



WATER MANAGEMENT BOARD

July 12, 2017

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

- 10:00 AM Call to Order
- Annual Election of Officers
- Instructions and Forms Regarding Conflicts Disclosures and Waivers
- Conflicts Disclosures and Requests for State Board Waivers
- Annual Disclosure for Authority/Board/Commission Member Pursuant to SDCL Chapter 3-23
- May 11, 2017, Board Minutes
- October 4 - 5, 2017 Meeting Location (Pierre suggested)
- Status and Review of Water Rights Litigation – Matt Naasz

Update on DENR Activities

- Drought Conditions

- Legislature Special Session

Request to Advertise Proposed Changes to Administrative Rules of South Dakota Regarding Surface Water Discharge Permits Related to Concentrated Animal Feeding Operations -Kent Woodmansey

- Chapter 74:52:01 General Provisions
- 74:52:02 Application Requirements
- 74:52:04 Transfer, Modification, Revocation and Reissuance, and Termination of Permits,
- 74:52:10 Effluent Guidelines and Standards for Permits and Pretreatment Industrial Users,
- 74:57:01 Inspections of Concentrated Animal Feeding Operations
- 74:50:02 Contested Case Procedure

10:30 AM Training Session – History of Water Rights in South Dakota

11:30 AM Executive Session Pursuant to SDCL 1-25-2(3) to Consult with Legal Counsel Regarding Pending Litigation

LUNCH

1:00 PM Administer Oath to Department of Environment and Natural Resources Staff
Cancellation Considerations – Eric Gronlund

1:30 PM Vested Water Right Application Nos. 1964-1, 1965-1, 1966-1 and 1967-1, Ollila Family – Tim Schaal

2:00 PM Water Permit Application No. 2758-2, Steffen Farms – Adam Mathiowetz

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) 773-3296 at least 48 hours before the meeting if you have a disability for which special arrangement must be made.

WATER MANAGEMENT BOARD MEETING

July 12, 2017

Qualifications:
 wi - well interference
 wcr - well construction rules
 iq - irrigation questionnaire
 lf - low flow

| No. | Name | Address | County | Amount | Use | Source | Qualifications |
|-----|------|---------|--------|--------|-----|--------|----------------|
|-----|------|---------|--------|--------|-----|--------|----------------|

Vested Right/Water Permit Applications to be Considered as Scheduled

| | | | | | | | |
|--------|----------------------------|-------|----|----------|------------|-----------------------------------|--------------------|
| 1964-1 | Ollila Family Living Trust | Vale | MD | 1.5 AF | livestock | runoff (12-31-1929 priority date) | validation |
| 1965-1 | Ollila Family Living Trust | Vale | MD | 3.2 AF | livestock | runoff (12-31-1929 priority date) | validation |
| 1966-1 | Ollila Family Living Trust | Vale | MD | 24.0 AF | livestock | runoff (12-31-1939 priority date) | validation |
| 1967-1 | Ollila Family Living Trust | Vale | MD | 2.0 AF | livestock | runoff (12-31-1939 priority date) | validation |
| 2758-2 | Steffen Farms LLC | Burke | GY | 0.14 cfs | commercial | 2 wells-Ogallala Aquifer | wi, wcr, 4 special |

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

| | | | | | | | |
|---------|--|-------------|-------|-----------|------------|---|------------------------|
| 1411A-1 | Barb & Ron Cline | Spearfish | BU/LA | no add'l | no add'l | Lake Creek | iq, 2 special |
| 1962-1 | Matt Hawkins | Gretna NE | MD | 0.067 cfs | commercial | 1 well-Quaternary Aged Alluvium | wi, wcr, 2 special |
| 1963-1 | Tom & Lori Wilson | Buffalo | HR | 0.53 cfs | 216 acres | 4 wells-Hell Creek Aquifer | wi, wcr, iq |
| 7315A-3 | Van Buskirk Farms LLC | Hitchcock | SP | 8.36 cfs | 586 acres | slough-reinstatement of 7315-3 | iq |
| 8267-3 | Virgil Tjeerdsma | Tyndall | BH | 1.67 cfs | 82 acres | 1 well-Choteau Aquifer | wi, wcr, iq, 1 special |
| 8269-3 | Hillcrest Httm Brethren | Garden City | CL | 1.33 cfs | 160 acres | 1 well-Vermillion E Fork:Red Lake | wi, wcr, iq |
| 8270-3 | Lazy TV Ranch | Selby | CA | no add'l | 80 acres | 1 well-Selby Aquifer | wi, iq |
| 8271-3 | Leon Vanderlei | Springfield | BH | no add'l | 140 acres | 1 well-Choteau:West | wi, iq |
| 8272-3 | Craig C Vanderlei | Springfield | BH | 1.11 cfs | 70 acres | 1 well-Choteau:West | wi, wcr, iq, 1 special |
| 8273-3 | Keith Toczek | Yankton | YA | 0.018 cfs | commercial | 1 well-Niobrara Aquifer | wi, iq |
| 8274-3 | Oahe Trails Resort LLC | Pierre | HU | 2.11 cfs | 240 acres | Missouri River | iq |
| 8275-3 | Larry & Lisa Skorepa | Utica | YA | no add'l | 66.9 acres | 1 well-Lower James Miss:Scotland | wi, iq |
| 8276-3 | Larry & Jennifer Bayer | Shawnee KS | BH | 1.85 cfs | 130 acres | 1 well:Niobrara Aquifer | wi, wcr, iq |
| 8277-3 | Haroldson Living Trust | Bruce | BG | 1.71 cfs | 120 acres | 1 well-Big Sioux:Brookings | wi, wcr, iq |
| 8279-3 | Myron Van Buskirk | Sioux Falls | JE | no add'l | 40 acres | 1 well-Crow Creek Aquifer | wi, 1 special |
| 8281-3 | Minnehaha Community Water Corporation | Dell Rapids | MA | no add'l | no add'l | connect Big Sioux Community Water System | none |

CANCELLATIONS – July 12, 2017

| Number | Original Owner | Present Owner(s) & Other Persons Notified | County | Amount C.F.S. | Use | Reason | Source | Date Notified | Letters |
|--------|----------------|---|--------|---------------|-----|--------|--------|---------------|---------|
|--------|----------------|---|--------|---------------|-----|--------|--------|---------------|---------|

DIVISION I WATER RIGHT AND WATER PERMIT

| | | | | | | | | | |
|-----------|------------------------------|---------------------------------------|----|------|-----|-----|---|---------|--|
| RT 877-1 | Edith G Hoffman Living Trust | James & Edith Hoffman and James Feist | MD | 9.57 | IRR | A/F | Cheyenne River & Belle Fourche River | 5-31-17 | |
| PE 1742-1 | Henry or Connie Peters | same | MD | 0.10 | COM | A/F | ground water, three wells Inyan Kara Formation & Alluvium | 5-31-17 | |

DIVISION II WATER RIGHT and WATER PERMITS

| | | | | | | | | | |
|-----------|--------------------------------|---|----|------|-----|-----|--|---------|--|
| RT 1008-2 | Brandon Zeisler | Brandon Zeisler, owner Raymond Rylance, attorney | GY | 0.30 | IRR | A | Ponca Creek | 6-1-17 | |
| PE 1166-2 | Brady & Sherri McDonnell | same | JA | 5.50 | IRR | A/F | Cottonwood Creek and dry draws | 5-31-17 | |
| PE 1802-2 | Black Hawk Water User District | same (% Cindy Swanson) | MD | 0.22 | MUN | A/F | ground water, one well Minnelusa Formation | 6-6-17 | |
| PE 1874-2 | Midwest Marine Contractor Inc | Gary Haag, Geologist w/Forest Service | PE | 0.06 | COM | A/F | ground water, one well Quaternary Alluvium | 6-1-17 | |
| PE 2563-2 | Hill City School District | same (% Mike Hanson, Supt) | PE | 0.09 | IRR | NC | ground water, one well Precambrian aged Crystalline Rock | 6-6-17 | |

DIVISION III WATER RIGHTS

| | | | | | | | | | |
|-----------|------------------|---|----|------|-----|-----|---|---------|--|
| RT 2010-3 | Byron F Runge | Mary Grosz, owner; Jerry Peacock, representative | DG | 1.89 | FWP | A/F | ground water, two wells (Delmont Aquifer) | 5-31-17 | |
| RT 4797-3 | City of Parker | same (% Adam Jans, Finance Officer) | TU | 1.33 | MUN | A/F | ground water, three wells (Vermillion: West Fork Aquifer) | 6-6-17 | |
| RT 4915-3 | Margaret Sweeney | Richard Sweeney, owner; Jack Borchers, Troy Swee | UN | 1.33 | IRR | A/F | ground water, one well (Big Sioux: South Aquifer) | 6-1-17 | |

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 |

MINUTES OF THE 203RD MEETING OF THE
WATER MANAGEMENT BOARD
FLOYD MATTHEW TRAINING CENTER
523 EAST CAPITAL AVE
PIERRE, SD

May 11, 2017

CALL TO ORDER: Chairman Hutmacher called the meeting to order at 10:31 a.m.

APPLICATIONS: Water Right No. 2704A-3, Hilltop Irrigation District; Future Use Permit No. 5209-3, Kingbrook RWS; Water Right No. 1407-1, Cundy Trust; and Water Permit No. 7350-3, Richard Schmit.

The following were present via teleconference for the meeting:

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

Public:

Request to Rescind Suspension of Water Right No. 2704A-3, Hilltop Irrigation District:

- Richard Lloyd
- Todd Priebe

Findings of Fact, Conclusion of Law and Final Decision in the matter of Cancellation of Water Right Filing No. 0494-2, Bollmann:

- Richard Rausch

Seven Year Review of Future Use Permit No. 5209-3, Kingbrook RWS:

- Randy Jencks

Qualification Amendment to Water Permit No. 7350-3, Richard Schmit:

- Jim Czech

Legislative Oversight Committee: Senator Haverly.

The following were present at the Training Center for the meeting:

Department of Environment and Natural Resources (DENR): Jami Burrer – Board Secretary; Eric Gronlund, Jeanne Goodman, Karen Schlaak, Ron Duvall, Ken Buhler, Genny McMath, and Mark Rath – Water Rights Program.

Attorney General's Office: Ann Mines Bailey, counsel to the Water Rights Program; Matthew Naasz, counsel to the board.

Legislative Oversight Committee: Representative Mary Duvall.

APPROVE March 1, 2017, MINUTES: Motion by Bjork to approve the minutes, seconded by Freeman. Motion carried unanimously by roll call vote.

NEXT MEETING: July 12 – 13, 2017, in Pierre.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: Board Counsel Matt Naasz stated George Ferebee appealed the board's dismissal of his petition for declaratory ruling to the seventh circuit. The Appellant's Brief was filed on May 9, 2017. Mr. Ferebee will have an opportunity to respond before it is fully briefed. The board also received notification of an open meetings complaint filed before the Open Meetings Commission. The complaint was made by Mr. Ferebee, regarding the October 2016 meeting. A request for extension to respond will be filed with the commission to allow the board to meet at their July 2017 meeting to discuss the appropriate response and take official action.

ADMINISTER OATH TO DENR STAFF: The court reporter administered the oath to the DENR staff who intended to testify during the meeting.

UPDATE ON DENR ACTIVITIES:

- Staff Changes. Jeanne Goodman stated that Ken Buhler, Lynn Beck and Gail Jacobson with the Water Rights Program intend to retire this June.

Motion by Hoyt, the board expresses its appreciation to Mr. Buhler for the expertise and the assistance he has provided to the board over the years, seconded by Freeman. Motion carried unanimously by roll call vote.

Motion by Freeman, to extend our thanks to Gail Jacobsen and Lynn Beck for their professional service and dedication to the State of South Dakota, seconded by Bjork. Motion carried unanimously by roll call vote.

- Training Session Format, Jeanne Goodman.
- Legislative Update, Jeanne Goodman.
- 2017 Streamflow Outlook, Mark Rath.

REQUEST TO RESCIND SUSPENSION OF WATER RIGHT NO. 2704A-3, HILLTOP IRRIGATION DISTRICT FOR FAILURE TO SUBMIT 2016 IRRIGATION QUESTIONNAIRE:

Water Right No. 2704A-3, with a priority date of April 29, 1976, is held by Hilltop Irrigation District, and authorizes diversion of water from the Missouri River for irrigation of 1,911 acres

in Brule County, South Dakota. The original water permit was approved with the mandatory requirement to submit the annual irrigation questionnaire. The water right was suspended for the 2017 irrigation season for failure to submit the 2016 irrigation questionnaire.

Genny McMath discussed the history of irrigation questionnaire submittals by District representatives dating back to 2003.

On May 1, 2017, through telephone communication with Dick Lloyd, Vice President of Hilltop Irrigation District, a 2016 irrigation questionnaire was directed to his attention and a hearing was scheduled for today for the Board to review a one year suspension of water right. The 2016 irrigation questionnaire and a request by the District to rescind the suspension has been received and is on file.

Dick Lloyd, Todd Priebe and others were on the line to answer questions.

Mr. Hoyt stated the annual questionnaire submittals have been consistently tardy and asked what steps have been put in place to insure timely submittal of future irrigation questionnaires. Prior to answering the questions, Todd Priebe was administered the oath by notary public Karen Schlaak.

Mr. Priebe stated the District has a different person now responsible for completing the annual irrigation questionnaire.

Motion by Freeman to reinstate Water Right No. 2704A-3 for Hilltop Irrigation District with the understanding that leniency only happens once, seconded by Bjork. Motion carried unanimously by roll call vote.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION IN THE MATTER OF CANCELLATION OF WATER RIGHT FILING NO. 0494-2, BOLLMANN:

Mr. Naasz stated there were no objections filed by any of the parties.

Motion by Freeman to adopt the Water Management Board rulings on the party submission, seconded by Comes. Motion carried unanimously by roll call vote.

Motion by Freeman to adopt the Findings of Fact, Conclusions of Law, and Final Decision as prepared by the board's attorney, seconded by Bjork. Motion carried unanimously by roll call vote.

CANCELLATION CONSIDERATIONS:

Mr. Gronlund stated the chief engineer is recommending cancellation of seven permits in their entirety and two partial cancellations.

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Vested Water Right No. 2368-2 held by for Brent and Taylor Fox appropriates 1.27 cfs from Battle Creek for irrigation of 89 acres, Cancellation consideration is for unused portions only which consisted of 3.4 acres, 0.05 cfs and the diversion point in the SW ¼ NW ¼ Section 27, T3S, R9E.

Water Right No. 4680-3, for Gracevale Hutterian Brethren, is for irrigation of portions of the S ½ Section 3 and the NE ¼ Section 10, T105N, R54W. Cancellation consideration is for NE ¼ Section 10. The land in Section 3 is still being irrigated. Also, Mr. Gronlund informed the Board that Gracevale Hutterian Brethren filed for and has obtained a new water permit for irrigation of the NE ¼ Section 10.

Motion by Freeman to cancel Division 1 and Division 2, with Vested Right No. 2368-2 only cancelling the portion associated with 3.4 acres, 0.05 cfs and the diversion point in the SW ¼ NW ¼ Section 27, T3S, R9E and cancel Division 3 Water Rights, with No. 4680-3 only cancelling the portion associated with the NE ¼ Section 10, as stated in the chart, seconded by Comes. Motion carried unanimously by roll call vote.

| Entire Cancellations | | |
|------------------------------|--------------------------------|---------------------------|
| RT 1107-1 | Taz & Casey Olson, Betty Olson | Abandonment or Forfeiture |
| PE 1312-1 | Homestake Mining Co | Abandonment or Forfeiture |
| RT 1016-2 | Jim or Sheryl Birdsall | Abandonment or Forfeiture |
| PE 1140-2 | Cleve Prichard | Non-Construction |
| RT 1220-3 | Dennis W Meyer | Abandonment or Forfeiture |
| RT 4563-3 | Ralph Dertien | Abandonment or Forfeiture |
| RT 5139-3 | Riverside Hutterian Brethren | Abandonment or Forfeiture |
| Partial Cancellations | | |
| VR 2638-2 | Brent & Taylor Fox | Abandonment or Forfeiture |
| RT 4680-2 | Gracevale Hutterian Brethren | Abandonment or Forfeiture |

SEVEN YEAR REVIEW OF FUTURE USE PERMIT NO. 5209-3, KINGBROOK RWS:

Randy Jencks and an associate participated by phone.

Mr. Gronlund stated this permit was approved in 1989 and currently reserves 1,100 acre-feet annually from the Vermillion East Fork Aquifer located in the SW ¼ SW ¼ Section 10; NE ¼ Section 8; Section 6; all in T111N-R56W. Kingbrook Rural Water System serves users in Beadle, Brookings, Clark, Kingsbury, Lake, McCook, Minnehaha, Miner, Moody, Hamlin and Sanborn Counties.

The Chief Engineer is recommending that the Future Use Permit remain in effect for 1,100 acre-feet annually. The fee assessed if the Board rules to allow the future use permit remain in effect is \$155.00.

The review of Future Use Permit No. 5209-3 was public noticed and no petitions in response to the notice were filed.

Motion to allow Future Use Permit No. 5209-3 to remain in effect by Hoyt, seconded by Holzbauer. Motion carried unanimously by roll call vote.

QUALIFICATION AMENDMENT TO WATER RIGHT NO. 1407-1, CUNDY TRUST:

Water Right No. 1407-1, appropriates 0.57 cubic feet of water per second from one well completed into the Minnelusa aquifer at a depth of 940 feet for irrigation of 40 acres. This is located about three miles northeast of Spearfish in Lawrence County. The priority date is September 16, 1987.

The water permit was issued with qualifications. Qualification No. 1 states:

The well approved under this permit shall be valved and the flow reduced to the amount needed or to a minimum when not being used. The well shall also be equipped with a pressure gauge and a record kept of any pressure fluctuations. Such records shall be available to the Chief Engineer upon request.

An investigation was conducted on October 21, 2016, by Water Rights Inspector Steve Quissell for the purpose of licensing. That investigation found the well is equipped with a non-functioning pressure gauge and that records are not kept. The investigation did find that the well is valved and flow controlled to the amount needed.

The water license was issued on January 30, 2017. The cover letter accompanying the licenses stated the permit contained a qualification requiring the well to be equipped with a pressure gauge and records needing to be kept of any pressure fluctuations. In response, LaVon Colwell, Trustee for Cundy Trust, submitted a letter requesting amendment of the qualification to remove the requirement that the well be equipped with a pressure gauge and records kept of the pressure fluctuations.

Mr. Gronlund presented the staff report on the request to amend qualification No. 1 on Water Right No. 1407-1. There was concern back in the early 1960's regarding decline of pressure in area aquifers in northwest South Dakota and well construction practices commonly referred to as open hole completion that could allow water from different formations to mix. That resulted in an observation well being constructed in 1962 into the Minnelusa aquifer in the area of Water Right No. 1407-1. The hydrograph from 1977 is included in the report and shows that current appropriations are not impacting water levels. The historic data from this observation well is of greater value as a continuous record of the artesian head pressure of the aquifer than a pressure gauge on a private well.

A review of area water rights indicates that inclusion of the pressure gauge qualification on water rights has varied over time.

The pressure gauge does not need to be in place for DENR purposes on the well authorized by Water Right No. 1407-1. There may be value of having a pressure gauge to the water right holder in detecting problems with the well.

Notice was sent on April 18, 2017, of today's hearing. A May 3rd notice provided information regarding the meeting being held by telephone conference call.

Chief Engineer's recommendation is that Qualification No. 1 on Water Right No. 1407-1 be amended to remove the pressure gauge requirement and record keeping. Qualification No. 1 to Water Right No. 1407-1 should read:

The well approved under this Permit shall be valved and the flow reduced to the amount needed to a minimum when not being used.

Motion by Hoyt to amend Qualification No. 1 as recommended by the Chief Engineer, seconded by Freeman. Motion carried unanimously by roll call vote.

QUALIFICATION AMENDMENT TO WATER PERMIT NO. 7350-3, RICHARD SCHMIT:

Water Permit No. 7350-3 authorizes the diversion of 1.56 cubic feet per second of water from the Big Sioux River to irrigate 120 acres of land. The diversion point is located in the W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 3-T115N-R52W, five miles north of Castlewood in Hamlin County.

Currently Water Permit No. 7350-3 has a qualification that diversion of water from the Big Sioux River is authorized only when 35 cfs or greater is by-passing USGS Gaging Station No. 06479525 near Castlewood.

The proposed amendment to the qualifications on Water Permit No. 7350-3 is to clarify that the permit is subject to senior water rights and allow flexibility for the Chief Engineer to issue written orders when conditions warrant allowing continued pumping when flow at the Castlewood gage is below 35 cfs if downstream flows are sufficient.

During the summer of 2016, pumping ceased when flows fell below 35 cfs at USGS Gaging Station No. 06479525 near Castlewood as required by qualification No. 2 on Permit No. 7350-3. USGS Gaging Station No. 06479770 near Bruce is located approximately 33 miles downstream. Due to inflow from contributing tributaries between the two gages the flow near Bruce was significantly higher.

During the primary irrigation months of June through August in 2016 the gaging stations recorded the following mean monthly discharge.

| Gage | June | July | August |
|------------|----------|--------|----------|
| Castlewood | 27.7 cfs | 10 cfs | 28.7 cfs |
| Bruce | 126 cfs | 59 cfs | 99 cfs |

Currently there are no water rights diverting from the Big Sioux River below the diversion point for Water Permit No. 7350-3 to the USGS gage near Castlewood. There are three water rights diverting water between the USGS gage near Castlewood and the USGS gage near Bruce. Water Right No. 1812-3 has a priority date of March 9, 1971, and appropriates 1.2 cfs

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of water from the Big Sioux River to irrigate 70 acres of land. This water right is currently enrolled in the Conservation Reserve Program until 2018. Water Right Nos. 23-3 and 119A-3 divert flood flow from the Big Sioux River for lake restoration. Diversions occur when flood flows on the river are sufficient to travel down a man-made ditch. Flow at the Castlewood gage would be well above 35 cfs when diversion under 28-3 and 119-3A would occur.

The data from the two gages suggest there was sufficient water available to allow pumping for irrigation, and prior water rights would not have been adversely impacted. However, the wording of the qualification lacked the flexibility to allow the Chief Engineer to issue orders that would have allowed pumping to continue. Amending the qualifications on Water Permit No. 7350-3 gives the Chief Engineer the flexibility to issue written orders to allow continued diversion so that water can be placed to its maximum beneficial use.

The proposed amendment to the qualifications on Water Permit No. 7350-3 is to clarify that the permit is subject to senior water rights and any written orders by the Chief Engineer and that flow by-pass restrictions are also subject to written orders by the Chief Engineer.

It is recommended that the qualifications on Water Permit No. 7350-3 be amended as follows.

Delete: Qualification No. 1 and No. 2

1. Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. Diversions from the Big Sioux River are authorized only when the flow at the USGS Gaging Station No. 06479525 near Castlewood is at least 35 cfs while pumping under this permit.

Add: Qualification No. 1 and No. 2

1. Diversions under this Permit are subject to senior water rights and shall be in accordance with any written orders issued by the Chief Engineer.
2. Low flows as needed for domestic use, including livestock water and prior rights must be bypassed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 35 cfs is flowing at USGS Gaging Station No. 06479525 near Castlewood, unless written orders have been issued by the Chief Engineer.

Motion by Freeman to adopt the new qualifications as recommended by the Chief Engineer, seconded by Bjork. Motion carried unanimously by roll call vote.

ADJOURN: Chairman Hutmacher declared the meeting adjourned.

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A court reporter was present for the meeting and a transcript of the proceedings from May 11, 2017, may be obtained by contacting Carla Bachand, PO Box 903, Pierre, SD 57501-0903, telephone number (605) 224-7611.

The meeting was also digitally recorded and a copy of the recording is available on the department's website at <http://denr.sd.gov/boards/schedule.aspx>.

Approved this 12th day of July.

Chairman, Water Management Board

Secretary, Water Management Board



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 31, 2017

NOTICE OF CANCELLATION

TO: Edith G & James D Hoffman, Edith G Hoffman Living Trust, PO Box 1116,
Ft Pierre SD 57532
James Feist, PO Box 25, Enning SD 57735-0025

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

SUBJECT: Cancellation of Water Right No. 877-1

Water Right No. 877-1 authorizes diversion of water from the Cheyenne and Belle Fourche Rivers to irrigate portions of Sections 23, 26, 27, 31, 32 & 33, T6N, R15E in Meade County, SD. On April 21, 2017, Mike DeFea with the Water Rights Program spoke with each of you regarding irrigation of land described in the water right. It is our understanding from those conversations that the land is not being irrigated and there is no intent to irrigate. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 877-1 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 877-1 at 1:00 pm, Wednesday, July 12, 2017 (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. 877-1 based upon facts presented at the public hearing. Our records show you to be the owners 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 June 30, 2017. 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.

May 31, 2017
Edith G Hoffman Living Trust
James Feist
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This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by June 30, 2017.

Prior to June 30, 2017, 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 June 12, 2017.



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 RIGHT NO. 877-1, EDITH G HOFFMAN LIVING TRUST

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. 877-1. The land is owned by Edith G Hoffman Living Trust and James Feist.

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

A review of past irrigation questionnaires indicates the land was last irrigated in 2002. No irrigation has been reported from 2003 to the present. The 2016 irrigation questionnaire submitted by James Hoffman indicated the use had been abandoned. On April 21, 2017, Mike DeFea, staff engineer with the Water Rights Program, spoke with Mr. Hoffman. Mr. Hoffman confirmed he had made the decision to discontinue irrigation on the land. During the conversation Mr. Hoffman indicated he had sold the property in Section 26, T6N, R15E to James Feist, Enning SD. Mike DeFea spoke with Mr. Feist by phone on April 21, 2017. Mr. Feist confirmed he had purchased the land however he had no intent to irrigate the property.

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
May 31, 2017

Note:

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 31, 2017

NOTICE OF CANCELLATION

TO: Henry or Connie Peters, PO Box 366, Sturgis SD 57785

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

SUBJECT: Cancellation of Water Permit No. 1742-1

Water Permit No. 1742-1 authorizes diversion of 45 gallons of water per minute from one well for commercial use at Creekside Campground. On May 30, 2017, Steve Quissell with our program contacted you to set up an investigation of the water use system for licensing purposes. During the conversation you indicated water service for the campground is obtained from Bear Butte Water System. The well authorized under No. 1742-1 is used for domestic purposes only. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1742-1 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 1742-1 at 1:00 pm, Wednesday, July 12, 2017 (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. 1742-1 based upon facts presented at the public hearing. Our records show you to be the owners 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 June 30, 2017. 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.

May 31, 2017
Henry or Connie Peters
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 June 30, 2017.

Prior to June 30, 2017, 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 June 12, 2017.



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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 1742-1, HENRY OR CONNIE PETERS

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. 1742-1.

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

On May 30, 2017, Steve Quissell with the Water Rights Program spoke with Henry Peters concerning use of water as described in the water permit. Mr. Peters indicated the campground is now hooked to Bear Butte Water System for water service. The well authorized under No. 1742-1 is now used for domestic purposes only for livestock and household use.

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
May 31, 2017

Note:

Cancellation of the water permit **does not** prohibit the well from being used for domestic purposes. Domestic use of water is defined as water use that 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.



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June 1, 2017

NOTICE OF CANCELLATION

TO: Brandon Zeisler, 30155 354th Ave, St Charles SD 57571-5207

Raymond Rylance, Wiles & Rylance, Attorneys at Law, PO Box 227,
Watertown SD 57201

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

SUBJECT: Cancellation of Water Right No. 1008-2

Water Right No. 1008-2 authorizes diversion of water from Ponca Creek for irrigation of 20 acres in the S ½ NE ¼ and N ½ SE ¼ Section 22, T95N, R70W in Gregory County SD. By way of letter dated May 18, 2017 from Mr. Rylance, it is our understanding you have discontinued irrigation on the land and no longer wish to maintain the water right. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 1008-2 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 1008-2 at 1:00 pm, Wednesday, July 12, 2017 (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. 1008-2 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 June 30, 2017. 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.

June 1, 2017
Brandon Zeisler
Raymond Rylance
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 June 30, 2017.

Prior to June 30, 2017, 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 June 12, 2017.



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RECOMMENDATION OF CHIEF ENGINEER
FOR WATER RIGHT NO. 1008-2, BRANDON ZEISLER

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. 1008-2.

The Chief Engineer is recommending cancellation of the above water right due to abandonment. Irrigation questionnaire records on file with the water right indicate the land was last irrigated in 1998. On May 18, 2017, a letter was received from Raymond Rylance, attorney for Mr. Zeisler. The letter confirmed irrigation was no longer taking place and Mr. Zeisler requests cancellation of the water right.

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

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
June 1, 2017

Note:

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



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May 31, 2017

NOTICE OF CANCELLATION

TO: Brady & Sherri McDonnell, 4551 Westridge Rd, Rapid City SD 57702

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

SUBJECT: Cancellation of Water Permit No. 1166-2

Water Permit No. 1166-2 authorizes diversion of water from Cottonwood Creek and dry draws to irrigate 383 acres in portions of Sections 3, 10 and 11, T1S, R18E in Jackson County. In July, 2016, Steve Quissell with our program contacted you to set up a licensing investigation of the water use system authorized under Water Permit No. 1166-2. During the conversation you indicated no irrigation was taking place and at this time, none was planned. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1166-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 1166-2 at 1:00 pm, Wednesday, July 12, 2017 (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. 1166-2 based upon facts presented at the public hearing. Our records show you to be the owners 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 June 30, 2017. 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 June 30, 2017.

Prior to June 30, 2017, 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 June 12, 2017.



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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 1166-2, BRADY & SHERRI MCDONNELL

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. 1166-2.

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

On July 18, 2016, Steve Quissell with the Water Rights Program, spoke with Brady McDonnell concerning any irrigation on the property and the existence of an irrigation system. Mr. McDonnell indicated he had not irrigated since he purchased the land and has no intention of irrigating at this time.

Irrigation was last reported in 1992 at which time 12 acres were irrigated using a hand laid portable pipe and pump. Lack of water was the main reason no irrigation took place with no permanent system installed. Aerial photos show no evidence of ditches, dikes, embankments or other means to divert water as found in passive water spreading systems.

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
May 31, 2017

Note:

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




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June 6, 2017

NOTICE OF CANCELLATION

TO: Cindy Swanson, Black Hawk Water User District, PO Box 476, Black Hawk SD 57718

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

SUBJECT: Cancellation of Water Permit No. 1802-2

Water Permit No. 1802-2 authorizes diversion of water from one Minnelusa well (known as Black Hawk Well #3) located in the SE ¼ SW ¼ Section 6, T2N, R7E used for municipal purposes. On May 15, 2017, Steve Quissell with our Program contacted you concerning the possibility of conducting a licensing investigation for Black Hawk Well #3. It is our understanding from your communication the well had been in stand-by status however has now been abandoned with the pump and equipment in the pump house removed. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1802-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 1802-2 at 1:00 pm, Wednesday, July 12, 2017 (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. 1802-2 based upon facts presented at the public hearing. Our records show Black Hawk Water User District 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 June 30, 2017. 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 June 30, 2017.

Prior to June 30, 2017, 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 June 16, 2017.



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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 1802-2, BLACK HAWK WATER USER DISTRICT

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. 1802-2.

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

On May 15, 2017, Steve Quissell with the program spoke with Cindy Swanson concerning licensing of the permit for Black Hawk Well #3. The water permit file reflects the well had been in stand-by status as of 2000. Ms. Swanson indicated the well has been abandoned and the pump and equipment removed from the pump house.

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

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
June 6, 2017

Note:

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



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June 1, 2017

NOTICE OF CANCELLATION

TO: Gary H Haag, US Forest Service, Black Hills National Forest, 1019 N 5th St,
Custer SD 57730

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

SUBJECT: Cancellation of Water Permit No. 1874-2

Water Permit No. 1874-2 was obtained by Midwest Marine Contractor Inc., Mt. Prospect, Illinois in 1984 for use of ground water (17 feet deep) for a commercial placer mining operation. On April 18, 2017, Steve Quissell, a staff engineer with our program, conducted a field investigation of the area and found no evidence of past or present placer mining activity in the permitted area. Mr. Quissell contacted you since the Forest Service owns the property to find out if you had record of the claim and the original owner. It is our understanding from his communication with you that the mining claims (named Cody 1 and Cody 2) were filed in the 1980's and were closed and abandoned in 1987. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1874-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 1874-2 at 1:00 pm, Wednesday, July 12, 2017 (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. 1874-2 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 June 30, 2017. 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.

June 1, 2017
Gary Haag
US Forest Service
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 June 30, 2017.

Prior to June 30, 2017, 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 June 12, 2017.



DEPARTMENT of ENVIRONMENT
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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 1874-2, MIDWEST MARINE CONTRACTOR INC

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. 1874-2. The project site is on land owned by the US Forest Service.

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

The original water permit was filed by Midwest Marine Contractor Inc from Mt Prospect Illinois. The permit authorized a small commercial placer mining operation. The permit holder could not be located however the operation was to be conducted on land owned by the US Forest Service. On April 18 and May 9, 2017, Steve Quissell visited the area described in the permit and found no evidence to indicate a placer mining activity had ever occurred at the site. No visible evidence was found of an existing or abandoned well in the area. Information was received from Gary Haag, a geologist with the US Forest Service, that two claims (Cody 1 and Cody 2) were filed in the area in the 1980's but were closed and abandoned in 1987.

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

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
June 1, 2017



DEPARTMENT of ENVIRONMENT
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June 6, 2017

NOTICE OF CANCELLATION

TO: Mike Hanson, Superintendent, Hill City School District 51-2, PO Box 659,
Hill City SD 57745-0659

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".

SUBJECT: Cancellation of Water Permit No. 2563-2

Water Permit No. 2563-2, authorizes diversion of ground water (one well – Precambrian Aged Crystalline Rock) to irrigate 6 acres at the football field complex. On June 2, 2017, Steve Quissell with the Water Rights Program contacted you in regard to a possible licensing investigation of the water use system authorized under Permit No. 2563-2. It is our understanding from your communication the well was never installed. The time limit for completion of works as specified in the permit lapsed in October, 2010. The time to put water to beneficial use expired in 2014. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 2563-2 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 2563-2 at 1:00 pm, Wednesday, July 12, 2017 (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. 2563-2 based upon facts presented at the public hearing. Our records show Hill City School District 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 June 30, 2017. 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 June 30, 2017.

Prior to June 30, 2017, 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 June 16, 2017.



DEPARTMENT of ENVIRONMENT
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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 2563-2, HILL CITY SCHOOL DISTRICT 51-2

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. 2563-2.

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

On June 2, 2017, Steve Quissell with the Water Rights Program contacted the superintendent of the school district for scheduling a licensing investigation of the water use system. Mike Hanson, Supt., indicated the well originally authorized to irrigate the football field was never installed. With the time for completion of works expiring in October, 2010 and the time for putting water to beneficial use expiring in 2014, the permit becomes subject to cancellation.

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

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
June 6, 2017

Note:

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 31, 2017

NOTICE OF CANCELLATION

TO: Mary Grosz, 9614 South Placita Potencia, Vail Arizona 85641

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

SUBJECT: Cancellation of Water Right No. 2010-3

Water Right No. 2010-3, listed in the name of Bryon Runge, authorizes diversion of water from two wells (Delmont Aquifer) for supplying water to a fish hatchery. Recently when reviewing an application for a water permit requesting water from the same aquifer, we found you now owned the property described where the fish hatchery was located. In conversations with Jerry Peacock who in turn spoke with you, the fish hatchery has not been operational since the 1970's. With the wells no longer being used for the purposes described in the permit, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 2010-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 2010-3 at 1:00 pm, Wednesday, July 12, 2017 (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. 2010-3 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 June 30, 2017. 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.

May 31, 2017
Mary Grosz
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 June 30, 2017.

Prior to June 30, 2017, 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 June 12, 2017.

c: Jerry Peacock, 3700 LaCosta Dr., Rapid City SD 57703 6926



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. 2010-3, BYRON FRUNGE

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. 2010-3, now owned by Mary Grosz.

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

The water right authorizes use of water from two wells to supply ponds used for a fish hatchery. The owner of the property has confirmed the hatchery has not been operational since the 1970's. The current owner of the property does not intend to operate a hatchery and does not wish to maintain the water right.

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

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
May 31, 2017

Note:

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




DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 6, 2017

NOTICE OF CANCELLATION

TO: Adam Jans, Finance Officer, City of Parker, PO Box 265, Parker SD 57053

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

SUBJECT: Cancellation of Water Right No. 4797-3

Water Right No. 4797-3 originally authorized diversion of 1.60 cubic feet of water per second (cfs) from three wells (Vermillion: West Fork Aquifer) located in the NE ¼ Section 16 and NE ¼ Section 17, T99N, R53W for municipal purposes. The City recently obtained Water Permit No. 4797A-3 authorizing the transfer of 0.27 cfs as authorized under No. 4797-3 from municipal to irrigation use from one new well located in the SE ¼ Section 8, T99N, R53W. The three wells described under No. 4797-3 and the remaining 1.33 cfs diversion authority is being abandoned. The City is currently hooked to TM Rural Water System for their municipal needs. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 4797-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 4797-3 at 1:00 pm, Wednesday, July 12, 2017 (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. 4797-3 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 June 30, 2017. 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 June 30, 2017.

Prior to June 30, 2017, 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 June 16, 2017.



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 RIGHT NO. 4797-3, CITY OF PARKER

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. 4797-3.

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

Water Right No. 4797-3 authorized diversion of 1.60 cfs from three wells for municipal purposes. On March 6, 2017, Water Permit No. 4797A-3 was approved transferring 0.27 cfs to a new well and changing the use from municipal to irrigation purposes. The three existing wells and the remaining 1.33 cfs diversion rate will no longer be used. The City is now hooked to TM Rural Water System for their municipal needs.

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

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
June 6, 2017

Note:

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 1, 2017

NOTICE OF CANCELLATION

TO: Richard L. Sweeney, PO Box 1022, Port Richey FL 34673
Jack Borchers, PO Box 193, Hawarden IA 51023-0193

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

SUBJECT: Cancellation of Water Right No. 4915-3

Water Right No. 4915-3 authorizes diversion of ground water from the Big Sioux South Aquifer to irrigate 120 acres located in the SE ¼ Section 3, T95N, R48W, Union County SD. The 2016 irrigation questionnaire submitted by Mr. Borchers indicated the use of water as authorized under the water right had been abandoned. On April 25, 2017, Mike DeFea, a staff engineer with the Water Rights Program called and spoke with Mr. Borchers concerning the questionnaire. He explained the system had been blown over and would not be replaced. The well had also declined and was no longer dependable. Based on this information, and the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 4915-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 4915-3 at 1:00 pm, Wednesday, July 12, 2017 (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. 4915-3 based upon facts presented at the public hearing. Our records show Richard Sweeney 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 June 30, 2017. 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.

June 1, 2017
Richard Sweeney
Jack Borchers
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 June 30, 2017.

Prior to June 30, 2017, 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 June 12, 2017.

c: Troy Swee, Farmers National Company at tswee@farmersnational.com



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 RIGHT NO. 4915-3, MARGARET SWEENEY

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. 4915-3, now owned by Richard Sweeney.

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

The 2016 irrigation questionnaire submitted by the Jack Borchers, the manager of the property, indicated the water use had been abandoned. Irrigation questionnaires on file with the Water Rights Program show irrigation was last reported in 2007. On April 25, 2017, Mike DeFea, staff engineer, spoke with Mr. Borchers about the water use system. Mr. Borchers confirmed the land is no longer irrigated. The irrigation system had been blown over in a possible tornado and it will not be replaced. The well is not a dependable source of water.

On April 28, 2017, Mike DeFea spoke with Troy Swee with the Farmers National Company in Beresford. Mr. Swee confirmed no irrigation was being done and irrigation system would not be replaced. On May 1, 2017, Richard Sweeney, the owner of the property was contacted. He indicated he did not have anything to do with the farming operation and was agreeable to cancellation of the water right.

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

RON DUVALL, Water Rights Permitting Administrator
for Jeanne Goodman, Chief Engineer
June 1, 2017

Note:

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

CERTIFICATION

I hereby certify that on June 1, 2017, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated June 1, 2017 regarding cancellations addressed as stated below:

Water Right No. 4915-3

Richard L Sweeney, PO Box 1022, Port Richey FL 34673

Jack Borchers, PO Box 193, Hawarden IA 51023-0193

separate notification through email to:

Troy Swee, Farmers National Company at tswee@farmersnational.com

Water Right No. 1008-2

Brandon Zeisler, 30155 354th Ave, St Charles SD 57571-5207

Raymond Rylance, Wiles & Rylance, Attorneys at Law, PO Box 227, Watertown SD 57201

Water Permit No. 1874-2

Gary H Haag, US Forest Service, Black Hills National Forest, 1019 N 5th St, Custer SD 57730



Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)

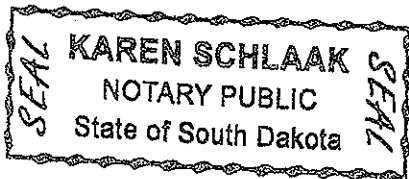
) SS

COUNTY OF HUGHES)

Sworn to, before me, this 1st day of June, 2017.



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



CERTIFICATION

I hereby certify that on June 6, 2017, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated June 6, 2017 regarding cancellations addressed as stated below:

Water Permit No. 2563-2

Mike Hanson, Supt, Hill City School District 51-2, PO Box 659, Hill City SD 57745-0659

Water Permit No. 1802-2

Cindy Swanson, Black Hawk Water User District, PO Box 476, Black Hawk SD 57718-0476

Water Right No. 4797-3

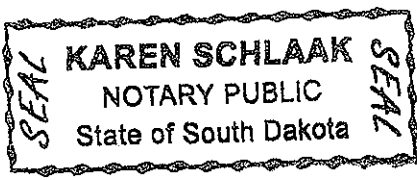
Adam Jans, Finance Officer, City of Parker, PO Box 265, Parker SD 57053-0265

Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of June, 2017.

Karen Schlaak
Notary Public
My Commission expires April 1, 2019



Report on
Vested Water Right Application Nos.
1964-1, 1965-1, 1966-1 and 1967-1
Ollila Family Trust c/o Art Ollila
April 21, 2017

The Ollila Family Trust c/o Art Ollila has filed four applications to validate vested water right claims. Application No. 1964-1 requests impoundment of 1.5 acre-feet of water from runoff into a dam located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T7N-R6E with a claimed priority date of December 31, 1929. Application No. 1965-1 requests impoundment of 3.2 acre-feet of water from runoff into a dam located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8-T7N-R6E with a claimed priority date of December 31, 1929. Application No. 1966-1 requests impoundment of 24 acre-feet of water from runoff into a dam located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7-T7N-R6E with a claimed priority date of December 31, 1939. Application No. 1967-1 requests impoundment of 2.0 acre-feet of water from runoff into a dam located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7-T7N-R6E with a claimed priority date of December 31, 1939. The water use for each vested water right claim is livestock watering purposes.

Vested Water Right Application No. 1964-1:

This dam is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T7N-R6E. It is 8.5 feet high and has a claimed storage capacity of 1.5 acre-feet at the primary spillway elevation. It has a total drainage area of 0.69 square miles or 442 acres; however, there are four other dams located upstream on this drainage.

The first dam is located about 1000 feet upstream and in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8-T7N-R6E. Vested Water Right Application No. 1965-1 has been filed for this dam with a claimed storage capacity 3.2 acre-feet. The next dam is another 1700 feet upstream and is located near the center of the NW $\frac{1}{4}$ of Section 8-T7N-R6E. This dam is located on the applicant's property and appears to be about the same size as the previous dam, about 3 or 4 acre-feet storage capacity. Then there are two dams located off the applicant's property located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8-T7N-R6E. Both of these dams appear to be in that 3 or 4 acre-foot storage capacity range.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 6.6 acre-feet. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 17 acre-feet; and the annual yield with a 10 percent chance of occurrence, or 1 out of 10 years, is expected to be 74 acre-feet.

April 21, 2017

Vested Water Right Application No. 1965-1:

This dam is located in the NW ¼ NW ¼ of Section 8-T7N-R6E. It is 10 feet high and has a claimed storage capacity of 3.2 acre-feet at the primary spillway elevation. It is located about 1000 feet upstream of the dam in Vested Water Right Application No. 1964-1.

Vested Water Right Application No. 1966-1:

This dam is located in the SE ¼ NE ¼ of Section 7-T7N-R6E. It is 19 feet high and has a claimed storage capacity of 24 acre-feet at the primary spillway elevation. It has a total drainage area of 0.47 square miles or 301 acres; however, there are three other dams located upstream on this drainage.

The first dam is located about 600 feet upstream and on the west fork of the drainage area and in the SE ¼ NE ¼ of Section 7-T7N-R6E. This dam is located on the applicant's property and Vested Water Right Application No. 1967-1 has been filed for this dam with a claimed storage capacity 2.0 acre-feet. The other two dams are located off the applicant's property; about 2500 feet upstream on the east branch of the drainage area, and are both in the SW ¼ of Section 8-T7N-R6E. Location Notice 1664-1 was filed in 1950 for 16 acre-feet in the larger of the two dams. The smaller dam appears to be in the 4 or 5 acre foot range.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 4.5 acre-feet. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 11.5 acre-feet; and the annual yield with a 10 percent chance of occurrence, or 1 out of 10 years, is expected to be 50 acre-feet.

Vested Water Right Application No. 1967-1:

This dam is located in the SE ¼ NE ¼ of Section 7-T7N-R6E. It is 16 feet high and has a claimed storage capacity of 2.0 acre-feet at the primary spillway elevation. It is located about 600 feet upstream and on the west fork of the drainage area for the dam in Vested Water Right Application No. 1966-1.

Discussion:

The four Vested Water Right Applications have been filed for dams on two different drainages. Both drainages have additional dams. The expected annual yield for these drainages indicate that there will be insufficient water to satisfy all of the dams during most years, especially the southern drainage with the two larger dams with storage capacities of 24 acre-feet and 16 acre-

Ollila Family Trust
April 21, 2017

feet. However, the Affidavits of Use filed with the applications and the Location Notice on file indicate that these dams have co-existed for a number of years.

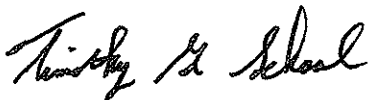
Conclusions:

1. Vested Water Right Application No. 1964-1 with the claimed Affidavit of Use should be approved for a dam with 1.5 acre-feet storage capacity and a claimed priority date of December 31, 1929.

2. Vested Water Right Application No. 1965-1 with the claimed Affidavit of Use should be approved for a dam with 3.2 acre-feet storage capacity and a claimed priority date of December 31, 1929.

3. Vested Water Right Application No. 1966-1 with the claimed Affidavit of Use should be approved for a dam with 24 acre-feet storage capacity and a claimed priority date of December 31, 1939.

4. Vested Water Right Application No. 1967-1 with the claimed Affidavit of Use should be approved for a dam with 2.0 acre-feet storage capacity and a claimed priority date of December 31, 1939.



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

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED
WATER RIGHT APPLICATION NO. 1964-1, OLLILA FAMILY LIVING TRUST**

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 validation of Vested Water Right Application No. 1964-1, Ollila Family Living Trust, c/o Art Ollila, 13087 194th Street, Vale SD 57788.

The Chief Engineer is recommending VALIDATION of Application No. 1964-1 for 1.5 acre feet of water in a dam because 1) water had been appropriated as described for livestock water use with a priority date of December 31, 1929, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
May 23, 2017

RECEIVED

JUN - 5 2017

WATER RIGHTS PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:
COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 31st day of May, 2017, and the last publication on the _____ day of _____, _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 62.37, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, 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 other person whomsoever.

Subscribed and sworn to before me this 31st day of May, 2017

[Signature]
Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2022

Notice to Validate Vested Water Right Application Nos. 1964-1, 1965-1, 1966-1 and 1967-1

Notice is given that Ollila Family Living Trust, c/o Art Ollila, 13087 194th St. Vale SD 57788 has filed four applications to validate vested water right claims. Application No. 1964-1 requests impoundment of 1.5 acre-feet of water from runoff into a dam claimed to be constructed prior to the 1930's located in the SE 1/4 SE 1/4 Section 6-T7N-R6E. Application No. 1965-1 requests impoundment of 3.2 acre-feet of water from runoff into a dam claimed to be constructed prior to the 1930's located in the NW 1/4 NW 1/4 Section 8-T7N-R6E. Application No. 1966-1 requests impoundment of 2.4 acre-feet of water from runoff into a dam claimed to be constructed in the 1930's located in the SE 1/4 NE 1/4 Section 7-T7N-R6E. Application No. 1967-1 requests impoundment of 2.0 acre-feet of water from runoff into a dam claimed to be constructed in the 1930's located in the SE 1/4 NE 1/4 Section 7-T7N-R6E. The water use for each vested water right claim is livestock watering purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Application Nos. 1964-1, 1965-1 with a priority date of December 31, 1929, and a claimed priority date of December 31, 1939 for Application Nos. 1966-1 and 1967-1 because 1) water had been appropriated as described for livestock water use, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the applications, and staff report are available at <http://denr.sd.gov/public> or contact Eg. Gronlund for this information, or other information, at the Water Rights Program address provided below.

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

Published once at the
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\$63.29.

#201
May 31

Affidavit of Publication

RECEIVED

JUN 16 2017

WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA

County of Meade

SS:

Carina Tyler being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the Rapid City Journal, a corporation of Rapid City, South Dakota, the owner and publisher of the MEADE COUNTY TIMES, a legal and daily newspaper printed and published in Sturgis, in said County of Meade, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies weekly, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Sturgis, in said Meade County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Meade County Times, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each Week for 1 successive Week the first publication there of being on the 31 day of May that the fees charged for the publication there of are 90 dollars and 00 cents.

Carina Tyler

Subscribed and sworn to before me this 14 day of June, 2017.

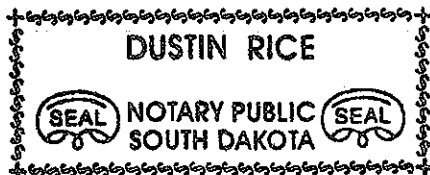
Dustin Rice

Notary public

DUSTIN RICE

7/1/20

My commission expires



May 31

L21043848

**NOTICE TO VALIDATE
VESTED WATER RIGHT
APPLICATION NOS.
1964-1, 1965-1, 1966-1
AND 1967-1**

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/s/ Steven M. Pirner
Secretary

Department of Environment
and Natural Resources.

(Published once at the total
approximate cost of \$90.06)
MEADE COUNTY TIMES

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 2758-2
STEFFEN FARMS LLC
C/O AJ STEFFEN
MARCH 30, 2017

Water Permit Application No. 2758-2 proposes to authorize the appropriation of 63 acre-feet of water annually (ac-ft/yr.) at a maximum diversion rate of 0.14 cubic feet of water per second (cfs) from an existing well and a new well completed into the Ogallala aquifer located in the NW ¼ NW ¼ Section 19; T96N-R71W in Gregory County. The water is to be used for commercial purposes in a livestock facility in the NW ¼ Section 19; T96N-R71W.

AQUIFER: Ogallala (OGLL)

Aquifer Characteristics:

The Ogallala aquifer underlies approximately 134,000 square miles of the United States including portions of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming (Gutentag et. al, 1984). In South Dakota, the Ogallala aquifer underlies approximately 1,140,360 acres and contains an estimated 19,929,600 ac-ft of recoverable water in storage in Bennett, Gregory, Ogallala Lakota, Todd, and Tripp Counties (Allen, Iles, and Petres, 1985). The Ogallala Group consists of silts, sands, clays, and surface gravel deposits (Filipovic, 2011; Gutentag et. al, 1984). The Ogallala aquifer is primarily under unconfined conditions, but locally confined conditions do exist (Water Rights, 2017a). The water movement in the aquifer is generally from the northwest toward the southeast and outward from the center toward the edges of the aquifer (Filipovic, 2004).

This application proposes to withdraw water from a portion of the Ogallala aquifer that is hydraulically disconnected from the main body of the aquifer. The Ogallala Group has been entirely eroded through down to the underlying Pierre Shale under the channel of Ponca Creek along its southwestern border and under the channel of the South Fork Whetstone Creek along its northeastern edge. This erosional remnant underlies approximately 135,000 acres of Gregory County (Filipovic, 2004; Martin et. al, 2004) and approximately 30,000 acres of Boyd County Nebraska (UNL, 2017). Figure 1 is a map of the approximate areal extent of the portion of the Ogallala aquifer from which this application proposes to withdraw water.

The existing well and proposed well sites are near the edge of this portion of the Ogallala aquifer. Logs for geologic borings in the files of the DENR-Feedlot Program (2017) indicate the existing well, listed as 40 feet deep in this application, is likely completed into silty clay, silty sand, silt, and/or sand. These sediments are labeled fine to coarse alluvium on the logs and may have been misidentified. These unconsolidated deposits are likely eroded Ogallala Group and directly underlying formations at the edge of the Ogallala aquifer. Gutentag and others (1984) stated unconsolidated alluvial, erosional, and eolian deposits that lie directly on the Ogallala Group are likely in hydraulic connection to and should be considered part of the Ogallala aquifer. The well may also penetrate into the Pierre Shale. The applicant stated the static water level in the existing well is nine feet below grade.

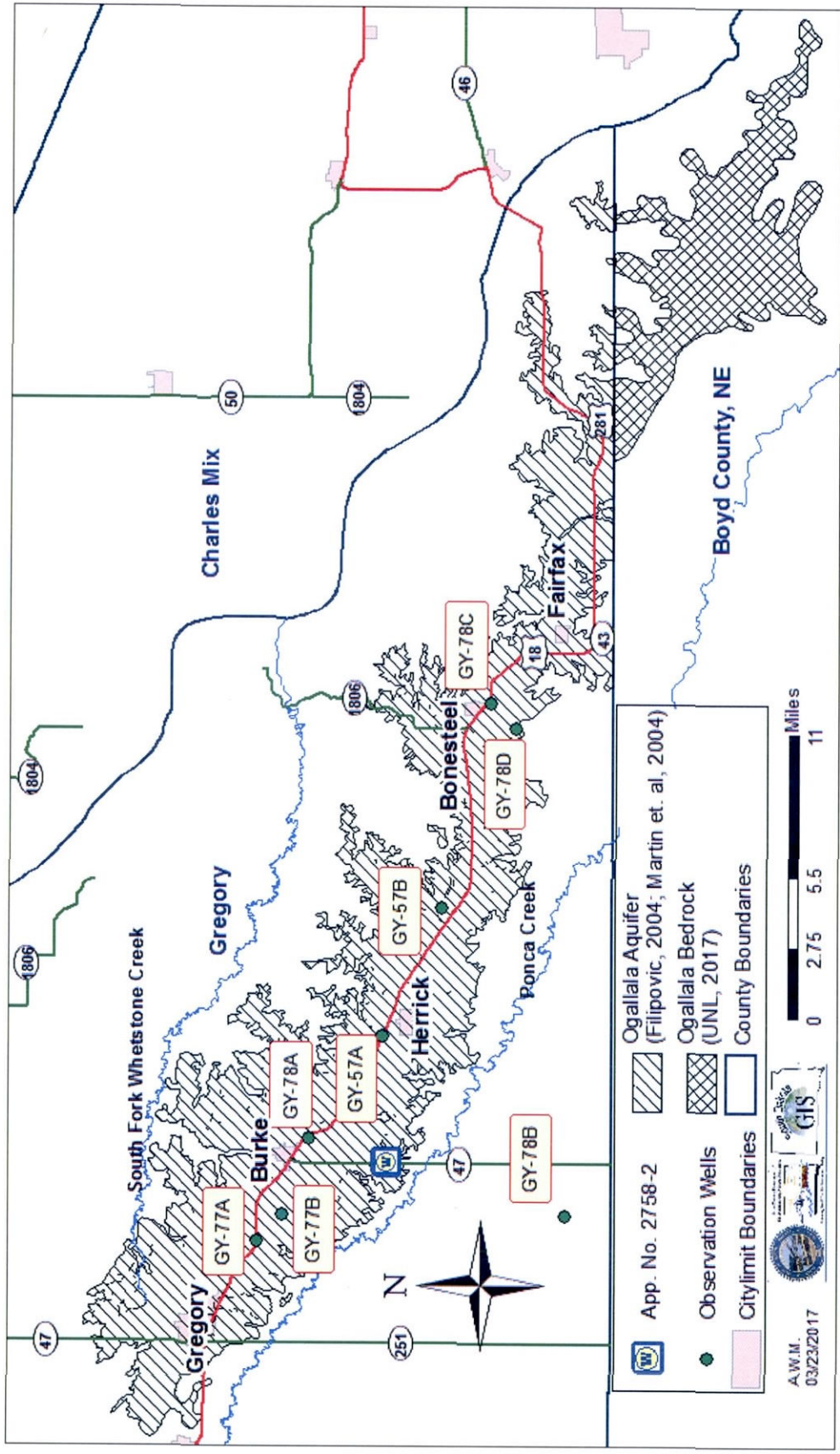


Figure 1 - Approximate areal extent map of the erosional remnant of the Ogallala aquifer Application No. 2758-2 proposes to use

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 Ogallala 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 77 observation wells completed into the Ogallala aquifer with seven completed into the portion of the Ogallala aquifer this application proposes to use (Water Rights, 2017a). The existing and proposed well sites are within approximately six miles of four Ogallala aquifer observation wells, GY-78A, GY-77B, GY-57A, and GY-77A, as shown in Figure 1. The hydrographs for the observation wells are shown in Figures 2 through 5, respectively. These hydrographs are representative of this portion of the Ogallala aquifer and the Ogallala aquifer in South Dakota as a whole. In general, the aquifer has stable to rising water levels over the period of record.

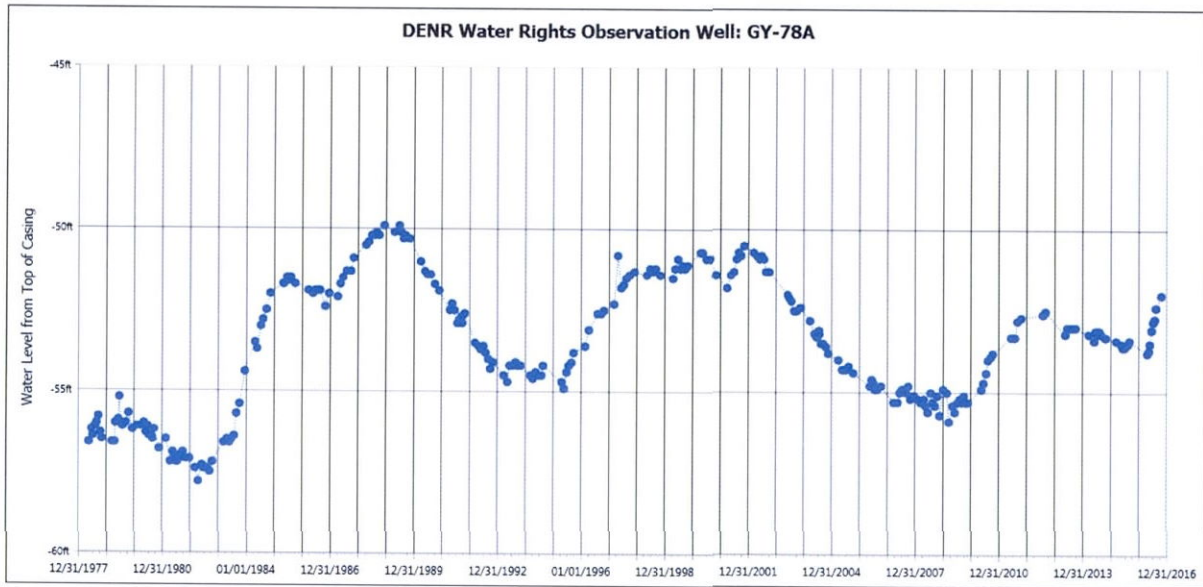


Figure 2- Hydrograph for GY-78A, approximately 3.2 miles north-northeast of the well sites (Water Rights, 2017a)

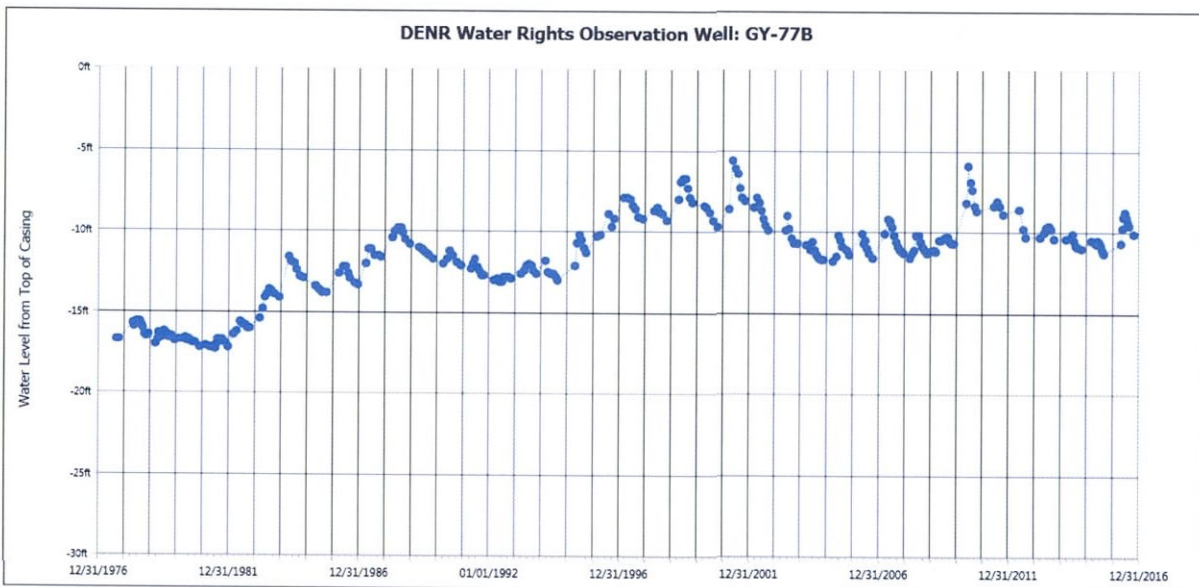


Figure 3- Hydrograph for GY-77B, approximately 4.5 miles northwest of the well sites (Water Rights, 2017a)

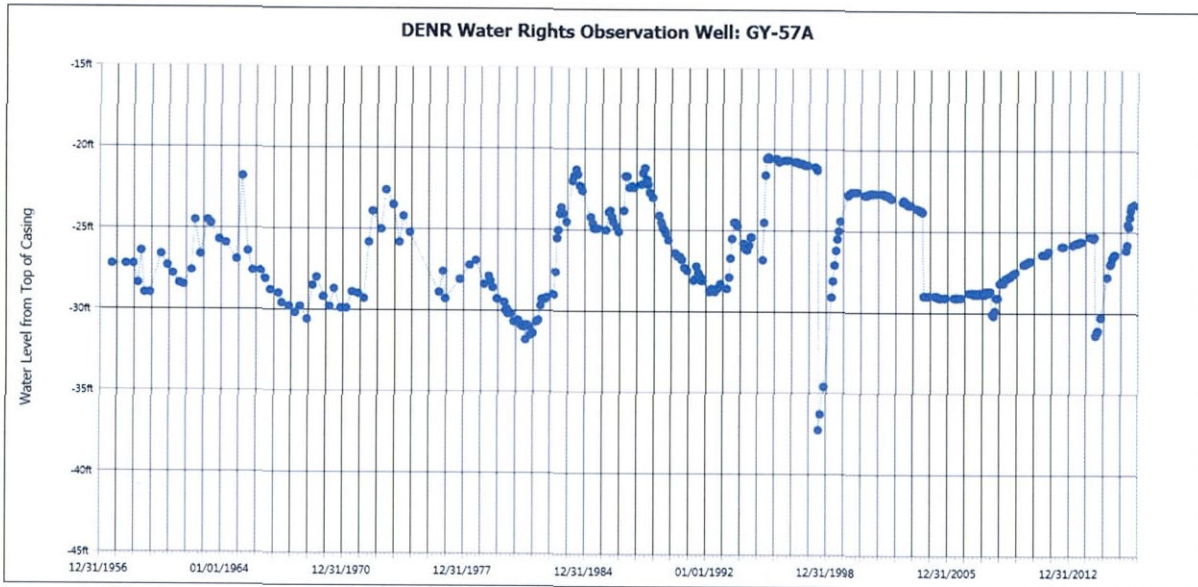


Figure 4- Hydrograph for GY-57A, approximately 5.0 miles east of the well sites (Water Rights, 2017a)

The three low spikes in water level shown in the hydrograph for GY-57A are the result of routine maintenance (pumping with air). After the well was pumped with air it slowly recovered to static water level. When comparing the water level of GY-57A to other observation wells completed into this portion of the Ogallala aquifer, it appears to be representative of this portion of the Ogallala aquifer.

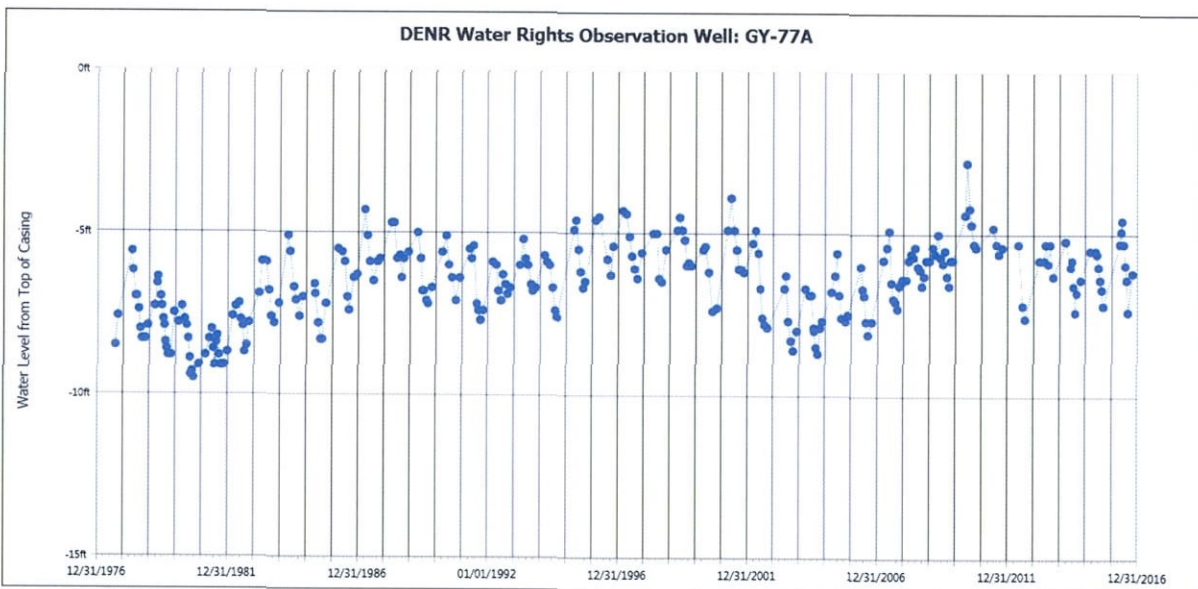


Figure 5- Hydrograph for GY-77A, approximately 5.9 miles northwest of the well sites (Water Rights, 2017a)

The water levels shown in the hydrographs for observation wells GY-78A, GY-77B, GY-57A, and GY-77A document there is little effect caused by total well withdrawal on the water level of this portion of the Ogallala aquifer. The water levels shown in the hydrographs rise during wet

times when recharge exceeds natural discharge plus pumping and slowly declines when natural discharge plus pumping exceeds recharge. The hydrograph for GY-77A shows some short term temporal effect of pumping on the water level, but the water level is still dominated by climate. Figure 6 is a map showing wells authorized by water rights in the vicinity of observation well GY-77A. When the effects of climate dominate the water level of observation wells, it means recharge to and natural discharge from an aquifer significantly exceeds pumping. Natural discharge from an aquifer can be captured for pumping. Therefore, the hydrographs document there is unappropriated water available from this portion of the Ogallala aquifer to support this proposed diversion.

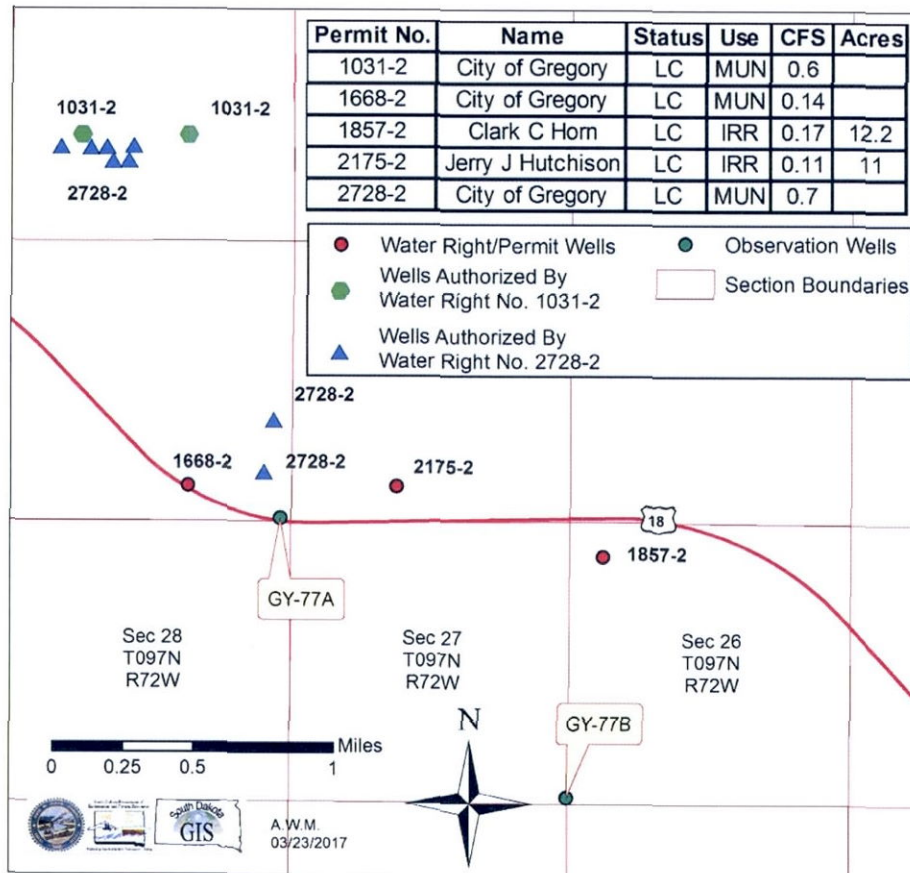


Figure 6- Map of wells authorized by water rights around observation well GY-77A

Recharge and Discharge:

Recharge:

This portion of the Ogallala aquifer is primarily recharged through infiltration of precipitation on the aquifer (Filipovic, 2004). Kolm and Case (1983) estimated a range of recharge rates from 1.3 to 1.8 in/yr. based on eight percent of annual precipitation for their digital model. Hedges and Burch (1985) estimated recharge to the Ogallala aquifer using two different methods, observation well data analysis and base-flow recession analysis. Hedges and Burch (1985) estimated a recharge rate of 1.88 in/yr. using base-flow recession and a range of 2.2 to 3.4 in/yr. using observation well data analysis. Thus, estimated annual recharge to this portion of the Ogallala aquifer ranges from 17,875 to 46,750 ac-ft/yr.

Discharge:

This portion of the Ogallala aquifer discharges through well withdrawals, seepage to streams hydraulically connected sediments, and springs. There are 21 water rights/permits authorizing the withdrawal of water and two future use permits reserving water in this portion of the Ogallala aquifer (Water Rights, 2017b). The non-irrigation water rights/permits are listed in Table 1. Irrigation water rights/permits are listed in Table 2.

| Permit No. | Name | Status | Use | CFS | Volume (ac-ft) |
|--|-------------------------|--------|-----|------|----------------|
| 256-2 | Town of Fairfax | LC | MUN | 0.25 | 108.6 |
| 455-2 | City of Burke | LC | MUN | 0.33 | 143.3 |
| 872-2 | City of Burke | LC | MUN | 0.26 | 112.9 |
| 1031-2 | City of Gregory | LC | MUN | 0.6 | 260.6 |
| 1085-2 | Schmitz Well Group | LC | RWS | 0.06 | 26.1 |
| 1603-2 | City of Bonesteel | LC | MUN | 0.07 | 30.4 |
| 1622-2 | City of Gregory | FU | MUN | | 269** |
| 1660-2 | City of Burke | FU | MUN | | 396** |
| 1661-2 | City of Burke | LC | MUN | 0.1 | 43.4 |
| 1668-2 | City of Gregory | LC | MUN | 0.14 | 60.8 |
| 1719-2 | East Gregory County RWS | LC | RWS | 0.2 | 86.9 |
| 1842-2 | Town of Herrick | LC | MUN | 0.16 | 69.5 |
| 2065A-2 | City of Burke | LC | MUN | 0.21 | 91.2 |
| 2091-2 | City of Bonesteel | LC | MUN | 0.1 | 43.4 |
| 2339-2 | Town of Herrick | LC | MUN | 0.22 | 95.6 |
| 2435-2 | East Gregory County RWS | LC | RWS | 0.28 | 121.6 |
| 2728-2 | City of Gregory | LC | MUN | 0.7 | 309* |
| Total | | | | | 2268.5 |
| LC= Water Right, FU= Future Use, PE= Water Permit, MUN= Municipal, RWS= Rural Water System *= Permitted Volume, **= Reserved Volume | | | | | |

Table 1- Non-irrigation water rights/permits and future use permits authorized to withdraw or reserve water from the same portion of the Ogallala aquifer Application No. 2758-2 proposes to use (Water Rights, 2017b)

| Permit No. | Name | Status | Use | CFS | Acres |
|------------|-------------------|--------|-----|------|-------|
| 1857-2 | Clark C Horn | LC | IRR | 0.17 | 12.2 |
| 2175-2 | Jerry J Hutchison | LC | IRR | 0.11 | 11 |
| 2330-2 | City of Burke | LC | IRR | 0.35 | 55 |
| 2604-2 | City of Gregory | LC | IRR | 0.5 | 3.5 |
| 2625-2 | Raymond J Yager | PE | IRR | 0.86 | 60 |
| 2691-2 | Chad Kehn | PE | IRR | 2 | 180 |

Table 2- Irrigation water rights/permits authorized to withdraw from the same portion of the Ogallala aquifer Application No. 2758-2 proposes to use (Water Rights, 2017b)

The volumes listed in Table 1 were estimated by assuming pumping at the maximum permitted diversion rate for 60 percent of the time. Water Right No. 2728-2 has a permitted volume of 309 ac-ft/yr. Future Use Permit No. 1622-2 and 1660-2 reserve 269 and 396 ac-ft/yr. The estimated annual pumpage by non-irrigation appropriations plus full development of the future use permits is 2,268.5 ac-ft/yr. Figure 7 is a map showing the wells authorized by water rights/permits to withdraw water from the same portion of the Ogallala aquifer this application proposes to use.

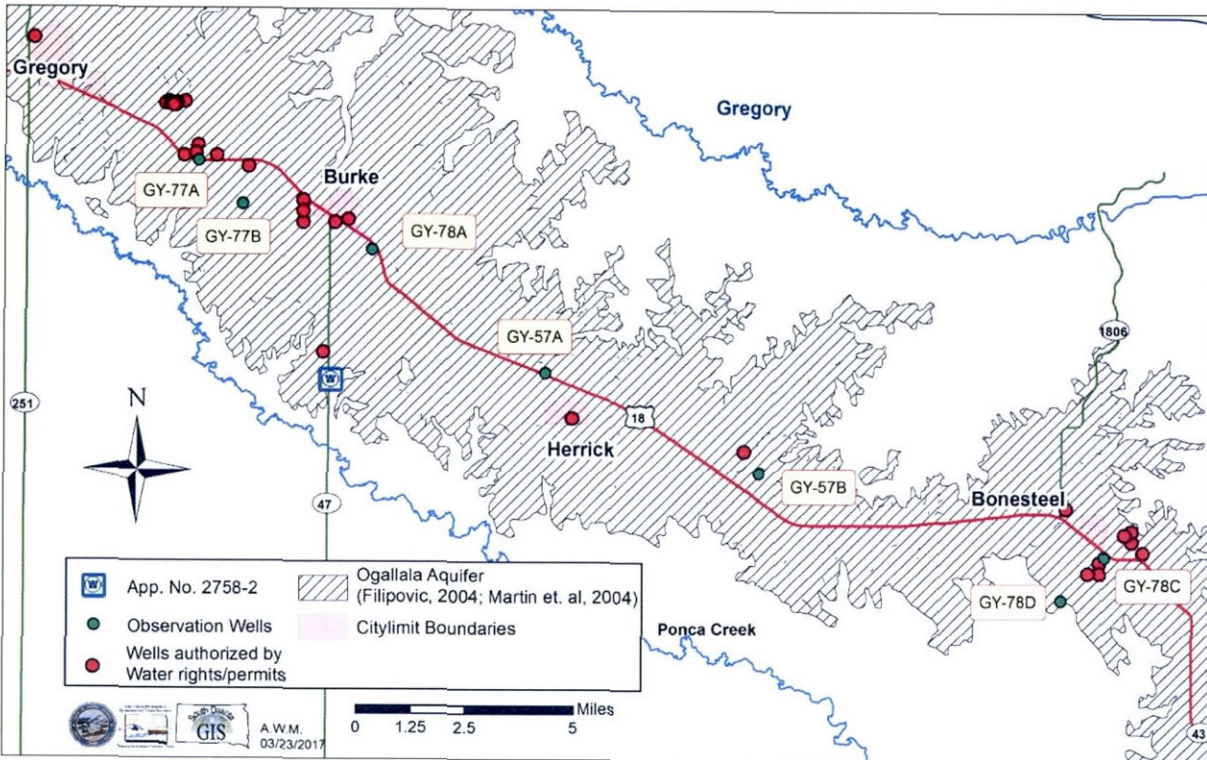


Figure 7- Map of wells authorized by water rights/permits to withdraw water from the portion of the Ogallala aquifer Application No. 2758-2 proposes to use (Water Rights, 2017b)

There are a number of domestic wells completed into this portion of the Ogallala aquifer (Water Rights, 2017c). However, the annual withdrawal for domestic use is not significant to the hydrologic budget of the aquifer. Table 3 shows the irrigation pumping history from this portion of the Ogallala aquifer.

| Date | No. of Permits Reporting | Appropriation (ac-ft) | Pumpage (ac-ft) |
|------|--------------------------|-----------------------|-----------------|
| 1982 | 1 | 900 | 0 |
| 1983 | 2 | 2325 | 13.39 |
| 1984 | 1 | 2256 | 0 |
| 1985 | 2 | 2325 | 0.3 |
| 1986 | 3 | 2349 | 20.2 |
| 1987 | 3 | 2349 | 5.9 |
| 1988 | 3 | 2349 | 13.9 |
| 1989 | 3 | 2349 | 22 |
| 1990 | 3 | 2349 | 10 |
| 1991 | 3 | 1499.4 | 21 |
| 1992 | 2 | 74.4 | 0.8 |
| 1993 | 2 | 74.4 | 0 |
| 1994 | 2 | 46.4 | 16.83 |
| 1995 | 3 | 211.4 | 24.06 |
| 1996 | 3 | 211.4 | 57.8 |
| 1997 | 3 | 211.4 | 46 |
| 1998 | 3 | 211.4 | 38.79 |
| 1999 | 3 | 211.4 | 30.05 |
| 2000 | 3 | 211.4 | 45.91 |
| 2001 | 3 | 211.4 | 131.96 |
| 2002 | 3 | 211.4 | 85.13 |
| 2003 | 3 | 211.4 | 46.07 |
| 2004 | 3 | 211.4 | 99.52 |
| 2005 | 3 | 211.4 | 105.55 |
| 2006 | 4 | 218.4 | 103.8 |
| 2007 | 4 | 218.4 | 75.62 |
| 2008 | 5 | 338.4 | 42.91 |
| 2009 | 5 | 338.4 | 60.22 |
| 2010 | 5 | 338.4 | 74.58 |
| 2011 | 5 | 338.4 | 81.4 |
| 2012 | 5 | 338.4 | 112.63 |
| 2013 | 6 | 698.4 | 68.38 |
| 2014 | 6 | 698.4 | 96.7 |
| 2015 | 6 | 698.4 | 110.38 |
| Min | 1 | 46.4 | 0 |
| Max | 6 | 2349 | 131.96 |
| Avg. | 3.4 | 817.5 | 48.9 |

Table 3- Irrigation history from the portion of the Ogallala aquifer Application No. 2758-2 proposes to withdraw water from (Water Rights, 1982-2016)

Hydrologic Budget:

The estimated average annual recharge to the portion of the Ogallala aquifer this application proposes to use ranges from 17,875 to 46,750 ac-ft/yr. The estimated average annual pumpage is less than 2,500 ac-ft/yr. This application proposes to appropriate 63 ac-ft/yr. The difference between estimated average annual recharge and average annual withdrawals concurs with the observation well data. Therefore, there is a reasonable probability unappropriated water is available for this proposed appropriation.

EXISTING WATER RIGHTS:

The existing well site and proposed well site for Application No. 2758-2 are approximately 0.6 miles south of the well site authorized by Water Permit No. 2625-2 for Raymond Yager (Water Rights, 2017b). The next nearest appropriative wells are three miles away. It is likely there are domestic wells completed into this portion of the Ogallala aquifer within approximately one mile of the well sites this application proposes to use.

The Ogallala aquifer at the existing well this application proposes to use is under unconfined conditions. Drawdown created from pumping a well in an unconfined aquifer is minimal within a short distance of the well. Although many of the assumptions of the Theis Equation are not valid in this case, it can be used to provide a general estimate of drawdown. Assuming the parameter values shown in Table 4, the estimated drawdown 0.6 miles after continuously pumping for 219 days is 0.25 feet (Utah, 2017). It would take 219 days of continuous pumping at the requested diversion rate to pump the annual volume requested of 63 ac-ft. The effects of boundary conditions could increase the drawdown 0.6 miles away from the pumping well.

| Pump Rate | Transmissivity | Distance from Pumping Well | Aquifer Storativity | Time Since Pumping Began | Drawdown |
|-----------|----------------------|----------------------------|---------------------|--------------------------|----------|
| cfs | ft ² /day | miles | | days | feet |
| 0.14 | 450 | 0.6 | 0.092 | 219 | 0.25 |

Table 4- Theis Equation values

Observation well GY-77A is within 1.5 miles of several wells operated by the City of Gregory under Water Right Nos. 1031-2, 1668-2, and 2728-2. The hydrograph shows minimal effects caused by pumping the City of Gregory’s wells on the water level in the observation well. This application proposes a diversion rate of 0.14 cfs (65 gallons per minute). The relatively low diversion rate means the amount of drawdown created from pumping the existing well or the proposed well will be relatively limited. Precise estimates of drawdown cannot be determined without aquifer testing. The 63 ac-ft/yr. requested by the applicant is slightly more than double the 29 ac-ft/yr. allowed for each domestic user at 18 gallons per minute continuously. Considering all that information, it is probable this proposed diversion will not adversely impact existing water users.

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”.

Nearby adequate wells are not expected to be adversely impacted as defined in ARSD 74:02:04:20(7). However out of an abundance of caution if this application is approved, the water permit should include a qualification 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. When all of the above factors are considered, there is a reasonable probability the proposed diversion can be made without adversely impacting existing appropriative or domestic water users.

SPECIAL CONSIDERATION:

There has been some history of opposition to development of appropriative use of water from this portion of the Ogallala aquifer. A letter of opposition to this application has already been filed by Raymond Yager. Mr. Yager indicated a number of local residents also intend to oppose

this application. The applicant, A.J. Steffen, previously petitioned as one of nine people in opposition to approval of Mr. Yager's permit, Water Permit No. 2625-2. A hearing in front of the Water Management Board was held on May 7, 2008, on Application No. 2625-2. Mr. and Mrs. Yager appeared along with a concerned but not in opposition neighbor, Pat Cerny. Application No. 2625-2 was approved by the Board without findings of fact and conclusions of law. The construction period for Water Permit No. 2625-2 ended May 2013, but there is no well completion report on file with the DENR-Water Rights Program (Water Rights, 2017b and 2017c). Notes on Mr. Yager's annual irrigation questionnaires indicate he was unable to find sufficient aquifer material to support a well and was attempting to supply his irrigation system with a dam. In January 2010, Mr. Yager was sent a notice of cancellation. Mr. Yager requested the cancellation be put on hold because he still wanted to use a well for his irrigation project. Since 2013, Mr. Yager's annual irrigation questionnaires have indicated there was sufficient moisture. The 2012 questionnaire indicated the system was not yet constructed.

Water Permit No. 2691-2 for Chad Kehn was opposed for concerns of lack of available water and potential impacts on existing water users. The well authorized by Water Permit No. 2691-2 is approximately 9.7 miles east-southeast of the well sites this application proposes to use. Water Permit No. 2691-2 was approved after a hearing in front of the Water Management Board.

Mr. Yager's letter of opposition to Application No. 2758-2 stated he has a few issues with this application: 1) "...the negative impact the request for an increase of water will have on our current well...", 2) "...as well as adding to the contamination of surrounding ground water and wells...", 3) air quality deterioration due to manure dust from the current feedlot operation, and 4) "...smell, dust and insects have grown exponentially and is often times untenable for us." Issues 3 and 4 are public interest issues and will not be addressed in this report. Issue 2 is a concern about the potential for contamination of the surrounding groundwater and wells. That has to do with the applicant's feedlot and manure management and would be addressed by the review of a permit application by the DENR-Feedlot Program. It is also a public interest issue. Issue 1 states concerns about potential on Mr. Yager's well. As previously stated, there is more annual recharge than there are withdrawals from this portion of the Ogallala aquifer. Furthermore, the limited diversion rate proposed by this application and the distance between the well this application proposes to use and the Mr. Yager's well means there is a low probability of impacts from pumping this proposed diversion on Mr. Yager's well. There is no information available to determine if Mr. Yager's well is adequate.

CONCLUSIONS:

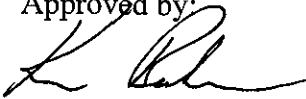
1. Application No. 2758-2 proposes to authorize the appropriation of 63 ac-ft/yr. at a maximum diversion rate of 0.14 cfs the Ogallala aquifer for commercial use in a livestock facility in Gregory County.
2. The existing well and proposed well site are in an erosional remnant of the Ogallala aquifer that covers portions of Gregory County and extends into Boyd County, Nebraska.
3. Based on the observation well data and a hydrologic budget, there is a reasonable probability unappropriated water is available for this proposed appropriation.

4. There is a reasonable probability the diversion proposed by this application can be made without adversely impacting existing appropriative or domestic users.



Adam Mathiowetz, PE
SD DENR-Water Rights Program

Approved by:



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

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- Water Rights. 2017b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2017c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



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. 2758-2, Steffen Farms LLC

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2758-2, Steffen Farms LLC, c/o A J Steffen, 34419 295th Street, Burke SD 57523.

The Chief Engineer is recommending APPROVAL of Application No. 2758-2 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 wells approved under Water Permit No. 2758-2 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 new well authorized by Permit No. 2758-2 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. Water Permit No. 2758-2 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. 2758-2 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)

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APR 21 2017

WATER RIGHTS
PROGRAM

April 15, 2017

Department of Energy and Natural Resources
Division of Environmental Services
Joe Foss Building
523 E. Capital
Pierre, South Dakota 50501-3182

Re: Well permit 2758-2/Steffen Farms LLC, feedlot

Dear Sirs:

This letter is to serve as notification that we oppose the issuance of the above referenced permit to Steffen Farms, LLC.

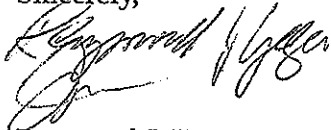
The reasons for our objection is due to the negative impact the request for an increase of water will have on our current well, as well as adding to the contamination of surrounding ground water and wells.

The past couple of years, we have experienced a deterioration of air quality with manure dust generated from the current operation of the this feedlot. The smell, dust and insects have grown exponentially and is often times untenable for us. Please do not allow for further damage to be done to our lives.

In the event that there will be a public meeting, please allow us the opportunity to appear to state our case.

Thank you.

Sincerely,



Raymond J. Yager
Julie R. Yager
29429 SD Hwy 47
P.O. Box 7
Burke, South Dakota 57523
605-775-2345

cc: Steffen Farms LLC c/o AJ Steffen

April 23, 2017

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APR 26 2017

WATER RIGHTS
PROGRAM

Chief Engineer
Water Rights Program
Foss Building 523 E Capitol
Pierre, SD 57501

Chief Engineer:

This is a letter of opposition to the application for a water permit filed by Steffen Farms LLC c/o A J Steffen, 34419 295th St, Burke SD 57523 to appropriate 63 acre feet of water annually at a maximum diversion rate of 0.14 cubic feet of water per second from an existing well and a new well to be completed into the Ogallala Aquifer (40 feet deep) located on his farm for commercial use in a feedlot facility.

That is an astronomical amount of water for one farm to be taking from the aquifer. This is a feedlot not a city. Mr. Steffen already has one well. By putting down a well the size he proposes, he will have access to an unlimited amount of water without cost or monitoring of the amount or use. Once this size well is approved, Mr. Steffen can withdraw twice the stated amount. This operation has a history of not being truthful.

I am concerned as to how a withdrawal of this magnitude is going to affect the overall level of the Aquifer. How is it determined that there is actually that much unappropriated water available for the taking? Just about every farm in the countryside has a well in the Aquifer, as do the cities, and West River Rural Water. My farm well has been in place in the Aquifer for 40 years. The Aquifer level is affected by over use, drought, and floods indicating that existing wells can be compromised by those not protective of our environmental components.

This well would certainly be beneficial use to the feedlot—but NOT to the surrounding neighborhood and community.

As for it being in the public interest, that depends on what sector of public you are asking. It would be to the Steffen Farms and those associated with them, but definitely NOT to the surrounding neighbors and communities they would be taking from.

For these reasons I am asking you to disapprove this application for a water permit and large well to be put

Gronlund, Eric

From: Ryan Bosch <ryan_bosch_07@hotmail.com>
Sent: Sunday, April 30, 2017 7:39 PM
To: Gronlund, Eric
Cc: oldchurch@goldenwest.net
Subject: [EXT] Steffen well permit protest

To whom it may concern,

I Loren and Tracy Bosch do protest the granting of the well permit for Steffen Farms LLC. Permit #2758-2

Respectfully

Loren and Tracy Bosch
29467 345th Ave.
Burke, SD 57523

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MAY - 1 2017

WATER RIGHTS
PROGRAM

Dwaine and Susan Umberger
29297 346th Avenue
Herrick, South Dakota 57538

April 26, 2017

Jeanne Goodman, Chief Engineer
SD DENR-Water Rights Program
Foss Building
523 E Capitol
Pierre, South Dakota 57501

Dear Jeanne Goodman, Chief Engineer,

We oppose the amount of water requested by the granting of water permit NO.2758-2 by Steffen Farms LLC.


The applicant states the he is "Applying for a CAFO from [DNR] water use for proposed CAFO." On April 18, 2017 the Gregory County Commission cited the 2-mile setback-from-existing-residences rule in the Gregory County Planning and Zoning Ordinance to deny Steffen Farms LLC to move forward with their feedlot expansion at the sited location. Based on this ruling DENR cannot issue an approval of Steffen Farms LLC application to expand their current feedlot size beyond 999 head of cattle. Therefore, Steffen Farms LLC show no need for such a large quantity of water (.14 cfs) they have requested.

We own farm property with 4 existing domestic use wells located on land in the N 1/2 of the NW ¼ and the NE ¼ of Sect.18, T 96N R 71 less than one mile of the proposed well site for Steffen Farm LLC. We water our cattle on these lands and also these wells serve for watering cattle on the NW ¼ of Sect. 18, and the SW ¼ and the NE ¼ of Sect. 7 in the same Township. We believe this new amount of water which is requested is now not needed by Steffen Farms LLC nor is it in the public interest (SDCL 46-2A-p).

Sincerely,



Dwaine Umberger



Susan Umberger

CC.

Steffen Farms LLC
c/o A J Steffen
34419 295th St.
Burke, South Dakota 57523

AFFIDAVIT OF PUBLICATION

RECEIVED

APR 10 2017

WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

See
Attached

Penny Hohbach of said county, being, first duly sworn, on oath, says; that he/she is the publisher or an employee of the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he/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; that said newspaper has been published within the said County of Davison 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, order or advertisement, 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 1 issue(s), to wit:

Wednesday, April 5, 2017

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; 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: \$145.29

Signed: Penny Hohbach

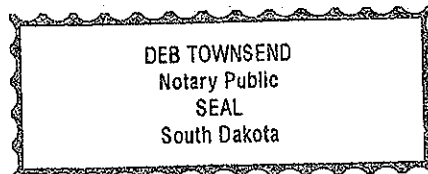
Subscribed and sworn to before me this 6th day of April, 2017.

Deb Townsend

Notary Public
County of Davison

My Commission Expires: 09-21-18

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515



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case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends approval of Application No. 2758-2 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.

The Water Management Board will consider this application at 1:00 pm on May 11, 2017 in the Matthew Training Center, Joe Foss Bldg 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 May 1, 2017.

The petition may be informal but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer.

These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The May 11, 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 May 1, 2017. 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.

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.

Under SDCL 1-26-17(7) notices must state that if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17. This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 17, 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, 46-2-9, 46-2-11, 46-2-17, 46-2A-1 thru 46-2A-12, 46-2A-14,

46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23, 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49, 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25:02.

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

Published once at a total approximate cost of \$145.29

NOTICE OF HEARING ON WATER PERMIT APPLICATION NO. 2758-2 to Appropriate Water

Notice is given that Steffen Farms LLC c/o A J Steffen, 34419 1295th St, Burke SD 57523 has filed an application for a water permit to appropriate 63 acre-feet of water annually at a maximum diversion rate of 0.14 cubic feet of water per second from an existing well and a new well to be completed into the Ogallala Aquifer (40 feet deep) located in the NW 1/4 NW 1/4 Section 19 for commercial use in a livestock facility located in the NW 1/4 Section 19; all in T96N-R71W.

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

APR 10 2017

WATER RIGHTS PROGRAM

Affidavit Of Publication

Beginning of Notice on 2nd page

STATE OF SOUTH DAKOTA COUNTY OF GREGORY

ss.

C. J. FAHRENBACHER of said county being first duly sworn, on oath says that he is the publisher of THE BURKE GAZETTE, a weekly newspaper printed and published in Burke said County of Gregory and has full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at 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

DENR-Notice of Hearing-Steffen Farms LLC

a printed copy of which, taken from the paper in which the same was printed, 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:

4/5/17

that the full amount of the fees for the publication of the annexed notice is \$ 66.22

[Signature]

Subscribed and sworn to before me this 5th day of April, 2017

[Signature] Notary Public County of Gregory, South Dakota Commission Expires October 30, 2021

requested, the hearing will be re-scheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 17, 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; and Board Rules ARSD 74-02-01-01 thru 74-02-01-25-02.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of \$ 66.22.

NOTICE OF HEARING ON WATER PERMIT APPLICATION NO. 2758-2 to Appropriate Water

Notice is given that Steffen Farms LLC c/o A J Steffen, 34419 295th St, Burke SD 57523 has filed an application for a water permit to appropriate 63 acre-feet of water annually at a maximum diversion rate of 0.14 cubic feet of water per second from an existing well and a new well to be completed into the Ogallala Aquifer (40 feet deep) located in the NW 1/4 NW 1/4 Section 19 for commercial use in a livestock facility located in the NW 1/4 Section 19, all in T96N-R71W.

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

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2758-2 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.

The Water Management Board will consider this application at 1:00 pm on May 11, 2017 in the Matthew Training Center, Joe Foss Bldg, 523
Continued on Page 10

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

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 May 1, 2017.

The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The May 11, 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 May 1, 2017. If an automatic delay is



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

May 3, 2017

NOTICE

TO: A J Steffen
Steffen Farms LLC
34419 295th Street
Burke SD 57523
and Parties of Record (see attached list)

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Postponement of Hearing on Water Permit Application No. 2758-2, Steffen Farms LLC

Petitions of opposition to Water Permit Application No. 2758-2, Steffen Farms LLC have been filed in response to the public notice. The public notice scheduled a hearing before the Water Management Board at 1:00 PM on Thursday, May 11, 2017 in Pierre SD. This May 11th hearing is being administratively postponed and will be rescheduled for the next meeting of the Board. Therefore, the hearing on Application No. 2758-2 is postponed and will not be held on May 11, 2017.

The hearing to consider Application No. 2758-2 is tentatively scheduled for the July 12 - 13, 2017 meeting. The Water Management Board will formalize the meeting date at their upcoming meeting. Future notice of the time and place of the hearing for Application No. 2758-2 will be provided to all parties of record.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

enclosure

c: Ann Mines-Bailey, Assistant Attorney General

**Parties of Record for Water Permit Application No. 2758-2
Steffen Farms LLC**

Applicant

Steffen Farms LLC
A J Steffen
34419 295th St
Burke SD 57523

Petitioners

Raymond J Yager
PO Box 7
Burke SD 57523

Elsie Forsch
29727 SD Hwy 47
Burke SD 57523

Loren & Tracy Bosch
29467 345th Ave
Burke SD 57523

Bryan Witt
29531 SD Hwy 47
Burke SD 57523

Vernon Witt
705 E 7th St
Burke SD 57523

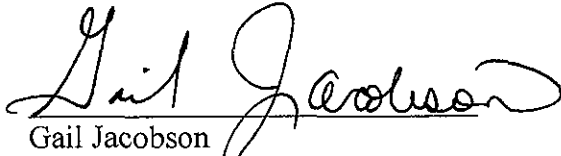
CERTIFICATION

I hereby certify that on May 3, 2017, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated May 3, 2017 regarding hearing change addressed as stated below:

Water Permit Application No. 2758-2
Steffen Farms LLC, A J Steffen, 34419 295th St, Burke SD 57523

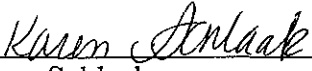
And Parties of Record (see attached list)

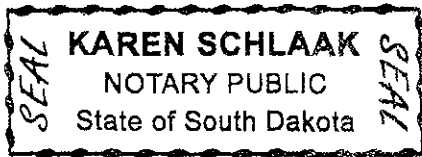
Ann Mines Bailey, Assistant Attorney General, 1302 US-14 #1, Pierre, SD 57501
InterOffice


Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of May, 20 17.


Karen Schlaak
Notary Public
My Commission expires April 1, 2019





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

June 8, 2017

NOTICE

TO: A J Steffen
Steffen Farms LLC
34419 295th Street
Burke SD 57523
and Parties of Record (see attached list)

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application No. 2758-2, Steffen Farms LLC

Water Permit Application No. 2758-2 submitted by Steffen Farms LLC proposes to appropriate 63 acre-feet of water annually at a maximum diversion rate of 0.14 cubic feet of water per second from an existing well and a new well to be completed into the Ogallala Aquifer (40 feet deep) located in the NW 1/4 NW 1/4 Section 19 for commercial use in a livestock facility located in the NW 1/4 Section 19; all in T96N-R71W.

Petitions of opposition to Water Permit Application No. 2758-2, Steffen Farms LLC were filed in response to the public notice. This May 11, 2017, hearing was postponed and this notice reschedules the hearing on Application No. 2758-2 for July 12, 2017.

The Water Management Board will now conduct a hearing to consider Application No. 2758-2 at 2:00 PM (Central Time) on Wednesday, July 12, 2017, 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 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.

Enclosed is the report, recommendation, affidavits of publication and petitions filed in the matter of Water Permit Application No. 2758-2. 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.

Applicable provisions of the public notice of hearing published in the Burke Gazette and the Daily Republic published April 5, 2017, still apply.

**Parties of Record for Water Permit Application No. 2758-2
Steffen Farms LLC**

Applicant

Steffen Farms LLC
A J Steffen
34419 295th St
Burke SD 57523

Petitioners

Raymond J Yager
PO Box 7
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Elsie Forsch
29727 SD Hwy 47
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29467 345th Ave
Burke SD 57523

Bryan Witt
29531 SD Hwy 47
Burke SD 57523

Vernon Witt
705 E 7th St
Burke SD 57523

CERTIFICATION

I hereby certify that on June 8, 2017, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated June 8, 2017 regarding Hearing on Water permit No. 2758-2, Steffen Farms LLC addressed as stated below:

Applicant

Steffen Farms LLC
A J Steffen
34419 295th St
Burke SD 57523

Petitioners

Raymond J Yager
PO Box 7
Burke SD 57523


Bryan Witt
29531 SD Hwy 47
Burke SD 57523

Elsie Forsch
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Loren & Tracy Bosch
29467 345th Ave
Burke SD 57523

Ann Mines Bailey, Assistant Attorney General, 1302 US-14 #1, Pierre, SD 57501 InterOffice


Gail Jacobsen
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of June, 2017.


Karen Schlaak
Notary Public
My Commission expires April 1, 2019

