walter Mielke  
Jean Mielke

45560 273rd. St.  
Parker, S. D., 57053





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

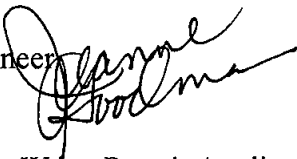
denr.sd.gov

January 19, 2018

NOTICE

TO: John E Taylor  
Taylor Law Firm  
5005 South Bur Oak Place  
Sioux Falls SD 57108

Michael Schaffer  
Schaffer Law Office  
412 West 9<sup>th</sup> Street, Suite 1  
Sioux Falls SD 57104-3602

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program 

SUBJECT: Notice Scheduling Hearing on Water Permit Application No. 8278-3, Sonstegard Food Company

Water Permit Application No. 8278-3 proposes to appropriate 222.2 acre-feet of water annually at a maximum diversion rate of 1.11 cubic feet of water per second from two wells to be completed into the Vermillion East Fork:Montrose Aquifer (60 feet deep) located in the NE 1/4 NW 1/4 and SE 1/4 NE 1/4 Section 3-T99N-R53W approximately two miles northeast of Parker SD. The water will be transported via a pipeline to an avian production facility to be located in the SW 1/4 Section 36-T100N-R54W approximately three miles northwest of Parker SD.

**The Water Management Board will conduct a hearing to consider Application No. 8278-3 at 1:00 PM on Wednesday, March 7, 2018, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.** The agenda time is an estimate and may be delayed due to prior agenda items. Future notice will be provided to all parties if there is a significant change to the hearing time. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Applicable provisions of the notice of hearing dated August 10, 2017, and the public notice in the New Era and the Argus Leader published July 6, 2017, still apply.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

c: Ann Mines Bailey, Assistant Attorney General





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

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August 10, 2017

**NOTICE OF HEARING**

TO: John E Taylor  
Taylor Law Firm  
5005 South Bur Oak Place  
Sioux Falls SD 57108  
And Parties of Record (see attached list)

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 8278-3, Sonstegard Food Company

Petitions to the Chief Engineer's recommendation for approval of Water Permit Application No. 8278-3 were filed in response to the Notice of Application published in the New Era and Argus Leader. This notice schedules a hearing on Application No. 8278-3 before the South Dakota Water Management Board.

Water Permit Application No. 8278-3 proposes to appropriate 222.2 acre-feet of water annually at a maximum diversion rate of 1.11 cubic feet of water per second from two wells to be completed into the Vermillion East Fork:Montrose Aquifer (60 feet deep) located in the NE 1/4 NW 1/4 and SE 1/4 NE 1/4 Section 3-T99N-R53W approximately two miles northeast of Parker SD. The water will be transported via a pipeline to an avian production facility to be located in the SW 1/4 Section 36-T100N-R54W approximately three miles northwest of Parker SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8278-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

The Water Management Board will consider Application No. 8278-3 at 10:00 AM (Central Time) on Thursday, October 5, 2017, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate. Parties will be provided written notice if there is a change to the hearing time or date.

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 the application after it reaches a conclusion based on the facts presented at the public hearing.

The October 5, 2017, 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 or support the application. The request for an automatic delay must be filed by September 22, 2017. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting tentatively on December 6 – 7, 2017, and personal notice will be provided to all petitioners regarding the time, date and location.

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. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Contact Eric Gronlund at the above Chief Engineer's address to request the staff report, recommendation, application or any other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment 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.

Enclosed is a copy of the report, recommendation, affidavits of publication and four petitions filed in the matter of Water Permit Application No. 8278-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing.

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 direct mail to you, and the applicable date to give notice to the Chief Engineer is August 21, 2017. 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; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

enclosures

c: Ann Mines Bailey, Assistant Attorney General

PARTIES OF RECORD WATER PERMIT APPLICATION NO. 8278-3  
SONSTEGARD FOOD COMPANY

Applicant

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