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MINUTES OF THE 228TH MEETING OF THE
WATER MANAGEMENT BOARD
FLOYD MATTHEW TRAINING CENTER
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA

FEBRUARY 10, 2021

CALL TO ORDER: Chairman Jim Hutmacher called the meeting to order at 9:30 a.m. Central Time. The roll was called, and 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 present for the meeting:

Board Members: Jim Hutmacher, Leo Holzbauer, Chad Comes, Tim Bjork, Peggy Dixon all attended the meeting remotely. Rodney Freeman and Bill Larson were absent.

Department of Environment and Natural Resources (DENR): Eric Gronlund, Ron Duvall, and Kim Drennon, Water Rights Program.

Attorney General's Office: David McVey, board counsel; Ann Mines Bailey, Water Rights Program counsel.

Water Permit Application No. 8428-3, Knodel Contractors LLC: Seth Lopour, attorney for Knodel Contractors LLC and Glenn Boomsma, attorney for petitioners.

Court Reporter: Carla Bachand, Capital Reporting Services.

ADOPT FINAL AGENDA: Motion by Bjork, seconded by Holzbauer, to adopt the agenda. A roll call vote was taken, and the motion carried unanimously.

CONFLICT DISCLOSURES AND REQUESTS FOR STATE BOARD WAIVERS: None.

ADOPT DECEMBER 2, 2020 BOARD MINUTES: Motion by Bjork, seconded by Comes, to approve the minutes of the December 2, 2020, Water Management Board meeting. A roll call vote was taken, and the motion carried with unanimously.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: Mr. McVey stated that there was nothing to report regarding litigation.

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

UPDATE ON DENR ACTIVITIES: Eric Gronlund reported that staff will provide a legislative update during the March 3-4, 2021, board meeting.

Mr. Gronlund stated that the Corps of Engineers came out with its snowpack projects. As of now, the lower basin is at 70 to 80 percent of normal snowpack, and upper basin is at 90 to 95 percent of normal snowpack, so there is potential for drought.

PUBLIC COMMENT PERIOD IN ACCORDANCE WITH SDCL 1-25-1: There were no public comments.

WATER PERMIT APPLICATION NO. 8428-3, KNODEL CONTRACTORS LLC: Water Permit Application No. 8428-3 proposes to appropriate up to 795.46 acre-feet of water per year from the Parker-Centerville aquifer at a maximum pump rate of 3.34 cubic feet of water per second for industrial use in a sand and gravel operation. The applicant proposes to lower the water level in the excavation site. The pumped water is discharged to a wetland area that is connected to Alberty Ditch, which drains to the Vermillion River. This site is located approximately three miles southeast of Parker, South Dakota.

Appearances

Glenn Boomsma, counsel for petitioners, Seth Lopour, counsel for Knodel Contractors LLC, and Assistant Attorney General Ann Mines Bailey, counsel for the Water Rights Program.

Ms. Mines Bailey stated that this matter was scheduled for a contested case hearing. On February 8, 2021, the Water Rights Program was notified that the petitioners, represented by Mr. Boomsma, intended to withdraw their petitions in opposition to this application.

Ron Duvall with the Water Rights Program had contact with Don Weeg, president of Weeg Family Farms, who is also an intervenor in this matter but not represented by Mr. Boomsma. In response to that conversation, Mr. Weeg sent a letter via fax to the Water Rights Program withdrawing his petition in opposition to this application.

Mr. Boomsma stated that his client group consists of Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and his corporation, Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagena, Steve Hagena, LaRhon Hagena, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman.

Mr. Boomsma stated this his client group does withdraw its objection regarding Water Permit Application No. 8428-3; however, his client group specifically reserves their rights to pursue Knodel Contractors or Kelly Knodel under state law for any crop loss damages attributable to applicant's water discharge.

Mr. Lopour stated that there is currently no opposition to this application, and because of that, Knodel Contractors would ask the board to adopt Chief Engineer Gronlund's recommendations in full and grant the water permit application.

Mr. Gronlund stated that he had issued a revised recommendation December 31, 2020, for approval of Water Permit Application No. 8428-3, Knodel Contractors, LLC with the following qualifications:

1. Dewatering approved under Permit No. 8428-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner under this permit shall control withdrawals from the excavation so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the chief engineer annually the amount of water withdrawn from the Parker-Centerville aquifer.
3. Water Permit No. 8428-3 authorizes a total annual diversion of 795.46 acre feet of water from the Parker-Centerville aquifer.
4. No diversion may violate county or state ordinances or permits.

Chairman Hutmacher requested board action.

Motion by Comes, seconded by Dixon, to approve Water Permit Application No. 8428-3, Knodel Contractors, LLC subject to the qualifications set forth by the chief engineer. A roll call vote was taken, and the motion carried unanimously.

Mr. McVey stated that since the opposition was withdrawn, Findings of Fact and Conclusions of Law are not needed, but he will prepare an Order for Chairman Hutmacher's signature.

ADJOURN: Motion by Bjork, seconded by Holzbauer, to adjourn the meeting. A roll call vote was taken, and the motion carried unanimously.

A court reporter was present for the hearing and a transcript of the proceedings may be obtained by contacting Carla Bachand, Capital Reporting Services, PO Box 903, Pierre SD 57501, telephone number (605) 222-4235.

The meeting was also digitally recorded and the recording is available on the Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>.

Approved this 3rd day of March 2021.