



**WATER MANAGEMENT BOARD**  
**Wednesday - March 6, 2019**  
**Floyd Matthew Training Center**  
**Joe Foss Building**  
**523 E Capitol Avenue**  
**Pierre SD**

Scheduled hearing times are Central Time

**AGENDA**

Scheduled times are estimates only. Agenda items may be delayed due to prior scheduled items.  
Live audio of the meeting can be heard at [www.sd.net/mtc](http://www.sd.net/mtc)

- 10:30 AM Call to Order  
Adopt Final Agenda  
Conflicts Disclosures and Requests for State Board Waivers  
December 5, 2018 Board Minutes  
Set May 8 - 9, 2019, Meeting Including Scheduling for TransCanada Keystone Pipeline Application Nos. 1986-1, 2792-2 and 2793-2, Tom & Lori Wilson's Application No. 1963A-1 and Wink Cattle Company's Application No. 1975A-1  
Status and Review of Water Rights Litigation – Ann Mines Bailey  
Administer Oath to Department of Environment and Natural Resources Staff
- DENR Update -- New Employee
- Request to Advertise Amendment to Administrative Rules of South Dakota Chapter 74:04:12, Drinking Water Standards – Mark Mayer
- Appointment of Rapid Valley Water Master – Aaron Tieman
- Cancellation Considerations – Eric Gronlund
- Future Use Permit Seven Year Review – Eric Gronlund
- Violations for Failure to Report 2018 Irrigation Questionnaire – Genny McMath
- 11:00 AM Petition for Declaratory Ruling that Issuance of a Temporary Permit to Use Public Waters for Mineral Exploration Under Certain Circumstances would be Arbitrary, Capricious, and Contrary to the Laws of the State of South Dakota
- Public comment period in accordance with SDCL 1-25-1

The Board will break for lunch at their discretion.

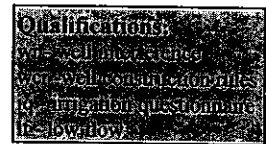
**ADJOURN**

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

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

# WATER MANAGEMENT BOARD MEETING

March 6, 2019



No.	Name	Address	County	Amount	Use	Source	Qualifications
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## Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

2741-2	Tubbs Land & Cattle LLC	Edgemont	FR	3.34 cfs	567 acres	1 well-Madison & 65 AF dam	wi, iq, 3 special
2791-2	Twisted Oak Trail Road Dist.	Keystone	PE	0.047 cfs	water distribution system	1 well-Deadwood	wi, 2 special
2794-2	Brent or Pamela Veurink	Platte	GY	2.21 cfs	150 acres	3 wells-Ogallala Aquifer	wi, wcr, iq
1358B-3	Wipf Acres LP	Frankfort	SP	no add'l	no add'l	1 well-Tulare East James	wi, wcr, iq, 2 special
8376-3	Husky Farms LLC	Carpenter	CK	0.267 cfs	commercial	2 wells-Altamont Aquifer	wi, 4 special
8377-3	Elm Valley Farms Inc	Pipestone MN	BN	0.11 cfs	commercial	2 wells-Dakota Aquifer	wi, 4 special
8378-3	M-117 LLC	Sioux Falls	MA	0.18 cfs	15.36 acres	1 well-Harrisburg & 16.8 AF dam	wi, 2 special
8379-3	Bobcat Farms RE LLC	Pipestone MN	BG	0.10 cfs	commercial	1 well-Big Sioux:Aurora	wi, 4 special
8380-3	Nat'l Field Archery Assoc.	Yankton	YA	0.44 cfs	9 acres	1 well-Missouri:Elk Point	wi, iq
8381-3	R P Constructors	N Sioux City	UN	0.04 cfs	commercial	1 well-Missouri:Elk Point	wi, 2 special
8382-3	Mark E Venner Sr	Pierre	HU	3.34 cfs	320 acres	Missouri River	iq
8383-3	Paul Leiseth	Hazel	HM	2.0 cfs	150 acres	2 wells-Big Sioux:Brookings	wi, wcr, iq
8386-3	Steve & Lori Breeding	Chamberlain	BF	3.34 cfs	174 acres	Missouri River	iq, 1 special

## Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
1780-2	City of New Underwood	New Underwood	PE	142 AF	municipal	Fall River-Lakota Aquifer	none
192-3	City of Aberdeen	Aberdeen	BN	3,823 AF	municipal	alluvium along Elm River	none
3427A-3	City of Aberdeen	Aberdeen	BN	1,824 AF	municipal	Elm Aquifer	none
217-3	Brookings Municipal Utilities	Brookings	BG	1,612 AF	municipal	Big Sioux:Six Mile Creek Aquifer	none
1598-3	Brookings Municipal Utilities	Brookings	BG	2,416 AF	municipal	Big Sioux:Aurora Aquifer	none
448-3	City of Sioux Falls	Sioux Falls	MA	3,842 AF	municipal	Big Sioux:Sioux Falls Aquifer	none
2042-3	City of Sioux Falls	Sioux Falls	MN	28,236 AF	municipal	Missouri River	none
549-3	City of Milbank	Milbank	GT	808 AF	municipal	Veblen Aquifer	none
1218-3 & 2107-3	Watertown Municipal	Watertown	CD	2,709 AF	municipal	Big Sioux:North Aquifer	none
4927-3	Clark Rural Water System	Clark	CK	221 AF	rws	Vermillion East Fork & Antelope Lake Aquifer	none
6988-3 & 6988A-3	Joint Well Field Inc.	Toronto	BG	2,375 AF	rws	Big Sioux:Brookings Aquifer	none

**CANCELLATIONS – MARCH 6, 2019**

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

RT 928A-1	Charles Wennberg	Shirley Wennberg w/Wennberg Family Trust	LA	1.01	IRR	A	Runoff & Whitewood Creek	1-28-19	
RT 1658-1	Jeral & Dianne Shear	same	BU	1.11	IRR DOM	A/F	ground water, one well Minnelusa Aquifer	1-16-19	

**DIVISION II WATER RIGHT**

RT 38-2	Martin Printz	same	PE	2.00	IRR	A	Box Elder Creek	1-14-19	
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**DIVISION III WATER PERMITS AND WATER RIGHTS**

RT 1333-3	Elmer Muntefering	Mike Muntefering	HT	2.22	IRR	A	ground water, one well Ethan Aquifer	1-16-19	
RT 1765-3	Ronald A Bieber	same	MP	2.22	IRR	A/F	sloughs	1-14-19	
RT 3932-3	Peterson Farms Inc	same	DA	1.78	IRR	A	ground water, two wells Altamont Aquifer	1-14-19	
RT 5792-3	SD School & Public Lands	S&PL w/copies to Ryan Brunner, Commissioner and Mike Cornelison	PT	1.56	IRR	A/F	ground water, four wells Okobojo Creek Aquifer	1-24-19	
PE 7190-3	Randy, Valerie & Doris Svendsen	Randy & Valerie Svendsen	YA	2.22	IRR	NC	ground water, one well Dakota Formation	1-14-19	
PE 8292B-3	Glendale Hutterian Brethren	same	SP	1.45	IRR	NC	James River	1-14-19	

ABBREVIATIONS			PAGE 1
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

**2019 Legislative Water Development Oversight Committee  
Board of Water and Natural Resources  
Water Management Board**



Representative Mary Duvall  
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[mkduvall@pie.midco.net](mailto:mkduvall@pie.midco.net)



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

MINUTES OF THE 212<sup>th</sup> WATER MANAGEMENT BOARD  
VIA TELEPHONE CONFERENCE CALL MEETING  
FLOYD MATTHEW TRAINING CENTER  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA  
December 5, 2018

CALL TO ORDER: Chairman Hutmacher called the meeting to order at 11:00 a.m. Central time.

A quorum was present.

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

The following were in attendance at the meeting:

BOARD MEMBERS: Chad Comes, Peggy Dixon, Jim Hutmacher, Everett Hoyt Leo Holzbauer, and Tim Bjork. Peggy Dixon joined the conference call when the October 4, 2018, Board minutes were considered. Rodney Freeman did not participate in the conference call.

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR): Jeanne Goodman, Eric Gronlund, Karen Schlaak, Ron Duvall, and Adam Mathiowetz with the Water Rights Program; Julie Smith with the Drinking Water Program.

ATTORNEY GENERAL'S OFFICE: Ann Mines Bailey, representing the Water Rights Program; Kirsten Jasper and David McVey, Board Counsel.

LEGISLATIVE OVERSIGHT COMMITTEE: Representative Mary Duvall

Julie Smith conducted a roll call of members present on the phone.

ADOPT FINAL AGENDA: No changes noted to the posted agenda.

Motion by Leo Holzbauer, seconded by Tim Bjork, to approve the agenda. A roll call vote was taken and the motion carried unanimously.

CONFLICTS DISCLOSURES AND REQUEST FOR STATE BOARD WAIVERS: None.

APPROVAL OF BOARD MINUTES FOR OCTOBER 4, 2018:

Mr. Hoyt proposed two additions to the minutes.

Water Management Board  
December 5, 2018, meeting minutes

The first one relates to the request for a temporary permit to use public water filed by Mineral Mountain Resources.

Mr. Hoyt would like to add a sentence on page 4 at the end of the introduction and just before the public commenters. He proposed adding "Mr. Naasz stated that based on current operations, applicants did not expect to apply for any additional temporary permits for this exploratory mining operation at this site."

Then on page 5, Mr. Hoyt suggested amending the sentence regarding lack of participation to read "Mr. Hoyt stated that he had concerns regarding the lack of participation by SD GF&P in the application."

Eric Gronlund indicated the draft minutes were also amended to include a signature block and a sentence with contact information for the court reporter.

Motion by Everett Hoyt to approve the October 4, 2018, minutes as amended, seconded by Tim Bjork. Motion carried unanimously by a roll call vote.

MARCH 6-7, 2019, MEETING AND LOCATION:

Mr. Gronlund indicated that the March meeting is commonly scheduled for the first week of that month. Therefore, Mr. Gronlund recommends the date of the next meeting as March 6 – 7, 2019. Mr. Gronlund does not know for sure if it will be a one or two day meeting. Suggested meeting location is Pierre.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: Ann Mines Bailey stated there is no litigation involving the Water Management Board.

ADMINISTER OATH TO DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES STAFF: Karen Schlaak as a notary public administered the oath to the DENR employees who intended to testify at today's meeting.

DENR UPDATE ON IRRIGATION QUESTIONNAIRES AND WELL DRILLER & PUMP INSTALLER LICENSE RENEWAL:

Jeanne Goodman, Chief Engineer of the Water Rights Program, stated she would like to update the Board and remind them of the two major mailings that the Water Right Program does at this time of the year.

The first mailing is the irrigation questionnaires. On October 30<sup>th</sup>, 3,856 irrigation questionnaires were mailed to 1,981 irrigators in South Dakota. The questionnaires are required forms for reporting 2018 irrigation season water use. Irrigators had until December 3<sup>rd</sup> to complete the forms and submit them to the Water Rights Program. As the Board knows, if the questionnaires are not timely filed, the Water Management Board will consider possible suspensions or cancellations of water rights at their March 2019 meeting.

Irrigators currently receive two written mailed notices, the first one in October and second notification a few weeks after the 1<sup>st</sup> of January. Still, late filings of the questionnaires is a common occurrence. Through many emails and phone calls from Genny McMath, the list of possible suspensions actually considered by the Board is substantially whittled down by the time we get to the March meeting. These efforts take a great deal of time, and it is difficult to make sure we contact sometimes hundreds of delinquent permit holders. The Board has expressed some discouragement at this level of hand holding to achieve compliance.

Ms. Goodman stated the Water Rights Program is trying something new this year. The first mailing included a statement that failure to return the questionnaires by the March Board meeting is considered a violation of their permit and they can be subject to a fine by DENR in addition to the suspensions by the Board.

Only the two notices will be sent out this time. When the irrigators call for assistance to file their questionnaires, Genny will continue to provide her usual good customer service but will not be sending out any additional reminders. As of today, DENR has received over 50% of the forms after just the first mailing. The second mailing will be sent in January. DENR will see whether or not mentioning the potential of fines deters delinquency and will get the questionnaires to DENR a little sooner.

The second mailing is the renewal of well driller and pump installer licenses. On December 6<sup>th</sup>, the renewal notices for the 2019 well drillers and pump installers licenses will be mailed. We mail to 146 currently licensed well drillers and 29 pump installers. The renewal application, the documentation of continuing education and the fees are to be postmarked no later than January 31, 2019. The cost of the license is \$200.00 for South Dakota residents and \$300.00 for out of state drillers and installers. They are also required to provide documentation of 4 hours of continuing education that they have received in calendar year 2018 or hours that may have been carried over from the previous year.

Mr. Hoyt endorses what DENR is doing to encourage timely filing of irrigation questionnaires.

CANCELLATION CONSIDERATIONS: A table listing the water rights/permits proposed for cancellation, the notices of cancellation, and the chief engineer's recommendations were included in the packet the board members received prior to the meeting.

Eric Gronlund stated the six water rights/permits listed on the table were scheduled for cancellation. No comments or letters in response to the notices of cancellation were received.

The Chief of Engineer recommends cancellation of the five water permits and one water right as set forth on the table entitled "Cancellations - December 5, 2018".

**CANCELLATIONS – DECEMBER 5, 2018**

Number	Original Owner	Present Owner(s) & Other Persons Notified	Reason
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DIVISION I WATER PERMIT

Water Management Board  
December 5, 2018, meeting minutes

<b>PE 1660-1</b>	Don Bennett w/GFK Inc.	Don Bennett w/GFK Inc.; Todd Battles and Brett Burditt both with Meade County School District	Abandonment/Forfeiture
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**DIVISION II WATER PERMITS**

<b>PE 1400-2</b>	Ben Hancock	Grant Patterson	Abandonment/Forfeiture
<b>PE 2569A-2</b>	Jay & Malinda Gunnink	same	Non-Construction
<b>PE 2746A-2</b>	Forrest Stewart	same	Abandonment

**DIVISION III WATER RIGHT AND WATER PERMIT**

<b>RT 1217A-3</b>	Watertown School District No. 14-4	same (% Rick Hohn, Business Manager)	Abandonment/Forfeiture
<b>PE 7629-3</b>	William Bucklin	same	Non-Construction

Motion by Everett Hoyt, seconded by Tim Bjork, for cancellation of the water permits/rights as presented on the table beginning with Permit No. 1660-1 and concluding with Permit No. 7629-3. Motioned carried unanimously by a roll call vote.

**FUTURE USE PERMITS SEVEN YEAR REVIEW:** – Eric Gronlund

The Board packet included a table of unopposed new water permit applications issued based on the Chief Engineer’s recommendation. At the bottom of the table are three future use permits scheduled for the required seven year review. A future use permit reserves water for future water development. Two future use permits are for the City of Rapid City and one is for Weston Heights Home Owners Association. The Board packet included the letters requesting to retain the permits from the future use permits holder, the Chief Engineer’s recommendation and the affidavits of publication.

Mr. Gronlund stated when sending out the board packet, Water Rights did not have the affidavit of publication from the Faith Independent in regards to Weston Heights future use permit review. That affidavit has been received. In response to the public notice, DENR did not receive any petitions to intervene, therefore DENR requests the Board follow the Chief Engineer’s recommendation that these future use permits remain in effect. In the case of Rapid City, Future Use Permit No. 439-2 should remain in effect for 3,367 acre feet and Future Use Permit No. 1088-2, should remain in effect for 4,830 acre feet; both are from Rapid Creek. Future Use Permit No. 1833-2, held by Western Heights Home Owners Association should remain in effect reserving 211 acre feet from the Madison aquifer.

Motion by Everett Hoyt, seconded by Leo Holzbauer, to allow Future Use Permit Nos. 439-2 and 1088-2 for the City of Rapid, and Future Use Permit No. 1833-2 for Weston Height Home Owners Association to remain in effect as set forth in the recommendations. Motion carried unanimously by a roll call vote.

**UNOPPOSED NEW WATER PERMITS ISSUED BY THE CHIEF ENGINEER WITHOUT A HEARING BEFORE THE BOARD:** Prior to the meeting the board received a copy of the table



listing the unopposed new water permits issued by the chief engineer. (See attachment at the end of the minutes.)

CONSIDERATION OF FINDINGS OF FACT, CONCLUSION OF LAW OF AND FINAL DECISION IN THE MATTER OF WATER PERMIT NO. 8338-3, UNIQUE RAILROAD CONTRACTORS:

Appearances:

Ann Mines Bailey, counsel for the Water Rights Program  
David Geyer, counsel for intervenors  
Margo Northrup, counsel for the applicant

DENR submitted proposed Findings and Fact, Conclusions of Law and Final Decision on November 11, 2018. The Board received an objection to the proposed Finding of Facts, Conclusions by Law and Final Decision from applicant's counsel on November 19, 2018. Intervenors' counsel submitted objections to the proposed findings and submitted their own Findings of Fact, Conclusions of Law and Final Decision on November 26, 2018. Based on the submittals, Board counsel compiled Finding of Facts, Conclusions of Law and a Final Decision. Ms. Jasper submitted her version to the Board, DENR and counsel for the applicant and intervenors on November 28, 2018. After that submission, DENR submitted an additional request on November 30, 2018. DENR is requesting that Finding of Fact No. 20 be modified to include "this portion of" so the finding reads "There are no domestic wells completed into this portion of the Pleistocene Series:Unknown aquifer on file with DENR."

Ms. Jasper emailed counsel for parties on Monday to see if there were objections to that particular request from DENR. Ms. Jasper stated she did hear back from the applicant that they did not have objections. She did not hear back from the intervenors. Ms. Jasper put together an amended proposed set of Findings of Fact, Conclusions of Law and Final Decision. Finding of Fact No. 20 now reflects that "There are no domestic wells completed into this portion of the Pleistocene Series:Unknown aquifer on file with DENR."

David Geyer stated he would just note that he did file objections to the proposed Findings of Facts, Conclusions of Law, and Final Decision proposed by DENR. He also submitted intervenors' proposed Finding of Facts, Conclusion of Law, and Final Decision. In regards to the Finding of Fact No. 20, intervenors have no objection to the amendment to this finding. Mr. Geyer would like to note regarding qualification No. 1 regarding well interference that the current language in the second sentence of the finding states "The owner of this Permit 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." Mr. Geyer suggests that this protection should apply to all water rights not just those pertaining to wells.

Ann Mines Bailey stated the law of the State of South Dakota is that protection is afforded to prior water rights. It is also the law of the State of South Dakota that those water rights are protected to the extent that the wells have been properly constructed in accordance with State regulation. Ms. Mines Bailey stated the qualification that is recommended by the Chief Engineer is the same qualification used when granting all applications from groundwater. The Board has

consistently applied this standard qualification in order to provide protection to prior rights and domestic uses.

Motion by Everett Hoyt, seconded by Tim Bjork, that the Board adopt the Findings of Fact, Conclusions of Law, and Final Decision as prepared in the version which we received in the last day from Board counsel and that the adoption of these Findings of Facts, Conclusions of Law and Final Decision be considered a ruling on the proposed findings submitted by parties to this proceeding; further that the Chairman be authorized to sign the decision on behalf of the Board. Motion Carried unanimously by roll call vote.

Ms. Northrup, counsel for the applicant, stated for the record that she was present on the call.

Kirsten Jasper thanked the Board for the opportunity to sit at three meetings as their counsel. David McVey will be taking Ms. Jaspers place as Board counsel.

PUBLIC COMMENT PERIOD – There were no public comments.

Motion by Peggy Dixon, second by Tim Bjork that the meeting adjourn. Motion carried unanimously by roll call vote.

Chairman Hutmacher declared the meeting adjourned at 11:33 AM.

Approved this \_\_\_\_\_ day of March, 2019.

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Water Management Board

# WATER MANAGEMENT BOARD MEETING

December 5, 2018

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

No.	Name	Address	County	Amount	Use	Source	Qualifications
1985-1	Hostler Farms	Mt Vernon	BU	no add'l	28.7 acres	Belle Fourche River	lf, iq, 1 special
2651A-2	James Riley Wallingford	Rapid City	BT	1.89 cfs	132 acres	1 well-Arikaree Aquifer	wi, wcr, iq
5326A-3	South Lincoln RWS Inc	Beresford	LN	change use to RWS		2 wells-Dakota Aquifer	wi, 2 special
5753A-3	South Lincoln RWS Inc.	Beresford	LN	change use to RWS		1 well-Dakota Aquifer	wi, 2 special
6778A-3	South Lincoln RWS Inc.	Beresford	LN	change use to RWS		3 wells-Dakota Aquifer	wi, 2 special
6988A-3	Joint Well Field Inc.	Toronto	BG	expand future use area		Big Sioux:Brookings Aquifer	3 special
8299-3	Aberdeen Energy LLC	Mina	BN	1.33 cfs	commercial	2 wells-Inyan Kara Aquifer	wi, wcr, 3 special
8367-3	Hybrid Turkeys	Ontario Canada	ED	0.17 cfs	commercial	1 well-Dakota Aquifer	wi, 4 special
8368-3	Hybrid Turkeys	Ontario Canada	ED	0.17 cfs	commercial	1 well-Dakota Aquifer	wi, 4 special
8369-3	Hybrid Turkeys	Ontario Canada	ED	0.17 cfs	commercial	1 well-Dakota Aquifer	wi, 4 special
8371-3	Joint Well Field Inc.	Toronto	BG	1.00 cfs	RWS	1 well-Big Sioux:Brookings	wi, wcr, 2 special
8372-3	Hybrid Turkeys	Ontario Canada	ED	0.33 cfs	commercial	1 well-Dakota Aquifer	wi, wcr, 4 special
8373-3	Hybrid Turkeys	Ontario Canada	MP	0.33 cfs	commercial	1 well-Dakota Aquifer	wi, wcr, 4 special
8374-3	Hybrid Turkeys	Ontario Canada	ED	0.33 cfs	commercial	1 well-Dakota Aquifer	wi, wcr, 4 special
8375-3	Maxon H Conkey	St Lawrence	HD	1.78 cfs	132.32 acres	1 well-Tulare:Hand Aquifer	wi, wcr, iq

## Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
439-2	City of Rapid City	Rapid City	PE	3,367 AF	municipal	Rapid Creek	none
1088-2	City of Rapid City	Rapid City	PE	4,830 AF	municipal	Rapid Creek	none
1833-2	Weston Heights Homeowners Assoc.	Rapid City	MD	211 AF	suburban housing development	Madison Aquifer	none

**Water Rights Program - DENR  
Conversation File Documentation**

**NAME OF PERSON:** Jerry Hammerquist, President  
Rapid Valley Water Conservancy District

**DATE:** February 14, 2019      **TELEPHONE:** (605) 393-2109

**RE:** Rapid Valley Water Master Nomination for 2019

**COMMENTS:** On February 14, 2019, I spoke with Jerry Hammerquist at the annual meeting of the Rapid Valley Water Conservancy District about the nomination for Rapid Valley Water Master for 2019. Mr. Hammerquist informed me that the Rapid Valley Water Conservancy District will be nominating Kevin Ham to fill the position of Rapid Valley Water Master for 2019.

**NAME:** Aaron Tieman, Natural Resource Engineer II

**CANCELLATIONS – MARCH 6, 2019**

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**DIVISION II WATER RIGHT**

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**DIVISION III WATER PERMITS AND WATER RIGHTS**

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INS = INSTITUTIONAL	GWR = GROUND WATER REMEDIATION	DOM = DOMESTIC	IND = INDUSTRIAL



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 28, 2019

NOTICE OF CANCELLATION

TO: Wennberg Family Trust, Pioneer Bank & Trust, PO Box 729, Belle Fourche SD 57717

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

SUBJECT: Cancellation of Water Right No. 928A-1

Water Right No. 928-1 authorized irrigation of land in Section 15 and Section 22 of T6N, R4E. Due to ownership changes, the water right was divided into No. 928A-1, Wennberg Family Trust and No. 928B-1, Ted or Coy Thompson. On January 16, 2019 we received a letter from you indicating you wished to relinquish the portion of the water right now owned by Wennberg Family Trust. Based on your request, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 928A-1 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 928A-1 at **10:30 am, Wednesday, March 6, 2019** (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. 928A-1 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 25, 2019. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

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

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

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 25, 2019.

Prior to February 25, 2019, 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 February 8, 2019.



DEPARTMENT of ENVIRONMENT  
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**RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER RIGHT NO. 928A-1, WENNBERG FAMILY 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. 928A-1.

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

The originating Water Right No. 928-1 authorizing irrigation of land in Section 15 and Section 22, T6N, R4E was divided and reissued to reflect separate ownership. The portion of land authorized for irrigation in Section 15, T6N, R4E is owned by the Wennberg Family Trust. A letter dated January 8, 2019 and received January 16, 2019 from Shirley Wennberg indicated she wished to relinquish the water right.

A handwritten signature in cursive script that reads "Ron Duvall".

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 28, 2019

**Note:**

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





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January 16, 2019

NOTICE OF CANCELLATION

TO: Jeral & Dianne Shear, 19261 Shear Rd, Belle Fourche SD 57717

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

SUBJECT: Cancellation of Water Right No. 1658-1

Water Right No. 1658-1 authorizes diversion of water from one well (Minnelusa Formation) for irrigation and domestic purposes. The acres authorized for irrigation are located in portions of Section 4, 5, 8 and 9, T8N, R2E. The well also supplied water to a 6.4 acre-foot storage dam for domestic purposes. On November 13, 2018, Genny McMath with our program spoke with you regarding the notation you put on the 2018 irrigation questionnaire indicating the use had been abandoned. During the conversation you confirmed the well had been plugged and there were no plans to drill another well. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 1658-1 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 1658-1 at **10:30 am, Wednesday, March 6, 2019** (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. 1658-1 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 February 25, 2019. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

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

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

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 25, 2019.

Prior to February 25, 2019, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 28, 2019.



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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NO. 1658-1, JERAL & DIANNE SHEAR**

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. 1658-1.

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

The 2018 irrigation questionnaire submitted by Jeral Shear indicated the use of water had been abandoned. On November 13, 2018, Mr. Shear called and indicated he had trouble with the well and ended up having it plugged. He confirmed he had no plans to drill another well.

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 16, 2019

**Note:**

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



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January 14, 2019

NOTICE OF CANCELLATION

TO: Martin Printz, 16784 Marty Rd, New Underwood SD 57761

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

SUBJECT: Cancellation of Water Right No. 38-2

Water Right No. 38-2 authorizes diversion of water from Box Elder Creek to irrigate 130 acres in the E ½ Section 8, T1N, R12E. On your 2018 irrigation questionnaire you indicated that due to the water source being undependable, you would like the water right cancelled. Based on your request, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 38-2 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 38-2 at **10:30 am, Wednesday, March 6, 2019** (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. 38-2 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 February 25, 2019. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

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

January 14, 2019  
Martin Printz  
Page 2

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

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 25, 2019.

Prior to February 25, 2019, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 25, 2019.



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**RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER RIGHT NO. 38-2, MARTIN PRINTZ**

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. 38-2.

The Chief Engineer is recommending cancellation of the above water right due to abandonment. The water right holder has requested the water right be cancelled indicating the water source is undependable.

A handwritten signature in black ink that reads "Ron Duvall". The signature is fluid and cursive.

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 14, 2019



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January 16, 2019

NOTICE OF CANCELLATION

TO: Mike Muntefering, Muntefering Farms, 40769 272<sup>nd</sup> St, Dimock SD 57331

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

SUBJECT: Cancellation of Water Right No. 1333-3

Water Right No. 1333-3 authorizes diversion of ground water (Ethan Aquifer) to irrigate 232 acres in portions of the S ½ Section 27, T100N, R61W in Hutchinson County. On November 6, 2018, Genny McMath with our program spoke with you regarding the water right. You confirmed the comment written on the irrigation questionnaire indicating you no longer irrigate. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 1333-3 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 1333-3 at **10:30 am, Wednesday, March 6, 2019** (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. 1333-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 25, 2019. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

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

January 16, 2019  
Mike Muntefering  
Page 2

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

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 25, 2019.

Prior to February 25, 2019, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 28, 2019.





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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NO. 1333-3, ELMER MUNTEFERING**

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. 1333-3 now owned by Mike Muntefering.

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

The 2017 and 2018 irrigation questionnaires were submitted with a notation indicating they no longer irrigate. On November 6, 2018, Genny McMath spoke with Mike Muntefering by phone concerning the water right. Mt. Muntefering indicated he had made a business decision not to continue irrigation and was agreeable to cancellation of the water right.

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 16, 2019

**Note:**

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



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January 14, 2019

NOTICE OF CANCELLATION

TO: Ronald A Bieber, 11450 353<sup>rd</sup> Ave, Leola SD 57456

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

SUBJECT: Cancellation of Water Right No. 1765-3

Water Right No. 1765-3 authorizes diversion of water from sloughs for irrigation of 356 acres in portions of Sections 15, 16 & 21, T126N, R69W in McPherson County. The 2017 and 2018 irrigation questionnaires submitted for the water right indicated the use had been abandoned. On December 4, 2018, Genny McMath with our program spoke with Craig Bieber concerning the water right. It is our understanding the land has not been irrigated for about 15 years and at the present time, 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. 1765-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 1765-3 at **10:30 am, Wednesday, March 6, 2019** (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. 1765-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 25, 2019. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

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

January 14, 2019  
Ronald A Bieber  
Page 2

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

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 25, 2019.

Prior to February 25, 2019, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 25, 2019.



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**RECOMMENDATION OF CHIEF ENGINEER  
FOR WATER RIGHT NO. 1765-3, RONALD A BIEBER**

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. 1765-3.

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

In response to a letter written to Ronald Bieber requesting clarification on irrigation questionnaires reporting "use abandoned", Craig Bieber contacted the program and indicated the land has not been irrigated for about 15 years. He further stated that at the present time, he did not foresee irrigation taking place again.

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

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 14, 2019

**Note:**

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



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January 14, 2019

NOTICE OF CANCELLATION

TO: Sherry Zimmerman, Peterson Farms Inc., 715 W 14<sup>th</sup> Ave, Webster SD 57274

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

SUBJECT: Cancellation of Water Right No. 3932-3

Water Right No. 3932-3 authorizes diversion of ground water from two wells (Altamont Aquifer) to irrigate 186 acres located in the N ½ Section 13, T122N, R59W in Day County. On December 4, 2018, Genny McMath with our program spoke with Randy Zimmerman concerning use of water as described in the water right. Mr. Zimmerman indicated electricity has been removed from the site and the land will no longer be irrigated. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 3932-3 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 3932-3 at **10:30 am, Wednesday, March 6, 2019** (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. 3932-3 based upon facts presented at the public hearing. Our records show Peterson Farms Inc., to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 25, 2019. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

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

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

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 25, 2019.

Prior to February 25, 2019, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 25, 2019.



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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NO. 3932-3, PETERSON FARMS 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 Right No. 3932-3.

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

In response to a letter written to Peterson Farms requesting clarification of irrigation questionnaires marked "use abandoned", Randy Zimmerman called and confirmed they no longer intended to irrigate. The electrical power has been removed from the site.

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

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 14, 2019

**Note:**

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



DEPARTMENT of ENVIRONMENT  
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January 24, 2019

NOTICE OF CANCELLATION

TO: Ryan Brunner, Commissioner, SD School & Public Lands, 500 E Capitol,  
Pierre SD 57501

Mike Cornelison, SD School & Public Lands, 500 E Capitol, Pierre SD 57501

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

SUBJECT: Cancellation of Water Right No. 5792-3

Water Right No. 5792-3 authorizes diversion of ground water from four wells (Okobojo Creek Aquifer) for irrigation of 248 acres located in the E ½ Section 27, T117N, R74W. The water right was transferred from Paul D Nelson, Gettysburg SD to School and Public Lands in August, 2009. Prior to being transferred, the previous owner stated while he owned the land, no irrigation system was present. Since S&PL took ownership of the land, our records show no irrigation has taken place. In 2016, Mike Cornelison confirmed through submission of the irrigation questionnaire the pumps and equipment were not in place. Based on the lack of equipment and years of nonuse, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 5792-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 5792-3 at **10:30 am, Wednesday, March 6, 2019** (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. 5792-3 based upon facts presented at the public hearing. Our records show SD School and Public Lands to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 25, 2019. 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.



February 24, 2019  
Ryan Brunner, Commissioner  
Mike Cornelison  
Page 2

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

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

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 25, 2019.

Prior to February 25, 2019, 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 February 4, 2019.



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. 5792-3  
SD SCHOOL AND PUBLIC LANDS**

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. 5792-3.

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

Irrigation Questionnaire records on file with the Water Rights Program show the land described in the water right was last irrigated in 2004. The owner prior to School and Public Lands did not irrigate and stated no system was present on the land. Since the time the land became state owned, no irrigation has taken place. Irrigation questionnaire records in 2016 and 2017 contained statements indicating no pumps and equipment were on site and the lessee of the land did not want to invest in a crop at this time.

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

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 24, 2019

**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>

January 14, 2019

NOTICE OF CANCELLATION

TO: Randy & Valerie Svendsen and Sons, 504 E 29<sup>th</sup> St., Yankton SD 57078

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

SUBJECT: Cancellation of Water Permit No. 7190-3

Water Permit No. 7190-3 authorizes diversion of water from one well (Dakota Formation) to irrigate 152 acres located in the W ½ NW ¼ Section 26 and E ½ NE ¼ Section 27, T95N, R55W in Yankton County. In November, 2018 you contacted our office and indicated the project authorized under No. 7190-3 was not developed and you no longer intended to develop it. The time limit for completion of works, as authorized under the permit expired in July, 2015. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7190-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 7190-3 at **10:30 am, Wednesday, March 6, 2019** (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. 7190-3 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 February 25, 2019. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

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

January 14, 2019  
Randy & Valerie Svendsen and Sons  
Page 2

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

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 25, 2019.

Prior to February 25, 2019, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 25, 2019.



**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. 7190-3, RANDY, VALERIE AND DORIS SVENDSEN**

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. 7190-3, now owned by Randy & Valerie Svendsen and Sons.

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

In November, 2018, Randy Svendsen indicated they did not intend to develop the water source authorized under Water Permit No. 7190-3. The time limit for completion of the project as outlined in the permit expired in July, 2015.

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 14, 2019

**Note:**

The land described in No. 7190-3 is irrigated from a well drilled into the Lower James Missouri Aquifer authorized under Water Permit No. 6921-3. Cancellation of Water Permit No. 7190-3 does not affect the project developed under Water Permit No. 6921-3.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 14, 2019

NOTICE OF CANCELLATION

TO: John Kleinsasser, Glendale Hutterian Brethren, 17866 Glendale Drive,  
Frankfort SD 57440

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

SUBJECT: Cancellation of Water Permit No. 8292B-3

Water Permit No. 8292B-3 authorizes diversion of 1.45 cubic feet of water per second from the James River for irrigation of 110 acres in the SE ¼ Section 29, T116N, R62W. Recently through communication with Eric Gronlund in our program you indicated the project authorized under Permit No. 8292B-3 had not been constructed. The time limit for completion of works as specified on the permit expired December 17, 2017. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 8292B-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 8292B-3 at **10:30 am, Wednesday, March 6, 2019** (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. 8292B-3 based upon facts presented at the public hearing. Our records show Glendale Hutterian Brethren to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 25, 2019. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

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

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

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Prior to February 25, 2019, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 25, 2019.



**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. 8292B-3, GLENDALE HUTTERIAN BRETHERN**

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. 8292B-3.

The Chief Engineer is recommending cancellation of the above water permit due to non-construction. In December, 2018, Eric Gronlund with the Water Rights Program spoke with John Kleinsasser concerning a number of water permitting issues involving the Colony. Mr. Kleinsasser confirmed the project authorized under No. 8292B-3 had not been constructed.

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

Ron Duvall, Water Rights Permitting Administrator  
for Jeanne Goodman, Chief Engineer  
January 14, 2019

**Note:**

Glendale Hutterian Brethren has filed an application to reinstate Permit No. 8292B-3. The reinstatement application is currently under review and is being processed.



**REPORT ON  
IRRIGATION QUESTIONNAIRE VIOLATIONS  
March 6, 2019**

On October 30, 2018, 3,856 irrigation questionnaires were mailed by first class mail to 1,981 irrigators for reporting water use for 2018. The permit holders were given until December 3, 2018 to return the forms. The cover letter included the following examples of how questionnaires could be completed and returned:

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

On January 25, 2019, 195 notices (involving 327 permits) were mailed to those irrigators who had not returned their irrigation questionnaires. Additional questionnaire forms were included with the mailing. All of the notices were sent by “certified mail.”

The January 25<sup>th</sup> notice advised permit holders that the Board may take one or more of the following actions pursuant to SDCL 46-1-12 and SDCL 46-1-14:

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

**The Water Rights Program is recommending the Board take the following action for those permits with irrigation questionnaires not received by March 6, 2019:**

- Suspend the permits/rights (listed on attachment) as follows:
  1. First Violation - one year suspension – effective April 6, 2019;
  2. Second Violation – three year suspension – effective April 6, 2019

*If the irrigator sends in the questionnaire prior to April 6<sup>th</sup> no suspension will occur. Following the March 6<sup>th</sup> hearing, all permit holders are sent a notice informing them of the Board action with the opportunity to submit the questionnaire by April 6<sup>th</sup> to avoid suspension. All follow-up notices will be sent by certified mail.*

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

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

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



Genny McMath  
Water Rights Program

# Permits/Rights Subject to Amendment, Suspension or Cancellation

## 2018 Irrigation Questionnaire Report Violations

March 6, 2019

Permit Nos.	Name	County	Irr Ques Violation
<b>Violation: 1</b>			
8148-3	TROI D ANDERNACHT	TU	1
5290-3	TROI D ANDERNACHT, OPERATOR	TU	1
1072-1	JESSE BAIL	HR	1
4754-3	MIKE BEARE	HM	1
6603-3	CHICOINE LEGACY FARM LLC	UN	1
6575-3	DAKOTA ALLIANCE SOCCER CLUB	LN	1
2547-3	GENE DE VRIES	BD	1
2548-3	GENE DE VRIES	BD	1
3085-3	GENE DE VRIES	BD	1
6381-3	DE VRIES INC	BD	1
6440-3	DE VRIES INC	BD	1
1736-3	DENNIS ECKMANN, MGR	BD	1
881-2	RYAN EDWARDS	MT	1
2698-2	NEIL & LUPITA FANNING	BT	1
2707-2	JASON & ANDREA FANNING	BT	1
2721-2	NEIL & LUPITA FANNING	BT	1
2733-2	JASON & ANDREA FANNING	BT	1
6291-3	FLANDREAU PARK GOLF CLUB	MY	1
6878-3	SCOTT HANSON, MGR	UN	1
4997-3	DALE HEBDA	YA	1
6225-3	HIAWATHA GOLF CLUB	LN	1
7970-3	DAVID HOOPS	CA	1
1985-1	HOSTLER FARMS	BU	1
4955-3	DAVID HUBER	CK	1
4292-3	DAVE A HUBER, MGR	CK	1
7043-3	COREY JOHANNSEN, RENTER	PT	1
2354-3	RONALD JONES	HU	1
5970-3	BARRY JUHNKE	HT	1
6125-3	BARRY JUHNKE	HT	1
6806A-3	BARRY JUHNKE	HT	1
7114-3	MICHAEL A KOSLOWSKI	DA	1
7336-3	MICHAEL A KOSLOWSKI	DA	1
1735-2	RUSTY LYTLE, MGR	PE	1

**Violations:**

1 = First violation, one year suspension    2 = Second violation, three year suspension  
 3 = Third violation, cancellation    A = Amendment to add IQ qualification

Permit Nos.	Name	County	Irr Ques Violation
<b>Violation: 1</b>			
1768-2	RUSTY LYTLE, MGR	PE	1
5735-3	MARK MCCLOUD	HY	1
1631-1	MCINTOSH SCHOOL DISTRICT 15-1	CN	1
1653-1	CATHERINE/DONALD MILLER	BU	1
7671-3	JASON MILLER	CL	1
4295-3A	REUBEN NICOLAI	BG	1
4648-3	REUBEN & STEVEN NICOLAI	TU	1
2211A-3	REUBEN NICOLAI	BG	1
8189-3	REUBEN NICOLAI	CK	1
8190-3	REUBEN NICOLAI	CK	1
5601-3	JEB PETERSON	SP	1
7921-3	OWEN & LAMONT PETERSON	HM	1
7946-3	OWEN & LAMONT PETERSON	HM	1
7984-3	OWEN & LAMONT PETERSON	HM	1
7988-3	OWEN & LAMONT PETERSON	HM	1
7615-3	WAYNE REIERSON	CA	1
7616-3	WAYNE REIERSON	CA	1
5566-3	WAYNE REIERSON, RENTER	CA	1
2350-3	RIVER VALLEY FARMS	UN	1
417-1	VIVIAN F & RON SJODIN	BU	1
720-2	CLINT & MARY LOUISE STANLEY	MT	1
484-1	GARY N & KATHLEEN M STEELE	BU	1
1850-1	GARY N & KATHLEEN M STEELE	BU	1
1755A-3	RAYMOND SUTTON & SON INC	PT	1
6179-3	TIMBER8 LLC	UN	1
6180-3	TIMBER8 LLC	UN	1
6181-3	TIMBER8 LLC	UN	1
8211-3	TIMBER8 LLC	UN	1
7236-3	DAVID ULVESTAD	BG	1
7237-3	DAVID ULVESTAD	BG	1
2497-2	MARTY VANDERPLOEG	BT	1
5227-3	CODY WARNE	SU	1
7685-3	MICHAEL WATSON	SP	1
6175-3	MICHAEL WATSON, RENTER	SP	1
6051-3	JERRY & DAVID WIEBER	RB	1
311-3	CLETUS WIECHMANN-OPERATOR	CM	1
8182-3	ZENK FARMS LLC	DA	1

Violations:

1 = First violation, one year suspension    2 = Second violation, three year suspension  
3 = Third violation, cancellation    A = Amendment to add IQ qualification

Permit Nos.	Name	County	Irr Ques Violation
<b>Violation: 1</b>			
8183-3	ZENK FARMS LLC	DA	1
<b>Violation: 2</b>			
6168-3	ROBERT HATTUM	HU	2
508A-1	JEFF & JERIL KESSEL	BU	2
1342-2	GERALD NOVAK, MGR	BT	2
2105-2	SLEEPY HOLLOW CAMPGROUND	PE	2
618-2	SODERQUIST FAMILY RANCH	PE	2
<b>Violation: A</b>			
515-3	DANIEL BENSON, OPERATOR	TU	A
1175-2	WAYNE BOND	BT	A
577-1	MAX & BRENDA BOWEN	BU	A
291-1	FALSE BOTTOM LIVESTOCK	BU	A
513-1	FALSE BOTTOM LIVESTOCK	BU	A
3564-3	DONALD GOETZ	WL	A
1374-3	SCOTT HANSON, MGR	UN	A
179-3	SCOTT HANSON, MGR	UN	A
2357-3	SCOTT HANSON, MGR	UN	A
2358-3	SCOTT HANSON, MGR	UN	A
306A-3	SCOTT HANSON, MGR	UN	A
4005-3	DUSTIN HOLTZ, RENTER	CM	A
2851-3	DAVID HUBER	CK	A
3469-3	STAN KOPFMAN	BD	A
408-1	JAMES A MICKELSON	BU	A
3386-3	REUBEN NICOLAI	BG	A
2983-3	SKIP RAU	WL	A
2064-3	GERRY BARNES SLOCUM,	HU	A
1560-3	KORY STANDY	CM	A
224-3	KORY STANDY	CM	A
2546A-3	KORY STANDY	CM	A
2072-3	DAVID ULVESTAD	BG	A
2126-3	DAVID ULVESTAD	BG	A
3204-3	DAVID ULVESTAD	BG	A

**Violations:**

1 = First violation, one year suspension    2 = Second violation, three year suspension  
3 = Third violation, cancellation    A = Amendment to add IQ qualification

RECEIVED  
DEC 21 2018  
WATER RIGHTS  
PROGRAM



CITY OF NEW UNDERWOOD

423 S. "A" Avenue  
P.O. Box 278  
New Underwood, SD 57761-0278  
Phone (605) 754-6777 PW (605) 754-6773  
Fax (605) 754-6227  
[cnuofc@gwtc.net](mailto:cnuofc@gwtc.net)

December 18, 2018

Karen Schlaak  
Water Rights Program  
523 East Capitol  
Pierre, SD 57501-3182

Re: City of New Underwood Future Use Water Permit No. 1780-2

The City would like to continue to retain this permit. The City has extended water lines to the south and east of City limits. We are expecting to grow even more now that Ellsworth Air Force Base has been named as one of three sites for the next-generation B-21 bomber so we will need as many acre-feet as possible in reserve for future use.

Attached are the annual pumping records for the past 4 years. As you can see our water usage has increased along with the growth of the City and with further growth more water will be required.

The City acknowledges that we will pay for the public notice and will attend the hearing if needed to renew this permit once it is scheduled.

Thank you for your time and consideration in this matter. If you have any questions or concerns, please contact me at the numbers above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy S. Hall', is written over a horizontal line.

Timothy S. Hall, Director of Public Works  
City of New Underwood  
tsh/kp

Well #1

Date	Reading	Gallons	
Aug-11	41142000		Meter Reading on 9-6-11 per John
Dec-12	42807000		
Dec-13	42819000		
Jan-15	42833000		
May-15	42901000		
Jun-15	42902000		
Aug-15	42904000		
Oct-15	43105000		
Nov-15	44228800		
Dec-15	45443000	TOTAL	2,610,000
Jan-16	46071000		
Feb-16	46072000		
Mar-16	46073000		
Apr-16	46074000		
May-16	46075000		
Jun-16	46076000		
Jul-16	46707000		
Aug-16	46078000		
Sep-16	46079000		
Oct-16	46080000		
Nov-16	46081000		
Dec-16	46082000	TOTAL	11,000
Jan-17	46083000		
Feb-17	46084000		
Mar-17	46085000		
Apr-17	46086000		
May-17	46087000		
Jun-17	46088000		
Jul-17	46089000		
Aug-17	46090000		
Sep-17			no reading
Oct-17	46092000		
Nov-17	46093000		
Dec-17	46094000	TOTAL	11,000
Jan-18	46095000		
Feb-18	46096000		
Mar-18	46097000		
Apr-18	46098000		
May-18	46099000		
Jun-18	46100000		
Jul-18	46101000		
Aug-18	46102000		
Sep-18	46103000		
Oct-18	46104000		
Nov-18	46436000		341,000 as of Nov. 30, 2018
		TOTAL	

Well #2

Date	Reading	Gallons		
Dec-12	14852000			
Dec-13	35166000	20,314,000	avg. monthly	1,693,000
Jan-15	57066000	42,214,000		
May-15	62690000	5,624,000		
Jun-15	64073400	1,383,400		
Aug-15	68382000	4,308,600		
Oct-15	71525500	3,143,500		
Nov-15	71993000	467,500		
Dec-15	71993000	0	14,927,000	avg. 1,244,000
Jan-16	72587000	594,000		
Feb-16	73700400	1,113,400		
Mar-16	75164000	1,463,600		
Apr-16	76363000	1,199,000		
May-16	78051000	1,688,000		
Jun-16	81300500	4,937,500		
Jul-16	83716300	2,415,800		
Aug-16	85560000	1,843,700		
Sep-16	86865000	1,305,000		
Oct-16	88032000	1,167,000		
Nov-16	89448000	1,416,000		
Dec-16	90969000	1,521,000	18,382,000	avg. 1,532,000
Jan-17	91839000	870,000		
Feb-17	92890000	1,051,000		
Mar-17	94189000	1,299,000		
Apr-17	95514000	1,325,000		
May-17	97100000	1,586,000		
Jun-17	99934000	2,834,000		
Jul-17	12978000	3,044,000		
Aug-17	15654000	2,676,000		
Sep-17			no reading	
Oct-17	18473700	2,819,700		
Nov-17	19815000	1,341,300		
Dec-17	20644000	829,000		avg. 1,567,000
Jan-18	22041000	1,397,000		
Feb-18	22938000	897,000		
Mar-18	23938000	1,000,000		
Apr-18	25825000	1,887,000		
May-18	27139000	1,314,000		
Jun-18	29416000	2,277,000		
Jul-18	31036000	1,620,000		
Aug-18	33095000	2,059,000		
Sep-18	34659000	1,564,000	12,618,000	519000 going to start reading this meter
Oct-18	2277000			
Nov-18	3421000	1,144,000	2,902,000	Difference without April 10,731,000 gallons avg. as of nov. 30, 2018 1,148,000 wet year



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES


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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 1780-2, City of New Underwood

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 1780-2, City of New Underwood, PO Box 278, New Underwood SD 57761.

The Chief Engineer is recommending that Future Use Permit No. 1780-2 REMAIN in EFFECT for 142 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1780-2, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 1780-2, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 1780-2 is subject to payment of the \$75.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

  
Jeanne Goodman, Chief Engineer  
January 11, 2019



RECEIVED

JAN 28 2019

WATER RIGHTS PROGRAM

# Affidavit of Publication

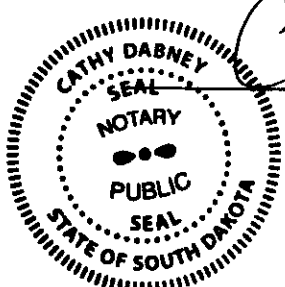
STATE OF SOUTH DAKOTA

County of Pennington SS:

Sheri Sponder 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 RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, 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 daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington 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 Rapid City Journal, 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 day for one successive day, the first publication there of being on the 23rd day of Jan 2019 that the fees charged for the publication there of are 67 dollars and 69 cents.

Sheri Sponder

Subscribed and sworn to before me this 23rd day of January, 2019.



Cathy Dabney  
Notary public

4-16-2024  
My commission expires

Jan 28 2019  
**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1780-2**  
 Notice is given that the Water Management Board will review Future Use Permit No. 1780-2 held by the City of New Underwood, c/o Timothy Hall, Public Works Director, P.O. Box 278, New Underwood, SD 57761 for progress made in the development of the water reserved by the Permit, and future plans for development of the water reserved by Permit No. 1780-2. This permit was approved, 1981 and currently

reserves 142 acre-feet from groundwater (Fall River Lakota Aquifer) located in Sections 29, 30, 31, T2N-R1E for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1780-2 REMAIN IN EFFECT for 142 acre-feet annually, because: 1) the reserved water may be developed; 2) there is need for the reserved water 3) the proposed use will be a beneficial use and in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1780-2 at 10:00 am on March 5, 2019 at the David Matthew Training Center, Joe Foss Bldg 523, E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board, and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is: Water Rights Program, Joe Foss Building, 523 E. Capitol Ave, Pierre SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be in formal form and must include a statement describing the petitioner's interest in the future use permit, the reasons for the petitioner's opposition to, or support of, continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1780-2 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-6, 46-2-11, 46-5-38, 17-4-1, 17-4-2, 17-4-3, 17-4-4, 17-4-5, 17-4-6, 17-4-7, 17-4-8, 17-4-9, 17-4-10, 17-4-11, 17-4-12, 17-4-13, 17-4-14, 17-4-15, 17-4-16, 17-4-17, 17-4-18, 17-4-19, 17-4-20, 17-4-21, 17-4-22, 17-4-23, 17-4-24, 17-4-25, 17-4-26, 17-4-27, 17-4-28, 17-4-29, 17-4-30, 17-4-31, 17-4-32, 17-4-33, 17-4-34, 17-4-35, 17-4-36, 17-4-37, 17-4-38, 17-4-39, 17-4-40, 17-4-41, 17-4-42, 17-4-43, 17-4-44, 17-4-45, 17-4-46, 17-4-47, 17-4-48, 17-4-49, 17-4-50, 17-4-51, 17-4-52, 17-4-53, 17-4-54, 17-4-55, 17-4-56, 17-4-57, 17-4-58, 17-4-59, 17-4-60, 17-4-61, 17-4-62, 17-4-63, 17-4-64, 17-4-65, 17-4-66, 17-4-67, 17-4-68, 17-4-69, 17-4-70, 17-4-71, 17-4-72, 17-4-73, 17-4-74, 17-4-75, 17-4-76, 17-4-77, 17-4-78, 17-4-79, 17-4-80, 17-4-81, 17-4-82, 17-4-83, 17-4-84, 17-4-85, 17-4-86, 17-4-87, 17-4-88, 17-4-89, 17-4-90, 17-4-91, 17-4-92, 17-4-93, 17-4-94, 17-4-95, 17-4-96, 17-4-97, 17-4-98, 17-4-99, 17-4-100.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E. Capitol Ave, Pierre SD) by February 4, 2019.

Steven M. Pirner  
Secretary  
Department of Environment and  
Natural Resources

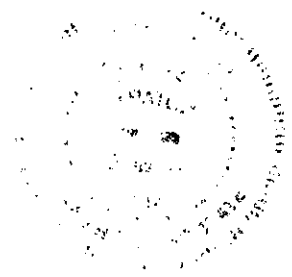
(Published once at an approximate cost  
of \$97.69)

IN THE \_\_\_\_\_ COURT  
COUNTY OF PENNINGTON

**Publisher's and Attorney's  
Affidavit**

Filed in the office of \_\_\_\_\_ on  
the \_\_\_\_\_ day of \_\_\_\_\_  
20 \_\_\_\_\_

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





## CITY OF ABERDEEN

12668 391 Ave  
Aberdeen, South Dakota 57401-4215

Aberdeen Water Works  
PHONE: (605) 626-7011  
FAX: (605) 626-3507

December 28, 2018

Karen Schlaak  
SDDENR Water Rights Program  
523 East Capitol  
Pierre, SD 57501-3181

**RECEIVED**

**JAN 04 2019**

**WATER RIGHTS  
PROGRAM**

RE: Future Use Permit 192-3 & Permit 3427A-3

Dear Ms. Schlaak:

The City of Aberdeen attempts to anticipate the needs of the community. Due to the ever-changing weather patterns that affect our surface water supply, changes to EPA regulations and the possibility of contamination, the City of Aberdeen requests retention of permits 192-3 and 3427A-3.

Justification for the continuation of these permits includes maximum water treatment plant production, expected future growth of the community, stringent EPA regulations of surface water, and the risk of contamination.

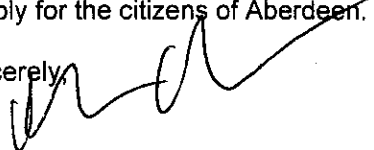
Water License No. 6546-3 allows for a daily total of 2.25 MGD or about three quarters of the average water used daily by the citizens of Aberdeen. If the quantity or quality of the water available from our main source, the Elm River, should change, we will require additional ground water to meet the current minimum daily demand.

Our treatment facility capability is 12 MGD with room for expansion up to 18 MGD. Our current operation uses groundwater for  $\frac{1}{4}$  -  $\frac{1}{2}$  of our total daily flow. A flow of 4 - 6 MGD from wells would be required to maintain that blend resulting in an additional 1.75 or 3.75 MGD to be converted to beneficial use. If we make no adjustments to our blend formula, the conversion of 3.75 MGD from future use to beneficial use would be required resulting in a minimum of 1.293 MGD, or 1448 acre-feet, in Future Use in reserve.

The City of Aberdeen and USGS recently completed a revised groundwater-Flow Model. The City has been working with Wenck engineering to evaluate the current supplies and identify where we should look to develop future wells. In 2013 and 2017 the City nearly drained the Willow Reservoir to meet demand due to dry conditions and the trend is calling for increased demands for drinking water. With continued population & industrial growth, the City of Aberdeen will continue to need increasing amounts of water that these future use permits will help to satisfy.

It is the City of Aberdeen's respectful request that the Water Management Board of the State of South Dakota extend Future Use Permits 192-3 and 3427A-3. The water reserved by these permits provides a vital component in providing the Aberdeen community a continuous and constant quality water. Water held in reserve through the Future Use Permits will insure the availability of a safe and secure water supply for the citizens of Aberdeen.

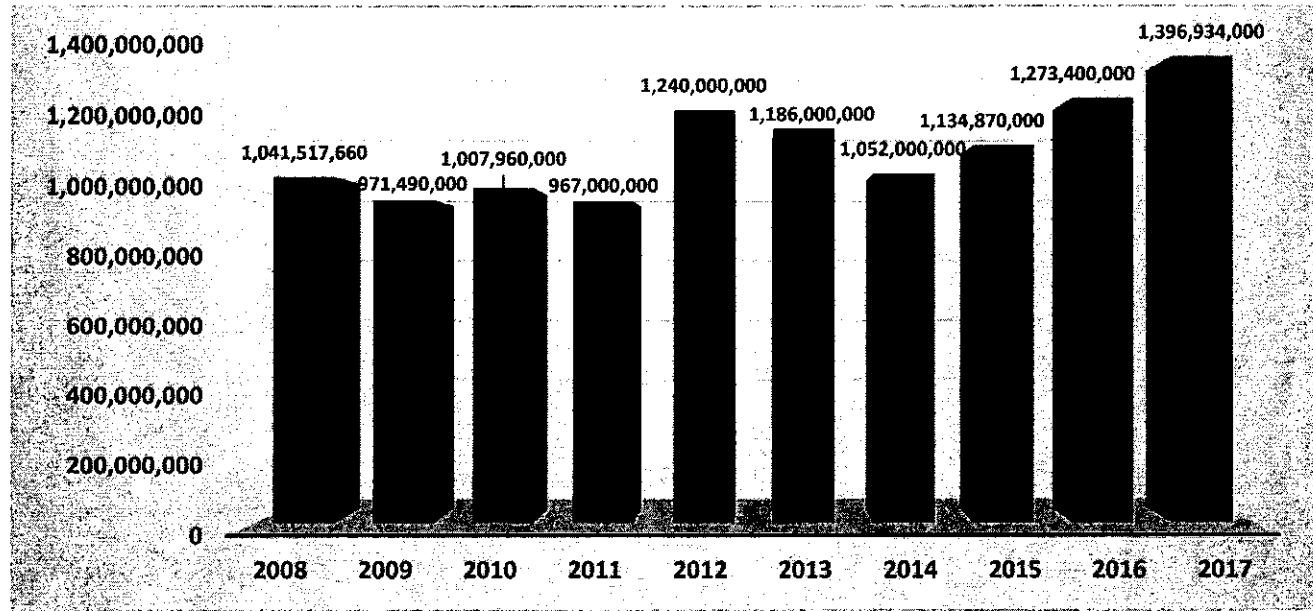
Sincerely,

  
Robert Braun  
Superintendent  
Aberdeen Water Works

attachment (1): Pumping Records 2008 -2017

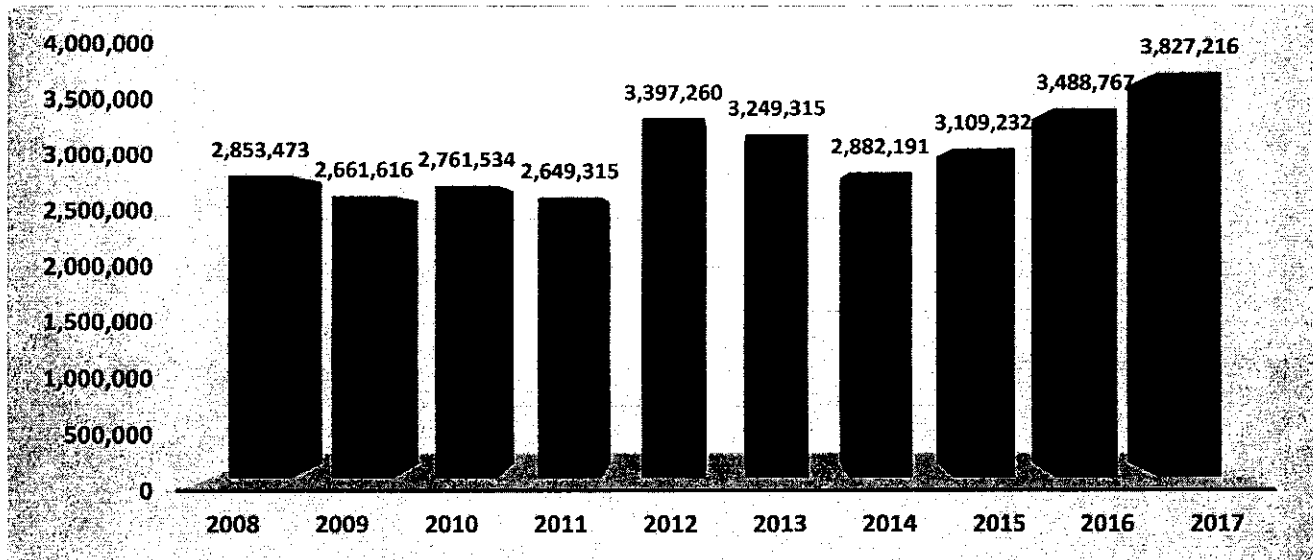
## Annual Gallons of Water Pumped from Water Treatment Plant

2008	1,041,517,660
2009	971,490,000
2010	1,007,960,000
2011	967,000,000
2012	1,240,000,000
2013	1,186,000,000
2014	1,052,000,000
2015	1,134,870,000
2016	1,273,400,000
2017	1,396,934,000



## Average Daily Gallons of Water Pumped From Water Treatment Plant

2008	2,853,473
2009	2,661,616
2010	2,761,534
2011	2,649,315
2012	3,397,260
2013	3,249,315
2014	2,882,191
2015	3,109,232
2016	3,488,767
2017	3,827,216



City of Aberdeen: WATER TREATMENT

Performance Measures	Actual 2012	Actual 2013	Actual 2014	Actual 2015	Actual 2016	Actual 2017
	Gallons of Water	Gallons of Water	Gallons of Water	Gallons of Water	Gallons of Water	Gallons of Water
Treated (Raw)	1,470,000,000	1,398,000,000	1,270,000,000	1,349,140,000	1,506,700,000	1,663,400,000
Effluent (Produced)	1,240,000,000	1,186,000,000	1,052,000,000	1,134,870,000	1,273,400,000	1,396,934,000
Sludge (Produced)	229,740,000	211,830,000	218,091,000	214,270,000	233,300,000	266,466,000
River	1,177,000,000	1,201,000,000	1,056,000,000	1,087,780,000	1,226,190,000	1,361,650,000
Wells	281,000,000	197,000,000	218,000,000	178,930,000	195,684,000	213,384,000
Reclaim	71,000,000	85,000,000	80,000,000	82,430,000	84,847,000	86,864,000
Manual Discharge from Lakes	588,000,000	711,000,000	179,000,000	298,020,000	280,000,000	1,098,000,000
Maple Diversion Pumped into Willow			475,000,000			



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 192-3, City of Aberdeen

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 192-3, City of Aberdeen, 123 Lincoln St, Aberdeen SD 57401

The Chief Engineer is recommending that Future Use Permit No. 192-3 REMAIN in EFFECT for 3,823 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 192-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 192-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 192-3 is subject to payment of the \$375.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 11, 2019



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 3427A-3, City of Aberdeen

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 3427A-3, City of Aberdeen, 123 Lincoln St, Aberdeen SD 57401

The Chief Engineer is recommending that Future Use Permit No. 3427A-3 REMAIN in EFFECT for 1,824 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3427A-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 3427A-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 3427A-3 is subject to payment of the \$215.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

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

Jeanne Goodman, Chief Engineer  
January 11, 2019

AFFIDAVIT OF PUBLICATION RECEIVED

STATE OF SOUTH DAKOTA}

FEB 11 2019

§

WATER RIGHTS PROGRAM

COUNTY OF BROWN}

Carla Pomroy being duly sworn, on his/her oath says: That the AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned; That affiant is an employee and principal clerk of said publisher and has personal knowledge of all facts stated in this affidavit; That the advertisement headed

Legal # 609186
Notice of Hearing to Review

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each

- Day for 1 successive day
The first publication being made on the 23rd day of Jan., 2019.
The second publication being made on the day of , 2019.
The third publication being made on the day of , 2019.
The fourth publication being made on the day of , 2019.
The fifth publication being made on the day of , 2019.
The sixth publication being made on the day of , 2019;

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper; That the whole amount of the fee paid for the publication of the annexed notice is \$ 80.94, which insures solely to the benefit of said publisher; That no agreement or understanding for a division thereof had been made with any other person; and That no part thereof has been agreed to be paid to any person whomsoever.

Carla Pomroy

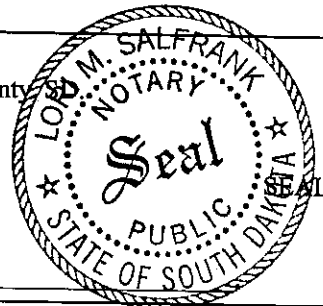
Subscribed and sworn to before me this 23rd day of Jan., 2019.

Daily Circulation 10,000

Amick

Notary Public, Brown County

My commission expires March 20, 2019



(No. 609186)
(January 23, 2019 - 1T)

NOTICE OF HEARING TO REVIEW
FUTURE USE WATER PERMIT
NO. 192-3 and 3427A-3

Notice is given that the Water Management Board will review Future Use Permit No. 192-3 and 3427A-3 held by the City of Aberdeen, c/o Robert Braun, Supt. Aberdeen Water Works, 123 S Lincoln St, Aberdeen SD 57401 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved.

Permit No. 192-3 was approved in 1956 and currently reserves 3,823 acre-feet from alluvium along the Elm River located between Section 19, T25N-R63W and Section 15, T24N-R63W for municipal use.

Permit No. 3427A-3 was approved in 1974 and currently reserves 1,824 acre-feet from the Elm Aquifer located in the S 1/2 Section 3, S 1/2 and NW 1/4 Section 5, N 1/2 Section 6, Section 8; E 1/2 Section 9, Section 15 and NE 1/4 Section 16 all in T24N-R63W for municipal use.

Under SDCL 4612A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 192-3 and 3427A-3 REMAIN IN EFFECT for 3,823 acre-feet annually and Permit No. 3427A-3 REMAIN IN EFFECT for 1,824 acre-feet annually because: 1) the reserved water may be developed; 2) there is need for the reserved water for the proposed use will be a beneficial use; and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 192-3 and 3427A-3 at 10:30 am on March 20, 2019 at Floyd Mathew Training Center, 500 Foss Bldg, 525 E Capitol Pierre SD.

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



Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 192-3 and 3427A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing

if either a party's right is being terminated or the dollar amount in controversy exceeds \$2,000.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer, Water Rights Program, 523 E. Capitol Ave., Pierre, SD, by February 4, 2019. Steven M. Piffner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$60.04.



# BROOKINGS municipal utilities

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525 Western Ave., P.O. Box 588  
Brookings, SD 57006-0588  
(605) 692-6325 voice

January 15, 2019

Karen Schlaak  
Environmental Scientist / Water Rights Program  
Department of Environment & Natural Resources  
Joe Foss Building  
523 East Capital  
Pierre, SD 57501-3182

Re: Review of Future Use Water Permit Nos. 217-3 & 1598-3

Ms. Schlaak:

In a December 7, 2018 letter, you requested a written response regarding our Future Use Water Permits Nos. 217-3 and 1598-3.

Brookings Municipal Utilities (BMU) hereby requests that the reserved water capacity be maintained for the City of Brookings (1,612 acre-ft and 2,426 acre-ft, for permit Nos. 217-3 and 1598-3, respectively). City Planning estimates continued population growth of 25-30% over the 20 years. In addition, BMU is in the process of completing a Water System Facility Plan. The draft Facility Plan recommends that the total treated water capacity be increased from the current 6 MGD capacity to 10 MGD capacity. This increase will likely require the utilization of the reserved water rights in the near future.

If you have questions regarding the above information or this request to retain our reserved water, please contact me.

Thank you,

Eric Witt  
Water/Wastewater & Engineering Manager

cc: Steve Meyer – BMU Executive Vice President/GM  
Chad Bachman – BMU W/WW & Engineering Supervisor



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 217-3, City of Brookings SD

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 217-3, City of Brookings, PO Box 588, Brookings SD 57006.

The Chief Engineer is recommending that Future Use Permit No. 217-3 REMAIN in EFFECT for 1,612 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 217-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 217-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 217-3 is subject to payment of the \$195.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 24, 2019



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 1598-3, City of Brookings SD

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 1598-3, City of Brookings, PO Box 588, Brookings SD 57006.

The Chief Engineer is recommending that Future Use Permit No. 1598-3 REMAIN in EFFECT for 2,426 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1598-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 1598-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 1598-3 is subject to payment of the \$265.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

A handwritten signature in black ink that reads "Jeanne Goodman".

Jeanne Goodman, Chief Engineer  
January 24, 2019

RECEIVED

FEB 21 2019

Affidavit of Publication

Exhibit "A"

State of South Dakota

ss

WATER RIGHTS PROGRAM

County of Brookings

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

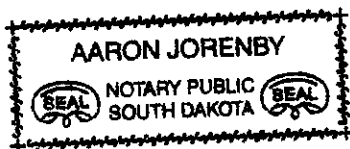
Leg#684 Permit

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

February 6, 2019

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

Forty-Eight Dollars and Thirty-Eight Cents \$48.38



February

Legal 684, 1x, 2/6 NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 217-3 and 1598-3 Notice is given that the Water Management Board will review Future Use Permit Nos. 217-3 and 1598-3 held by Brookings Municipal Utilities, Eric Witt, Water/Wastewater & Engineering Manager, PO Box 588, Brookings, SD 57006 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits. Permit No. 217-3 was approved in 1956 and currently reserves 1,612 acre-feet from groundwater (Big Sioux Six Mile Creek Aquifer) located in the N 1/2 Section 13, T10N, R50W for municipal use. Permit No. 1598-3 was approved in 1968 and currently reserves 2,416 acre-feet from the Big Sioux Aurora Aquifer located in the W 1/2 Section 4, E 1/2 Section 5, all in T09N, R49W, E 1/2 Section 32, W 1/2 Section 33, W 1/2 Section 34, all in T09N, R49W, E 1/2 Section 32, W 1/2 Section 33, W 1/2 Section 34 for municipal use. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights

Handwritten signature and date: 2019

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

Program recommends that Permit No. 217-3 REMAIN in EFFECT for 1,612 acre-feet annually and No. 1598-3 REMAIN in EFFECT for 2,416 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest. The Water Management Board will conduct the hearing to review Future Use Permit No. 217-3 and 1598-3 at 10:30 am on March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26 must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing

address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition. The hearing to review Future Use Permit Nos. 217-3 and 1598-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing, or to obtain an interpreter for the hearing impaired may contact Eric Grenhad, Water Rights Program, (605) 773-3352. February 22, 2019. At the time of the hearing, a request for a delay must be filed with the Chief Engineer by February 22, 2019. According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 18, 2019. Steven M. Pirner, Secretary, Department

of Environment and Natural Resources. Published once at the total approximate cost of \$48.38.



**City of Sioux Falls**  
S O U T H D A K O T A



CITY OF SIOUX FALLS  
**PUBLIC WORKS**  
Providing a Better Quality of Life for You!

P.O. Box 7402, Sioux Falls, SD 57117-7402

**RECEIVED**

December 28, 2018

**JAN 02 2018 9**

Karen Schlaak  
Environmental Scientist  
Department of Environment and Natural Resources – Water Rights Program  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501

**WATER RIGHTS  
PROGRAM**

Dear Karen Schlaak:

Regarding your letter dated December 7<sup>th</sup> of 2018, it is the City of Sioux Falls intent to retain Future Water Use Permit No. 448-3 with 3,842 acre-feet from the Big Sioux: Sioux Falls Aquifer and Future Water Use Permit No. 2042-3 with 28,236 acre-feet from the Missouri River.

The population and commercial needs of Sioux Falls continue to grow, which in turn increases the demand for potable water. In December of 2011, the population of Sioux Falls was listed at 158,200. Current population total is listed at 183,200. This is a total population growth of 25,000 over the prior seven years. Population projections from Sioux Falls Planning continue to project the population total for Sioux Falls by the year 2060 could be as low as 331,700 and as high as 412,900.

Demand for water in 2018 will be more than 7,149.042 million gallons for a daily average of 19.586 million gallons, all during a year with record precipitation. By the year 2060, the daily average demand for water has been projected to be as high as 66.400 million gallons per day. The City currently owns property over the Big Sioux Aquifer for the development of future wells including an additional 124 acres purchased in 2017 to accomplish our well field expansion goals. It will be essential to keep Permit No. 448-3 with the 3,842 acre-feet to develop wells in the future and to meet the needs of the growing population of the City of Sioux Falls.

Long term water needs required a visionary approach to water resources. City leaders looked to one of the largest and most stable water supplies within South Dakota. One day when the existing ground water future use water rights are placed into beneficial use, the next and best location for reliable water supply expansion will be the Missouri River. Sioux Falls will need the water from the Missouri River to meet the needs of the City. This surface water supply retained under Future Use Permit No. 2042-3 will be essential to insure the future growth and sustainability of the City of Sioux Falls.

If you have any questions or comments, please contact me.

Sincerely,

Greg Anderson  
Superintendent, Water Division  
2100 North Minnesota Avenue  
Sioux Falls, SD 57104  
(605) 373-6940



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 448-3, City of Sioux Falls

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 448-3, City of Sioux Falls, 2100 N Minnesota Ave, Sioux Falls SD.

The Chief Engineer is recommending that Future Use Permit No. 448-3 REMAIN in EFFECT for 3,842 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 448-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 448-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 448-3 is subject to payment of the \$385.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 11, 2019



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

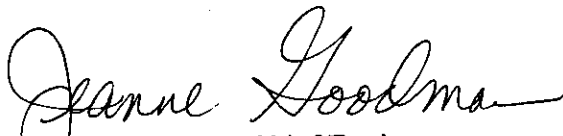
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 2042-3, City of Sioux Falls

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 2042-3, City of Sioux Falls, 2100 N Minnesota Ave, Sioux Falls SD.

The Chief Engineer is recommending that Future Use Permit No. 2042-3 REMAIN in EFFECT for 28,236 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 2042-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 2042-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 2042-3 is subject to payment of the \$2,415.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

  
Jeanne Goodman, Chief Engineer  
January 11, 2019



AFFIDAVIT OF PUBLICATION

State of South Dakota

ss.

County of Brule

Debi Ruiz of said county, being first duly sworn, on oath, says: That she is the publisher of Central Dakota Times, a weekly newspaper, published in the City of Chamberlain, in said County of Brule and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Brule and State of South Dakota, for at least one year next prior to the first publication of the attached public notice and that the Notice of Hearing To Review Future Use Water Permit Nos. 448-3 and 2042-3

a printed copy of which, taken from the paper in which the same was published and which is hereto attached and made a part of this affidavit, was published in said newspaper for one successive week(s) to wit: January 23, 2019; \_\_\_\_\_, 20 \_\_\_\_\_; \_\_\_\_\_, 20 \_\_\_\_\_; \_\_\_\_\_, 20 \_\_\_\_\_;

That the full amount of the fee charged for the publication of the attached public notice inures 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:

\$ 43.70

Signed: Debi Ruiz

Subscribed and sworn to before me this 24th day

of January, 2019

Notary Public In and For The County of Brule, South Dakota

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 448-3 and 2042-3 Notice is given that the Water Management Board will review Future Use Permit Nos. 448-3 and 2042-3 held by the City of Sioux Falls, c/o Greg Anderson, Water Superintendent, P.O. Box 7402, Sioux Falls, SD 57117 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits. Permit No. 448-3 was approved in 1957 and currently reserves 2042 ac-ft from ground water (Big Sioux/Sioux Falls Aquifer) located in Sections 4, 5, 8, 9, 16, 17, 20 and 21: T102N-R49W and Sections 16, 17, 20, 21, 28, 29, 32 and 33: R49W for municipal use. Permit No. 2042-3 was approved in 1974 and currently reserves 28,256 acre-feet from the Missouri River with the point of diversion to be located between points in Section 21: T102N-R49W (Brule County) and a point in Section 24: T102N-R49W (Grant County) for municipal use. Pursuant to SDCL 17-2-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 448-3 REMAIN IN EFFECT for 3,942 acre-feet annually and No. 2042-3 REMAIN IN EFFECT for 28,256 acre-feet annually because: 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest. The Water Management Board will conduct the hearing to review Future Use Permit Nos. 448-3 and 2042-3 at 10:30 a.m. on March 6, 2019, at Floyd Mathew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The recommendation of the Chief Engineer is not final or binding upon the board and the board is authorized to 1) allow the permits to remain in effect, 2) cancel the permits by adding qualifications, 3) cancel the permits for no development or no plan of future development, 4) take no action after the chief's conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a board decision and who intends to participate in the hearing before the board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by Feb. 22, 2019. The Chief Engineer's address is "Water Rights Program," Joe Foss Building, 523 East Capitol Avenue, Pierre, SD 57501, (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits and the signature

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JAN 25 2019

WATER RIGHTS PROGRAM

and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition. The hearing to review Future Use Permit Nos. 448-3 and 2042-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74-02:01:25.01 through 74-02:01:25.03 and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the board may be appealed to the circuit court and State Supreme Court as provided by law. Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by Feb. 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The cost of a delay must be filed with the Chief Engineer by Feb. 22, 2019. 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. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 East Capitol Avenue, Pierre, SD) by Feb. 4, 2019. Steven Malinen, Secretary, Department of Environment and Natural Resources. (Published one week, January 23, 2019, at a total approximate cost of \$43.70) (January 23)



# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

JAN 25 2019

WATER RIGHTS  
PROGRAM

CITY OF SIOUX FALLS  
ATTN: GREG ANDERSON  
PO BOX 7402  
SIOUX FALLS SD 57117

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

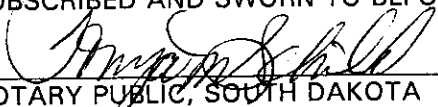
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED 1 + 23 NOTICE OF HEARING TO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 23rd DAY OF January, 2019 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID NOTICE TO WIT \$47.00 ENSURES TO THE BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 01/23/2019

FILED ON: 01/23/2019

  
\_\_\_\_\_  
SUBSCRIBED AND SWORN TO BEFORE ME THIS 23rd DAY OF January, 2019

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

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 448-3 and 2042-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 448-3 and 2042-3 held by the City of Sioux Falls, c/o Greg Anderson, Water Superintendent, PO Box 7402, Sioux Falls SD 57117 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits.

Permit No. 448-3 was approved in 1957 and currently reserves 3,842 acre-feet from groundwater (Big Sioux:Sioux Falls Aquifer) located in Sections 4, 5, 8, 9, 16, 17, 20 and 21: T102N-R49W and Sections 16, 17, 20, 21, 28, 29, 32 and 33; T103N-R49W for municipal use.

Permit No. 2042-3 was approved in 1974 and currently reserves 28,236 acre-feet from the Missouri River with the point of diversion to be located between points in Section 21-T104N-R71W (Brule County) and a point in Section 34-T93N-R54W Yankton County) for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 448-3 REMAIN in EFFECT for 3,842 acre-feet annually and No. 2042-3 REMAIN in EFFECT for 28,236 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 448-3 and 2042-3 at 10:30 am on March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 448-3 and 2042-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program

523 E Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$ 47.00

**Affidavit of Publication**

**RECEIVED**

**FEB 04 2019**

**WATER RIGHTS PROGRAM**

State of South Dakota }  
County of Bon Homme } SS

*Rebecca Uz*

Being first duly sworn

says that the **Tyndall Tribune & Register** is a legal weekly newspaper for publication of legal and other official notices as required by Chapter 298 of the Session Laws of South Dakota, 1939; that it has bona fide paid circulation of more than two hundred copies weekly; that it is published in English language in the City of Tyndall, Bon Homme County, South Dakota, and has been admitted to the United States mail under second class mailing privilege for more than one year prior to the first publication of the notice herein mentioned, and that it is printed in an office maintained at the place of publication at Tyndall, South Dakota, and that deponent is the publisher in charge of the advertising department of said newspaper; that the advertisement headed

*Notice of Hearing - Future Use Water Permit 129 @ 38*

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

*Jan. 23 2019* .....20.....  
.....20.....  
.....20.....  
.....20.....

That the full amount of the fee charged for the publication of said notice, \$ ~~49.07~~, inures to the benefit of the publisher of said newspaper, that no agreement or understanding for the division thereof has been made with any other person, and that no part has been agreed to be paid to any person whomsoever.

*Rebecca Uz, publisher*

Subscribed and sworn to before me this *23* day of *January* 20*19*.

*Peggy A. Helms*  
Notary Public, South Dakota  
My Comm. Expires Oct. 24, 2021

**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMITS NOS. 448-3 and 2042-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 448-3 and 2042-3 held by the City of Sioux Falls, 1000 Gregg Aulder Water Management District, 7409 Sioux Falls SD 57117 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits.

Permit No. 448-3 was approved in 1957 and currently reserves 3,842 acre-feet from groundwater (Big Sioux/Sioux Falls Aquifer) located in Sections 4, 5, 8, 9, 16, 17, 20 and 21 T102N-R49W and Sections 16, 20, 21, 29, 32 and 33 T103N-R49W (Sioux Falls, SD).

Permit No. 2042-3 was approved in 1974 and currently reserves 28,236 acre-feet from the Missouri River with the point of diversion south of the mouth of the Missouri River in Section 21-T103N-R49W (Sioux Falls County) and a point of diversion in Section 34-T103N-R54W (Lincoln County) for municipal use.

Pursuant to SDCL 46-7-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 448-3 REMAIN in EFFECT for 3,842 acre-feet annually and No. 2042-3 REMAIN in EFFECT for 28,236 acre-feet annually because 1) the reserved water is not developed, 2) there is need for the reserved water, 3) the proposed use will be beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 448-3 and 2042-3 at 10:00 am on March 6, 2019 at Floor Mathey Hearing Center, Joe Foss Bldg. 526 E Capitol Pierre SD.

The recommendation of the Chief Engineer is not final on the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by modification of sections, 3) cancel the permits, 4) suspend or no planned future development, or 4) take no action after reaching a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who wishes to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer will provide the petition form. The petition must be filed with the Water Rights Program, Joe Foss Building 526 E Capitol Ave, Pierre SD, 57501 (505-224-3952) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to, or support of, continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 443-3 and 2042-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped, or obtain an interpreter for the hearing impaired, may contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E Capitol Ave, Pierre SD) by February 4, 2019.

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

Published once at an approximate cost  
of \$400.

(Jan. 23)



# LEGAL NOTICES

## NOTICE OF HEARING TO REVIEW FUTURE USE PERMITS

Notice is given that the Water Management Board will review Future Use Permit Nos. 448-3 and 2042-3 held by the City of Pierre, S.D. (City) and the City of Sioux Falls, S.D. (City) and the permittee (PO) Box 7492, Sioux Falls, SD 57107 for progress made in the development of the lands reserved by the permits and future development of the lands reserved by the permits.

Permit No. 448-3 was approved in 1957 and currently reserves 28,236 acre-feet of ground water (Big Sioux River) located in Sections 4, 5, 8, 9, 16, 17, 20 and 21, T102N-R49W and Sections 16, 17, 20, 21, 28, 29, 32 and 35, T108N-R49W for municipal use.

Permit No. 2042-3 was approved in 1974 and currently reserves 28,236 acre-feet from the Missouri River with the point of diversion to be located between points in Section 21, T104N-R71W (Brule County) and a point in Section 34, T99N-R54W (Yankton County) for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 448-3 REMAIN IN EFFECT for 3,842 acre-feet annually and Permit No. 2042-3 REMAIN IN EFFECT for 28,236 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 448-3 and 2042-3 at 10:30 am on March 6, 2019 at Play's Mathew Training Center, Joe Foss Bldg., 523 E. Capitol, Pierre, SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26 must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is: Water Rights Program, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD, 57501 (605.773.3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 448-3 and 2042-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38, Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E. Capitol Ave., Pierre, SD) by February 4, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$43.70.



# Argus Leader

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

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FEB 11 2019

WATER RIGHTS PROGRAM

Account No.: SFA-078011

Ad No.: 0003338732

PO #: 448-3 and 2042-3

Lines : 178

Ad Total \$108.79

SF, CITY OF  
235 W 10TH ST  
SIOUX FALLS, SD 57104

# of Affidavits: 1  
Account No.: SFA-078011  
Ad No.: 0003338732

## Argus Leader AFFIDAVIT OF PUBLICATION

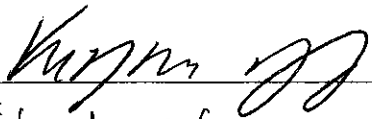
STATE OF SOUTH DAKOTA

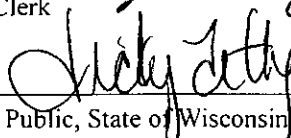
COUNTY OF MINNEHAHA } ss

I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

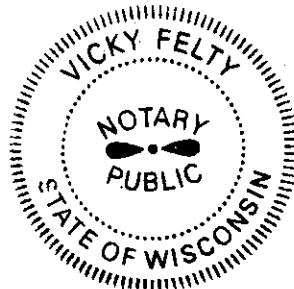
Wednesday, January 23, 2019

Sworn to and subscribed before me this 7 day of February, 2019.

  
\_\_\_\_\_  
Legal Clerk

  
\_\_\_\_\_  
Notary Public, State of Wisconsin, County of Brown

9-19-21  
My Commission expires



**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 448-3 and 2042-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 448-3 and 2042-3 held by the City of Sioux Falls, c/o Greg Anderson, Water Superintendent, PO Box 7402, Sioux Falls SD 57117 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits. Permit No. 448-3 was approved in 1957 and currently reserves 3,842 acre-feet from ground water (Big Sioux River Aquifer) located in Sections 16, 17, 20 and 21, T102N-R49W and Sections 16, 17, 20, 21, 28, 29, 32 and 33, T103N-R49W for municipal use.

Permit No. 2042-3 was approved in 1974 and currently reserves 28,236 acre-feet from the Missouri River with the point of diversion to be located between points in Section 21-T104N-R71W (Brule County) and a point in Section 34-T103N-R54W (Yankton County) for municipal use. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 448-3 REMAIN in EFFECT for 3,842 acre-feet annually and No. 2042-3 REMAIN in EFFECT for 28,236 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 448-3 and 2042-3 at 10:30 am on March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD. The recommendation of the Chief Engineer is not final and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses, according to SDCL 2-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program, Joe Foss Building, 523 E Capitol Ave, Pierre SD, 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal but it must include a statement describ-

ing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel. If legal counsel is obtained, the permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 448-3 and 2042-3 will be conducted pursuant to the provisions of SDCL 46-2A-2, 46-2-5, 46-2-9, 46-2-11, 46-2-38.1; Board Rules ARSD 74:02:01, 25:01 thru 74:02:01, 25:03 and contested case procedures contained in SDCL 2-26.

This hearing is an adversary proceeding. The permit owner or any person after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if

they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to object to the continuation of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, they must need to notify the Chief Engineer (Water Rights Program, 523 E Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once in the approximate cost of \$100.00. 3338732 Jan. 28, 2019



RECEIVED

JAN 11 2019

WATER RIGHTS  
PROGRAM

January 8, 2019

Karen Schlaak  
Department of Environment and Natural Resources  
Water Rights Program  
523 East Capitol  
Pierre, SD 57501-3182

Dear Ms. Schlaak,

The City of Milbank has received your letter for the review of Future Use Water Permit 549-3 from groundwater (Veblen Aquifer), which is held by the City. The City would like to retain the permit for the next seven years.

The City continues to plan for future expansion in both the commercial and residential areas within the City limits. Valley Queen Cheese, a major manufacturing company within the city, has and continues to expand its footprint and with that its need for city provided services increase as well. Avera has just recently expanded their health care center. This new larger center continues to require more water to maintain its operation.

The annual pumping records for the last three years are:

2016	222,729,100 gallons
2017	235,759,700 gallons
2018	251,171,700 gallons

Thank you for your consideration in this matter, and the City understands that it is responsible for expenses associated with this renewal. Please advise me of any findings of the Water Management Board hearings and any fees for the permits.

Please note that I have taken over the position of City Administrator for the City of Milbank, replacing Jason Kettwig. If you need any further information, please contact Don Settje, Water Superintendent, or myself.

Sincerely,

John C. Forman, PE  
Milbank City Administrator



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 549-3, City of Milbank SD

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 549-3, City of Milbank, 1001 E 4<sup>th</sup> Ave, #301, Milbank SD 57552.

The Chief Engineer is recommending that Future Use Permit No. 549-3 REMAIN in EFFECT for 808 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 549-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 549-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 549-3 is subject to payment of the \$125.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 24, 2019

# Printer's Affidavit of Publication

# NOTICE OF HEARING FUTURE USE WATER

STATE OF SOUTH DAKOTA  
COUNTY OF GRANT

} ss.

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FEB 11 2019

Ashlie Schweitzer

WATER RIGHTS PROGRAM

of said County and State, being first duly sworn, on oath says that the Grant County Review is a legal weekly newspaper of general circulation, printed and published in Milbank, in said County of Grant and State of South Dakota, by Grant County Review, Inc., and has been such newspaper during the times hereinafter mentioned; that said newspaper is a legal newspaper; and that it has a bona fide circulation of more than two hundred copies weekly, and has been published within said County of Grant in the English language and has been admitted to the United States mail under second class mailing privilege, for at least one year next prior to the publication of the Notice herein mentioned, and has been printed wholly in an office maintained at the said place of publication, that I, the undersigned, Bookkeeper of said newspaper, in charge of the accounts receivable department thereof, have personal knowledge of all the facts stated in this affidavit; that the advertisement headed Notice of Hearing to Review Future Use Water Permit No. 549-3 a printed copy of which, taken from the paper in which the same was published, is attached to this sheet and is made a part of this Affidavit, was published in said newspaper at least once each week for one successive weeks, on the day of each week on which the said newspaper was regularly published, to-wit:

February 6 2019	20
20	20
20	20

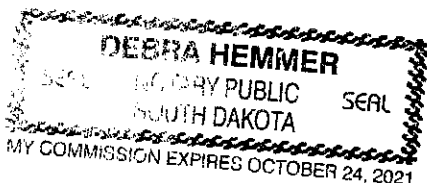
That \$ 41.34, being the full amount of the fee charged for the publication of said Notice, inures to the benefit of the publisher of the Grant County Review; that no agreement or understanding for the division thereof has been made with any person, and that no part has been agreed to be paid to any person whomsoever.

Ashlie Schweitzer

Subscribed and sworn to before me this 6th day of Feb 20 19

Debra Hemmer

Notary Public, Grant County, South Dakota



Publication Fee \$ 41.34  
 Notarial Fee \$ \_\_\_\_\_  
 Total \$ 41.34

Notice is given that the Water Management Board will review Future Use Permit No. 549-3 held by the City of Milbank, John C. Forman, City Administrator, 1001 E 4th Ave, #301, Milbank SD 57252 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 549-3. This permit was approved 1958 and currently reserves 808 acre-feet from the Veblen Aquifer located in Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16 and 17; all in T120N, R50W. The water is reserved for municipal use.

Pursuant to SDGL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 549-3 REMAIN IN EFFECT for 808 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water for the proposed use will be a beneficial use and 3) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 549-3 at 10:00 AM on March 6, 2019 at Floyd Matheis Training Center, Joe Foss Bldg, 523 Capitol Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDGL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program," Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 549-3 will be conducted pursuant to the provisions of SDGL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74-02:01:25:01 thru 74-02:01:25:03 and contested case procedures contained in SDCL 1-126.

**Printer's Affidavit of Publication**

and Attorney's Affidavit Ex-Rel. Fees

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

STATE OF SOUTH DAKOTA }  
COUNTY OF GRANT } ss.

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

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

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

**ING TO REVIEW  
PERMIT NO. 549-3**

ing. The permit owner or any person after filing a petition has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court, as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program (605-773-3352) by February 27, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 27, 2019.

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 party's right is being terminated or the dollar amount in controversy exceeds \$2,500.00 and any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program) 523 E. Capitol Avenue SD by February 16, 2019. Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$41.34.





## WATERTOWN MUNICIPAL UTILITIES

901 - 4TH AVENUE SW • WATERTOWN, SD 57201-4107

PHONE: (605) 882-6233 • FAX: (605) 882-6238

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JAN 14 2019

WATER RIGHTS  
PROGRAM

January 11, 2019

Karen Schlaak  
Department of Environment and Natural Resources  
Joe Foss Building 523 East Capitol  
Pierre S.D. 57501-3182

RE: Future Water Use Permit No.1218-3 and 2107-3

Dear Ms. Schlaak:

The Watertown Municipal Utilities Department petitions to retain future water use permit 1218-3 and 2107-3 for future growth of the city. The city has had 13% increases in new water service connections and had a 14% increase in production compared to the last review period of these water rights.

Attached for your information is production history, plus projections for annual and peak day production through 2040.

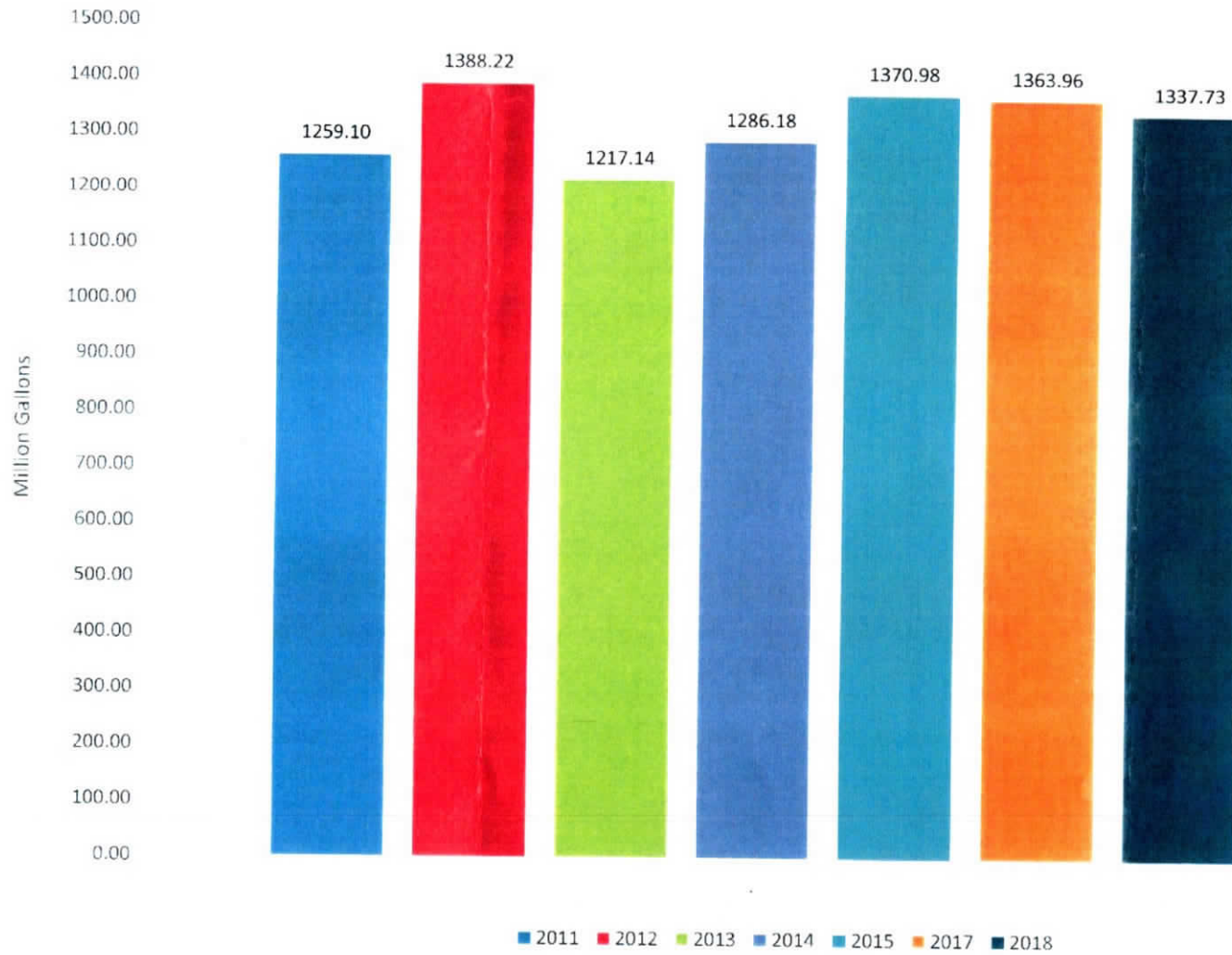
Our current treatment capacity to 14.8MGD. Our current developed well capacity is 12.3 MGD. We will need to develop another 2.5MGD in well capacity to match the full treatment capacity of our treatment plants. There is 0.68 MGD of future rights that remain on # 5862-3 and 2.4 MGD of future use on #1218-3 and #2107-3. We will finish developing future right #5862-3 and then develop the remainder of #1218-3 and #2107-3 to bring our developed well capacity to the same level as our treatment capacity.

Sincerely,

Jeff DeVille  
Water Superintendent  
Watertown Municipal Utilities Dept.



### Combined Total Annual Production



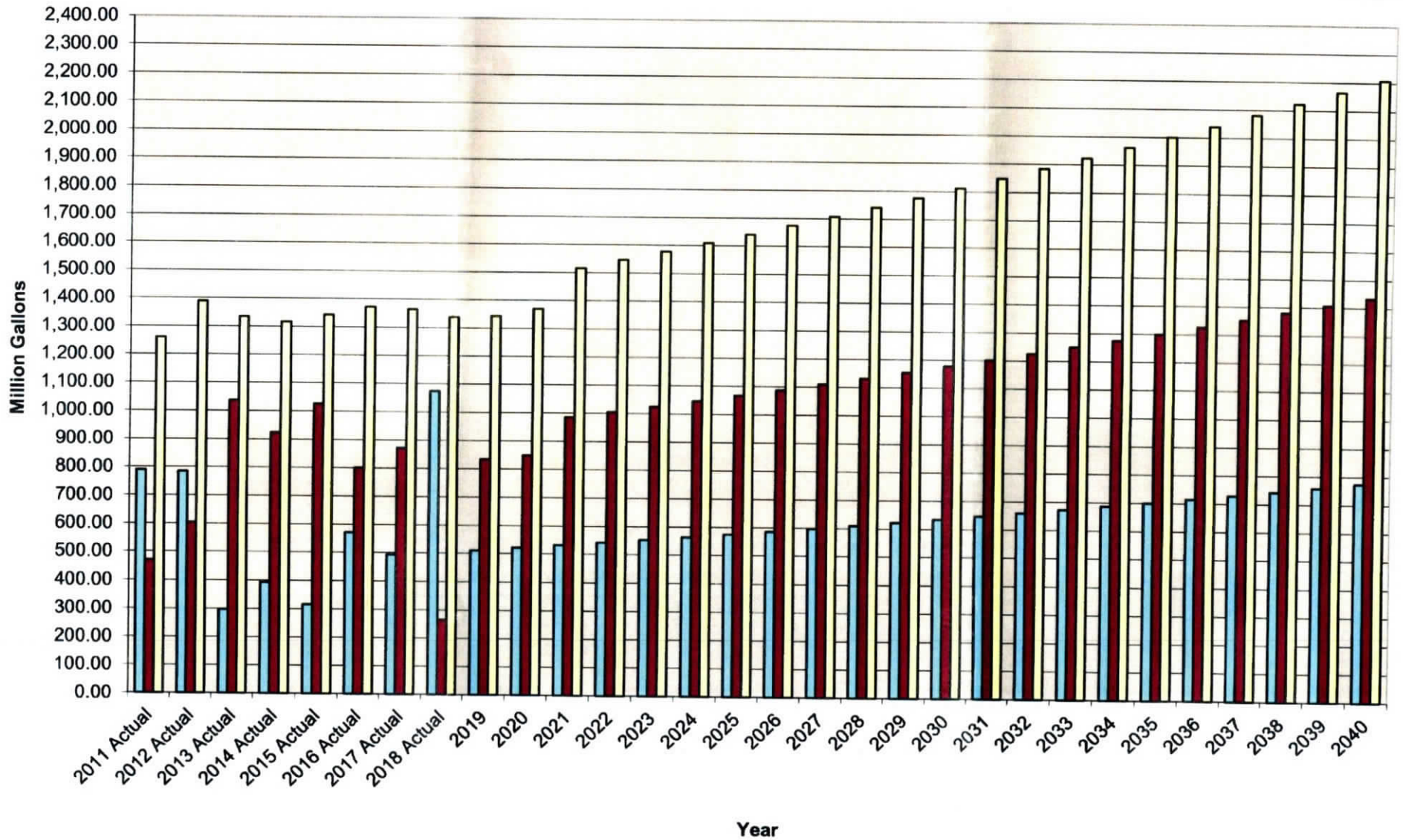
**Combined Production in Million Gallons**

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
January	39.38	35.77	82.35	89.30	84.95	83.90	94.03	82.69	84.95	83.90	91.47	88.25	97.09	93.82
February	36.08	36.74	77.48	84.05	79.07	76.56	84.06	78.85	79.07	76.56	83.80	83.85	86.23	83.86
March	42.10	43.49	85.46	90.15	86.37	71.76	89.57	85.17	86.37	71.76	95.41	89.85	91.98	90.67
April	43.49	42.78	82.52	86.57	83.31	86.77	90.58	91.55	83.31	86.77	103.05	90.84	89.23	92.16
May	52.80	68.63	116.81	102.99	119.95	117.93	100.61	118.96	119.95	117.93	123.75	117.82	120.52	125.66
June	71.75	117.62	145.54	128.40	126.26	126.55	113.26	147.12	126.26	126.55	133.15	169.49	152.76	145.62
July	135.85	173.95	219.09	175.21	135.29	157.10	144.45	196.38	135.29	157.10	155.98	179.17	170.92	161.90
August	116.61	124.29	144.33	151.26	130.88	170.99	153.36	161.10	130.88	170.99	136.96	152.09	141.31	148.94
September	70.24	66.46	112.57	125.59	116.79	112.28	133.65	144.40	116.79	112.28	132.68	121.34	127.65	121.38
October	82.77	89.68	87.96	88.81	86.55	100.58	94.34	102.03	86.55	100.58	104.52	98.41	98.12	93.71
November	51.88	80.23	80.97	88.01	84.05	90.16	80.06	89.70	84.05	90.16	88.74	88.62	93.21	89.48
December	36.43	85.16	88.68	87.90	83.67	91.62	81.14	90.28	83.67	91.62	92.74	91.24	94.94	90.53
<b>Total Million Gallons</b>	<b>779.38</b>	<b>964.80</b>	<b>1323.76</b>	<b>1298.24</b>	<b>1217.14</b>	<b>1286.18</b>	<b>1259.10</b>	<b>1388.22</b>	<b>1217.14</b>	<b>1286.18</b>	<b>1342.27</b>	<b>1370.98</b>	<b>1363.96</b>	<b>1337.73</b>

Total Production last review period(2005-2011)	8128.61
Total Production this review period(2012-2018)	9306.48
Percentage increase	14.49%

### Projected Combined Total Annual Production

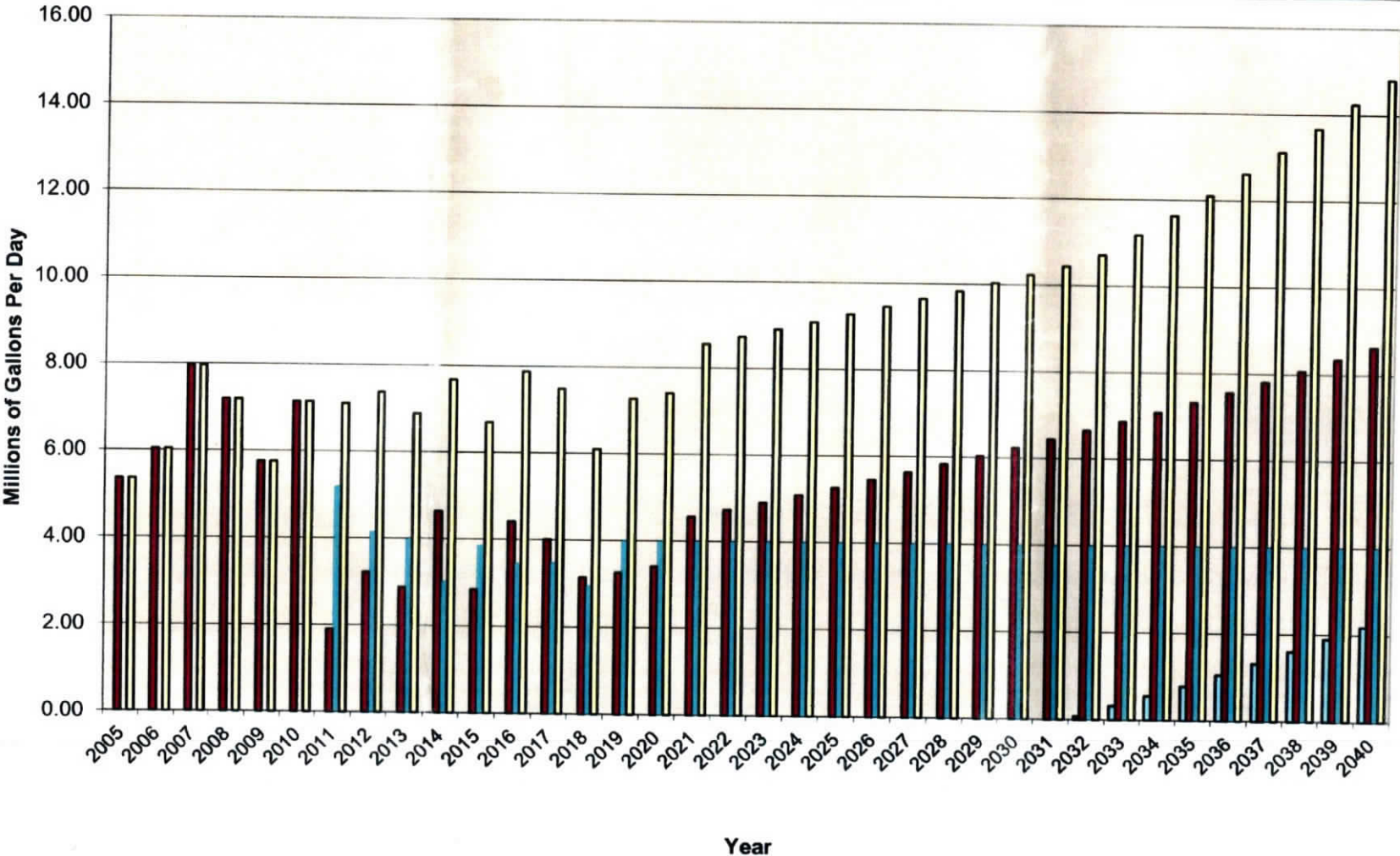
■ Right #7055-3" ■ Existing Well Rights □ Combined Production





**Projected Combined Total Peak Day Production**

- Future well rights #1218-3 & 2107.03
- Existing Well Rights
- Right # 7055
- Combined Production



**Projected Combined Total Peak Day Production**

		#7055-3 Rights	Existing Well Rights	#1218-3 & #2107-3 Future well rights	Total	% Change Per Year
	Year	Million Gallons Per Day	Million Gallons Per Day	Million Gallons Per Day	Million Gallons Per Day	
Actual	2001	0.00	4.96	0.00	4.96	
Actual	2002	0.00	5.85	0.00	5.85	18%
Actual	2003	0.00	4.74	0.00	4.74	-19%
Actual	2004	0.00	5.36	0.00	5.36	13%
Actual	2005	0.00	5.36	0.00	5.36	0%
Actual	2006	0.00	6.04	0.00	6.04	13%
Actual	2007	0.00	7.97	0.00	7.97	32%
Actual	2008	0.00	7.19	0.00	7.19	-10%
Actual	2009	0.00	5.76	0.00	5.76	-20%
Actual	2010	0.00	7.14	0.00	7.14	24%
Actual	2011	5.20	1.90	0.00	7.10	-1%
Actual	2012	4.14	3.23	0.00	7.37	4%
Actual	2013	4.00	2.88	0.00	6.88	-7%
Actual	2014	3.03	4.64	0.00	7.67	11%
Actual	2015	3.85	2.84	0.00	6.69	-13%
Actual	2016	3.46	4.41	0.00	7.87	18%
Actual	2017	3.48	4.00	0.00	7.49	-5%
Actual	2018	2.96	3.14	0.00	6.10	-19%
Projected	2019	4.00	3.26	0.00	7.26	19%
Projected	2020	4.00	3.41	0.00	7.41	2%
Projected	2021	4.00	4.56	0.00	8.56	16%
Projected	2022	4.00	4.73	0.00	8.73	2%
Projected	2023	4.00	4.91	0.00	8.91	2%
Projected	2024	4.00	5.08	0.00	9.08	2%
Projected	2025	4.00	5.27	0.00	9.27	2%
Projected	2026	4.00	5.45	0.00	9.45	2%
Projected	2027	4.00	5.64	0.00	9.64	2%
Projected	2028	4.00	5.83	0.00	9.83	2%
Projected	2029	4.00	6.03	0.00	10.03	2%
Projected	2030	4.00	6.23	0.00	10.23	2%
Projected	2031	4.00	6.43	0.00	10.43	2%
Projected	2032	4.00	6.64	0.07	10.71	3%
Projected	2033	4.00	6.86	0.32	11.18	4%
Projected	2034	4.00	7.08	0.55	11.63	4%
Projected	2035	4.00	7.31	0.78	12.09	4%
Projected	2036	4.00	7.56	1.05	12.61	4%
Projected	2037	4.00	7.81	1.32	13.13	4%
Projected	2038	4.00	8.07	1.60	13.67	4%
Projected	2039	4.00	8.34	1.89	14.23	4%
Projected	2040	4.00	8.63	2.18	14.81	4%

### New Connections Over Review Period.

Year	Connections		
2012	8638	1/1/2012 tapping permit #	2987
2018	9367	12/31/2018 tapping permit #	3427
Increase	729	Total permits this period	440
% Increase	8%	% Increase	13%
Take from financial reports			



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NOS. 1218-3 and 2107-3, Watertown Municipal Utilities**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit Nos. 1218-3 and 2107-3, Watertown Municipal Utilities, 901 4<sup>th</sup> Ave SW, Watertown SD 57201.

The Chief Engineer is recommending that Future Use Permit Nos. 1218-3 and 2107-3 REMAIN in EFFECT for 2,709 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit Nos. 1218-3 and 2107-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit Nos. 1218-3 and 2107-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit Nos. 1218-3 and 2107-3 is subject to payment of the \$285.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 24, 2019



**MUNICIPAL UTILITIES**

**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 1218-3 and 2107-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 1218-3 and 2107-3 held by Watertown Municipal Utilities, Jeff DeVillie, Water Superintendent, 901 4th Ave SW, Watertown SD 57201 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits. Permit No. 1218-3 was issued in 1965 and currently reserves 2,709 acre-feet from groundwater (Big Sioux/North Aquifer) located in the NW 1/4 Section 5-T117N-R52W, Section 31-T117N-R52W and Section 11, 25, 36; in T117N-R53W for municipal use. Permit No. 2107-3 was issued in 1974 for the addition of the N 1/2 NW 1/4 Section 14-T117N-R53W to the future use area authorized under No. 1218-3. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 1218-3 and 2107-3 REMAIN in EFFECT for 2,709 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest. The Water Management Board will conduct the hearing to review Future Use Permit Nos. 1218-3 and 2107-3 at 10:30 am on March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition. The hearing to review Future Use Permit Nos. 1218-3 and 2107-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-8, 46-2-11, 46-5-38.1; Board Rules ARSD 74.02.01.25.01 thru 74.02.01.25.03 and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2019. According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 18, 2019. Steven M. Pinner, Secretary, Department of Environment and Natural Resources. Published once at the approximate cost of \$65.23.

RECEIVED  
FEB 19 2019  
WATER RIGHTS PROGRAM

Form 8

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
County of Codington )SS

I, Jackie Wettestad

certify that the attached printed Notice was taken

from the Watertown  
Public Opinion

printed and published in Watertown  
County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:  
February 6, 2019

Cost of Printing \$70.23

Jackie Wettestad  
(Signature)

Business Office Mgr  
(Title)

2-14-19  
(Date Signed)

\$65.23 (February 6, 2019)

RECEIVED

DEC 13 2018

WATER RIGHTS  
PROGRAM

December 10, 2018

Karen Schlaak  
Water Rights Program

Re: Future Use Permit 4927-3

Dear Karen and Water Management Board,

Clark Rural Water System, Inc. would like to retain the future use permit as written. Even in the recent economic times, we have been experiencing some economic growth in Clark and Codington Counties.

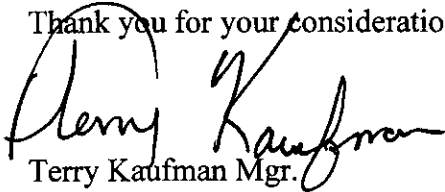
We will be connecting the City of Willow Lake to the system. We have a large dairy operation looking to expand over the next 5 years. We have also in the last year hooked up 2 large hog confinement buildings and a large turkey confinement. Also, there is an interest in building a large dairy 10 miles south of the Clark Rural Water treatment plant which would have a demand of 150 gpm. This dairy alone would use up all our future use permit.

The NRCS pasture tap program continues in our area with many operators taking advantage of the program to supply water for their livestock.

We have recently built a 2200 GPM lime softening plant. We are also operating a small treatment facility north of Watertown to address the demands in that service area. Future plans are for pipeline improvements from our main plant going east to provide service from the new treatment facility and the eventual decommissioning of the Kampeska plant.

The Clark Rural Water System, Inc. is aggressively supporting the development of the entire service area and feel it would only be prudent to maintain our future use permit to accommodate any further development of the Clark and Codington county region.

Thank you for your consideration,



Terry Kaufman Mgr.  
Clark Rural Water System, Inc.  
800-657-4310



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 4927-3, Clark Rural Water System

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 4927-3, Clark Rural Water System, PO Box 162, Clark SD 57225.

The Chief Engineer is recommending that Future Use Permit No. 4927-3 REMAIN in EFFECT for 221 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4927-3, 2) the rural water system has demonstrated a reasonable need for the water reserved by Permit No. 4927-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 4927-3 is subject to payment of the \$75.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 11, 2019

RECEIVED

JAN 24 2019

Form 8

WATER RIGHTS PROGRAM

PROOF OF PUBLICATION

Jan. 23, 2019 / 11

STATE OF SOUTH DAKOTA )
County of Hamlin ) SS

I, LeeAnne Dutek

certify that the attached printed Notice was taken

from the Hamlin County Herald Enterprise

printed and published in Hayti

County of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

Jan. 23, 2019

Cost of Printing \$42.80

LeeAnne Dutek (Signature)

Owner (Title)

1-23-2019 (Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4927-3

Notice is given that the Water Management Board will review Future Use Permit No. 4927-3 held by Clark Rural Water System, Inc. c/o Terry Kaufman, Manager, P.O. Box 162, Clark, SD 57225 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4927-3. This permit was approved 1982 and currently reserves 221 acre-feet from groundwater wells less than 100 feet deep (Vermillion East Fork & Antelope Lake Aquifer) located in the W 1/2, Section 31, T116N-R57W and the E 1/2, Section 35, T116N-R58W for rural water system use serving users in Codington, Clark, Day, Hamlin and Grant Counties.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Program recommends that Permit No. 4927-3 REMAIN in EFFECT for 221 acre-feet annually, because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4927-3, at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605.773.3352) and the permit holder's mailing address is given above.

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

The hearing to review Future Use Permit No. 4927-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38, Board Rules ARSD 74-02-01-25.01 thru 74-02-01-25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit to assure access to the hearing by the handicapped or obtain an interpreter for the hearing, impaired, may contact Eric Gronlund, Water Rights Program, (605.773.3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pimer, Secretary, Department of Environment and Natural Resources.

Published Jan. 23, 2019, at total cost of \$42.80.

**NOTICE OF HEARING TO REVIEW FUTURE USE  
WATER PERMIT NO. 4927-3**

Notice is given that the Water Management Board will review Future Use Permit No. 4927-3 held by Clark Rural Water System, Inc., c/o Terry Kaufman, Manager, PO Box 162, Clark, SD 57225 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4927-3. This permit was approved 1987 and currently reserved 221 acre-feet from groundwater wells less than 100 feet deep (Vermillion East Fork & Antelope Lake Aquifer) located in the W 1/2 Section 31, T116N, R57W and the E 1/2 Section 85, T116N, R58W for rural water system use serving users in Codebook Clark, DeW Hamlin and Gram...

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

The hearing to review Future Use Permit No. 4927-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, Board Rules ARSD 74:02:01.25:01 thru 74:02:01.25:03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person affected by the permit has the right to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

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Published once at the total approximate cost of \$45.67.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4927-3 REMAIN in EFFECT for 221 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4927-3 at 10:30 am, March 6, 2019 at the Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre, SD.

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

Any interested person who may be affected by Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capital Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the

**Affidavit of Publication** RECEIVED

State of South Dakota

§ JAN 25 2019

County of Clark

**WATER RIGHTS PROGRAM**

William J. Krikac of said county, being first duly sworn, on oath says that he is the publisher of the **Clark County Courier**, a weekly newspaper printed and published in Clark in said County of Clark and has a full and personal knowledge of all the facts therein 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

**Clark Rural Water**

a printed copy of which taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in each week for

**One**

successive week(s), on the day of each week on which said newspaper was regularly published, to wit:

**January 23, 2019**

that the full amount of the fees for the publication of the annexed notice is **\$45.67**

*William J. Krikac*

Subscribed and sworn to before me this

**31st day of January, 2019**

*Ann Helke*

Notary Public  
Clark County, South Dakota

**My Commission expires: 06/04/2019**

# Printer's Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF GRANT

} ss.

Ashlie Schweitzer

of said County and State, being first duly sworn, on oath says that the Grant County Review is a legal weekly newspaper of general circulation, printed and published in Milbank, in said County of Grant and State of South Dakota, by Grant County Review, Inc., and has been such newspaper during the times hereinafter mentioned; that said newspaper is a legal newspaper; and that it has a bona fide circulation of more than two hundred copies weekly, and has been published within said County of Grant in the English language and has been admitted to the United States mail under second class mailing privilege, for at least one year next prior to the publication of the Notice herein mentioned, and has been printed wholly in an office maintained at the said place of publication, that I, the undersigned, Bookkeeper of said newspaper, in charge of the accounts receivable department thereof, have personal knowledge of all the facts stated in this affidavit; that the advertisement headed Notice of Hearing to Review Future Use water Permit No. 4927-3 by Clark Rural water System, Inc., c/o Terry Kaufman a printed copy of which, taken from the paper in which the same was published, is attached to this sheet and is made a part of this Affidavit, was published in said newspaper at least once each week for one successive weeks, on the day of each week on which the said newspaper was regularly published, to-wit:

<u>January 23</u> 20 <u>19</u>	_____	20
_____	_____	20
_____	_____	20

That \$ 42.75, being the full amount of the fee charged for the publication of said Notice, inures to the benefit of the publisher of the Grant County Review; that no agreement or understanding for the division thereof has been made with any person, and that no part has been agreed to be paid to any person whomsoever.

Ashlie Schweitzer

Subscribed and sworn to before me this 23rd day of Jan 2019

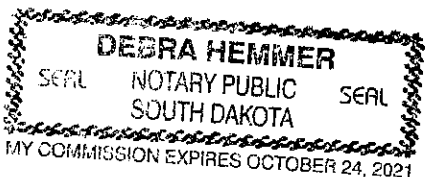
Debra Hemmer

Notary Public, Grant County, South Dakota

RECEIVED

JAN 28 2019

WATER RIGHTS PROGRAM



Publication Fee \$ 42.75  
Notarial Fee \$ \_\_\_\_\_  
Total \$ 42.75

## NOTICE OF HEARING TO REVIEW FUTURE USE

WATER PERMIT NO. 4927-3

Notice is given that the Water Management Board will review Future Use Permit No. 4927-3 held by Clark Rural Water System, Inc., c/o Terry Kaufman, Manager, PO Box 162, Clark SD 57225 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4927-3. This permit was approved in 1992 and currently reserves 221 acre-feet from groundwater wells less than 100 feet deep (Vermillion East Fork & Antelope Lake Aquifer) located in the NW 1/2 Section 31, T16N-R57W and the E 1/2 Section 35, T16N-R58W for rural water systems service users in Codington, Clark, Day, Hamlin and Grant Counties.

Pursuant to SDCL 46-2-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4927-3 REMAIN in EFFECT for 221 acre feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4927-3 at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses, according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program," Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner by his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4927-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25:01 procedures contained in SDCL 1-26.

**Printer's Affidavit of Publication**  
and Attorney's Affidavit Ex-Rel. Fees

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

STATE OF SOUTH DAKOTA }  
COUNTY OF GRANT }  
ss.

Filed in the office of \_\_\_\_\_  
\_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605) 735-3352 by February 27, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 27, 2019.

According to SDCL 17-26-18.3, 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 \$250,000. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$42.75.

Form 8

RECEIVED

JAN 30 2019

WATER RIGHTS PROGRAM

CODINGTON

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4927-3

Notice is given that the Water Management Board will review Future Use Permit No. 4927-3 held by Clark Rural Water System, Inc., c/o Terry Kaufman, Manager, PO Box 182, Clark SD 57225 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4927-3. This permit was approved 1982 and currently reserves 221 acre-feet from groundwater wells less than 100 feet deep (Vermillion, East Fork & Antelope Lake Aquifer) located in the W 1/2 Section 31-T116N-R57W and the E 1/2 Section 35-T116N-R58W, for rural water system use serving users in Codington, Clark, Day, Harlin and Grant Counties. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4927-3 REMAIN in EFFECT for 221 acre-feet annually because: 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be as beneficial use and 4) it is in the public interest. The Water Management Board will conduct the hearing to review Future Use Permit No. 4927-3 at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26 must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is Water Rights Program, Joe Foss Building, 523 E. Capitol Ave, Pierre SD, 57501 (605) 773-3652 and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner. If legal counsel is obtained, the permit owner need not file a petition. The hearing to review Future Use Permit No. 4927-3 will be conducted pursuant to the provisions of SDCL 46-2A-2, 46-2A-4, 46-2A-5-38.1; Board Rules 46-2A-201, 46-2A-201 thru 46-2A-202, 46-2A-203 and 46-2A-204. Case proceedings are contained in SDCL 1-26. This hearing is an open hearing. The permit owner or any person, after giving personal notice to the permit owner, may file a written petition for a hearing. The hearing will be conducted in accordance with the provisions of SDCL 1-26. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped should contact the hearing room at (605) 773-3652. The hearing will be announced and held for at least 20 days before the hearing of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2019. According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pimer, Secretary, Department of Environment and Natural Resources. Published once at the approximate cost of \$62.27.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County of Codington ) SS

I, Jackie Wettestad

certify that the attached printed Notice was taken

from the Watertown  
Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 23, 2019

Cost of Printing \$67.27

Jackie Wettestad  
(Signature)

Business Office Manager  
(Title)

1-28-19  
(Date Signed)

(January 23, 2019) 67.27



RECEIVED

AUG 20 2018

WATER RIGHTS  
PROGRAM

**Joint Well Field Inc.  
Future Water Demands**

The Joint Well Field is a cooperative venture of the Brookings-Deuel Rural Water System and the Kingbrook Rural Water System. Joint Well Field operates a group of wells and a water treatment plant north of Bruce, South Dakota. This water source is on the boundary between the two rural water systems.

On the Kingbrook side, water from the Joint Well Field source presently serves the northeast part of the water system, including the Lake Poinsett and Lake Campbell areas, and the City of Arlington. Kingbrook has recognized significant growth in numbers of water customers and in water used per customer in the area in recent years. The growth is particularly apparent in the lake areas.

For Brookings-Deuel, the Joint Well Field source provides water for the southern half of the water system. Brookings-Deuel has had significant growth in water demand due to dairy expansion and new commercial beef and swine feeding operations.

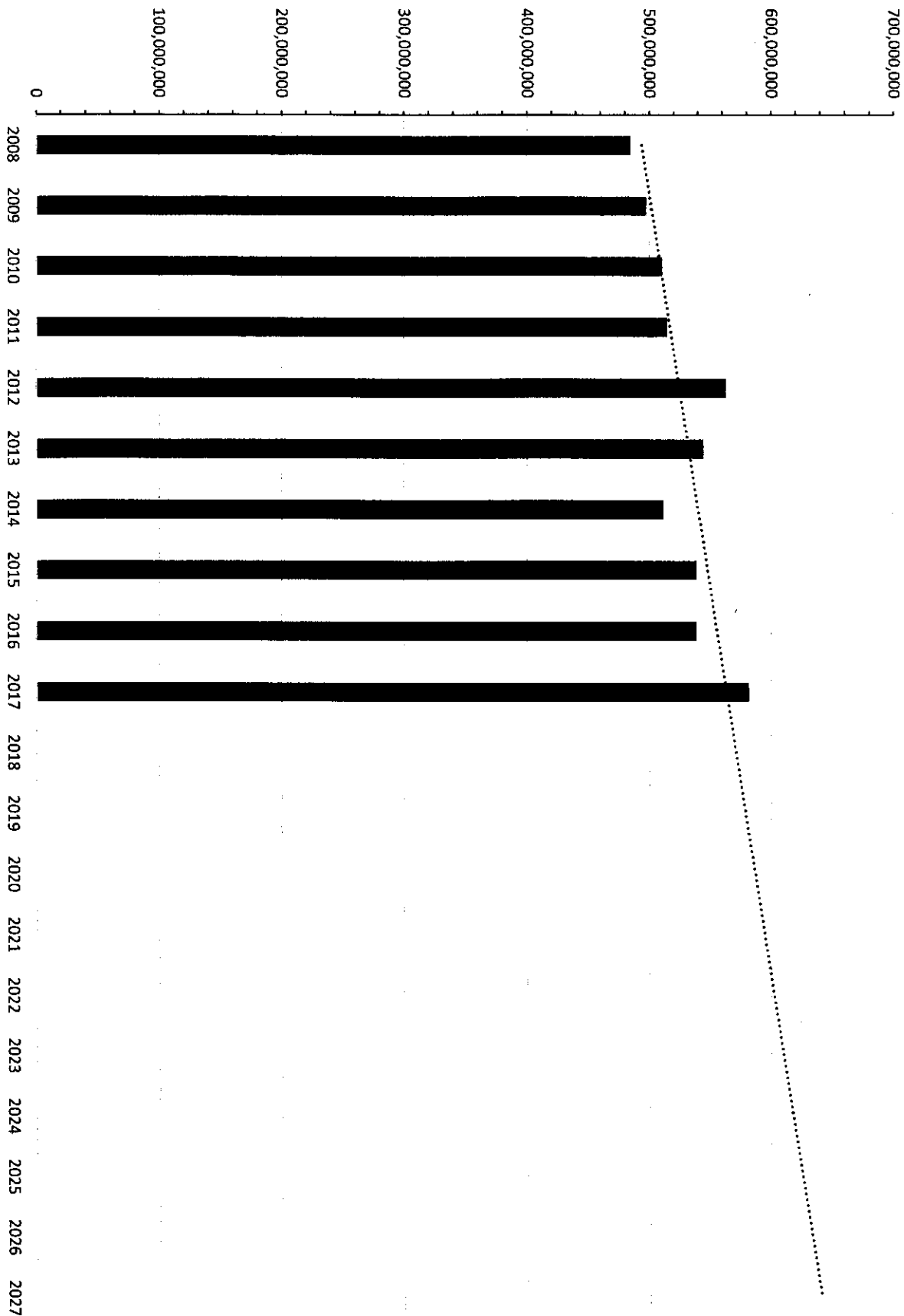
Kingbrook is currently installing new pipe line from the Joint Wellfield, which will change the apportionment of water among the Kingbrook water sources. The new pipe line will transfer some demand in the Lake Preston area, including the City of Lake Preston, from Kingbrook's DeSmet source to the Joint Well Field source. Kingbrook is undertaking a pipeline project to bring water an additional 230 customers throughout the system including a large industrial ag facility. When complete this change will increase the demand on the Joint Well Field source by about 700 acre-ft annually.

As you can see on the enclosed graph, water demand on the Joint Well Field has steadily increased during the past ten years due to system growth. Please note on the graph that 2012 was an extreme drought year.

In preparation for the projected demand increases from both systems, the Joint Well Field is currently doing improvements to the treatment plant to increase the treatment capacity from 3.2 MGD to 3.8MGD. As part of these improvements an additional well, Well #10, will be put into production. Over the next 10 years the annual water withdrawal from the Joint Well Field is expected to increase from 1,785 acre-ft per year in 2017 to 1988 acre-ft per year due to normal system growth. When accounting for an additional 700 acre-ft from Kingbrook's expansion project, the water withdrawal will increase to 2,688 acre-ft annually.

Overall, Kingbrook and Brookings-Deuel have continued to increase total water pumped annually. Both systems expect the demand for commercial livestock to continue to increase as well as continuing to hook up small individual users. Both systems are currently working with inquiries and requests for service from multiple commercial livestock operations.

# Joint Well Field Annual Demand





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 6988-3 and 6988A-3, Joint Well Field

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit Nos. 6988-3 and 6988A-3, Joint Well Field, PO Box 340, Toronto SD 57268.

The Chief Engineer is recommending that Future Use Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under permits, 2) the system has demonstrated a reasonable need for the water reserved by Permit Nos. 6988-3 and 6988A-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit Nos. 6988-3 and 6988A-3 is subject to payment of the \$255.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.

Jeanne Goodman, Chief Engineer  
January 11, 2019

RECEIVED

JAN 24 2019

Form 8

WATER RIGHTS PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )

County of Hamlin ) SS

I, Lee Anne Dufek

certify that the attached printed Notice was taken

from the The Hamlin

County Republican

printed and published in Crestwood

County of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

Jan 23, 2019

Cost of Printing \$42.46

Lee Anne Dufek  
(Signature)

Owner  
(Title)

1-23-19  
(Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3 and 6988A-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field Inc. c/o Gene Wilts, Manager, PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined currently reserve 2,375 acre-feet for the Big Sioux Brookings Aquifer located in the N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25, all in T12N-R51W and the SW 1/4 Section 19-T12N-R50W for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 4-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is Water Rights Program, Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 776-3352) and the permit holder's mailing address is given above.

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

The hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-36.1, Board Rules ARSD 74:02:01.25.01 thru 74:02:01.25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Grohnd, Water Rights Program, (605 773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 4-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 4, 2019.

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

Published Jan. 23, 2019, at total

**Affidavit of Publication**

STATE OF SOUTH DAKOTA  
COUNTY OF MOODY) SS

RECEIVED

JAN 25 2019

WATER RIGHTS PROGRAM

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

Notice of Hearing to Review  
Future Water Use Permit  
# 6988-3 & 6988A-3

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

1-23-19

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

\$ 410<sup>36</sup>

M. J. Headrick bookkeeper

Subscribed and sworn to before me this 23<sup>rd</sup> day of January AD 2019

Roger W. Janssen  
Notary Public, County Moody, South Dakota

ROGER W JANSSEN  
NOTARY PUBLIC  
SOUTH DAKOTA

My commission expires 2/14/24

**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3 AND 6988A-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field, Inc., c/o Gene Wilts, Manager, PO Box 340, Toronto, SD 57268 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined currently reserve 2,375 acre-feet for the Big Sioux Brookings Aquifer located in the N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25, all in T112N-R51W and the SW 1/4 Section 19 of T12N-R50W for rural water system use.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN IN EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre, SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 46-26, must file a written petition with both the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is: Water Rights Program, Joe Foss Building, 523 E Capitol Ave, Pierre, SD 57501. The hearing address is given above. A petition may be informal, but it must include a statement

describing the petitioner's interest in the future use permit, the reasons for petitioning, a proposed plan of support for continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel. If legal counsel is obtained, the permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 will be conducted pursuant to the provisions of SDCL 46-114, 46-25, 46-29, 46-2-11, 46-5-38-1, Board Rules ARSD 74-02-01, 25-01, and 74-02-01-25-03 and contested case procedures contained in SDCL 1-25.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 4, 2019.

Steven M. Pirner, Secretary and Department Director, Natural Resources  
Published once at the approximate cost of \$46.

**NOTICE OF HEARING TO REVIEW FUTURE USE  
WATER PERMIT NOS. 6988-3 and 6988A-3**

RECEIVED

**Affidavit of Publication**

JAN 25 2019

State of South Dakota

§

WATER RIGHTS PROGRAM

County of Clark

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field Inc., c/o Gene Wilts, Manager, PO Box 340, Toronto SD, 57268 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined currently reserve 2,375 acre-feet for the Big Sioux Brookings Aquifer located in the N 1/2 NE 1/4 SD 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W and the SW 1/4 Section 19-T112N-R50W for rural water system use.

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

The hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-1, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Pursuant to SDCL 46-2-12 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use, and 4) it is in the public interest.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing, impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$45.31.

1-23-1t

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is Water Rights Program, Joe Foss Building, 523 E Capitol Ave, Pierre SD, 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use

William J. Krikac of said county, being first duly sworn, on oath says that he is the publisher of the **Clark County Courier**, a weekly newspaper printed and published in Clark in said County of Clark and has a full and personal knowledge of all the facts therein 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

**Joint Well Field, Inc.**

a printed copy of which taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in each week for

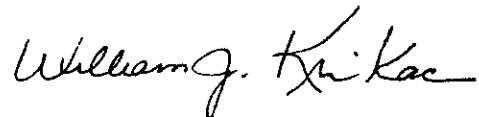
**One**

successive week(s), on the day of each week on which said newspaper was regularly published, to wit:

**January 23, 2019**

that the full amount of the fees for the publication of the annexed notice is

**\$45.31**



Subscribed and sworn to before me this

**31st day of January, 2019**



Notary Public  
Clark County, South Dakota

**My Commission expires: 06/04/2019**

**AFFIDAVIT OF PUBLICATION**

STATE OF SOUTH DAKOTA  
COUNTY OF DEUEL

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

**Notice of Hearing to Review Future Use Water Permit Nos 6988-3 and 6988A-3**

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

January 23, 2019

That the full amount of the fee charged for publication of the attached public notice insures to the sole benefit of the publisher; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$45.97

*Ken Reiste*

Ken Reiste

Subscribed and sworn to before me

this 24 day of January, 2019

*Janiel L. Kjenstad*

Notary Public, South Dakota  
My commission expires 1/20/2023  
JEANIEL KJENSTAD  
SEAL NOTARY PUBLIC SEAL  
SOUTH DAKOTA

My Commission Expires  
1/20/2023

**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3 and 6988A-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field Inc., c/o Gene Wilts, Manager, PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined currently reserve 2,375 acre-feet for the Big Sioux Brookings Aquifer located in the N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25, all in T142N-R51W, and the SW 1/4 Section 19, T142N-R50W for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26,

must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits; the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 will be conducted pursuant to the provisions of SDCL 46-1-1a, 46-2-5, 46-2-9, 46-2-11, 46-5-38.4, Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation further information on the permits, to assure access to the hearing by the handicapped, or obtain an interpreter for the hearing impaired may contact Eric Grohlund, Water Rights Program, (605 773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$45.97. (49-1/136)

RECEIVED

JAN 28 2019

WATER RIGHTS PROGRAM

# Printer's Affidavit of Publication

STATE OF SOUTH DAKOTA }  
 COUNTY OF GRANT } ss.

Ashlie Schweitzer

of said County and State, being first duly sworn, on oath says that the Grant County Review is a legal weekly newspaper of general circulation, printed and published in Milbank, in said County of Grant and State of South Dakota, by Grant County Review, Inc., and has been such newspaper during the times hereinafter mentioned; that said newspaper is a legal newspaper; and that it has a bona fide circulation of more than two hundred copies weekly, and has been published within said County of Grant in the English language and has been admitted to the United States mail under second class mailing privilege, for at least one year next prior to the publication of the Notice herein mentioned, and has been printed wholly in an office maintained at the said place of publication, that I, the undersigned, Bookkeeper of said newspaper, in charge of the accounts receivable department thereof, have personal knowledge of all the facts stated in this affidavit; that the advertisement headed Notice of Hearing To Review Future Water Permit NOS. 6988-3 and 6988A-3 by Joint Well Field, Inc., c/o Gene Wilts a printed copy of which, taken from the paper in which the same was published, is attached to this sheet and is made a part of this Affidavit, was published in said newspaper at least once each week for ONE successive weeks, on the day of each week on which the said newspaper was regularly published, to-wit:

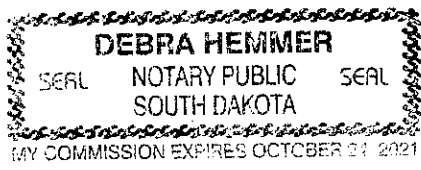
<u>January 23</u>	<u>20</u>	<u>19</u>	<u>20</u>
<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>
<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>

That \$ 42.40, being the full amount of the fee charged for the publication of said Notice, inures to the benefit of the publisher of the Grant County Review; that no agreement or understanding for the division thereof has been made with any person, and that no part has been agreed to be paid to any person whomsoever.

Ashlie Schweitzer

Subscribed and sworn to before me this 23rd day of Jan 2019

Debra Hemmer  
 Notary Public, Grant County, South Dakota



RECEIVED  
 JAN 28 2019  
 WATER RIGHTS PROGRAM

Publication Fee \$ 42.40  
 Notarial Fee \$ \_\_\_\_\_  
 Total \$ 42.40

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3 and 6988A-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field Inc., c/o Gene Wilts, Manager, P.O. Box 340, Toronto, SD 57268 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined currently reserve 2,375 acre-feet for the Big Sioux Brookings Aquifer located in the N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W and the SW 1/4 Section 19-T112N-R50W for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN IN EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 am, March 6, 2019, at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E. Capitol Ave, Pierre SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits; the reasons for petitioner's opposition to or support of continuing the future use permits; and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures con-



**Printer's Affidavit of Publication**

and Attorney's Affidavit Ex-Rel. Fees

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

STATE OF SOUTH DAKOTA }  
COUNTY OF GRANT } ss.

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

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

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

This hearing is an adversary proceeding. The permit owner or any person after filing a petition has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing, impaired may contact Eric Cromund, Water Rights Program, (605-776-3662) by February 22, 2019. The time of a hearing will be automatically delayed at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or suspend continuance of the future use of permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SD CL 26-1813, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$42.40.

RECEIVED

JAN 28 2019

WATER RIGHTS PROGRAM

Form 8

Notice of Hearing to Review  
Future Use Water Permit Nos. 6988-3 and  
6988A-3  
PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County of Kingsbury ) SS

I, David Tritle

certify that the attached printed Notice was taken

from the De Smet News

printed and published in De Smet


County of Kingsbury and

state of South Dakota. The notice was published

in the newspaper on the following date:

1-23-19

Cost of Printing \$48.51

  
(Signature)

Editor  
(Title)

1/23/19  
(Date Signed)

**NOTICE OF HEARING  
TO REVIEW FUTURE USE WATER  
PERMIT NOS. 6988-3 and 6988A-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field Inc., c/o Gene Wilts, Manager, PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined currently reserve 2,375 acre-feet for the Big Sioux Brookings Aquifer located in the N 1/2 NE 1/4 SE 1/4 Section 24, N 1/2 NE 1/4 Section 25, all in T112N-R51W and the SW 1/4 Section 19, T112N-R50W for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 am, March 6, 2019 at Eloyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the

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

The hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 will be conducted pursuant to the provisions of SDCL 26-1-14, 26-2-5, 26-2-9, 26-2-11, 26-5-38, Board Rules ARSD 74-02-01-25.01 thru 74-02-01-25.03 and contested case procedures contained in SDCL 26-

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the circuit court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing, impaired and contact Eric Gronlund, Water Rights Program, (605-773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 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 determined or the dollar amount in controversy exceeds \$2,000.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Ave. Pierre, SD) by February 4, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$48.13.

RECEIVED

Form 8

FEB 04 2019

WATER RIGHTS PROGRAM

# PUBLIC NOTICE

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3 and 6988A-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field Inc. c/o Gene Wilts, Manager, P.O. Box 340, Toronto SD 57268 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined currently reserve 2,375 acre-feet for the Big Sioux Brookings Aquifer located in the N 1/2 NE 1/4 SE 1/4 Section 24, N 1/2 NE 1/4 Section 25, all in T112N-R51W and the SW 1/4 Section 19, T112N-R50W for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 528 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

### PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County of McCook ) SS

I, Troy Schwans

certify that the attached printed Notice was taken

from the Salem Special

printed and published in Salem

County of McCook and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 24, 2019

Cost of Printing \$ 33.82

Troy Schwans  
(Signature)

Owner  
(Title)

January 31, 2019  
(Date Signed)

The hearing to review Future Use Permit Nos. 6988-3 and 6988A-2 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03, and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's report on the permit, or access to be heard by the Board, or obtain an transcript of the hearing, if impaired may contact Eric Gronlund, Water Rights Program, (605) 773-3452 by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-18.31 parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer.

Eric Gronlund, Chief Engineer  
State of South Dakota  
Steve M. Pinner, Secretary, Department of Environment and Natural Resources

Published once at the total approximate cost of \$48.26.

FEB 07 2019

WATER RIGHTS PROGRAM of Publication

State of South Dakota

Exhibit "A"

SS

County of Brookings

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

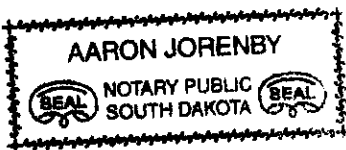
Leg#655 Notice of Hearing

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

January 23, 2019

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

Forty-Four Dollars and Eighteen Cents \$44.18



*Kmfoiles*

24 day of

January

2019

*AG*

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

Legal 655, 1x, 1/23  
NOTICE OF HEARING  
TO REVIEW FUTURE  
USE WATER PERMIT  
NOS. 6988-3 and  
6988A-3  
Notice is given that the  
Water Management  
Board will review Future  
Use Permit Nos. 6988-3  
and 6988A-3, held by  
Joint Well Field, Inc. c/o  
Gene Wilts, Manager,  
PO Box 240, Toronto  
SD 57268 for progress  
made in the develop-  
ment of the water  
reserved by the Permits  
and future plans for  
development of the  
water reserved by  
Permit Nos. 6988-3 and  
6988A-3. These per-  
mits combined currently  
reserve 2,375 acre-foot  
for the Big  
Stoddy Brookings Aquifer  
located in the N 1/2 NE  
1/4, SE 1/4 Section 24,  
N 1/2 NE 1/4 Section  
25 all in T112N-R51W  
and the SW 1/4 Section  
19 T112N-R50W for  
rural water system use.  
Pursuant to SDCL 46-

2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest. The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 am, March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence, or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 6988A-2 and 6988A-3 will be conducted pursuant to the provisions of SDC 46-2-1, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1, Board Rules ARSD 74-02-01, 25.01 thru 74-02-01-25.03 and contested case procedures contained in SDC 46-2-1. The hearing will be an adversarial proceeding. The hearing will be open to any person who files a petition. It is the right to be present or to be represented by a lawyer. These and other due process rights will be contained in the hearing procedures. The Board may appeal to the circuit court and the state supreme court as provided by law. Any person wishing a copy of the Chief Engineer's recommendation or the information on the permit to assure access to the hearing by the holder of the permit or other interested parties may contact Eric Gronlund, Water Rights Program, (605) 773-3332, by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition for release or suspension of compliance of Future Use Permit. The request for a hearing must be filed with the Chief Engineer by February 22, 2019. According to SDC 26-16-2, parties to a contested case may file a request for a hearing. The hearing is held if the amount in controversy exceeds \$2,500.00. If

any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above then you need to notify the Chief Engineer (Water Rights Program, 323 E Capitol Ave., Pierre, SD) by February 22, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published one time at the total approximate cost of \$44.18.

RECEIVED  
FEB 22 2019  
WATER RIGHTS PROGRAM

RECEIVED

Wed., Jan. 23

AFFIDAVIT OF PUBLICATION

FEB 11 2019

WATER RIGHTS PROGRAM

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3 and 6988A-3

STATE OF SOUTH DAKOTA }
County of Lake } ss.

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field Inc., c/o Gene Wilts, Manager, PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined currently reserve 2,375 acre-feet for the Big Sioux: Brookings Aquifer located in the N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W and the SW 1/4 Section 19-T112N-R50W for rural water system use.

Aubrey Larsen of the City of Madison, County of Lake, State of South Dakota, being first duly sworn on oath, deposes and says:

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

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Department of Environment & Natural Resources

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:30 a.m. March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses, according to SDCL 1-26, must file a written

Future Use Permit Nos. 6988-3 & 6988A-3 Joint Well Field Inc.

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

- On Wednesday, the 23rd day of January, 2019;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;
On ... day of ... 20...;

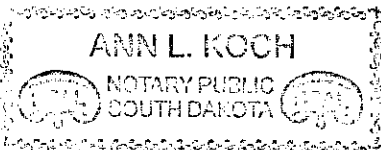
That \$ 46.82 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publisher of the said newspaper; that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Aubrey Larsen (signature)

Subscribed and sworn to before me this 24th day of January, 2019

Publication Fees \$
Notary Fees \$
Total \$

Received Payment,



Ann L. Koch (signature)
Notary Public, Lake County, South Dakota
EXP. 11-14-19



In ..... Court  
County of .....

petition will both the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program, 1000 Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605-773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to, or support of, continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review future Use Permit Nos. 6988A and 6988B will be conducted pursuant to the provisions of SDCL 46-2-14, 46-2-5, 46-2-9, 46-2-11, 46-5-31, Board Rules ARSD 74-02-01.25.01 thru 74-02-01.25.08 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be afforded if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation and other information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Cronlund, Water Rights Program, (605-773-3352) by February 22, 2019. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the future use Permits. The request must be filed with the Chief Engineer by February 22, 2019.

Under SDCL 1-26-103, a contested case may be heard by the Office of Hearing Examiners if the property right is being determined for the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E Capitol Ave, Pierre SD) by February 4, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the approximate cost of \$46.82.

AFFIDAVIT OF PUBLICATION

Filed in the office of ..... on the  
..... day of .....

20 .....

Attorneys for .....

FEB 21 2019

WATER RIGHTS PROGRAM

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3 and 6988A-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3 and 6988A-3 held by Joint Well Field Inc. c/o Gene Wilts, Manager, PO Box 240, Bonito, SD 57268 for proposed use in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 6988-3 and 6988A-3. These permits combined contain a reserve of 2,375 acre-feet of water.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, County of Miner: ss.

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

Notice of Hearing to review Future use water permit.

A printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in a supplement, once each week for ..... successive weeks, the first publication being made on the 24 day of Jan. 2019.

And the last publication on the ..... day of ..... 20..... The first publication being made on the ..... day of ..... 20..... The second publication being made on the ..... day of ..... 20..... The third publication being made on the ..... day of ..... 20..... The fourth publication being made on the ..... day of ..... 20..... The fifth publication being made on the ..... day of ..... 20.....

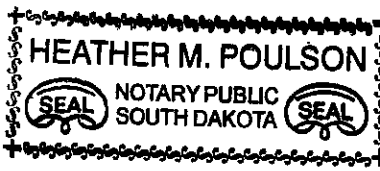
That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies weekly, and has been published within the County of Miner, for more than fifty-two successive weeks next prior to the first publication of said notice, and is printed in an office maintained in Howard, South Dakota, the place of publication of said newspaper. That the full amount of fees for publication of the annexed notice is \$42.00 and insures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any person whomsoever.

CR

Subscribed and sworn to me this 19 day of Feb 2019

[Signature]

My commission expires the 10 day of Oct 2019



the SW 1/4 Section 19 T112N-R50W for rural water system use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3 and 6988A-3 REMAIN in EFFECT for 2,375 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 6988-3 and 6988A-3 at 10:00 am March 6, 2019 at Floyd Mathew Training Center, Joe Foss Bldg. 523 E Capitol Pierre SD.

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

Any interested person who may be affected by the Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 46-26 must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is Water Rights Program, Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605) 773-3352 and the permit holder's mailing address is given above. The petition may be informal but must include a statement describing the petitioner's interest in the future use permits. The

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

The hearing to review future Use Permit Nos. 6988-3 and 6988A-3 will be conducted pursuant to the provisions of SDCL 246-1-10, 246-5-20, 246-5-21, 246-5-38, Board Rules ARS 01-102-01, 25-01, and 74-02-01, 25-03, and contested case procedures found in SDCL 26-

This hearing is an adversary proceeding. The permit owner or any person after filing a petition has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing, must mail a request to the Chief Engineer, 523 B Capitol Ave., Pierre, SD, by February 22, 2019. The time of the hearing will be automatically delayed for at least 30 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuation of the future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

A hearing to review future use permits in a contested case may be held by the Office of Hearing Examiners to conduct a hearing if the property right is being terminated or the total monetary controversy exceeds \$2,500.00.

Examination of the hearing procedures and rules that you need to know can be found at the Chief Engineer (Water Permits Program) 523 B Capitol Ave., Pierre, SD, by February 22, 2019. Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate total cost of \$42.16. (Jan. 24)

# Argus Leader

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

Account No: 6057944201

Ad No: 0003344603

PO #: 6988-3

Lines : 165

Ad Total \$103.46

JOINT WELL FIELD, INC.  
PO BOX 340  
TORONTO, SD 57268

# of Affidavits: 1

Account No.: 6057944201

Ad No.: 0003344603

## Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

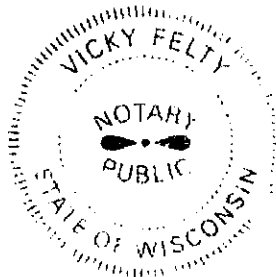
Wednesday, January 23, 2019

Sworn to and subscribed before me this 19 day of February, 2019.

  
\_\_\_\_\_  
Legal Clerk

  
\_\_\_\_\_  
Notary Public, State of Wisconsin, County of Brown

9/19/21  
\_\_\_\_\_  
My Commission expires



**NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS.**

Notice is given that the Water Management Board will review Future Use Permit Nos. 698-3 and 698A-3 held by John W. Hill, Inc., c/o Gene Wills, Manager, P.O. Box 245, Pierre, SD 57501 for reasons made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permit Nos. 698-3 and 698A-3. These permits combined currently reserve 1,475 acre-feet for the Big Sioux Brookings Aquifer located in the NE 1/4 NE 1/4, SE 1/4 Sec. 24, N 1/2 NE 1/4 Section 25 and in T15N-R20E and the SW 1/4 Section 19-T12N-R20E for rural water use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 698-3 and 698A-3 REMAIN IN EFFECT for 2,328 acre-feet annually because in the reserved water may be developed, that there is need for the reserved water for the proposed use which is a beneficial use and is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 698-3 and 698A-3 at 10:00 am, March 4, 2019 at Floyd Mathew Training Center, Joe Foss Bldg. 303 E Capitol, Pierre SD.

The determination of the Chief Engineer is not final or binding upon the Board and the Board is authorized to modify the permits to remain in effect, to amend the permits by certain modifications, to cancel the permits for non-development or to suspend future development, or to take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-24, must file a

written petition with BOTH the permit owner and the Chief Engineer by February 22, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 303 E Capitol Ave, Pierre SD 57501 (405 775-3322) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or the legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 698-3 and 698A-3 will be conducted pursuant to the provisions of SDCL 46-2-14, 46-2-5, 46-2-9, 46-2-11, 46-2-18, 11 Board Rules 28RSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-25.

This hearing is an adversary proceeding. The permit owner or other person, after filing a petition, has the right to be represented or to be represented by a lawyer. There are other alternatives available will be indicated if they are not exhausted. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wanting a copy of the Chief Engineer's recommendation, further information on the permits, to assure access to the hearing or the interpretation of the hearing transcript may contact Eric Granlund, Water Rights Program, 405 775-3322 by February 22, 2019. The time of the hearing will be automatically allowed for at least 30 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2019.

According to SDCL 1-26-11.2 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 value involved in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer, Water Rights Program, 303 E Capitol Ave, Pierre SD by February 4, 2019. Steven M. Pinger, Secretary, Department of Environment and Natural Resources.

Published once of the total approximate cost of \$100.00.  
3444923 Jan 23, 2019

**BEFORE THE WATER MANAGEMENT BOARD OF THE  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
STATE OF SOUTH DAKOTA**

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IN RE: REQUEST OF MINERAL MOUNTAIN  
RESOURCES FOR TEMPORARY PERMIT TO  
USE PUBLIC WATERS

)  
) **PETITION TO OPPOSE AND**  
) **CONTENT REQUEST FOR**  
) **TEMPORARY WATER PERMIT,**  
) **TO DELAY THE SCHEDULED**  
) **HEARING DATE, TO**  
) **SCHEDULE THE HEARING IN**  
) **RAPID CITY, AND IN THE**  
) **ALTERNATIVE TO REQUEST**  
) **A DECLARATORY RULING**  
)

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COME NOW PETITIONERS A. GAY KINGMAN, STEVEN C. EMERY, JAMES PICOTTE AND ROBIN ZEPHIER and submit this Petition to Oppose and Contest the pending Request by Mineral Mountain Resources (SD), Inc. (“MMR-SD”) of Suite 401-1195 West Broadway, Vancouver, British Columbia, Canada, for a temporary water permit of up to 1.8 million gallons of public water from Rapid Creek and at a rate of approximately 200 gpm for mining exploration near Rochford, South Dakota, upstream from Pactola Reservoir.

The Chief Engineer of the Water Rights Program, Department of Environment and Natural Resources (“DENR”), has by letter to FMG Engineering dated September 4, 2018, chosen to defer issuance of the temporary permit and submitted the application to the Water Management Board (“Board”) for action.

Petitioners request that the Board initiate a contested case concerning the Request of MMR-SD; that the Board permit Petitioners and other interested parties to participate fully in the proceedings; and that the Hearing on the Request be continued from October 4, 2018 in Pierre, South Dakota, until a later date when it can be scheduled and accommodated in Rapid City, South Dakota., containing the impacted community.

In the alternative, Petitioners request that the Board issue a declaratory ruling, pursuant to S.D.C.L. § 1-26-15, that issuance of a temporary permit to use public waters for mineral exploration under circumstances such as those present in this case would be arbitrary, capricious, and contrary to the laws of the State of South Dakota.

In support of this Petitioner, Petitioners state as follows:

**PRELIMINARY STATEMENT**

This action concerns a Request by MMR for a temporary permit to use public water from Rapid Creek for mineral exploration near Rochford, South Dakota. MMR-SD intends to engage in mineral exploration pursuant to an Exploration Notice of Intent (“EXNI”) EXNI-427 that was originally issued, in violation of law, to Mineral Mountain Resources Ltd. (“MMR-LTD”), a foreign corporation that is not authorized to do business in this State and that was transferred, in violation of law, from the foreign corporation to MMR-SD.

Petitioners submit that EXNI-427 is void and invalid and incapable of being transferred to MMR-SD and that any mineral exploration undertaken pursuant to EXNI-427 is or would be unlawful. Petitioners submit that it would be unlawful for the Board to permit the use of public waters for mineral exploration undertaken pursuant to an EXNI that is void, invalid, and unlawfully transferred to MMR-SD.

Petitioners further submit that issuance of a temporary water permit for gold exploration in the Black Hills is contrary to the public interest in that the proposed water use and gold exploration will pollute or otherwise adversely affect the land, natural resources, and water in the Black Hills and will pollute or otherwise adversely affect the flow of water in Rapid Creek, which feeds Pactola Reservoir, which is the largest reservoir in the Black Hills and provides drinking water to

residents and persons who visit Rapid City, South Dakota, and the proposed water use and gold exploration will cause noise and disruption and interfere with the solitude of the Black Hills.

Petitioners ask the Board to deny the Request for Temporary Permit to Use Public Waters.

### **PARTIES**

Petitioner A. Gay Kingman is a member of the Cheyenne River Sioux Tribe. She owns property and resides in Rapid City, South Dakota. Her address is 1926 Stirling Street, Rapid City, South Dakota 57702.

Petitioner Steven C. Emery is a member of the Cheyenne River Sioux Tribe and a resident of Rapid City, South Dakota. His address is 2120 Rena Place, Rapid City, South Dakota 57701.

Petitioner James Picotte is a member of the Cheyenne River Sioux Tribe and a resident of the Cheyenne River Indian Reservation in South Dakota. His address is P.O. Box 1101, Eagle Butte, SD 57625.

Petitioner Robin Zephier is a member of the Cheyenne River Sioux Tribe. He owns property and resides in Rapid City, South Dakota. His address is 3020 Sunny Hill Circle, Rapid City, SD 57702.

Mineral Mountain Resources (SD), Inc. ("MMR-SD") is a domestic corporation organized and existing under the laws of the State of South Dakota. It is described as a subsidiary corporation of Mineral Mountain Resources Ltd. ("MMR-LTD"), which is a foreign corporation organized and existing under the laws of British Columbia, Canada. MMR-LTD does not, and at all times relevant to this action did not, have a certificate of authority from the Office of the Secretary of State to conduct business in South Dakota, pursuant to S.D.C.L. § 47-1A-1501.



## STATEMENT OF THE CASE

### **A. Mineral Exploration**

MMR-LTD filed a Notice of Intent to Conduct Mineral Exploration Operation with DENR on April 17, 2017. Through the Notice, MMR-LTD sought permission to drill exploratory holes in an area of the Black Hills southeast of Rochford, South Dakota. The Notice anticipated twelve (12) drill-hole locations with up to ten (10) holes being drilled at each location. It was also anticipated that holes would be drilled to depths up to 4,000 feet.

In the Notice of Intent, MMR-LTD represented that it had the authority to conduct an exploration operation on the lands described in the application. This is one of the requirements for approval of an exploration operation. *See* S.D.C.L. § 45-6C-7(8). The representation, however, was erroneous. MMR-LTD was not registered or qualified to do business in the State of South Dakota and did not have authority to conducting an exploration operation on the lands described in the application.

DENR approved the Notice on June 9, 2017, finding it to be “procedurally complete,” while imposing twelve (12) restrictions on the Notice and the mineral operation authorized under the Notice.

On October 10, 2017, DENR received an application to transfer Exploration Notice of Intent, EXNI-427, from MMR-LTD to MMR-SD. The Board of Minerals and Environment held a hearing on the application for transfer on January 18, 2018. According to the Board Minutes, at the beginning of the hearing, Eric Holm, an Engineer from DENR, explained that: “The reason for the transfer is that in reviewing EXNI-427, DENR discovered that Mineral Mountain Resources Ltd. was not registered to do business in South Dakota. The company’s subsidiary, Mineral Mountain Resources (SD), Inc., is registered to do business in the state.”

MMR-SD also explained at the hearing that the transfer was necessary because MMR-LTD is not qualified to do business in South Dakota. The Board Minutes state:

Max Main [lawyer for MMR-SD and MMR-LTD] stated that the transfer is needed because it is a corporate organization decision; they want to transfer the EXNI to the South Dakota entity. Regarding registration with the Secretary of State, Mr. Main stated that he does not believe Mineral Mountain Resources Ltd. has qualified to do business in the state of South Dakota, that is another reason the EXNI is being transferred to Mineral Mountain Resources (SD), Inc., which is registered with the South Dakota Secretary of State and is qualified to do business in the state of South Dakota.

Petitioners contend that EXNI-427 is void, invalid, and incapable of being transferred from MMR-LTD to MMR-SD. The Supreme Court of the State of South Dakota has noted that the business and contracts of a foreign corporation that does not have authority to transact business in the State are void:

foreign corporations are prohibited from transacting business therein until they have complied with the terms upon which permission is granted, and that contracts in violation of a statute are void.

*American Copying Co. v. Eureka Bazaar*, 108 N.W. 15, 16 (S.D. 1906) (citation omitted).

In *American Copying Co.*, the court discussed with approval the case of *Cincinnati Mutual Health Assurance Co. v. Rosenthal*, 55 Ill. 85 (1870), in which the court held that, under a statute prohibiting foreign insurance companies from transacting business in the State without first producing a certificate of authority from the auditor of the State:

a promissory note, given to an insurance company which had not complied with the statute, was void, and could not be enforced .... When the Legislature prohibits an act, or declares that it shall not be lawful to perform it, every rule of interpretation must say that the Legislature intended to interpose its power to prevent the act, and, as one of the means of its prevention, that the courts shall hold it void. This is as manifest as if the statute had declared that it should be void.

*Id.* at 18. See 36 AM. JUR. 2D FOREIGN CORPORATIONS § 253 (Feb. 2018) (discussing *American Copying Co.* and noting that “[a] statute prohibiting a noncomplying corporation from suing in the

state courts on any contract is held by some courts to render the contract void and unenforceable by the corporation even after it has complied with the statute”).

In *Mandel Bros. v. Henry O'Neill, Inc.*, 69 F.2d 452 (8th Cir. 1934), the court held that, under South Dakota law, the acts of a foreign corporation that has not complied with the statutory prerequisites to do business in the State are void and unenforceable. The court affirmed the holding of trial court:

That by reason of appellant's failure to comply with the laws of South Dakota relating to foreign corporations the promissory notes in suit were void and unenforceable.

*Id.* at 454. *See also id.* at 457.

At the hearing on January 18, 2018, the Board of Minerals and Environment voted to approve the transfer of EXNI-427 from MMR-LTD to MMR-SD. Petitioners contend that the Board's transfer of EXNI-427 to MMR-SD was improvident and contrary to law.

#### **B. Temporary Water Permits**

MMR-LTD applied for a Temporary Permit to Use Public Waters, which was granted on May 2, 2017. This permit, issued by the Chief Engineer, granted MMR-LTD the right to withdraw 1,800,000 gallons of water from Rapid Creek for mineral exploration. The permit expired on December 31, 2017.

A subsequent Temporary Permit to Use Public Waters was issued by the Chief Engineer to MMR-SD on or about January 2, 2018. That permit expired on May 1, 2018.

MMR-SD applied for another Temporary Permit to Use Public Waters on or about April 5, 2018.

On April 17, 2018, the Pennington County Board of Commissioners passed a resolution to request the State Water Management Board to conduct public hearings in Pennington County for

the potential issuance of any temporary or permanent water use permit by any Mineral Mining Operation. In the resolution, the Pennington County Board of Commissioners stated:

[M]ost residents of Pennington County are provided drinking water through the Rapid Creek Watershed, Pactola Lake and Deerfield Lake; and ...

clean drinking water for Pennington County residents is the highest use of water from our Pennington County watersheds, including Rapid Creek, Pactola Lake and Deerfield Lake; and ...

the Pennington County Board of Commissioners feels it is critical for the State Water Management Board to conduct public hearing(s) where the people who may be most affected are located prior to the issuance of any temporary or permanent water use permit by any mineral mining operation, which could potentially impact the drinking water supplies ...

On April 25, 2018, DENR reported that:

A number of requests have been received by DENR requesting that the Chief Engineer either deny the application or defer issuance of the temporary permit to the Water Management Board to allow for a public hearing by the board. Administrative Rule of South Dakota 74:02:01:34 gives the authority to the Chief Engineer to defer issuance of a temporary permit and present the application to the Water Management Board for action. As requested, the Chief Engineer is deferring the decision to the Board on this pending application. Therefore, the May 2 & 3, 2018, agenda of the Water Management Board includes an administrative item requesting the Board to set a date and location to consider the temporary permit application from Mineral Mountain Resources. The Chief Engineer will suggest the Board set a hearing date in Rapid City, but the Board will make the final decision on when and where to meet. If the Board sets the date and location, a meeting room will be secured, and the public will be notified of the date, time, and place of the Board meeting by posting the details on the DENR One-Stop Public Notice webpage, on this webpage, and by press release.

On April 30, 2018, DENR reported that MMR-SD withdrew its Request for Temporary Permit to Use Public Waters. It was reported that MMR-SD bought water from the City of Lead and trucked the water to the exploration sites near Rochford.

On or about September 6, 2018, MMR-SD filed the present Request for a Temporary Permit to Use Public Waters.

### **C. Interests of Petitioners**

Petitioners are members of the Cheyenne River Sioux Tribe and traditional Lakota religious practitioners. The Black Hills are sacred to the Lakota, and Petitioners consider the Black Hills and the land, water, and other natural resources in the Black Hills to be sacred. One or more Petitioners participated in the recovery of a sacred site, Pé Sla, that is near the gold exploration area. All Petitioners pray, perform or participate in religious ceremonies, and receive divine wisdom in the Black Hills in close proximity to the gold exploration area.

Petitioners consider the proposed water use and gold exploration by MMR-SD to be a desecration of the sacred Black Hills. The proposed water use and gold exploration will interfere with their ability to worship, perform and participate in ceremonies, and receive divine wisdom in the Black Hills.

Petitioners allege that the proposed water use and gold exploration will harm the land, natural resources, and water in the Black Hills, causes noise and disruption, and interferes with the solitude of the Black Hills. The gold exploration already undertaken has damaged the physical environment. Among other things, the U.S. Forest Service reports that MMR-SD caused damage to Forest Service roads near Rochford and Pé Sla by the use of heavy vehicles or equipment. Many of those roads are unpaved. The Forest Service required MMR-SD to halt its use of the roads until they could be repaired. Petitioners use these roads.

Petitioners purchase or use municipal water from the City of Rapid City. They use the water for domestic use, including drinking water. If the water is contaminated, they cannot use it.

Petitioners use Rapid Creek for recreational and spiritual purposes, including wading, walking, fishing, photography, and prayer. If the water in Rapid Creek is contaminated, they cannot use it for recreational or spiritual purposes.

Petitioners have an interest in protecting the land, natural resources, and water in the Black Hills and the clean flow of water in Rapid Creek. They assert that the proposed water use and gold exploration will pollute or otherwise adversely affect the land, natural resources, and water in the Black Hills and will pollute or otherwise adversely affect the flow of water in Rapid Creek, which feeds Pactola Reservoir, which is the largest reservoir in the Black Hills and which provides drinking water to residents and persons who visit Rapid City, South Dakota.

EXNI-427 indicates that drill cuttings will be dispersed in the disturbed area during site reclamation. Pyrite will likely occur in the drill cuttings. When pyrite is exposed to the atmosphere, it oxidizes and generates sulfuric acid. If the cuttings are dispersed on the surface and not otherwise properly treated, the presence of this acid will decrease the success of revegetation, thereby potentially impacting surface water in the area via increased sediment yields and associated sedimentation and mineralization of local streams. Leachate from the acidic cuttings may also impact groundwater in the area.

If contaminants are introduced into the environment during MMR-SD's drilling operations, these contaminants may impact all of the sources of water upon which Rapid City relies for its municipal supplies and may pose a threat to all of the protected beneficial uses of water in Rapid Creek, including the use of this water for domestic water supplies, cold water permanent fish life propagation, wildlife propagation, stock watering, irrigation, immersion recreation, and limited-contact recreation.

Petitioners' concerns are also corroborated by prior experience. While conducting mineral exploration in South Dakota in 2013, MMR-LTD was issued a Notice of Violation from the DENR on or about March 22, 2013, for causing an unauthorized discharge of drilling fluids to enter and

degrade the natural quality of the water in Battle Creek in connection with drilling operations near Keystone in the Black Hills.

Further, the United States, the State of South Dakota, and the Cheyenne River Sioux Tribe were required to sue the Homestake Mining Company to stop the environmental pollution of Gold Mine Creek, White Wood Creek, Cheyenne River and Missouri River by virtue of the mining operations in Lead, South Dakota, in the Black Hills. White Wood Creek was a Super Fund Site that required millions of dollars of clean-up and years of work. Livestock were killed, people's homes were polluted, and the water quality was degraded.

Petitioners do not want a similar situation to develop on Rapid Creek. These prior experiences indicate that the State Water Management Board should have a public hearing in Rapid City on any proposal for gold mining along Rapid City's main source of drinking water.

Under South Dakota law, "[i]t is the responsibility of the state to ensure that ... [b]oth during an after an exploration operation water and other natural resources are not endangered." S.D.C.L. § 45-6C-2(2).

If the Request for Temporary Permit to Use Public Waters is granted, Petitioners will suffer the denial of some claim of right, either of person or property, including but not limited to their right to a clean environment and a clean flow of water in Rapid Creek and Pactola Reservoir, for their health and livelihood, and their right to enforcement of South Dakota laws prohibiting unauthorized conduct by foreign corporations that are not registered or qualified to do business in the State.

## RELIEF REQUESTED

Petitioners seek a decision from the Board denying the Request for Temporary Permit to Use Public Waters (“Request”) and declaring that approval of the Request would be arbitrary, capricious, and contrary to law in that, among other things:

a. MMR-SD seeks to use public water for mineral exploration under EXNI-427, which was transferred to MMR-SD from MMR-LTD;

b. EXNI-427 is void and invalid and was incapable of being transferred because it was issued to MMR-LTD, a foreign corporation organized and existing under the laws of British Columbia, Canada, and that corporation did not, and does not, have a certificate of authority from the Office of the Secretary of State to transact business in the State of South Dakota, pursuant to S.D.C.L. § 47-1A-1501, and was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation (or an application for the transfer of an exploration notice of intent (“EXNI”)) or to receive permission to engage in mineral exploration in South Dakota, under S.D.C.L. ch. 45-6C or otherwise; and

c. EXNI-427 is void and invalid and was incapable of being transferred because it was issued to MMR-LTD based on erroneous information and the erroneous premise submitted by MMR-LTD that it had the authority to conduct an exploration operation in South Dakota; and

d. EXNI-427 is void and invalid and was incapable of being transferred because it did not comply with the requirements of S.D.C.L. ch. 45-6C in that, among other things, MMR-LTD did not have “the authority to conduct an exploration operation on the lands described” in the applications, as required by S.D.C.L. § 45-6C-7; and



e. EXNI-427 could not be transferred pursuant to S.D.C.L. § 45-6C-53, because the mineral exploration operation was not in compliance, or capable of being brought into compliance, with all applicable local, state, and federal laws pertaining to the operation before the purported transfer of the EXNI because MMR-LTD did not, and does not, have a certificate of authority from the Office of the Secretary of State to transact business in the State of South Dakota, pursuant to S.D.C.L. § 47-1A-1501, and was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation (or an application for the transfer of an EXNI) or to receive permission to engage in mineral exploration in South Dakota, under S.D.C.L. ch. 45-6C or otherwise, and because the EXNI is otherwise void, invalid, and incapable of being transferred for the reasons set forth herein; and

f. Approval of the Request would be harmful to the environment and natural resources and contrary to the public interest.

In the alternative, Petitioners seek a declaratory ruling that the Board may not approve a request or a temporary permit to use public waters if:

a. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that was improvidently issued to a foreign corporation that did not, and does not, have a certificate of authority from the Office of the Secretary of State authority to transact business in the State of South Dakota, pursuant to S.D.C.L. § 47-1A-1501, and was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation (or an application for the transfer of an EXNI) or to receive permission to engage in mineral exploration in South Dakota, under S.D.C.L. ch. 45-6C or otherwise;

b. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that is void and invalid and incapable of being transferred because it was improvidently issued to a foreign corporation based on erroneous information and an erroneous premise submitted by the corporation that it had the authority to conduct an exploration operation in South Dakota;

c. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that is void and invalid and incapable of being transferred because it did not comply with the requirements of S.D.C.L. ch. 45-6C in that, among other things, the corporation to which the EXNI was originally issued (or transferred) did not have “the authority to conduct an exploration operation on the lands described” in the application, as required by S.D.C.L. § 45-6C-7; and/or

d. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that is void and invalid and incapable of being transferred because it was improvidently transferred because the mineral exploration operation was not in compliance, or capable of being brought into compliance, with all applicable local, state, and federal laws pertaining to the operation before the transfer of the EXNI because the EXNI was issued to a foreign corporation that did not, and does not, have a certificate of authority from the Office of the Secretary of State authority to transact business in the State of South Dakota, pursuant to S.D.C.L. § 47-1A-1501, and was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation (or an application for the transfer of an EXNI) or to receive permission to engage in mineral exploration in South Dakota, under S.D.C.L. ch. 45-6C or otherwise, and because the EXNI is otherwise void, invalid, and incapable of being transferred for the reasons set forth herein.

The Board has jurisdiction to hold a contested case hearing in this matter pursuant to S.D.C.L. ch. 1-26 and § 1-26-27. The Board has jurisdiction to issue a declaratory ruling pursuant to S.D.C.L. ch. 1-26 and S.D.C.L. § 1-26-15.

Because the Board requested a hearing in this matter, the provisions of S.D.C.L. ch. 1-26 concerning contested cases apply, as dictated by to S.D.C.L. § 1-26-27, and the Board should treat this matter as a contested case, allowing for intervention and full participation by Petitioners and others who have an interest in the matter. The term “contested case” is defined as “a proceeding, including ... licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency having an opportunity for hearing ....” S.D.C.L. § 1-26-1(2). S.D.C.L. § 1-26-27 provides that: “When the grant, denial, or renewal of a license is required to be preceded by notice and opportunity for hearing, or an applicant, a party or an agency requests a hearing, the provisions of this chapter concerning contested cases apply. The term “license” is defined as “the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.” S.D.C.L. § 1-26-1(4). DENR should treat the Request as a contested case. All of the elements of a contested case are satisfied.

Petitioners certify that on October 3, 2018, they caused true and accurate copies of this Petition to be served, by U.S. mail, facsimile, and electronic mail upon the following:

Mineral Mountain Resources (SD), Inc.  
STE 401 - 1195 W. Broadway  
Vancouver, BC V6H 3X5 Canada  
Facsimile: (604) 714-1119

Attorneys:

Matthew E. Naasz  
Gunderson, Palmer, Nelson & Ashmore, LLP  
506 Sixth Street  
P.O. Box 8045  
Rapid City, SD 57709  
Facsimile: (605) 342-9503  
Email: mnaasz@gpna.com

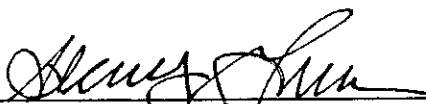
South Dakota Water Management Board  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501  
Facsimile: (605) 773-4068  
Email: bandc@state.sd.us; DENRINTERNET@state.sd.us; Steven.Blair@state.sd.us

WHEREFORE, Petitioners request that the Board initiate a contested case concerning the Request, pursuant to S.D.C.L. § 1-26-27, delay the date of the scheduled hearing, schedule the hearing in Rapid City, South Dakota, and deny the Request, and in the alternative, issue a declaratory ruling, pursuant to S.D.C.L. § 1-26-15, and declare that approval of a request for a temporary permit to use public waters under the present circumstances would be arbitrary, capricious, and contrary to law.

Dated: October 3, 2018

**A. GAY KINGMAN  
STEVEN C. EMERY  
JAMES PICOTTE  
ROBIN ZEPHIER**

By:

  
Steven J. Gunn, SD Bar No. 3284  
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/s/ Mark C. Van Norman  
Mark C. Van Norman, Esq., SD Bar No. 2686  
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*Attorneys for Petitioners*

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

PETITION FOR DECLARATORY	)	
RULING THAT ISSUANCE OF A	)	
TEMPORARY PERMIT TO USE	)	
PUBLIC WATERS FOR MINERAL	)	
EXPLORATION UNDER	)	MINERAL MOUNTAIN
CERTAIN CIRCUMSTANCES	)	RESOURCES, INC.'S PETITION IN
WOULD BE ARBITRARY,	)	OPPOSITION AND REQUEST FOR
CAPRICIOUS, AND CONTRARY	)	AUTOMATIC DELAY OF
TO THE LAWS OF THE STATE	)	DECEMBER 5, 2018, HEARING
OF SOUTH DAKOTA	)	

COMES NOW, Mineral Mountain Resources, Inc., by and through its attorney, Matthew E. Naasz of Gunderson, Palmer, Nelson & Ashmore, and enters its opposition to the Petition for Declaratory Ruling that Issuance of a Temporary Permit to Use Public Waters for Mineral Exploration under Certain Circumstances would be Arbitrary, Capricious, and Contrary to the Laws of the State of South Dakota and respectfully requests an automatic delay of the December 5, 2018, hearing pursuant to the notice of hearing filed herein.

Petitioners A. Gay Kingman, Steven C. Emery, James Picotte, and Robin Zephier ("Petitioners") have filed a Petition for a Declaratory Ruling that Issuance of a Temporary Permit to Use Public Waters for Mineral Exploration under Certain Circumstances would be Arbitrary, Capricious, and Contrary to the Laws of the State of South Dakota. The caption of the pleading filed by Petitioners indicates that this was filed in the Request of Mineral Mountain Resources for Temporary Permit To Use Public Waters. Mineral Mountain therefore believes that it is already a party to this matter. To put any doubt aside, however, Mineral Mountain hereby formally petitions in opposition to the requested petition for declaratory ruling. Mineral

Mountain has an obvious interest in the temporary water permit issued to it by this Board, and opposes any request for declaratory ruling that may impact that permit, or any future permit applied for by Mineral Mountain Resources.

Mineral Mountain Resources (SD) Inc. makes a request for the automatic extension and invokes the automatic delay of the December 5, 2018, hearing pursuant to the Notice of Hearing on Petition for a Declaratory Ruling as the notice indicates that the hearing date will be automatically extended upon request of any party if filed by November 26, 2018.

Dated: November 21, 2018.

ATTORNEYS FOR MINERAL MOUNTAIN  
RESOURCES, INC.

By: /s/ Matthew E. Naasz

Matthew E. Naasz  
506 Sixth Street  
P.O. Box 8045  
Rapid City, SD 57709  
Telephone: (605) 342-1078  
Telefax: (605) 342-9503  
E-mail: [mnaasz@gpna.com](mailto:mnaasz@gpna.com)

**CERTIFICATE OF SERVICE**

I hereby certify on November 21, 2018, a true and correct copy of **MINERAL MOUNTAIN RESOURCES INC.'S PETITION IN OPPOSITION AND REQUEST FOR AUTOMATIC DELAY OF DECEMBER 5, 2018, HEARING** was served upon the following individuals in the manner set forth below:

Steven J. Gunn  
sjgunn@wulaw.wustl.edu  
P.O. Box 16084  
St. Louis, MO 63105

Mark C. Van Norman  
mcvnconsulting@gmail.com  
1731 Harmony Heights, #305  
Rapid City, SD 57702

South Dakota Water Management Board  
DENRINTERNET@state.sd.us  
Eric.gronlund@state.sd.us  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501

By: /s/ Matthew E. Naasz  
Matthew E. Naasz

RECEIVED

NOV 26 2018

WATER RIGHTS  
PROGRAM

BEFORE THE WATER MANAGEMENT BOARD OF THE  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

STATE OF SOUTH DAKOTA

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IN RE: REQUEST OF MINERAL MOUNTAIN	)	PETITION TO BECOME A PARTY,
RESOURCES FOR TEMPORARY WATER PERMIT	)	TO SCHEDULE THE HEARING IN RAPID CITY,
TO USE PUBLIC WATERS	)	AND TO SUPPORT THE REQUEST
	)	FOR A DECLARATORY RULING

---

COMES NOW PETITIONER LILIAS C. JARDING, Ph.D., and submits this Petition to Join the Contested Case and Participate Fully in the Board's proceedings on this matter and to support the Request for a Declaratory Ruling by Petitioners A. Gay Kingman, Steven C. Emery, James Picotte, and Robin Zephier.

Petitioner requests that the Hearing on the Request be scheduled and accommodated in Rapid City, South Dakota, containing the impacted community.

Petitioner supports the request by Petitioners Kingman, Emery, Picotte, and Zephier that the Board issue a declaratory ruling, pursuant to S.D.C.L. §1-26-15, and believes that issuance of a temporary permit to use public waters for mineral exploration under circumstances such as those present in this case would be arbitrary, capricious, and contrary to the laws of the State of South Dakota.

Petitioner Liliias C. Jarding owns property and resides in Rapid City, South Dakota. Her address is 418 North 44<sup>th</sup> Street, Rapid City, South Dakota 57702. Petitioner alleges that the proposed water use and gold exploration will harm the land, natural resources, and water in the Black Hills, cause noise and disruption, and interfere with the solitude of the Black Hills. The gold exploration already undertaken has damaged the physical environment.

Petitioner purchases and uses municipal water from the City of Rapid City. She uses the water for domestic use, including drinking water. If the water is contaminated, she cannot use it. Petitioner uses Rapid Creek for recreational purposes. If the water in Rapid Creek is contaminated, she cannot use it for recreational purposes.



Petitioner has an interest in protecting the land, natural resources, and water in the Black Hills and in the clean flow of water in Rapid Creek and its connected groundwater. She asserts that the proposed water use and gold exploration will pollute or otherwise adversely affect the land, natural resources, and water in the Black Hills and will pollute or otherwise adversely affect the flow of water in Rapid Creek and its connected groundwater. Impacted waters would include Pactola Reservoir, the Madison aquifer, and the Minnelusa aquifer. Impacted uses would include all of the sources of water upon which Rapid City relies and protected beneficial uses of Rapid Creek, such as fish and wildlife propagation, stock watering, domestic use, immersion recreation, irrigation, and limited-contact recreation.

Petitioner agrees with the characterization of other damages due to drill cuttings by Petitioners Kingman, Emery, Picotte, and Zephier. South Dakota gold activities have led to damages to the environment, natural resources, and water sufficient to the creation of two Superfund sites: the Homestake Mining and Brohm Mining projects. Petitioner does not want a similar situation to develop on Rapid Creek or Castle Creek.

Petitioner agrees with Petitioners Kingman, Emery, Picotte, and Zephier that Exploration Notice of Intent (EXNI) 427 was issued in violation of state law to a foreign corporation that is not authorized to do business in South Dakota. This means that any exploration undertaken pursuant to EXNI-417 is also unlawful, and that it is unlawful for the Board to permit the use of public waters for mineral exploration under this EXNI.

WHEREFORE, Petitioner requests that the Hearing on the Request be scheduled and accommodated in Rapid City, South Dakota, containing the impacted community. In the alternative, Petitioner supports the request by Petitioners Kingman, Emery, Picotte, and Zephier that the Board issue a declaratory ruling, pursuant to S.D.C.L. 51-26-15, and believes that issuance of a temporary permit to use public waters for mineral exploration under circumstances such as those present in this case would be arbitrary, capricious, and contrary to the laws of the State of South Dakota.

Petitioner certifies that on November 26, 2018, she caused true and accurate copies of this Petition to be served by U.S. Mail, facsimile and/or electronic mail upon the following:

Mineral Mountain Resources (SD), Inc.  
Ste. 401 – 1195 W. Broadway  
Vancouver, BC V6H 3X5 Canada  
Facsimile: 604-714-1119

And through their Attorneys:

Matthew E. Naasz  
Gunderson, Palmer, Nelson & Ashmore, LLP  
506 Sixth Street  
P.O. Box 8054  
Rapid City, SD 57709  
Facsimile: 605-342-9503  
E-mail: [mnaasz@gpna.com](mailto:mnaasz@gpna.com)

South Dakota Water Management Board  
Joe Foss Building  
523 E. Capitol  
Pierre, S.D. 57501  
Facsimile: 605-773-4068  
E-mail: [bandc@state.sd.us](mailto:bandc@state.sd.us); [DENRINTERNET@state.sd.us](mailto:DENRINTERNET@state.sd.us); [Steven.Blair@state.sd.us](mailto:Steven.Blair@state.sd.us)

Chief Engineer  
Water Rights Program  
Foss Building  
523 E. Capitol  
Pierre, SD 57501  
E-mail: [DENRINTERNET@state.sd.us](mailto:DENRINTERNET@state.sd.us) ATTN: Chief Engineer

A. Gaye Kingman, Petitioner  
1926 Stirling St.  
Rapid City, SD 57702

Steven C. Emery, Petitioner  
2120 Rena Place  
Rapid City, SD 57701

James Picotte, Petitioner  
P.O. Box 1101  
Eagle Butte, SD 57625

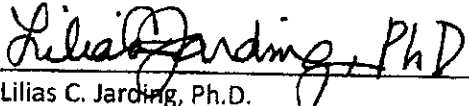
Robin Zephier, Petitioner  
3020 Sunny Hill Circle  
Rapid City, SD 57702

And Through their Attorneys:

Steven J. Gunn  
P.O. Box 16084  
St. Louis, MO 63105  
Facsimile: 800-520-8341  
E-mail: [sjgunn@wulaw.wustl.edu](mailto:sjgunn@wulaw.wustl.edu)

Mark C. Van Norman, Esq.  
1731 Harmony Heights, #305  
Rapid City, SD 57702  
E-mail: [mcvnconsulting@gmail.com](mailto:mcvnconsulting@gmail.com)

Dated: November 26, 2018

  
Liliac C. Jarding, Ph.D.  
418 N. 44<sup>th</sup> Street, Rapid City, SD 57702  
Telephone: 605-787-2872

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
WATER MANAGEMENT BOARD**

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<b>IN RE: REQUEST OF MINERAL MOUNTAIN RESOURCES FOR TEMPORARY PERMIT TO USE PUBLIC WATERS</b>	) ) ) ) ) )	<b>ORDER REGARDING PETITIONERS' AND INTERVENOR'S REQUEST TO RELOCATE THE HEARING</b>
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A telephone conference was held at 11:00 a.m., central time, February 5, 2019, to consider the request by intervener Dr. Liliias Jarding that the matter be heard in Rapid City, South Dakota rather than the currently scheduled location of Pierre, South Dakota on March 6, 2019.

Participating in the conference was Dr. Jarding; Petitioners Steven J. Gunn and Mark C. Van Norman; DENR personnel: Jeanne Goodman, Chief Engineer; Eric Gronlund, Water Rights Program; Ann Mines Bailey, attorney for DENR; Water Management Board Attorney, David McVey; and Water Management Board designated Hearing Officer, Rodney Freeman, Jr.

Dr. Jarding's request for the Rapid City location was based largely upon the public and media attention and participation since Rapid City is much closer to the impacted area than Pierre as well as providing information to the public and the impacted community.

Petitioners Gunn and Van Norman also agreed and joined in the request for the Rapid City location.

DENR took no position on the request, but did indicate that for the March 6, 2019 Water Board meeting, there were three possible water permits for consideration; there was a US Fish and Wildlife permit scheduled; there were future use permits to be considered and at least 150 irrigation questionnaire violations to be considered by the board. Perhaps most significantly, in addition to the logistics, expense and burden placed on the DENR staff, was the fact that if Rapid City is chosen as the location, DENR would not be able to live stream the hearing so that the hearing could be viewed by citizens not only in the impacted community, but throughout the state.

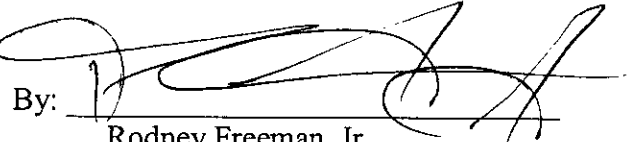
Based upon the matters presented, and with due consideration, the hearing officer finds:

- To move the hearing would increase in the expense and burden on the DENR; and
- the logistics involved in moving the meeting from its scheduled location in Pierre, South Dakota, would be complicated and involve finding space, meeting the travel needs of DENR and Attorney General staff and other miscellaneous concerns; and
- the public at large would be denied an opportunity to view the hearing through

live steaming capability.

NOW THEREFORE, the requests to relocate the hearing to Rapid City, South Dakota are hereby DENIED. The location for the hearing will remain in Pierre, South Dakota.

Dated this 6<sup>th</sup> day of February, 2019.



By:

Rodney Freeman, Jr.

Its:

Water Management Board Hearing  
Officer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

February 8, 2019

**NOTICE**

TO: Steven J Gunn  
PO Box 16084  
St. Louis MO 63105

Mark C Van Norman  
1731 Harmony Heights # 305  
Rapid City SD 57702

Matthew E Naasz  
Gunderson, Palmer, Nelson, Ashmore LLP  
506 Sixth Street  
PO Box 8045  
Rapid City SD 57701

Lilias C Jarding PhD  
418 North 44<sup>th</sup> Street  
Rapid City SD 57702

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Scheduling Hearing on Petition for Declaratory Ruling that Issuance of a Temporary Permit to Use Public Waters for Mineral Exploration under Certain Circumstances would be Arbitrary, Capricious and Contrary to the Laws of the State Of South Dakota

A petition of opposition and a petition in support of the declaratory ruling request in regard to the above subject matter were filed in response to the public notice. The December 5, 2018, hearing was postponed as requested by an intervenor and this notice reschedules the hearing before the Water Management Board for March 6, 2019.

The petitioner and an intervenor requested the location of the hearing be Rapid City, South Dakota. The Water Management Board Hearing Officer held a prehearing conference call on February 5, 2019 to consider the request. Hearing Officer Rodney Freeman issued an order denying the petitioners' and intervenor's request to relocate the hearing on the petition for declaratory ruling to Rapid City, South Dakota. Enclosed is the order.

**The Water Management Board will conduct a hearing to consider the petition for declaratory ruling at 11:00 AM on Wednesday, March 6, 2019, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The agenda time is an estimate.**

Applicable provisions of the notice of hearing published in the Aberdeen American News, Capital Journal, Argus Leader and Rapid City Journal on either November 14 or 15, 2018, still apply.

Enclosed is a copy of the petition for declaratory ruling, affidavits of publication, and the petitions filed in this matter. These documents, subsequent filings and other information may be obtained on DENR's website at <https://denr.sd.gov/contested.aspx>. 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.

Questions regarding the hearing process may be directed to Ann Mines Bailey at (605) 773-3215 or [Ann.MinesBailey@state.sd.us](mailto:Ann.MinesBailey@state.sd.us).

Enclosures

c: Ann Mines Bailey, Assistant Attorney General

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

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IN THE MATTER OF THE PETITION	)	DENR'S
FOR DECLARATORY RULING	)	PREHEARING
REGARDING THE ISSUANCE OF A	)	BRIEF
TEMPORARY PERMIT TO USE	)	
PUBLIC WATERS FOR MINERAL	)	
EXPLORATION UNDER CERTAIN	)	
CIRCUMSTANCES.	)	

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**BACKGROUND**

At the October 4, 2018 meeting of the Water Management Board, the Board reviewed a request for a temporary permit for use of public water under SDCL § 46-5-40.1 by Mineral Mountain Resources (SD), Inc. Mineral Mountain sought a temporary permit for the use in drilling in its mineral exploration operation. A number of petitions seeking to convert the matter from an agenda item into a contested case proceeding were received. One of those petitions was on behalf of A. Gay Kingman, Steven C. Emery, James Picotte, and Robin Zephier. These Petitioners, represented by Steven J. Gunn and Mark C. Van Norman, presented their email the evening of October 3, 2018. In their petition, they assert that Mineral Mountain lacks the proper authority to conduct mineral exploration as it is their position that Mineral Mountain's Exploration Notice of Intent (EXNI)<sup>1</sup> is invalid. At the meeting the next day, the

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<sup>1</sup> An EXNI is required to be filed pursuant to SDCL § 45-6C-6 when any individual wishes to conduct an exploration operation. Such notices may be

(continued . . .)



Board denied the requests to proceed as a contested case. After reviewing the application and asking questions regarding the water availability and potential impacts to existing rights, the Board granted Mineral Mountain's request for a temporary permit.<sup>2</sup> That permit expired, pursuant to statute, on December 31, 2018.

After the hearing, it was noticed that the petition filed by Mr. Gunn and Mr. Van Norman on behalf of their clients included "in the alternative to request a declaratory ruling." Unfortunately, neither Mr. Gunn, Mr. Van Norman, nor any of their clients appeared at the hearing to speak as to their petition and request. Nor was the request for a declaratory ruling noticed by counsel for Water Rights, Mineral Mountain or the Board. As a result, the Board did not rule upon the request for declaratory ruling.

Thus, currently pending before the Board is Petitioners' request, in lieu of making the temporary permit a contested case proceeding, that the Board make a general declaration that it may not issue a temporary permit to an entity if its EXNI was improperly issued or transferred, or is void or invalid, or

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( . . . continued)

transferred pursuant to SDCL § 45-6C-53 and are overseen by the Board of Minerals and Environment.

<sup>2</sup> The temporary permit was granted pursuant to SDCL § 46-5-40.1. The temporary permit, which expired December 31, 2018, allowed Mineral Mountain to use up to 880,000 gallons at a peak pump rate of 200 gallons per minute and a daily rate of 10,000 gallons from Rapid Creek. Mineral Mountain was required to meter and report its usage on a monthly basis. Mineral Mountain did not divert any water under that permit.

if a mineral exploration operation is not in compliance or capable of being brought into compliance with all applicable local, state and federal laws.

### **PERTINENT STATUTES AND RULES**

To assist the Board and provide ease of reference, counsel provides the following statutes:

#### **A. Temporary Permits**

*46-5-40.1. Temporary permits for use of public water for construction, testing, or drilling purposes--Term of permit--Qualifications and limitations.*

The Water Management Board may promulgate rules to authorize the chief engineer to issue temporary permits for the use of public water for construction, testing, or drilling purposes. No temporary permit is valid after December thirty-one of the year in which the permit is issued. No temporary permit may be issued if the permit interferes with or adversely affects prior appropriations or vested rights. A temporary permit shall contain qualifications and limitations necessary to protect the public interest. The issuance of a temporary permit is permission to use public water on a temporary basis and does not grant any water rights.

*74:02:01:33. Information required for temporary permits.*

A temporary permit must contain the following information:

- (1) Name and address of the water user;
- (2) Project or projects on which water will be used;
- (3) Source of water;
- (4) Location of the water diversion points;
- (5) Maximum total amount of water to be used (in gallons);
- (6) Maximum daily withdrawal rate (in gallons);
- (7) Date after which water use can begin;
- (8) Date when water use will cease;
- (9) Date of issuance of the permit; and
- (10) Any qualifications thought necessary by the chief engineer.

**B. Exploration Notice of Intent (EXNI)**

45-6C-6. *Notice of intent to conduct exploration operation--Items comprising notice.*

Any person desiring to conduct an exploration operation shall file with the Department of Environment and Natural Resources a notice of intent to conduct an exploration operation on a form approved by the Board of Minerals and Environment. Each notice of intent shall be limited to sixteen contiguous townships.

The notice of intent shall include the following:

- (1) A notice form pursuant to § 45-6C-7;
- (2) A plan of reclamation pursuant to § 45-6C-8;
- (3) A map pursuant to § 45-6C-9; and
- (4) A fee pursuant to § 45-6C-17.

**C. Authority of Board of Minerals and Environment**

45-6C-47. *Jurisdiction and authority of board--Employment of personnel--Legal services provided by attorney general.*

The Board of Minerals and Environment shall carry out and administer the provisions of this chapter. The board has jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this chapter. The Department of Environment and Natural Resources may employ agents, employees, and consultants, permanent and temporary, as it may require and shall determine their qualifications, duties, and compensation. The board may call upon the attorney general of the state for such legal services as it may require.

**D. Authority of Water Management Board**

46-2-9. *Powers, functions, and duties of board.*

The Water Management Board, created in § 1-40-15, may perform all the duties and carry out all the functions assigned to it by law and shall have general supervision of the waters of the state, including measurement, appropriation, and distribution thereof, and may exercise any powers, functions, and duties as the Legislature may provide.

46-2-11. *Regulatory authority of board.*

The Water Management Board shall regulate and control the development, conservation, and allocation of the right to use the waters of the state according to the principles of beneficial use and priority of appropriation established by this title. The board may require reports and other information as it may deem advisable from all claimants or holders of any water permits or right.

### **E. Declaratory Rulings**

74:02:01:46. *Request to board for declaratory ruling -- Petition contents.*

A person may request the water management board to issue a decision on the applicability of a statutory provision, rule, or order pertaining to a submitted factual situation within the board's jurisdiction by submitting a petition containing the following information:

- (1) The authority by which the petition is presented;
- (2) The name of the person, agency, or groups submitting the petition;
- (3) The requested action and reasons for the action; and
- (4) The signature of the person or the authorization of the group or agency making the petition.

74:02:01:48. *Petitioner to notify all affected persons.*

The petitioner shall serve a copy of the petition upon all known persons whose pecuniary interests would be directly and immediately affected by a declaratory ruling on the petition. Proof of such service shall be filed with the board with the petition. All such parties shall be notified by the chief engineer at least 15 days before the petition is scheduled to be heard. In addition, the petitioner shall publish a notice of hearing describing the contents of the petition pursuant to SDCL 46-2A-4(1) to 46-2A-4(10), as applicable, and SDCL 1-26-17.

1-26-17. *Contents of notice in contested cases. The notice shall include:*

- (1) A statement of the time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved;
- (4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the

notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished;

(5) A statement of any action authorized by law, which may affect the parties, as a result of any decision made at the hearing, whether it be the revocation of a license, the assessment of a fine or other effect;

(6) A statement that the hearing is an adversary proceeding and that a party has the right at the hearing, to be present, to be represented by a lawyer, and that these and other due process rights will be forfeited if they are not exercised at the hearing;

(7) Except in contested cases before the Public Utilities Commission, a statement that if the amount in controversy exceeds two thousand five hundred dollars 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 § 1-26-17;

(8) A statement that the decision based on the hearing may be appealed to the circuit court and the State Supreme Court as provided by law.

### **DISCUSSION**

South Dakota Administrative Rule 74:02:01:46 requires that a petition for declaratory ruling must include the submission of a factual situation within the Board's jurisdiction. The facts submitted within this petition indicate that project for which Mineral Mountain sought and obtained a temporary permit for use of public water was based upon an EXNI which Petitioners believe to be void. There is no indication that the EXNI has been declared void by either the Board of Minerals and Environment, who has authority over mining operations, or a court of competent jurisdiction. Rather, it appears that Petitioners are requesting the Board to either assume that the EXNI is void or invalid or to actually rule whether the EXNI is valid. To the extent that Petitioners seek the Board to rule that Mineral Mountain's EXNI is invalid, the Board lacks jurisdiction. See SDCL § 45-6C-47. Furthermore, if Petitioners are seeking to

collaterally attack the temporary permit issued to Mineral Mountain, the matter is moot. The temporary permit expired on December 31, 2018. Moreover, an attempt to bar a future temporary permit is not ripe as there is no application currently pending.


Second, to the extent that Petitioners seek a general declaratory ruling, they have failed to submit a factual situation upon which the Board may rely for ruling. Nonetheless, the Chief Engineer would urge the Board to declare that an individual or entity is not required to obtain all pertinent local, state, or federal permits prior to applying for and obtaining a temporary water permit. There are no requirements in statute or rule that an entity must have all permits in place prior to seeking a temporary permit for the use of water. See SDCL § 46-5-40.1 and ARSD 74:02:01:33. Moreover, nothing in statute prescribes the order in which permits must be obtained. Rather, SDCL § 46-5-40.1 requires the Chief Engineer or the Board to look to the availability of water and to ensure the protection of prior appropriations and vested rights. This Board is aware that it is commonplace for an entity or individual to seek a temporary permit or a regular water permit as part of a project that requires multiple permits. This Board has never required proof that the other permits are in place prior to considering an application for a water permit.

Equally as concerning as the invitation to apply a requirement which does not exist in statute or rule, is this petition's invitation to the Board to engage in determining the validity of EXNIs. Such decisions are not within the purview of this Board. See SDCL § 1-40-19. Rather, the administration and

regulation of mining operations is overseen by the Board of Minerals and Environment. See SDCL § 45-6C-7. As such, the validity of EXNIs fall under the jurisdiction of the Board of Minerals and Environment or the courts where appropriate.

It is the position of the Chief Engineer that, notwithstanding the procedural grounds whereby this petition should be dismissed, the Board should rule that it is not a prerequisite to have obtained all other requisite permits from other local, state, and federal agencies before applying for and receiving a temporary water permit.

Dated this 14th day of February 2019.

  
Ann F. Mines Bailey  
Assistant Attorney General  
1302 East Highway 14, Ste. 1  
Pierre, SD 57501  
Telephone: (605) 773-3215

*Counsel for Water Rights Program, DENR*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the DENR'S Prehearing Brief in the above matter were served by U.S. mail, first class, postage prepaid, upon the following on this 14th day of February 2019:

Steven J. Gunn  
P.O. Box 16084  
St. Louis, MO 63105

Chad Comes  
116 West Center Street  
Madison, SD 57042

Matthew E. Naasz  
Gunderson, Palmer, Nelson, Ashmore LLP  
506 Sixth Street  
P.O. Box 8045  
Rapid City, SD 57701

Tim Bjork  
223 Enchantment Drive  
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Mark C. Van Norman  
1731 Harmony Heights Lane, Apt. 305  
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Jim Hutmacher  
802 East 7th Street  
Oacoma, SD 57365

Lilias C. Jarding, PhD  
418 North 44th Street  
Rapid City, SD 57702

Leo Holzbauer  
P.O. Box 64  
Delmont, SD 57330

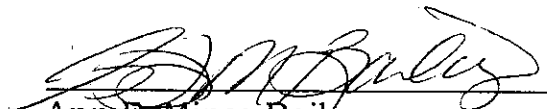
David M. McVey  
Assistant Attorney General  
1302 East Highway 14, Ste. 1  
Pierre, SD 57501  
Hand-delivered

Peggy Dixon  
3311 Hogan Court  
Rapid City, SD 57702

Everett Hoyt  
4422 Carriage Hills Drive  
Rapid City, SD 57702

And on the same date, the original was filed with:

Jeanne Goodman, Chief Engineer  
DENR Water Rights Program  
Joe Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

  
Ann F. Mines Bailey  
Assistant Attorney General



**AFFIDAVIT OF PUBLICATION**

STATE OF SOUTH DAKOTA}

§

COUNTY OF BROWN}

Carla Renning being duly sworn, on his/her oath says: That the AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned; That affiant is an employee and principal clerk of said publisher and has personal knowledge of all facts stated in this affidavit; That the advertisement headed:

Legal: # 577957

Notice of Hearing on Retention . . .

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each

day for 1 successive day

The first publication being made on the 14th day of Nov., 2018.

The second publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

The third publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

The fourth publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

The fifth publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

The sixth publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 2018;

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper; That the whole amount of the fee paid for the publication of the annexed notice is \$ 135.00, which insures solely to the benefit of said publisher; That no agreement or understanding for a division thereof had been made with any other person; and That no part thereof has been agreed to be paid to any person whomsoever.

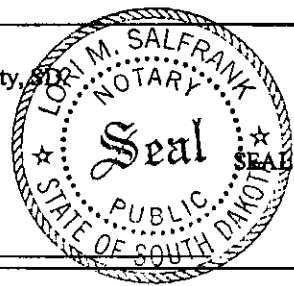
Carla Renning

Subscribed and sworn to before me this 14th day of Nov., 2018.

Daily Circulation 10,000

Michael

Notary Public, Brown County



My commission expires March 20, 2019

(No. 577957)  
(November 14, 2018 - 1T)

**NOTICE OF HEARING ON  
PETITION FOR A DECLARATORY  
RULING THAT ISSUANCE OF A  
TEMPORARY PERMIT TO USE  
PUBLIC WATERS FOR  
MINERAL EXPLORATION UNDER  
CERTAIN CIRCUMSTANCES  
WOULD BE ARBITRARY,  
CAPRICIOUS, AND CONTRARY  
TO THE LAWS OF THE STATE  
OF SOUTH DAKOTA.**

Notice is given that a petition for declaratory ruling has been filed with the Water Management Board pursuant to South Dakota Codified Law (SDCL) 1-26-15, SDCL 46-2-5(4) and Administrative Rule of South Dakota (ARSD) 74:02:01:46. The names and addresses of the individuals submitting the petition are: A. Gay Kingman, 1926 Stirling Street, Rapid City, South Dakota 57702; Steven C. Emery, 2120 Rena Place, Rapid City, South Dakota 57701; James Picotte, P.O. Box 1101, Eagle Butte, SD 57625; and Robin Zepher, 3020 Sunny Hill Circle, Rapid City, SD 57702. Petitioners Kingman, Emery, Picotte, and Zepher are represented by attorneys Steven J. Gunn, S.D. Bar No. 3284, P.O. Box 18084, St. Louis, MO 63105, (314) 920-9129, and Mark C. Van Norman, Esq., S.D. Bar No. 2686, 1731 Harmony Heights # 305, Rapid City, SD 57702.

The requested action stated in the petition is for the Water Management Board (hereafter "Board") to issue a declaratory ruling that the Board may not approve a request for a temporary permit to use public waters, pursuant to SDCL 46-5-40.1, if:

A. The request for a temporary permit to use public waters is for mineral exploration under an Exploration Notice of Intent ("EXNI"), pursuant to the South Dakota Mineral Exploration Act, SDCL Chapter 45-6C, that was improvidently transferred to the person or entity requesting the temporary permit to use public waters because the EXNI was void and invalid and incapable of being transferred because it was originally issued to a foreign corporation that did not, and does not, have a certificate of authority from the Office of the Secretary of State authority to transact business in the State of South Dakota, pursuant to SDCL 47-1A-1501, and that was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation (or an application for the transfer of an EXNI) or to receive permission to engage in mineral exploration in South Dakota, under SDCL Chapter 45-6C or otherwise;

B. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that was improvidently transferred to the person or entity requesting the temporary permit to use public waters because the EXNI was void and invalid and incapable of being transferred because it was improvidently issued to a foreign corporation based on erroneous information and an erroneous premise submitted by the corporation that it had the authority to conduct an exploration operation in South Dakota;

C. The request for a temporary permit to use public waters is for mineral explo-

ration under an EXNI that was improvidently transferred to the person or entity requesting the temporary permit to use public waters because the EXNI was void and invalid and incapable of being transferred because it did not comply with the requirements of SDCL Chapter 45-6C in that, among other things, the corporation to which the EXNI was originally issued (or transferred) did not have "the authority to conduct an exploration operation on the lands described" in the application, as required by SDCL 45-6C-7; and/or

D. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that was improvidently transferred to the person or entity requesting the temporary permit to use public waters because the EXNI because the mineral exploration operation was not in compliance, or capable of being brought into compliance, with all applicable local, state, and federal laws pertaining to the operation before the transfer of the EXNI, as required by SDCL 45-6C-53, because the EXNI was issued to a foreign corporation that did not, and does not, have a certificate of authority from the Office of the Secretary of State authority to transact business in the State of South Dakota, pursuant to SDCL 47-1A-1501, and was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation (or an application for the transfer of an EXNI) or to receive permission to engage in mineral exploration in South Dakota, under SDCL Chapter 45-6C or otherwise, and because the EXNI was otherwise void, invalid, and incapable of being transferred for the reasons set forth herein.

The reason for the requested action is that a controversy exists in that the Board has, or may in the future, issue a temporary permit to use public waters to an applicant that intends to use the water for mineral exploration under an EXNI that was improvidently transferred to the applicant, notwithstanding the fact that the EXNI was void, invalid, and incapable of being transferred, for the reasons set forth herein.

The applicable statutes include SDCL 46-5-40.1, 45-6C-53, and 47-1A-1501.

The petition for a declaratory ruling will be considered by the Water Management Board at 11:00 AM (Central Standard Time) on Wednesday, December 5, 2018, in the Floyd Matthew Training Center, Joe Ross Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior agenda items. The Board may issue a declaratory ruling in response to the petition for a declaratory ruling, after all the evidence is taken at the hearing, and/or the Board may take other action as the Board deems warranted.

Any person intending to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, shall by November 26, 2018, file a written petition to oppose or support the declaratory ruling request set forth in the petition of Petitioners Kingman, Emery, Picotte, and Zepher. The petition shall be filed with the Chief Engineer and Petitioners Kingman, Emery, Picotte, and Zepher. The Chief Engineer's address is Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501, (605) 773-3352; and the names and addresses of the Petitioners Kingman, Emery, Picotte, and Zepher and their attorneys are given above. The petition may be informal but must include a statement describing the petitioner's interest in the petition for a declaratory ruling, the petitioner's reasons for opposing or supporting the petition for declaratory ruling, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The time of the hearing date will be automatically extended for at least 20 days upon written request of Petitioners Kingman, Emery, Picotte, and Zepher or any person who has filed a petition to oppose or support the request for declaratory ruling. Any such request for an automatic extension must be filed by November 26, 2018.

This hearing is an adversary proceeding. Any person filing a petition, including Petitioners Kingman, Emery, Picotte, and Zepher, has the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund at the above Water Rights Program address or Steven J. Gunn at his address listed above to request copies of information pertaining to this petition for declaratory ruling. Please notify DENR at least 48 hours before the hearing. If you have a disability for which special arrangements must be made at the hearing.

This petition for a declaratory ruling is made pursuant to Board General Rules, Sections 74:02:01:46 thru 74:02:01:49. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-5, 46-2-9, 46-2-11, and 46-5-40.1.

Published one time at an approximate cost of \$135.89.

# Capital Journal

## AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Hughes

Jackie Odom of said county, being, first duly sworn, on oath says: That he/she is the publisher or an employee of the publisher of the Capital Journal, a daily newspaper published in the City of Pierre in said County of Hughes 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 Hughes and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the legal display advertisement headed Notice of Hearing

a printed copy of which, taken from the paper in which the same was published, and which is here-to attached and made a part of this affidavit, was published in said newspaper for 1 successive week(s) to wit:

11/15/2018

That the full amount of the fee charged for the publication of the attached public notice inures 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: \$101.08

Signed: Jackie Odom

subscribed and sworn to before me this 15th day of November 2018

Mary L. Baker

Notary Public in and for the County of Hughes, South Dakota.  
My Commission expires 02/19/2021

**STANLEY COUNTY SCHOOL DISTRICT** is accepting applications for the 2018-19 school year:

- SPED Teacher
- SPED Elementary Paraprofessional
- SPED Behavioral Specialist Para-professional

Applications are available at the business office or at stanleycounty@t2.net employment link.

Submit applications for: Stanley County Schools, 300 Leo Ann Johnson, Fort Pierre, SD 57513 or LouAnn.Adamsen@t2.net.

**LEGAL ASSISTANT/PARALEGAL**

Law office seeking an experienced legal assistant/paralegal. Must be self-motivated, able to work independently, and has high attention to detail. Duties include operating files, answering the telephone and taking messages, coordinating appointments, managing the calendar, drafting correspondence and pleadings, e-filing documents with the court, File & Serve, evoking, billing.

\$18 - \$20 per hour, depending on education, experience, and benefits health insurance, paid leave, retirement available.

If interested please submit resume and cover letter to: MAHER LAW OFFICE, 254 N. Euclid Avenue, Pierre, SD 57501-9571 or contact Tom 955-224-0491

**Police Department Administrative Clerk**

This position is responsible for providing administrative and clerical support to the department.

**Qualifications:** Work requires an extensive knowledge of business and an excellent command of the English language. Must have knowledge of secretarial, office administrative procedures, and knowledge of use and operation of standard office equipment, at a level normally acquired through at least one year of related experience. Must have knowledge of a variety of computer software applications in word processing, spreadsheets, database and presentation software. Must have high level of interpersonal skills to handle sensitive and confidential situations. Position consistently requires demonstrated poise, tact and diplomacy.

Work requires continual attention to detail in composing, typing and proofing mail.

\$15.72 minimum plus comprehensive benefit package.

Open until filled.

City of Pierre  
Human Resources Director  
P.O. Box 1253  
Pierre, SD 57501  
(605) 773-7499  
www.cityofpierre.org  
EOE

**PART TIME SECURITY OFFICER**

City of Pierre is seeking a part-time security officer for the Pierre Police Department. The position is responsible for patrolling the city of Pierre, South Dakota, and enforcing city ordinances and state laws. The position also involves conducting traffic stops, issuing citations, and providing customer service to the public.

**Requirements:** Must be a resident of Pierre, South Dakota, and must have a valid South Dakota driver's license. Must be at least 21 years old and have a minimum of one year of experience in a security or law enforcement position.

**Benefits:** The position includes a comprehensive benefit package, including health insurance, dental insurance, and a 401(k) plan.

**Salary:** The starting wage is \$14.50 per hour.

Please contact our HR Director at (605) 773-7499 for more information.

**NOTICE OF HEARING ON PETITION FOR A DECLARATORY RULING**

That issuance of a temporary permit to use public waters for mineral exploration under certain circumstances would be arbitrary, capricious, and contrary to the laws of the State of South Dakota. Notice is given that a petition for declaratory ruling has been filed with the Water Management Board pursuant to South Dakota Codified Law (SDCL) 1-26-15, SDCL 46-2-5(4) and Administrative Rule of South Dakota (ARSD) 74:02.01.48. The names and addresses of the individuals submitting the petition are: A. Gay Kingman, 1926 Sterling Street, Rapid City, South Dakota 57702; Steven C. Emery, 2120 Rena Place, Rapid City, South Dakota 57701; James Pickett, P.O. Box 110, Ewie Butte, SD 57025; and Robin Zepher, 3020 Sunny Hill Circle, Rapid City, SD 57702. Petitioners Kingman, Emery, Pickett, and Zepher are represented by attorneys Steven J. Gunn, 805 Bay Street, P.O. Box 10984, St. Louis, MO 63105, (314) 820-9129, and Mark C. Van Norman, Esq., S.D. Bar No. 2686, 1731 Harmony Heights #305, Rapid City, SD 57702. The requested action is to be held in the petition or for the Water Management Board (hereafter "Board") to issue a declaratory ruling that the Board may not approve a request for a temporary permit to use public waters, pursuant to SDCL 46-6-40.1, if: A. The request for a temporary permit to use public waters is for mineral exploration under an Exploration Notice of Intent ("ENXI"), pursuant to the South Dakota Mineral Exploration Act, SDCL Chapter 45-6C, that was inadvertently transferred to the person or entity requesting the temporary permit to use public waters because the ENXI was void and invalid and incapable of being transferred because it was originally issued to a foreign corporation that did not, and does not, have a certificate of authority from the Office of the Secretary of State authority to transact business in the State of South Dakota, pursuant to SDCL 47-1A-1501, and that was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation for an ENXI or to receive permission to engage in mineral exploration in South Dakota; B. The request for a temporary permit to use public waters is for mineral exploration under an ENXI that was inadvertently transferred to the person or entity requesting the temporary permit to use public waters because the ENXI was void and invalid and incapable of being transferred because it was originally issued to a foreign corporation based on erroneous information and an erroneous premise submitted by the corporation that it had the authority to conduct an exploration operation in South Dakota; C. The request for a temporary permit to use public waters is for mineral exploration under an ENXI that was inadvertently transferred to the person or entity requesting the temporary permit to use public waters because the ENXI was void and invalid and incapable of being transferred because it was originally issued to a foreign corporation based on erroneous information and an erroneous premise submitted by the corporation that it had the authority to conduct an exploration operation in South Dakota; D. The request for a temporary permit to use public waters is for mineral exploration under an ENXI that was inadvertently transferred to the person or entity requesting the temporary permit to use public waters because the ENXI was void and invalid and incapable of being transferred because it was originally issued to a foreign corporation based on erroneous information and an erroneous premise submitted by the corporation that it had the authority to conduct an exploration operation in South Dakota.

ing the temporary permit to use public waters because the ENXI was void and invalid and incapable of being brought into compliance with all applicable local, state, and federal laws pertaining to the operation before the transfer of the ENXI, as required by SDCL 45-6C-53, because the ENXI was issued to a foreign corporation that did not, and does not, have a certificate of authority from the Office of the Secretary of State authority to transact business in the State of South Dakota, pursuant to SDCL 47-1A-1501, and was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation for an ENXI or to receive permission to engage in mineral exploration in South Dakota, pursuant to SDCL Chapter 45-6C or otherwise, and because the ENXI was otherwise void, invalid, and incapable of being transferred for the reasons set forth herein. The reason for the requested action is that a controversy exists in that the Board has, or may in the future, issue a temporary permit to use public waters to an applicant that intends to use the water for mineral exploration under an ENXI that was inadvertently transferred to the applicant, notwithstanding the fact that the ENXI was void, invalid, and incapable of being transferred, for the reasons set forth herein. The applicable statutes include SDCL 46-5-40.1, 45-6C-53, and 47-1A-1501. The petition for a declaratory ruling will be considered by the Water Management Board at 11:00 AM (Central Standard Time) on Wednesday, December 5, 2018, in the Floyd Mallhow Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD. The agenda time is an estimate and may be delayed due to prior agenda items. The Board may issue a declaratory ruling in response to the petition for a declaratory ruling, after all the evidence is taken at the hearing, and/or the Board may take other action as the Board deems warranted. Any person intending to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26 shall by November 26, 2018, file a written petition to oppose or support the declaratory ruling request set forth in the petition of Petitioners Kingman, Emery, Pickett, and Zepher. The petition shall be filed with the Chief Engineer and Petitioners Kingman, Emery, Pickett, and Zepher. The Chief Engineer's address is Water Rights Program, Foss Building, 523 E Capitol Pierre, SD 57501, (605) 773-0552. Send the petition and addresses of the Petitioners Kingman, Emery, Pickett, and Zepher and their attorneys are given above. The petition may be informal but must include a statement describing the petitioner's interest in the petition for a declaratory ruling, the petitioner's reasons for opposing or supporting the petition for declaratory ruling, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The time of the hearing date will be automatically extended for at least 20 days upon written request of Petitioners Kingman, Emery, Pickett, and Zepher or any person who has filed a petition to oppose or support the request for declaratory ruling. Any such request for an automatic extension must be filed by November 28, 2018. The hearing is an adversary proceeding. Any person filing a petition, including Petitioners Kingman, Emery, Pickett, and Zepher, has the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised.

Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact: Eric Gronlund at the above Water Rights Program address or Steven J. Gunn at the address listed above to request copies of information pertaining to this petition for declaratory ruling. Please notify DENR at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. This petition for a declaratory ruling is made pursuant to South Dakota General Rules, Sections 74:02.01.48 thru 74:02.01.48. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 49-2-5, 46-2-9, 46-2-11, and 46-6-40.1.

**SHAXLP 16746**  
2/11/15, 11/20  
Request for Design-Build Proposals

The Office of the State Engineer on behalf of the South Dakota Department of Corrections is soliciting Design-Build Proposals of the Office of the State Engineer, Joe Foss Building, 523 East Capitol Ave, Pierre, South Dakota 57501-3182 until November 27, 2018 at 2:00 PM CT for the Solem Bldg. Door 3 Call Intercom. Upgrade Women's Prison. Pierre, SD. OSEP #C2018-0928/WWR.

This proposal will be received for the replacement of the existing intercom system with one of equal or greater performance and quality. There are roughly 110 intercom stations in need of replacement. The replacement stations shall fit into the existing control system without modification to the control system hardware. Any coordinator needed for programming updates to the control system must be handled by the contractor.

Bidders please note: a mandatory on-site pre-bid meeting will be held November 20, 2018 at 2:00 PM CT. The meeting will be held at the Women's Prison Solem Building, 3000 SD HWY. 34, Pierre, SD 57501. Secure areas of the prison will be toured at this time and bidders are instructed to attend full bid and submit the DOC access form provided in the project manual. 5 days are required for processing Meeting information is the only time for bidders to review the site and existing conditions. Contact Justin Jones, 605-773-2059, Justin.Jones@state.sd.us for campus information.

The Design-Build Project Manual as well as general project info, is available at the Office of the State Engineer, Joe Foss Building, 523 East Capitol Ave, Pierre, South Dakota 57501-3182. Each Price Proposal in excess of \$50,000 must be accompanied by a certified check, cashier's check or draft in the amount of 5% of the base bid and all add alternates and drawn on a State or National Bank or a 10% bid bond issued by a surety authorized to do business in the State of South Dakota and made payable to the Bureau of Administration of the State of South Dakota. The Bureau of Administration reserves the right to reject any or all bids and to waive any irregularities therein. Qualitative, Management, and Price Proposals shall be sealed in separate envelopes. Please include 3 copies of the Quantitative and Management Proposals for the Technical Review Committee.

**American Bank & Trust**

**American Bank & Trust in Pierre is seeking a full-time Teller**

- This is an excellent opportunity for the right candidate looking to advance in their career and seeking growth opportunities with a locally owned successful organization.
- This position provides high quality customer service while performing teller functions, and developing and maintaining strong customer relationships.
- The ideal candidate would have previous banking, retail, or customer experience.
- Full benefit package and competitive compensation based on qualifications.

Salary range: \$18-\$20/hr. Contact: HR Manager, American Bank & Trust, 700 E. Sioux Ave, Pierre SD 57501. American Bank & Trust is an Equal Opportunity Employer. M/F/D/V.

**FOR SALE: 1929 CHEVROLET TANOE.**  
Runs Good, Good Condition, High Miles. Power Windows, Air, Stereo, with-down. Call 605-280-0228.

**FALL CLEANING? DON'T HAVE TIME TO HAVE A GARAGE SALE? Let us do the work for you!**  
List your unwanted items in the Capital Journal/Reminder Plus and get them removed.  
CALL US: 605-224-7301 Ext. 109 or Ext. 110.

**Make BIG Money With Menards!**

You always save BIG money at Menards, now it's your opportunity to make BIG money!

Menards in Pierre wants to team up with YOU!

- Don't just settle for another job, own and operate your very own business as an Independent Delivery Services Owner/Operator.
- Menards, the #1 Home Improvement Center in the Midwest, is rapidly growing and we want you to grow with us!

**Menards**  
The retail leader for GREAT opportunities just by you.

**Oahe, Inc.**  
is hiring for the following positions:

<b>COMMUNITY LIVING SUPERVISOR</b>	<b>FINANCIAL SERVICES SPECIALIST</b>
<b>DIRECT SUPPORT PROFESSIONAL</b>	<b>SHARED LIVING COORDINATOR</b>

To learn more about these positions, visit our website at <http://www.oaheinc.com> or email [hr@oaheinc.com](mailto:hr@oaheinc.com). You can also apply online at [www.oaheinc.com](http://www.oaheinc.com).

**INTERESTED IN THE ARTS? FOOD? MUSIC? BEER? NEED A FEW EXTRA BUCKS EVERY WEEK TO PAY FOR THIS STUFF?**

**The Capital Journal has a job for you!**

We're looking for freelance food, arts and entertainment writers to cover local restaurants, bars and music. The newspaper wants to expand its coverage in these areas and we need help to do it.

Writers will be responsible for interviewing sources, taking photos and generating unique storylines.

For more information contact Managing Editor, Nick Lowrey at [nick.lowrey@capjournal.com](mailto:nick.lowrey@capjournal.com)

313 West Dakota Avenue, Pierre, South Dakota 57501  
605-224-7301  
M-F 9:00am - 5:00pm

**HELP WANTED: MAILROOM**  
Late evenings to early morning hours Sunday through Thursday

This position assists in preparing newspapers for dispatch from the mailroom by performing the following duties:

- Lifts inserts sections all shifts and on the press line or table.
- Puts advertising and other inserts into individual papers.
- Lifts bundles weighing up to 50 pounds off press line and carries on slides at a rate of about one every 2-3 minutes.
- Standing - Walking - Bending - Lifting - Stacking

Must be able to work efficiently & effectively in most conditions. Must be 18 years of age and must be physically able to lift up to 50 lbs.

Stop by and fill out an application!

**CAPITAL JOURNAL**  
313 West Dakota Avenue, Pierre, SD 57501

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When "Help Wanted" is an urgent matter, advertise with us.

A highly effective way to reach local professionals and individuals.

**Capital Journal**  
605-224-7301  
[www.capjournal.com](http://www.capjournal.com)

Published twice at the total approximate cost of \$61.99.

CUSTOMER NUMBER:	3149209129STEV	<b>Argus Leader</b>	
INVOICE NUMBER:	3250943		
RUN DATES:	11/15, 2018	LINES: 304	AMOUNT DUE: \$182.19 pd.

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

STEVEN GUNN  
1301 HOLLINS STREET  
SAINT LOUIS, MO 63135

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

**AFFIDAVIT OF PUBLICATION-**

Customer Number: 3149209129STEV  
Invoice Number: 3250943

STEVEN GUNN

**Argus Leader**  
**AFFIDAVIT OF PUBLICATION**

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

I being duly sworn, say: That the **Argus Leader** is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-2.1, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

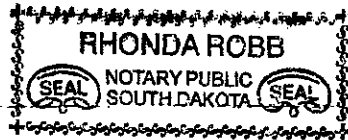
Thursday, the 15 day of November, 2018  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018  
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 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2018

and that \$182.19 pd. was charged for publishing the same.

Seakus  
Subscribed and sworn to before me 11/15/18

Rhonda Robb  
Notary Public, South Dakota

My Commission expires January 24, 2020



waters because the EXNI on applicant that intends to try ruling is made pur- was void and invalid and in use the water for mineral spot to Board General capable of being transferred exploration under an EXNI. Rules, Sections 74:02:01-46 because it was originally is that was improvidently firm 74:02:01:49. The Board used to a foreign corpora- transferred to the applicant, has legal authority and ju- tion that did not, and does notwithstanding the fact radiation to consider this not, have a certificate of au- that the EXNI was void, in- matter pursuant to SDCL 46-2-3, 46-2-9, 46-2-11, and 46- the Secretary of State au- and transferred, for the rea- 5-40.1.

350943 Nov. 15, 2018

The applicable statutes in- in the State of South The applicable statutes in- Dakota, pursuant to SDCL 46-2-40.1, 46-2-47-1A-1501, and that was not. 53, and 47-1A-1501. and is not, eligible to file a The petition for a declarato- notice of intent to conduct a ry ruling will be considered mineral exploration opera- by the Water Management tion (or an application for Board at 11:00 AM (Central the transfer of an EXNI) or Standard Time) on Wednes- to receive permission to day, December 3, 2018. In gone in mineral exploration the Floyd Matthew Truhling in South Dakota, under Center, Joe Foss Building, SDCL Chapter 45-6C or oth- 323 E Capitol Avenue, Pierre SD. The agenda time

B. The request for a tempo- is an estimate and may be rary permit to use public delayed due to prior agenda waters is for mineral explo- items. The Board may issue ration under an EXNI that a declaratory ruling in re- was improvidently transfer- sponse to the petition for a red to the person or entity declaratory ruling, after all requesting the temporary the evidence is taken at the permit to use public waters hearing, and/or the Board because the EXNI was void may take other action as and invalid and incapable of the Board deems warrant- being transferred because it ed.

was improvidently issued to Any person intending to par- a foreign corporation based ticipate in the hearing be- on erroneous information fore the Board by present- and an erroneous premise ing evidence or cross- submitted by the corpora- examining witnesses ac- tion that it had the authority cording to SDCL 1-36, shall to conduct an exploration by November 24, 2018, file a operation in South Dakota: written petition to oppose or C. The request for a tempo- ing request set forth in the rary permit to use public ing request set forth in the waters is for mineral explo- petition of Petitioners King-

man, Emery, Picotte, and Zepher. The petition shall be filed with the Chief Enst- requesting the temporary near and Petitioners King- permit to use public waters man, Emery, Picotte, and because the EXNI was void. Zepher. The Chief Enst- and invalid and incapable of near's address is Water being transferred because it Rights Program, Foss Building, 323 E Capitol, Pierre, SD 57501, (605) 773-3352 and the names and ad- did not comply with the re- quirements of SDCL Chap- ter 45-6C in that, among oth- er things, the corporation to drasses of the Petitioners which the EXNI was peti- tioned for transfer, Kingman, Emery, Picotte, did not have the au- thority to conduct an explo- ration under an EXNI that the petition may be informal- ly issued for transfer, and Zepher and their offer- orneys are given above. The petition must include a state- ment describing the prop- erty interest in the peti- tion.

D. The request for a tempo- rary permit to use public waters is for mineral explo- ration under an EXNI that was improvidently transfer- red to the person or entity requesting the temporary permit to use public waters because hearing date will be out- matically extended for at least 20 days upon written request of Petitioners King- man, Emery, Picotte, and Zepher or any person who has filed a petition to op- pose or support the request for declaratory ruling. Any such request for an auto- matic extension must be filed by November 24, 2018.

This hearing is an adversa- ry proceeding. Any person filing a petition, including Petitioners Kingman, Em- erty, Picotte, and Zepher, in the State of South has the right to be repre- sented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund at the above address or Seven J. Gunn at SDCL Chapter 45-6C or oth- erwise, and because the EXNI was otherwise void, request copies of informa- tion pertaining to this peti- tion for declaratory ruling. Please notify DENR of least 48 hours before the hearing which special arrangements must be made at the hear- ing.

This petition for a declara- tory ruling is made pur- sued to a foreign corpora- tion that did not, and does notwithstanding the fact radiation to consider this not, have a certificate of au- thority to transact business in the State of South Dakota, pursuant to SDCL 47-1A-1501, and was not, and is not, eligible to file a no- tice of intent to conduct a mineral exploration opera- tion (or an application for the transfer of an EXNI) or to receive permission to en- gage in mineral exploration in South Dakota, under Water Rights Program ad- SDCL Chapter 45-6C or oth- erwise, and because the EXNI was otherwise void, in- valid, and incapable of be- ing transferred for the rea- sons set forth herein.

The reason for the request- ed action is that a contro- versy exists in that the Board has, or may in the fu- ture, issue a temporary per- mit to use public waters to This petition for a declara-

NOTICE OF HEARING ON PETITION FOR A DECLARATORY RULING THAT ISSUANCE OF A TEMPORARY PERMIT TO USE PUBLIC WATERS FOR MINERAL EXPLORATION UNDER CERTAIN CIRCUMSTANCES WOULD BE ARBITRARY, CAPRICIOUS, AND CONTRARY TO THE LAWS OF THE STATE OF SOUTH DAKOTA. Notice is given that a petition for declaratory ruling has been filed with the Water Management Board pursuant to South Dakota Codified Law (SDCL) 1-26-15, SDCL 46-2-5(4) and Administrative Rule of South Dakota (ARSD) 74:02:01:46. The names and addresses of the individuals submitting the petition are: A. Cor Kingman, 1926 Strline Street, Rapid City, South Dakota 57702; Steven C. Emery, 2120 Rena Place, Rapid City, South Dakota 57701; James Picotte, P.O. Box 318, Rapid City, SD 57702; and Robin Zepher, 3028 Sunny Hill Circle, Rapid City, SD 57702. Petitioners Kingman, Emery, Picotte, and Zepher are represented by attorneys Steven J. Gunn, S.D. Bar No. 2284, P.O. Box 14084, St. Louis, MO 63105, (314) 920-9129, and Mark C. Van Norman, Esq., S.D. Bar No. 2686, 1731 Harmony Heights #305, Rapid City, SD 57702. The requested action stated in the petition is for the Water Management Board (hereafter "Board") to issue a declaratory ruling that the Board may not approve a request for a temporary permit to use public waters pursuant to SDCL 46-5-40.1. If: A. The request for a temporary permit to use public waters is for mineral exploration under an Exploration Notice of Intent ("EXNI"), pursuant to the South Dakota Mineral Exploration Act, SDCL Chapter 45-6C, that was improvidently transferred to the person or entity requesting the temporary permit to use public

# Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington                      SS:

Sheri Sponder 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 RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, 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 daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington 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 Rapid City Journal, 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 day for one successive day, the first publication there of being on the 15<sup>th</sup> day of Nov 2018 that the fees charged for the publication there of are 145 dollars and 08 cents.

Sheri Sponder

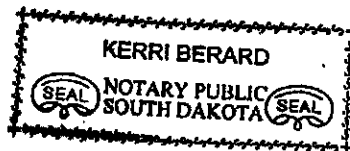
Subscribed and sworn to before me this 19<sup>th</sup>  
day of November, 2018.

Kerri Berard

Notary public

8/21/19

My commission expires



Nov 15 L21100782

**NOTICE OF HEARING ON PETITION FOR A DECLARATORY RULING**

**NOTICE OF HEARING ON PETITION FOR A DECLARATORY RULING** that issuance of a temporary permit to use public waters for mineral exploration under certain circumstances would be arbitrary, capricious, and contrary to the laws of the State of South Dakota.

Notice is given that a petition for declaratory ruling has been filed with the Water Management Board pursuant to South Dakota Codified Law (SDCL) 1-26-15, SDCL 46-2-5(4) and Administrative Rule of South Dakota (ARSD) 74:02:0146. The names and addresses of the individuals submitting the petition are: A. Gay Kingman, 1926 Stirling Street, Rapid City, South Dakota 57702; Steven C. Emery, 2120 Rena Place, Rapid City, South Dakota 57701; James Picotte, P.O. Box 1101, Eagle Butte, SD 57425; and Robin Zepher, 3020 Sunny Hill Circle, Rapid City, SD 57702. Petitioners Kingman, Emery, Picotte, and Zepher are represented by attorneys Steven J. Gunn, S.D. Bar No. 3284, P.O. Box 16984, St. Louis, MO 63106, (314) 920-9129, and Mark C. Van Norman, Esq., S.D. Bar No. 2686, 1731 Harmony Heights # 305, Rapid City, SD 57702.

The requested action stated in the petition is for the Water Management Board (hereafter "Board") to issue a declaratory ruling that the Board may not approve a request for a temporary permit to use public waters pursuant to SDCL 46-5-40.1.

A. The request for a temporary permit to use public waters is for mineral exploration under an Exploration Notice of Intent (EXNI) pursuant to the South Dakota Mineral Exploration Act, SDCL Chapter 45-6C, that was inadvertently transferred to the person or entity requesting the temporary permit to use public waters because the EXNI was void and invalid and incapable of being transferred because it was originally issued to a foreign corporation that did not, and does not, have a certificate of authority from the Office of the Secretary of State authority to transact business in the State of South Dakota, pursuant to SDCL 47-1A-1501, and that was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation (or an application for the transfer of an EXNI) or to receive permission to engage in mineral exploration in South Dakota, under SDCL Chapter 45-6C or otherwise.

B. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that was inadvertently transferred to the person or entity requesting the temporary permit to use public waters because the EXNI was void and invalid and incapable of being transferred because it was inadvertently issued to a foreign corporation based on erroneous information and an erroneous premise submitted by the corporation that it had the authority to conduct an exploration operation in South Dakota.

C. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that was inadvertently transferred to the person or entity requesting the temporary permit to use public waters because the EXNI was void and invalid and incapable of being transferred because it did not comply with the requirements of SDCL Chapter 45-6C in that, among other things, the corporation to which the EXNI was originally issued (or transferred) did not have the authority to conduct an exploration operation on the lands described in the application, as required by SDCL 45-6C-7; and/or

D. The request for a temporary permit to use public waters is for mineral exploration under an EXNI that was inadvertently transferred to the person or entity requesting the temporary permit to use public waters because the EXNI, because the mineral exploration operation was not in compliance with all applicable local, state, and federal laws pertaining to the operation before the transfer of the EXNI, as required by SDCL 45-6C-53, because the EXNI was issued to a foreign corporation that did not, and does not, have a certificate of authority from the Office of the Secretary of State authority to transact business in the State of South Dakota, pursuant to SDCL 47-1A-1501, and was not, and is not, eligible to file a notice of intent to conduct a mineral exploration operation (or an application for the transfer of an EXNI) or to receive permission to engage in mineral exploration in South Dakota, under SDCL Chapter 45-6C or otherwise, and because the EXNI was otherwise void, invalid, and incapable of being transferred for the reasons set forth herein.

The reason for the requested action is that a controversy exists in that the Board has, or may in the future, issue a temporary permit to use public waters to an applicant that intends to use the water for mineral exploration under an EXNI that was inadvertently transferred to the applicant, notwithstanding the fact that the EXNI was void, invalid, and incapable of being transferred, for the reasons set forth herein. The applicable statutes include SDCL 46-5-40.1, 45-6C-53, and 47-1A-1501.

The petition for a declaratory ruling will be considered by the Water Management Board at 11:00 AM (Central Standard Time) on Wednesday, December 5, 2018, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior agenda items. The Board may issue a declaratory ruling in response to the petition for a declaratory ruling, after all the evidence is taken at the hearing, and/or the Board may take other action as the Board deems warranted.

Any person intending to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, shall by November 26, 2018, file a written petition to oppose or support the declaratory ruling request set forth in the petition of Petitioners Kingman, Emery, Picotte, and Zepher. The petition shall be filed with the Chief Engineer and Petitioners Kingman, Emery, Picotte, and Zepher. The Chief Engineer's address is Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501, (605) 773-3352; and the names and addresses of the Petitioners Kingman, Emery, Picotte, and Zepher and their attorneys are given above. The petition may be informal but must include a statement describing the petitioner's interest in the petition for a declaratory ruling, the petitioner's reasons for opposing or supporting the petition for declaratory ruling, and the signature and mailing address of the petitioner or the petitioner's legal counsel. If legal counsel is obtained, the time of the hearing date will be automatically extended for at least 20 days upon written request of Petitioners Kingman, Emery, Picotte, and Zepher or any person who has filed a petition to oppose or support the request for declaratory ruling. Any such request for an automatic extension must be filed by November 26, 2018.

This hearing is an adversary proceeding. Any person filing a petition, including Petitioners Kingman, Emery, Picotte, and Zepher, has the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund of the above Water Rights Program, address or Steven J. Gunn at his address listed above to request copies of information pertaining to this petition for declaratory ruling. Please notify DENR of at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing.

This petition for a declaratory ruling is made pursuant to Board General Rules, Sections 74:02:0146 thru 74:02:0149. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-3, 46-2-9, 46-2-11, and 46-5-40.1.

(Published once times of the total approximate cost of \$145.00)



**STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**WATER MANAGEMENT BOARD**

<b>PETITION FOR DECLARATORY</b>	)	
<b>RULING THAT ISSUANCE OF A</b>	)	
<b>TEMPORARY PERMIT TO USE</b>	)	
<b>PUBLIC WATERS FOR MINERAL</b>	)	
<b>EXPLORATION UNDER</b>	)	<b>MINERAL MOUNTAIN</b>
<b>CERTAIN CIRCUMSTANCES</b>	)	<b>RESOURCES (SD), INC.'S MOTION</b>
<b>WOULD BE ARBITRARY,</b>	)	<b>TO DISMISS PETITION FOR</b>
<b>CAPRICIOUS, AND CONTRARY</b>	)	<b>DECLARATORY RULING</b>
<b>TO THE LAWS OF THE STATE</b>	)	
<b>OF SOUTH DAKOTA</b>	)	

COMES NOW, Mineral Mountain Resources (SD), Inc., by and through its attorney, Matthew E. Naasz of Gunderson, Palmer, Nelson & Ashmore, and hereby moves to dismiss the Petition for Declaratory Ruling regarding Mineral Mountain Resources, Inc.'s temporary permit to use public waters.

**PROCEDURAL BACKGROUND**

Mineral Mountain Resources (SD), Inc. (Mineral Mountain) requested a temporary permit to use public waters in the fall of 2018. The hearing on this application was conducted before the Water Management Board on October 4, 2018. Hours before the scheduled hearing, Petitioners A. Gay Kingman, Steven C. Emery, James Picotte, and Robin Zephier submitted a Petition to Oppose and Contest the pending request by Mineral Mountain. Petitioners requested the following relief: "Petitioners seek a decision from the Board denying the request for temporary permit to use public waters ("Request") and declaring that approval of the Request would be arbitrary, capricious, and contrary to law[.]" The petition included, alternatively, a request for a declaratory ruling that this Board "may not approve a request or a temporary permit

to use public waters if” an Exploration Notice of Intent (EXNI), was not properly granted to the party seeking the temporary permit. Following the October Water Management Board Hearing on the matter, Mineral Mountain was granted the temporary permit. As with all such temporary permits, the permit expired both by its terms and by statute on December 31, 2018.

The relief requested by Petitioners was deemed to include a request for a declaratory ruling. According to ARSD 74:02:01:46, the South Dakota Water Management Board is authorized to consider requests for declaratory rulings. That rule allows a petition to the Board for declaratory ruling “pertaining to a submitted factual situation within the Board’s jurisdiction[.]” There are several grounds that require this Board to dismiss this petition for declaratory relief, rather than considering the request.

The expiration of Mineral Mountain’s temporary water permit has mooted any potential factual situation within this Board’s jurisdiction that could be gleaned from the petition. The factual scenario presented dealt with Mineral Mountain’s application for a temporary water permit. *See* Petition p. 11. That application was granted by this Board, and has since expired. No factual scenario currently exists within the Board’s jurisdiction that is subject to a declaratory ruling regarding Mineral Mountain’s application for a temporary water permit. Should there come a time at which Mineral Mountain seeks to put the waters of this state to beneficial use, Petitioners will undoubtedly exercise every conceivable means to prevent that. But this is no longer the time nor the place. Petitioners had their day before this Board and made their arguments. This Board granted Mineral Mountain’s request for a temporary permit, and that permit has expired. Mineral Mountain currently has no application pending with South Dakota DENR to place the water of this State to beneficial use. There is currently nothing pending regarding Mineral Mountain’s “Request” that subjects Mineral Mountain to the jurisdiction of

the South Dakota Water Management Board. Therefore, pursuant to ARSD 74:02:01:46, the petition for declaratory relief must be dismissed without being considered.

Furthermore, in their alternative request for relief, Petitioners focus exclusively on the validity of an EXNI that was granted by the Board of Minerals and Environment. In order to grant Petitioners the declaratory relief they request, this Board would first have to determine the validity of the EXNI granted to Mineral Mountain. Even considering the validity of an EXNI is beyond this Board's jurisdiction. See, SDCL 46-2-9 ("The Water Management Board . . . shall have general supervision of the waters of the State."); SDCL 46-2-11 ("The Water Management Board shall regulate and control the development, conservation, and allocation of the right to use waters of the State . . . [.]")(emphases added). Furthermore, the factors to be considered in addressing an application for a temporary permit do not include the validity of approval from other regulatory bodies. See SDCL 46-5-40.1 ("No temporary permit may be issued if the permit interferes with or adversely affects prior appropriations or vested rights. A temporary permit shall contain qualifications and limitations necessary to protect the public interest."). Furthermore, the South Dakota Board of Minerals and Environment has jurisdiction over EXNI permits. See, SDCL §§ 45-6C-6; 45-6C-47. This Board does not have jurisdiction over the factual scenario presented in the petition – therefore this matter should be dismissed.

This Board's lack of jurisdiction is illustrated by the proceedings of the Board of Minerals and Environment regarding Mineral Mountain's EXNI. On January 18, 2018, the Board of Minerals and Environment approved the transfer of exploration permit EXNI-427 to Mineral Mountain Resources (SD), Inc<sup>1</sup>. See, Exhibit 2. Three of the Petitioners here appealed that decision into Circuit Court. In July of 2019, the Seventh Circuit Court dismissed the appeal.

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<sup>1</sup> Mineral Mountain Resources (SD), Inc., is a South Dakota Domestic Corporation in good standing. See, Exhibit 1.

See Exhibit 3. Even if this Board considered petitioners' request and declared that applicants with invalid EXNI's could not be granted temporary permits to use water, such decision would not apply to Mineral Mountain. The validity of the EXNI has been determined by the Board of Minerals and Environment; that decision has been subjected to an appeal, and that appeal has been dismissed. The South Dakota Water Management Board is without jurisdiction to consider this collateral attack on Mineral Mountain's EXNI.<sup>2</sup>

Additionally, problems exist with the notice of hearing that was published as required by law.<sup>3</sup> According to the applicable Administrative Rules of South Dakota, all parties with pecuniary interest must be notified of the Petition for Declaratory Ruling. ARSD 74:02:01:48. Here, however, it does not appear as though any holder of an EXNI has been contacted, nor have Petitioners made any effort to determine if there are other EXNI holders that would be subject to the requested declaratory relief. Without notifying any such holders of an EXNI, Petitioners have failed to properly bring this matter before the Water Management Board. Most glaringly, Petitioners have not served a copy of their petition upon the Board of Minerals and Environment, or the South Dakota DENR Minerals & Mining Program. As seen in Judge Mandel's Order, the Board of Minerals and Environment was an indispensable party to the appeal challenging the

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<sup>2</sup> Petitioners are asking this Board to declare that the lack of valid authorization from a separate regulatory authority would prevent an applicant from the ability to obtain a permit to use water. Petitioners' position would effectively foreclose any individual or entity from acquiring regulatory approval if a project required permission from more than one governmental agency. Anytime a petitioner sought to use water for a project that also required approval of any other regulatory body, any objector could merely take the position that the other regulatory bodies had not yet approved of the project. Presumably, the same argument would be made in front of the other regulatory bodies - that they should not approve of the project because this Board has not granted the project the authority to use water. Such a circular attack would prevent development of nearly all commercial activity. Clearly, that is Petitioners' goal, but logic does not support that goal. Not all regulatory permits can be granted simultaneously, this cannot prevent an individual regulatory body from considering applications over which that body exercises jurisdiction.

<sup>3</sup> The adequacy of the notice provided is secondary to this Board's lack of jurisdiction over the petition requesting declaratory relief. Should this Board determine that it is without jurisdiction to consider this petition, the adequacy of the notice need not be considered.

validity of the transfer of the EXNI. See Exhibit 3. So too, the Board of Minerals and Environment must be an indispensable party to this collateral attack on the validity of the EXNI.

Also, SDCL § 1-26-17<sup>4</sup> requires that all notices in contested cases include a statement that if the amount in controversy exceeds \$2,500, or a property right may be terminated, any party may require the agency to use the Office of Hearing Examiners. The notice of hearing published regarding this matter does not include such notification. See Notice, accompanying affidavits of publication. The amount in controversy here would clearly exceed \$2,500; this Board would need to invalidate Mineral Mountain's EXNI in order to grant petitioners the relief they request. Failure of the notice to include the statutorily required information dooms this petition.

For all these reasons, the Petition for Declaratory Ruling must be dismissed.

Dated: February 20, 2019.

ATTORNEYS FOR MINERAL MOUNTAIN  
RESOURCES, INC.

By: /s/ Matthew E. Naasz

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<sup>4</sup> ARSD 74:02:01:48 requires the published notice to comply with SDCL 1-26-17.

**CERTIFICATE OF SERVICE**

I hereby certify on February 20, 2019, a true and correct copy of **MINERAL MOUNTAIN RESOURCES INC.'S MOTION TO DISMISS PETITION FOR DECLARATORY RULING** was served upon the following individuals in the manner set forth below:

**By U.S. Mail, postage pre-paid:**

Steven J. Gunn P.O. Box 16084 St. Louis, MO 63105	Chad Comes 116 West Center Street Madison, SD 57042
Tim Bjork 223 Enchantment Drive Rapid City, SD 57701	Mark C. Van Norman 1731 Harmony Heights lane, Apt. 305 Rapid City, SD 57702
Jim Hutmacher 802 East 7 <sup>th</sup> Street Oacoma, SD 57365	Lilias C. Jarding, PhD 418 North 44 <sup>th</sup> Street Rapid City, SD 57702
Leo Holzbauer P.O. Box 64 Delmont, SD 57330	David M. McVey Assistant Attorney General 1302 East Highway 14, Ste. 1 Pierre, SD 57501
Peggy Dixon 3311 Hogan Court Rapid City, SD 57702	Everett Hoyt 4422 Carriage Hills Drive Rapid City, SD 57702
Jeanne Goodman, Chief Engineer DENR Water Rights Program Joe Foss Building 523 East Capitol Avenue Pierre, SD 57501	
<b>By Email:</b>	
Ann F. Mines Bailey Assistant Attorney General Ann.MinesBailey@state.sd.us	South Dakota Water Management Board DENRINTERNET@state.sd.us Eric.gronlund@state.sd.us Joe Foss Building 523 E. Capitol Pierre, SD 57501

By: /s/ Matthew E. Naasz  
Matthew E. Naasz