



**DENR**  
SOUTH DAKOTA

**WATER MANAGEMENT BOARD  
Meeting on December 2, 2020**

Floyd Matthew Training Center  
Joe Foss Bldg., 523 E Capitol Ave, Pierre SD

**Due to COVID-19 and limited seating, any person(s) interested in speaking during the public comment period needs to contact the Department at (605) 773-3352 no later than 5:00 PM on Tuesday, December 1, 2020, if desiring to speak via remote connection.**

**Scheduled times are based on Central Time and are estimated start times.**

**Agenda items may be delayed due to prior scheduled items.**

Live audio of the meeting is available at <https://www.sd.net>

**December 2, 2020**

- 10:00 AM Call to Order  
Adopt Final Agenda  
Conflicts Disclosures and Requests for State Board Waivers  
Adopt October 7, 2020 Board Minutes  
2021 Tentative Dates for Regularly Scheduled Meetings:
- March 3-4; May 5-6; July 7-8; October 6-7; December 8-9
  - Set March 3-4, 2021 meeting location
- Status and Review of Water Rights Litigation  
Administer Oath to Department of Environment and Natural Resources Staff  
Update on DENR Activities
- Public comment period in accordance with SDCL 1-25-1
- Cancellation Considerations – Ron Duvall
- Future Use Reviews – Ron Duvall
- Consider Findings of Fact, Conclusions of Law, and Final Decision in the matter of:
- Water Permit Application No. 8413-3, Ratio LLC
- 10:30 AM Consider Amendment to Rules – Pat Snyder
- Article 74:51 Surface Water Quality
- 11:15 AM Consider Amendment to Rules – Kelli Buscher
- Article 74:52 Surface Water Discharge Permits
- LUNCH**
- 1:00 PM Water Permit Application No. 8428-3, Knodel Contractors LLC – Kim Drennon
- ADJOURN**

## **WATER MANAGEMENT BOARD**

### **Meeting on December 2, 2020**

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

## December 2, 2020

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

8428-3	Knodel Contractors	Freeman	TU	3.34 cfs	industrial	Parker-Centerville Aquifer	5 special
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### Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

1999-1	Rafter Properties LLC	Piedmont	MD	0.17 cfs	WDS	1 well-Inyan Kara Aquifer	wi, wcr, 2 special
7444A-3	Oscar Inc	Huron	SP	no add'l	no add'l	James River	iq, 2 special
8353A-3	Oscar Inc	Huron	SP	no add'l	no add'l	James River	iq, 2 special
8426-3	Dakota Line Dairy	Tulare CA	MA	0.67 cfs	commercial	3 wells-Sioux Quartzite	wi, 4 special
8435-3	Sioux City Insulation	Sioux City IA	UN	0.33 cfs	commercial	1 well-Missouri:Elk Point	wi, wcr, 1 special
8437-3	United Concrete Inc.	Harrisburg	LN	0.24 cfs	industrial	1 well-Sioux Quartzite Aqu	wi, 2 special
8438-3	Blooming Valley Dairy LLC	Brookings	GT	0.289 cfs	commercial	2 wells-Prairie Coteau Aqu	wi, wcr, 4 special
8439-3	Grant-Roberts RWS	Milbank	CD	1.58 cfs	RWS	6 wells-Antelope Valley Aqu	wi, 2 special
8440-3	Grant-Roberts RWS	Milbank	CD	767 AF	RWS	future use-Antelope Valley Aqu	3 special
8441-3	Smit Family Farms LLC	Hurley	TU	1.33 cfs	12 acres	1 well-Parker Centerville Aqu	wi, wcr, iq, 1 special
8442-3	Precision Capitol LLC SD	Brandon	MA	0.44 cfs	commercial	Split Rock Creek	lf
8443-3	Linde Dairy LLC	White	BG	0.67 cfs	commercial	3 wells-Big Sioux:Aurora Aqu	wi, wcr, 4 special
8444-3	Rosedale Httrn Brethren	Mitchell	HS	0.056 cfs	commercial	1 well-Codell Aquifer	wi, wcr, 4 special
8451-3	Gregory L Langeliers	Pollock	CA	0.30 cfs	21.13 acres	Missouri River	iq

### Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
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1688A-3	Lake Andes-Wagner Irrigation District	Armour	CM	96,000 AF	irr, mun, dom, fwp, ind	Missouri River	none
1262C-3	City of Canton	Canton	LN	674 AF	municipal	Dakota Aquifer	none

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

MINUTES OF THE 226<sup>TH</sup> MEETING OF THE  
WATER MANAGEMENT BOARD  
FLOYD MATTHEW TRAINING CENTER  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA

OCTOBER 7, 2020

CALL TO ORDER: Chairman Jim Hutmacher called the meeting to order at 10:00 a.m. Central Time. He 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, Rodney Freeman, Leo Holzbauer attended in person, and Tim Bjork, Chad Comes, Peggy Dixon and Bill Larson attended the meeting remotely.

Department of Environment and Natural Resources (DENR): Eric Gronlund, Ron Duvall, Adam Mathiowetz, John Farmer, Timothy Magstadt, and Vicki Maberry, Water Rights Program; Brian Walsh, Office of the Secretary; Kelli Buscher, Jill Riedel, and Patrick Snyder, Surface Water Quality Program; Kim McIntosh, Ground Water Quality Program.

Attorney General's Office: David McVey, board counsel; Ann Mines Baily, Water Rights Program counsel; Steve Blair and Jeffery Tronvold, counsel for the Ground Water Quality Program via remote connection.

Legislative Oversight Committee: Representative Mary Duvall.

Court Reporter: Jacque Weller, Black Hills Reporting.

Motions Concerning Renewal of Ground Water Discharge Plan GWD1-88, Wharf Resources' (USA), Inc. Ross Valley Waste Depository: Julie Santella, Rapid City, SD; Tonia Stands, Oglala, SD; Max Main, Belle Fourche, SD, counsel for Wharf Resources; all via remote connection.

Five Year Review of Fully Appropriated Aquifers: Reed Bixler, Hitchcock, SD, Tulare Western Spink Hitchcock aquifer.

Water Permit Application No. 8413-3, Ratio LLC: Patricia Moriarty and Robert Moriarty, St. Lawrence, SD; Todd Wilkenson, Kirk Aughenbaugh, and Adam Aughenbaugh, DeSmet, SD; and Nick Fitzgerald, Tipton, IA.

ADOPT FINAL AGENDA: Motion by Freeman, 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 JULY 8-9, 2020 BOARD MINUTES: Motion by Bjork, seconded by Freeman, to approve the minutes from the July 8-9, 2020, Water Management Board meeting. A roll call vote was taken, and the motion carried with Bjork, Freeman, Holzbauer, Larson, and Hutmacher voting aye. Comes and Dixon abstained.

DECEMBER 2-3, 2020 MEETING AND LOCATION: The next meeting is scheduled for December 2-3, 2020, in Pierre.

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 on the construction taking place in the Foss Building. There will be a receptionist in the lobby area of the building, and the area where staff are located will be by security code access. Two restrooms are also being constructed on the west side of the Matthew Training Center meeting room.

Mr. Gronlund stated that Governor Noem announced that she plans to merge the Department of Agriculture and the Department of Environment and Natural Resources. The Governor appointed current DENR Secretary Hunter Roberts to serve as Interim Secretary of the Department of Agriculture. During the first five days of the 2021 Legislative Session, the Governor will issue an Executive Order merging the two departments. Subject to legislative approval, ninety days after the Governor issues the Executive Order the merger becomes effective and the Department of Agriculture and Natural Resources will be established.

Mr. Gronlund noted that the merger will have very little effect on the duties of the Water Management Board. He answered questions from the board members.

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

REQUEST TO AMEND RULES: Kelli Buscher, administrator of the DENR Surface Water Quality Program, introduced Patrick Snyder and Jill Riedel who provided slide presentations and discussed a brief overview of proposed amendments to ARSD 74:52, Surface Water Discharge Permits and ARSD 74:51 Surface Water Quality. A copy of the slide presentation is attached at the end of the minutes.

Information on the proposed rule changes is available on the department's website.

Following the presentations, Ms. Buscher requested permission to advertise for a hearing to consider adoption of proposed amendments to the rules.

Motion by Motion by Freeman, seconded by Holzbauer, to authorize the department to advertise for a hearing to consider amendments to ARSD 74:52, Surface Water Discharge Permits and ARSD 74:51 Surface Water Quality. A roll call vote was taken and the motion carried unanimously.

MOTIONS CONCERNING RENEWAL OF GROUND WATER DISCHARGE PLAN GWD 1-88, WHARF RESOURCES (USA), INC. ROSS VALLEY WASTE DEPOSITORY: Chairman  
Hutmacher opened the hearing.

Following notice of DENR's recommendation that Wharf Resources' Ross Valley spent ore facility ground water discharge plan be renewed with conditions, petitions to contest and oppose the renewal application for the Ground Water Discharge Plan were filed by Julie Santella and Tonia Stands.

Assistant Attorney General Steve Blair, counsel for the DENR Ground Water Quality Program, and Max Main, counsel for Wharf Resources, both filed motions to dismiss.

Max Main, attorney from Belle Fourche, represented Wharf Resources.

Steve Blair and Jeffery Tronvold, Assistant Attorneys General, represented the DENR Ground Water Quality Program.

Julie Santella and Tonia Stands, petitioners, appeared pro se.

Chairman Hutmacher requested arguments on the Motion to Dismiss.

Mr. Blair stated that Wharf Resources submitted its renewal of the Ross Valley spent ore facility Ground Water Discharge Plan in November 2019. After the plan was reviewed and determined complete by department staff, a Notice of Recommendation was issued by Secretary Roberts. The Notice of Recommendation was published on August 1, 2020, and the deadline to file a petition for a contested case was August 31, 2020. During the late evening of September 1, 2020, the department electronically received petitions to contest and oppose the renewal of the Ground Water Discharge Plan from Julie Santella and Tonia Stands. The emailed petitions were marked received on September 2, 2020. Written petitions were received in the U.S. Postal Service mail on September 4, 2020.

Mr. Blair stated that the basis of the department's motion to dismiss is essentially that because the 30-day deadline expired on August 31, 2020, the period to file a timely petition had expired at the time the petitions were received from Ms. Santella and Ms. Stands. There are two parts to the Ground Water Discharge Plan for the Ross Valley Facility. One is the Ground Water Discharge Permit and the other is a Water Quality Variance. Both of those components have administrative rules that require petitions to be filed within 30 days of the Notice of Recommendation. Mr. Blair stated that Ms. Santella had filed a response to the department's Motion to Dismiss. He said he believes Ms. Stands also filed a response regarding the Motion to Dismiss, but he did not receive a copy of it.

Mr. Blair stated that in her response, Ms. Santella indicated that she had received email correspondence from Ron Duvall stating that the petition deadline was September 1, 2020. Mr. Blair said at the time he filed the department's motion, neither he nor anyone in the department was aware that this clerical error had been made in that email correspondence. He said the department does not dispute that the incorrect date was cited in the email, but even with that clerical error that does not trump the 30-day period in administrative rule. Both ARSD 74:54:02:08 and ARSD 74:54:02:12

include language that states that if the petition is not filed, the application for the Ground Water Discharge Plan becomes final without a hearing. Mr. Blair noted that in that email a link was provided to the Notice of Recommendation public notice. The public notice clearly indicates that there is a 30-day period from the time of publication to file petitions. The public notice also provides reference to applicable rules in ARSD 74:50 that the board follows for these Ground Water Discharge Plans.

Mr. Blair said it is the department's position that the petitions were untimely, even considering the clerical error that was made. He requested that the board dismiss the petitions.

Mr. Blair stated that if the department were to accept that the email clerical error extended the petitioning period, the department would still submit that the only correspondence that could fit within the timeline would be the emails received from Ms. Santella and Ms. Stands on the evening of September 1.

Mr. Blair said the department does not believe email is sufficient to file a petition with the board to initiate a contested case. He said ARSD 74:50:02, the contested case procedures, is silent on what is an acceptable method of filing a petition. ARSD 74:50:02:02 states that a person must file a petition for a contested case. ARSD 74:50:02:07 requires the original of the petition to be filed with the department, and ARSD 74:50:02:15 requires service of pleadings to be made by Certified Mail. Mr. Blair said the most reasonable interpretation of the rules is that a petition should be filed by U.S. mail. He said without a specific statute or rule allowing electronic service, it is the department's position that those emailed petitions that were submitted for filing on September 1, 2020, are not a valid form of filing a contested case petition. He stated that the department believes the petitions are untimely because the hard copies of the petitions are postmarked September 2 and were received by the department on September 4, 2020.

Max Main said he would join with the department to move to dismiss these petitions as being untimely. The Notice of Recommendation published on August 1, 2020, clearly states that the time in which to file a petition for a contested case hearing is 30 days. He stated that even the emailed petitions did not meet that timeline. The administrative rules provide that if there is no petition timely received, then the Ground Water Discharge Plan is approved. Mr. Main stated that these petitions must be dismissed because they were not timely received, and the Ground Water Discharge Plan is already in place.

Mr. Main stated that there is no rule that allows for filing of petitions by email. ARSD 74:50:02:07 says that the originals of all pleadings must be filed with DENR. He said that rule requires filing by mail, not filing by email.

Mr. Main requested that the petitions be dismissed.

Julie Santella stated that Mr. Duvall's email on August 3, 2020, stated that the comment deadline was September 1, 2020. She stated that 30 days from August 1 is September 1. Ms. Santella said she filed the petition via email on September 1, 2020, at 7:41 p.m., and she believes she fulfilled what she knew was required to contest the renewal application.

Ms. Santella said this intervention process is meant to be a way for DENR to invite public input, and she has heard DENR staff present say such on multiple occasions. She asked the board to recognize that, as a layman pro se intervenor and someone without legal training, she met the deadline given to her and fulfilled the requirements the best way she knew how. She requested that the board allow her petition.

Tonia Stands stated that she is an enrolled member of the Oglala Sioux Tribe who partakes in ceremonial practices around these water permits and works with tribal officials and South Dakota legislators to try to keep up with these permits. She said the process is not very network-oriented, so it is very difficult to get these permits attended to by the legislators or by tribal and spiritual leaders. Ms. Stands said she filed her petition within the 30-day timeline. She also stated that she did not see the Notice of Recommendation in any newspapers or on any of the social media websites that might offer that. She asked the board to allow her petition.

Mr. Blair stated that the only legal publication for these notices is in a newspaper, and the Affidavit of Publication from the Black Hills Pioneer was included in the pleadings. That is the only legal communication that triggers the notice period. The email that goes out from the department updating the public notices page is a courtesy email; not the legal notice. Anything that might be communicated on social media is also not the legal publication that triggers the petition period in these matters. The Black Hills Pioneer is the legal newspaper that this matter was required to be published in considering the geographic location of the Wharf mine, and that is the publication that is of concern in considering the triggering of the 30-day petition deadline.

Chairman Hutmacher requested board action.

Mr. Bjork stated that the board needs to be very careful when talking about electronic communications and whether or not they are valid or legal. He said considering all of the changes that are happening in this day and age, the board shouldn't say that these types of communications are not valid because the board would be setting a kind of precedent that may get them into trouble. He stated that as the board considers this, it should talk about the issue of whether or not the filing has been timely.

Chairman Hutmacher said there may be some adjustments that need to be made, but that is something the legislature is going to have to do. Mr. Bjork said he agreed.

Mr. Freeman stated that the rules clearly provide that if no petitions are received within 30 days after publication, the Ground Water Discharge Plan is automatically approved. He said the petitions were not received by August 31, which is the 30<sup>th</sup> day.

Motion by Freeman, seconded by Larson, to grant the Motions to Dismiss. A roll call vote was taken, and the motion carried unanimously.

Mr. Blair will prepare a proposed Order and distribute it to the parties.

FIVE-YEAR REVIEW OF FULLY APPROPRIATED AQUIFERS: Eric Gronlund reported that this hearing is for the five-year review of the two fully appropriated aquifers: the East James management unit of the Tulare Aquifer commonly known as the Tulare East James and the Western

Spink Hitchcock management unit of the Tulare Aquifer commonly known as the Tulare Western Spink Hitchcock.

The aquifers are located primarily in Beadle and Spink counties north of Huron. The Tulare East James is on the east side of the James River, and the Tulare Western Spink Hitchcock is on the west side of the James River.

#### Tulare East James Aquifer History

For all practical purposes, the aquifer was closed to new appropriations in 1981 largely due to declining water levels in area observation wells. There were essentially no new appropriations from the aquifer for over 20 years.

In 2003, the Water Management Board cancelled a water permit on land owned by Philip Hines. Mr. Hines subsequently filed a water permit application for 1 cfs for 91 acres of irrigation. The permit was denied, but the decision was reversed on appeal by the late Judge Max Gors. The message from that decision was that if the average estimated annual recharge is used, the average estimated annual withdrawals also needs to be used.

Additional applications were filed soon after which led to seven water permits being issued before DENR again began recommending denial of applications from the aquifer.

In 2012, a number of applications were filed. A reassessment of the aquifer was done by Ken Buhler, and it was found that 10 water permits totaling 1,759 acres could be issued. After again determining that the aquifer was fully appropriated, future applications were denied.

Mr. Gronlund stated that a total of 16,674 acres are currently authorized for irrigation.

#### Tulare Western Spink Hitchcock History

New permits were routinely being issued from the Tulare:Hitchcock and the Tulare:Western Spink aquifers. Numerous applications were filed in 2002 that lead to a hearing before the board in December 2002. At that time, the management units were combined to become the Tulare Western Spink Hitchcock aquifer, and permits for 2,654 acres were approved. The remaining applications were deferred. The board set forth a 5-year moratorium on issuance of new permits to allow the existing permits to be developed and to reassess the aquifer. The number of deferred applications grew to 37 and were brought back before the board in 2007 at which time they all were denied.

Applications were approved in 2012 for 810 acres of irrigation based on reassessment of the aquifer. In 2013, a total of 4,706 acres of irrigation were approved prior to the board determination of full appropriation.

As of 2020, there are 26,105 acres authorized from the Tulare Western Spink Hitchcock Aquifer.

Mr. Gronlund stated that the closing and re-opening of the two aquifers led to a question of fairness from landowners, Water Management Board members, Legislators and staff as it became viewed as a race to the front door to file an application if someone thought water was available. One landowner was even filing a reoccurring application.

This led to legislation that was passed by the Legislature during the 2014 Session. The legislation required a public notice providing notice of a thirty-day period for applications to be accepted and held for future consideration. Applications filed during this period were assigned a common priority date.

The Board then conducted a random selection process in May 2015 to establish a priority list to determine the order of eligibility if unappropriated water is determined to be available at a future date.

The legislation provided that at least every five years a public hearing be held to review the groundwater source to determine whether unappropriated water is available. The law calls for a review, as such, this is not a contested case.

Mr. Gronlund stated that notice of today's public hearing was published in the Aberdeen, Redfield, Miller and Huron newspapers. Notice was also provided to each applicant holding one or more applications on the priority list.

If water is determined to be available, the statute provides that the applications be processed in accordance with SDCL 46-2A until the board determines the groundwater source to again be fully appropriated. Any remaining applications stay on the priority list for future five-year reviews by the board.

Mr. Gronlund said the reason the board is here today is to conduct a five-year review of these two aquifers. Over the years, this board first saw Jim Goodman, then Ken Buhler present on behalf of DENR when water permit applications were filed. Both are respected engineers and experts in their field, and both are also retired.

Mr. Gronlund stated that John Farmer prepared the two reports that were included in the board packet. He noted that this is the first time staff has gone through the five-year review process, so it was a learning curve for them. Following this five-year review presentation, staff plans to discuss ways to enhance future reviews.

Mr. Gronlund said in his opinion, Mr. Farmer approached this much the same way a new water permit application is approached in determining whether unappropriated water is available. The board is charged with determining whether unappropriated water is available. The board has to weigh the foundational water right statute, SDCL 46-1-4, that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, with SDCL 46-6-3.1, which requires balance between the average estimated annual recharge and average estimated annual withdraw so that in the long-term more water is not being withdrawn than is recharged.

Mr. Gronlund stated that he would discuss his recommendation following Mr. Farmer's presentation.

Mr. Farmer provided a slide presentation and discussed his report on the five-year review of water availability in the Tulare East James Aquifer. He discussed the history, statutes, observation well analysis, potentiometric surface, hydrologic budget (recharge/withdrawals) and his conclusions. A copy of the report was included in the board packet and a copy of the slide presentation is attached to the minutes.

Mr. Gronlund stated that after reviewing the report on the status of the Tulare East James Aquifer he was unable to reach a conclusion that unappropriated water is available. This is based on evaluating the best information available regarding observation well data, reported withdrawals, and published recharge rates. While the observation wells indicate that the aquifer reacts to climatic conditions and has been at relatively high levels in relation to historical records, the last seven years indicates a decline following recent development in the aquifer. The hydrologic budget also showed that the estimated average annual withdrawal is greater than the recharge as modeled by Kuiper and the estimates made by Goodman & Buhler (7,950 and 7,827 ac-ft/yr).

Mr. Gronlund concluded that at this time there is not unappropriated water available from the Tulare East James Aquifer.

Mr. Farmer and Mr. Gronlund answered questions from the board.

Motion by Freeman, seconded by Bjork, to approve the report on the five-year review of the Tulare East James Aquifer and to maintain the appropriation as is for the next five years. A roll call vote was taken, and the motion carried unanimously.

Mr. Farmer provided a slide presentation and discussed his report on the five-year review of water availability in the Tulare Western Spink Hitchcock Aquifer. He discussed the history, statutes, observation well analysis, potentiometric surface, hydrologic budget (recharge/withdrawals) and his conclusions. A copy of the report was included in the board packet and a copy of the slide presentation is attached to the minutes.

Mr. Gronlund stated that he appreciates the work Mr. Farmer put into his five-year review of the Tulare Western Spink Hitchcock Aquifer. Mr. Farmer approached this much like he would when reviewing a new water permit application. The report relied on past information and studies as well as a detailed look into observation wells, application rates and utilization rates.

Mr. Gronlund said the report underwent a peer review by other Water Rights Program staff, and staff had spirited discussion with differing views on the position of whether unappropriated water is available.

Back in the early 2000's the hydrologic budget was primarily used for determining whether unappropriated water is available and the observation well records were used to gage the impacts. However, it transitioned to reliance on observation well records during the period when applications came before the board around the 2012 - 2013 period. This was largely due the board rule that observation well measurements be used when regulating water withdrawals and determining the availability of unappropriated water. However, importantly, that rule also includes the words "in addition to other data."

Mr. Gronlund said he recognizes DENR always emphasized needing to look at the entire period of record when making decisions. However, when the new appropriations are being developed, using the long-term observation well water levels is not fully representing the aquifer at its current state of development. This is the reason Mr. Farmer included in his report various periods of record.

Mr. Gronlund said a hybrid approach that includes a combined look at observation well records over the long term, shorter periods and the hydrologic budget is necessary today. He said there is a lot of information on this management unit of the Tulare aquifer in comparison to other water sources the Board deals with. The department does not have all the information it wants, and it is unlikely we will ever know everything. Mr. Gronlund said it comes down to making an engineering judgement and in doing so, views may differ.

State law requires a balance of SDCL 46-1-4 requiring water to be put to the fullest extent it is capable with SDCL 46-6-3.1, which provides that over the long-term we do not withdraw more than is recharged so the resource is maintained into perpetuity.

Mr. Gronlund said Mr. Farmer took a very conservative approach in using a 100% utilization rate in determining withdrawals from the aquifer. It is undeniable that the utilization rate for irrigation in the aquifer has risen, and Mr. Gronlund said he does not see it decreasing due to the technology that allows producers to better manage the land. However, he takes a somewhat more progressive approach in looking at the balance. He said he does not believe a 100% utilization rate will ever be attained. Also, in looking at the observation well records for the various period of records, he is of the opinion that they provide a representation that some unappropriated water may be available. Mr. Gronlund said taking this hybrid approach he believes, in his engineering judgement, that a limited quantity of unappropriated water is available.

He requested that the board make a finding that a limited quantity of unappropriated water is available in the Tulare Western Spink Hitchcock Aquifer.

Mr. Farmer and Mr. Gronlund answered questions from the board.

The board expressed concerns about not over-appropriating the aquifer. The board suggested waiting a few more years to see if water is available before granting any new water permits.

Motion by Freeman, seconded by Holzbauer, to approve the report and to maintain the appropriation as is for the Tulare Western Spink Hitchcock Aquifer for the next five years. A roll call vote was taken, and the motion carried unanimously.

UNOPPOSED NEW WATER PERMITS ISSUED BASED ON THE CHIEF ENGINEER RECOMMENDATIONS: Prior to the meeting the board received a copy of the table listing the unopposed new water permits issued by the chief engineer. (See attachment.)

WATER PERMIT APPLICATION NO. 8413-3, RATIO LLC: Chairman Hutmacher opened the hearing.

Todd Wilkinson, attorney from DeSmet, SD, represented Ratio, LLC.

Ann Mines Bailey, Assistant Attorney General, represented the Water Rights Program.

Patricia Moriarty, St. Lawrence, SD, petitioner appeared pro se.

The parties stipulated that the Water Rights Program present its case first.



The parties waived opening statements.

Ms. Mines Bailey offered DENR Exhibit 1, the administrative file. The exhibit was admitted into the record.

Timothy Magstadt, Engineer II with the DENR Water Rights Program, was administered the oath by the court reporter and testified regarding his report on Ratio, LLC. The report was included in the board packet.

Ms. Mines Bailey offered DENR Exhibit 2, the resume of Timothy Magstadt. The exhibit was admitted into the record.

Responding to questions from Ms. Mines Bailey, Mr. Magstadt testified that he graduated with a bachelor's degree in geological engineering from the South Dakota School of Mines and Technology and has been employed at DENR for about two years. Mr. Magstadt testified regarding his job responsibilities.

Mr. Magstadt testified that Water Permit Application No. 8413-3 is for commercial use of 77 acre-feet of water annually at a maximum instantaneous rate of 0.134 cubic feet per second (cfs) from two wells to be completed into the Niobrara aquifer (325-350 feet deep) or the Dakota aquifer (1,300–1,500 feet deep) for use in a swine production facility to be located approximately 10 miles southeast of Miller SD.

The applicant originally proposed using a glacial aquifer in the area. Mr. Magstadt conducted an initial review in that area and after looking at nearby lithologic logs and having the applicant drill a test hole, he deemed that the glacial aquifer in that area was not large enough to supply the applicant's needs. As a result, a test hole was drilled to see if the Niobrara was present in that area. After drilling they were not able to get past the Pierre Shale, which overlies the Niobrara Aquifer and, as such, it was not confirmed whether or not the Niobrara was present at that location. This application allows them to go down to the underlying Dakota Aquifer if, during the time of drilling, they do not have enough thickness in the Niobrara Aquifer.

The report references pending Permit Application Nos. 8416-3, 8421-3, and 8423-3. Mr. Magstadt pointed out that these permits have been approved since the writing of the report. Approval of those permits does not change his analysis, and the amounts appropriated were figured into his analysis as being used. On page 14 in paragraph 1, Observation Well "HD-85A" should be "HD-87A."

In response to questions from Ms. Mines Bailey, Mr. Magstadt testified that the Niobrara Aquifer is present primarily east of the Missouri River and is comprised of chalk, marl, and shale. In Hand County, the areal extent of the aquifer is estimated to be approximately 210,000 acres. There is no estimate of the amount of storage in the Niobrara Aquifer. The thickness of the Niobrara formation in this area is expected to be 25 to 100 feet. The Niobrara aquifer is expected to be under confined conditions in this area. Approximately five miles to the southwest there is an existing water right completed into the Niobrara Aquifer. At the time of completion, the well completion report noted a static water level, or in this case, artesian head pressure, of 130 to 180 feet.

Recharge to the Niobrara aquifer occurs through infiltration of snowmelt and precipitation and inflow from the Dakota and Codell aquifers. No studies have been done to calculate recharge for the Niobrara Aquifer. The best information available regarding recharge to the Niobrara Aquifer is the existing Observation Well Network. There are 57 observation wells in the Niobrara Aquifer. Mr. Magstadt reviewed all 57 observation wells, but he only included the two observation wells that are the nearest to the proposed diversion point in his report. Overall, the observation wells show that recharge to the Niobrara is greater than discharge. Withdrawals from this aquifer primarily occur due to evapotranspiration where the outcrop is near land surface, outflow to other aquifers and rivers, and well withdrawals. The total estimated withdrawal from the Niobrara Aquifer is 3,948 acre-feet yearly. The estimate is based on applications that were pending during that time, non-irrigation rights and permits, and irrigation rights and permits. For pending applications, it was assumed that they would use the entire permitted amount. Non-irrigation use was calculated assuming that application for water rights or permits that are limited by a diversion rate would pump their diversion rate 60% of the time and if they were limited by volume that they would use that entire volume every year. Irrigation water rights and permits were calculated using irrigation questionnaires that were submitted to the Water Rights Program. Currently, there are 83 water rights/permits appropriating water from the Niobrara aquifer. The nearest water right/permit completed into the Niobrara aquifer is approximately five miles to the southwest of the proposed diversion point. This water right is held by Sunshine Bible Academy, which is considered an institutional use. There are several domestic wells in the area. The closest domestic well on file with the Water Rights Program is approximately 1.5 miles to the northwest of the proposed diversion point. Given that there are glacial aquifers available at shallower depths, it would be unlikely for domestic wells to be completed into the Niobrara Aquifer in this area.

Mr. Magstadt concluded that unappropriated water is available from the Niobrara for this appropriation, and due to the estimated artesian head pressure in the area, distance to the nearest domestic user, and the nearest right or permit on file, unlawful impairment will not occur.

The Dakota Aquifer is present throughout South Dakota and is composed primarily of sandstone, quartz, and shale. The areal extent the Dakota Aquifer in Hand County it is estimated to be 912,640 acres. It is estimated that 22,245,600 acre-feet of water in storage is present in Hand County.

In Hand County it has been noted that the minimum of the Dakota Aquifer thickness is 200 feet and the maximum is 320 feet. In this area, the aquifer is confined and the artesian head pressure ranges between 970 feet to 1,230 feet.

Observation wells show that recharge to the Dakota Aquifer is greater than discharge. Recharge to the Dakota aquifer occurs through the infiltration of precipitation in areas of the Black Hills where the Newcastle Sandstone outcrops, leakage through confining layers, and by upward leakage from deeper aquifers. Recharge to the Dakota aquifer in its entirety has not been quantified. Mr. Magstadt stated that in the report he cites a model that takes into account the recharge that occurs through confining layers. The model estimated that 56,700 acre-feet per year was coming from confining layers. This is a "ballpark" number, and there are assumptions made with this model.

In addition to the model, Mr. Magstadt looked at observation wells completed into the Dakota Aquifer. The Water Rights Program monitors 46 observations wells completed into the Dakota Aquifer. Mr. Magstadt said he reviewed all 46 of the wells, but only included two wells in the report;

the nearest well to the proposed diversion point and a well that is an example of where the Dakota Aquifer is equilibrating. The observation well data overall shows that the Dakota Aquifer is in a state of equilibrating and that as the artesian head pressure in the aquifer drops, wells that are flowing to waste are no longer flowing. Over time these observation wells should eventually reach an equilibrium. Mr. Magstadt said the data indicates that unappropriated water is available.

Currently, the primary withdrawals from the Dakota Aquifer are leakage to confining layers, outflow where the Dakota Aquifer outcrops, uncontrolled flowing wells, outflow to adjacent aquifers, and well withdrawals. Mr. Magstadt stated that the total well withdrawals are estimated to be 24,485 acre feet per year. He estimated the Dakota Aquifer withdrawals by taking into account pending applications, non-irrigation rights and permits, irrigation rights and permits, and future use permits. For pending applications, it was assumed that they would use the entire permitted amount. Non-irrigation use was calculated assuming that application for water rights or permits that are limited by a diversion rate would pump their diversion rate 60% of the time and if they were limited by volume that they would use that entire volume every year. Irrigation water rights and permits were calculated using irrigation questionnaires that were submitted to the Water Rights Program. Future use permits were assumed to use their entire volume.

Based on the review of recharge and withdrawal, Mr. Magstadt's opinion is that unappropriated water is available for this diversion.

Mr. Magstadt also conducted an unlawful impairment review of the Dakota Aquifer. Currently, there are 238 water rights/permits completed into the Dakota aquifer. The nearest water right/permit completed into the Dakota aquifer is approximately nine miles to the north of the proposed diversion point and is for commercial use. There are several domestic wells in the area. The closest domestic well on file with the Water Rights Program is approximately 1.5 miles to the northwest of the proposed diversion point. Given the depth of the Dakota aquifer expected to be 1300 to 1500 feet and that there are glacial aquifers available at shallower depths, it would be unlikely for domestic wells to be completed into the Dakota Aquifer in this area. Mr. Magstadt concluded that there is a reasonable probability that the diversion proposed by this application will not unlawfully impact adequate wells for existing water rights and domestic use.

Mr. Magstadt stated that he reviewed the petitions filed by Patricia Moriarty, St. Lawrence, SD and Brian Caruso with the Fish and Wildlife Service.

Mr. Magstadt's understanding of the Fish and Wildlife concern is the potential drop in water levels of nearby lakes and water quality, if completed into the glacial aquifer. He stated that the application is no longer for a glacial aquifer, so this appropriation is unlikely to affect water levels in nearby lakes. Mr. Magstadt said the water quality concerns expressed by the Fish and Wildlife Service are out of the scope of his review and outside the area of his expertise.

Mr. Magstadt said based on the letter received from Patricia Moriarty, his understanding of her concerns to be the potential for depletion of her existing domestic water supply completed to a depth of 300 feet and a concern regarding water quality. Based on the lithologic log located approximately 0.14 miles to the northwest of Patricia Moriarty's home and based on the depth of her well indicated in the letter to be at 300 feet, Mr. Magstadt said he would consider that well completed into a glacial aquifer and, as such, this appropriation is unlikely to affect the water levels of the well. He said the

water quality concerns expressed by Ms. Moriarty are out of the scope of his review and outside the area of his expertise.

This concluded questioning by Ms. Mines Bailey.

Mr. Wilkenson had no questions of Mr. Magstadt.

Ms. Moriarty stated that she has a 300 foot well and a 1,600 foot well. She asked if this application would affect the 1,600 feet well.

Mr. Magstadt stated that given that the well is 1,600 feet, he would assume that the well is completed into the Dakota Aquifer. In this area with the artesian head pressure and the distance to the proposed diversion point, he would not expect the well to be unlawfully impaired.

Ms. Moriarty said she has trouble watering livestock with the two wells, so she would hate for the proposed wells to impede her water by Ratio LLC taking so much water out of the aquifer. She asked what happens in a dry year.

Mr. Magstadt answered that Ms. Moriarty may have to lower the pump in the well if it is not far enough into the Dakota Aquifer. As to a loss in hydraulic head, he would not expect a significant loss due to the proposed diversion.

Ms. Moriarty said Ratio LLC plans to withdraw 40,000 gallons per day. She asked if this is the maximum amount they can take out per day. Mr. Magstadt said if that converts to 0.134 cfs.

Ms. Moriarty asked if there will be a meter on the wells. Mr. Magstadt said he does not believe Ratio LLC will be required to meter the wells, but when a pump is installed, that pump has to be capable of only diverting the amount that is allowed in the permit if he was understanding that correctly.

There were no questions from the board members.

Ms. Mines Bailey called Eric Gronlund who had previously been administered the oath.

Responding to a question from Ms. Mines Bailey, Mr. Gronlund, chief engineer, testified that he recommended approval of the application. He noted that in his recommendation, which was included in the board packet, the word "well" should be "wells" in Qualification Nos. 1, 2, and 3. In the first line of Qualification No. 2, "single" should be "the same."

There were no other questions of Mr. Gronlund.

Mr. Wilkenson called Kirk Aughenbaugh who was administered the oath by the court reporter.

Mr. Wilkenson offered Applicant Exhibits A, B, and C, slide presentations.

Responding to questions from Mr. Wilkenson, Mr. Aughenbaugh testified that he is one of the members of Ratio, LLC, and he submitted the water permit application. He testified regarding Exhibit A, which is a slide presentation showing the location of the proposed Ratio, LLC sow farm,

residential setback distances, the approved site plan, what is included in the sow farm, the reasons Ratio LLC chose South Dakota, the benefits to South Dakota communities, the indirect benefits, a summary of Ratio, LLC and the proposed project, and community involvement.

Mr. Aughenbaugh testified that the farm is located approximately 9.7 miles south/southeast of Miller, SD in Pearl Township. The proposed farm exceeds the residential setbacks of two miles. The nearest resident is approximately 2.75 miles from the farm. Farm distance from surface water exceeds the setback of 660 feet. The distance from the south lake is 772.51 feet, and the distance from the north lake is 1,079.35 feet. Stockwell Engineering and Pipestone designed the state-of-the-art facility. The multiplier site plan includes a farrowing barn, gestation barn, and a GDU barn. The sow farm includes five buildings that are engineered with the newest technology. The buildings include a gestation barn, a farrowing barn, a gilt growing barn, a compost building, and a small storage shed. There will be a cafeteria and breakroom on the farm for the employees. The estimated state and local economic impact totals nearly \$3 million annually. Indirect benefits include 18 full-time employment opportunities, utilities and services used on the farm, and feed purchases increasing local demand for grains rather than relying on exports.

Mr. Aughenbaugh testified Pipestone sow unit projects improve farmers competitiveness in today's global market. They are owned by independent family farms and provide good jobs with career paths in agriculture for folks in rural communities. Organic nutrients improve local farmers' yields and cost efficiency, local grain basis for farmers, and increase local and state tax revenues.

Mr. Aughenbaugh stated that the Pipestone Cares Program donated \$100,000.00 to farm communities last year. Over the last two years, Pipestone's "Give a Helping Ham" campaign has given 150,000 pounds of pork to Feeding South Dakota.

Responding to questions from Mr. Wilkenson, Mr. Aughenbaugh stated that this is a deep pit unit. Ratio, LLC went through the permitting process with DENR, and the facility is permitted for 9,060 animals. Ratio, LLC also applied for and was granted a Conditional Use Permit from the local county planning and zoning office. One of the conditions in the permit is the availability of water to serve the facility. Ratio, LLC intends to obtain the water through either the Niobrara Aquifer or the Dakota Aquifer. Mr. Aughenbaugh stated that Ratio, LLC will not be obtaining water from the glacial aquifer. Regarding water quality in the area, Mr. Aughenbaugh said all the manure will be contained within the facility, and the manure will be knifed in. Ratio, LLC understands and acknowledges that the wells will be constructed in accordance with state well requirements.

Exhibits B and C include various South Dakota well and test hole plugging reports. Mr. Aughenbaugh stated that the use of the water for this facility will be a beneficial use.

Responding to questions from Ms. Moriarty, Mr. Aughenbaugh stated that the holding tank for the manure is made of cement. The holding tank has been designed to the standards that have been put forth for this operation.

Ms. Moriarty stated that over time cement tends to crack, so whatever is in the tank will leak. She asked if there will be a liner in the tank. Mr. Aughenbaugh asked that the question be presented to Nick Fitzgerald with Pipestone.

Ms. Mines Bailey had no questions.

Responding to questions from Mr. Holzbauer regarding the manure and roads, Mr. Aughenbaugh stated that the storage capacity for the manure exceeds one year. All of the acres in the nutrient management plan are contiguous, so no public roads will be used to haul the manure; large hoses will be used. A road haul agreement with the county is in place to use the county road to haul hogs, feed, etc. in and out of the facility.

Mr. Wilkenson called Nick Fitzgerald, Pipestone, who was administered the oath by the court reporter.

Responding to questions from Mr. Wilkenson, Mr. Fitzgerald testified that the storage for the manure at this facility is a deep structure and it is a zero-discharge facility. The holding tanks for the manure are ten feet deep pits, which exceed the DENR requirements in terms of storage capacity. Twelve months of storage is designed for this farm. This farm is engineered per state standards.

Mr. Fitzgerald stated that regarding the question asked of Mr. Aughenbaugh regarding the cement cracking, Stockwell Engineering is the firm that was deployed for this project, and he cannot speak to the cracking of the concrete. He said the state has set design standards for this type of facility, and the Ratio, LLC facility will meet or exceed all the design standards. This site passed all soil boring requirements.

Ms. Moriarty asked if there is a liner in the storage pit and what will happen when the cement cracks and leaks. Mr. Fitzgerald stated that there is no liner within the cement storage pit. This facility is engineered and designed to meet or exceed all state and local requirements. Ms. Moriarty asked what will happen when the cracks and how will Ratio, LLC know that the manure is leaking out of the pit. Mr. Fitzgerald stated that as the management company, Pipestone is responsible for providing an operation and maintenance program, which includes daily, weekly, and monthly observations both inside and outside of the facility. Ms. Moriarty said when it leaks it will go into the groundwater, into the well, and into the lakes. She asked how that will be addressed. Mr. Fitzgerald answered that this facility is designed to meet or exceed all state and local requirements. Ms. Moriarty stated that someone who wished to remain anonymous told her that it's not, if it's going to leak, it's when it's going to leak. She said she does not know how Pipestone is going to be able to protect the water source when it starts leaking. Mr. Fitzgerald said he is not aware of the particular situation Mr. Moriarty is referring to. Ms. Moriarty said the person is someone that has been around these things before, and apparently the person knows that they do leak.

Mr. Wilkenson objected to the form of Ms. Moriarty question as someone anonymous is not present is asking the question. The objection was overruled by Chairman Hutmacher.

Ms. Moriarty said cement does crack so she would like to know how Pipestone will fix that problem when the storage pit cracks. Mr. Fitzgerald stated that as part of Pipestone's procedures, daily, weekly, and monthly monitoring with the operation and maintenance logs were submitted as part of the permitting process, and it is up to Pipestone to complete those tasks. Ms. Moriarty asked how Pipestone is going to inspect the storage pit if it is full of manure, and how they would know if the cement is cracking at the bottom of the pit if it is full of manure. Mr. Fitzgerald answered that the facility is designed to meet or exceed all of the state and local requirements, and he is not aware of a

situation with any of Pipestone's farms where that has been an issue. The first farm was constructed in 1989 and all the farms are still in operation.

Ms. Mines Bailey had no- questions.

In response to questions from Mr. Holzbauer, Mr. Fitzgerald stated that there are monitoring wells near the storage pit that can be used to detect leaks.

Patricia Moriarty was administered the oath by the court reporter. She testified that she lives two miles east of the site. She and her husband are concerned about the reduction in water because they have trouble getting enough water at times to water everything. One of Ms. Moriarty's neighbors installed an artesian well which, after four or five hours, pumps mud. She said wells need to be monitored because manure will seep down into the well. Ms. Moriarty said she has concerns about modern-day cement and she is concerned that the manure will leak into the aquifer and in her well. She said there are abandoned wells on this property, and she does not know if they have been plugged or not. She is concerned about possible contamination with those wells also.

Neither Mr. Wilkenson nor Ms. Mines Bailey had questions from Ms. Moriarty.

Responding to a question from Mr. Holzbauer, Ms. Moriarty stated that the abandoned wells are located on old farm sites. Mr. Holzbauer stated that the abandoned wells are required by law to be plugged properly, so that should have been done.

Chairman Hutmacher stated that he believes Exhibits B and C include well and test hole plugging reports for the wells Ms. Moriarty is talking about.

The parties offered closing statements. Ms. Mines Bailey and Mr. Wilkenson requested that the board grant the water permit with qualifications. Ms. Moriarty stated that the chief engineer recommended approval because this is in the public interest. She said this is an out-of-state private company and a private landowner and the majority of the pigs, when slaughtered, will be sent to foreign countries like China. She asked how that will benefit South Dakota, especially local people that must live near the facility and face problems with water quality and quantity.

Chairman Hutmacher requested board action.

Motion by Freeman, seconded by Dixon, to approve Water Permit Application No. 8413-3, Ratio, LLC, subject to the qualifications set forth by the chief engineer, as modified during the chief engineer's testimony. A roll call vote was taken, and the motion carried unanimously.

Ms. Mines Bailey will prepare proposed Findings of Fact and Conclusions of Law and provide them to the parties by November 10, 2020. Alternative Findings of Fact and Conclusions of Law or objections are due by November 20, 2020.

CANCELLATION CONSIDERATIONS: Prior to the meeting, the board members received the board packet, which included a table listing the proposed cancellations, the notices of cancellation, and the chief engineer's recommendations. Ron Duvall pointed out the following correction to the cancellation table: Water Permit "8234-3" should be "8284-3."

Mr. Duvall reported that once a water right/permit is approved, the right/permit holder has five years to construct it. Once it is constructed, the Water Rights Program inspects it, a license is issued, and if the permit holder continues to use the water, the water right/permit lasts forever. Cancellation is possible due to non-construction, abandonment, or forfeiture.

Mr. Duvall presented the 20 water rights/permits that were scheduled for cancellation. The owners were notified of the hearing and the reason for cancellation. The department received no comments or letters in response to the notices of cancellation.

None of the right/permit holders were present at the meeting.

The following water rights/permits were recommended for cancellation for the reasons listed.

#### **DIVISION I WATER RIGHT AND VESTED WATER RIGHT**

<b>Number</b>	<b>Original Owner</b>	<b>Present Owner(s) &amp; Other Persons Notified</b>	<b>Reason</b>
RT 1163-1	Town of Buffalo	Same (% Deb Johnson, Finance Officer & Ryan Smith, PWD)	Abandonment/Forfeiture
VR 1178A-1	Town of Buffalo	Same (% Deb Johnson, Finance Officer & Ryan Smith, PWD)	Abandonment/Forfeiture

#### **DIVISION II WATER PERMIT AND WATER RIGHT**

<b>PE 1343-2</b>	Maurice Fite	Maurice Fite & Jim Wheeler	Abandonment
<b>RT 1905-2</b>	Black Hills Jellystone RV Park	Black Hills Power Inc (% Scott A Buchholz)	Abandonment

#### **DIVISION III WATER PERMITS AND WATER RIGHTS**

<b>RT 1910B-3</b>	Arthur Kneen	Lowell Wormstadt	Abandonment/Forfeiture
<b>RT 1961C-3</b>	Yankton Missouri River KOA	Same (% Don Starzl)	Abandonment/Forfeiture
<b>RT 2698-3</b>	John Collins	Josh Spilde	Abandonment/Forfeiture
<b>RT 2982A-3</b>	David Simons	Same	Abandonment/Forfeiture
<b>RT 4354-3</b>	City of Mitchell	Same (% Kyle Croce, PWD; Michelle Bathke, FO; Bob Everson, Mayor)	Abandonment/Forfeiture
<b>PE 4441-3</b>	Steve Sayler	Same	Abandonment/Forfeiture
<b>RT 4790-3</b>	Henry J Niemann	Collin Niemann	Abandonment/Forfeiture



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<b>PE 7008A-3</b>	Roger Hanson	Roger Hanson & Milan Hanson	Non-construction
<b>PE 7009A-3</b>	Roger Hanson	Roger Hanson & LaRue Hanson	Non-construction
<b>PE 7456-3</b>	Lucas Family Investments	Same (% Robert Lucas)	Non-construction
<b>PE 7650-3</b>	Mark or Nancy Lueck	Same	Non-construction
<b>PE 7651-3</b>	Mark or Nancy Lueck	Same	Non-construction
<b>PE 7654-3</b>	Darren Deckert	Same	Non-construction
<b>PE 8139-3</b>	Joe Pechous	Same	Non-construction
<b>PE 8284-3</b>	Berg Farms LLC	Same (% Luke Berg)	Abandonment
<b>PE 8356-3</b>	City of Sioux Falls	Same (% Mark Cotter, PWD; Andrew Berg)	Abandonment

Motion by Freeman, seconded by Bjork, to accept the chief engineer's recommendations for cancellation of the 20 water rights/permits for the reasons listed. A roll call vote was taken, and the motion carried unanimously.

**FUTURE USE REVIEWS:** Included in the board packet the board members received prior to the meeting was a table listing nine future use permits up for a seven-year review. Mr. Duvall reported that certain entities, such as water distribution systems for municipalities and rural water systems, can reserve water for future needs.

State law requires future use permits to be reviewed by the Water Management Board every seven years, and it requires the permit holder to demonstrate a reasonable need for the future use permit.

Included in the board packet were letters from the entities requesting that they be allowed to retain their future use permits, the Chief Engineer's recommendations, and the Affidavits of Publication showing that today's hearing was public noticed. No letters in opposition were received in response to the public notices.

The chief engineer recommended that the following Future Use permits remain in effect for the amounts listed.

<b>No.</b>	<b>Name</b>	<b>Amount Remaining in Reserve</b>	<b>Source</b>
369-1	City of Belle Fourche	2,478 AF	Spearfish Creek alluvium, Madison & Minnelusa

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427-3	City of Mitchell	5,765 AF	Firesteel Creek
747-3	City of Madison	1,033 AF	Big-Sioux:Northern Skunk Ck
1289-3	City of Garretson	235 AF	Sioux Quartzite Aquifer
3142-3	City of Mitchell	5,765 AF	Missouri River
4051-3	Town of Florence	38 AF	Prairie Choteau Aquifer
4053B-3	Town of South Shore	192 AF	Antelope Valley Aquifer
5643-3	Kingbrook RWS	425 AF	Big-Sioux:Northern Skunk Ck
6705-3	TM RW District	210 AF	Upper Vermillion:Missouri
7853-3	Sioux RWS	2,400 AF	Big Sioux:Brookings

Motion by Holzbauer, seconded by Dixon, that the future use permits remain in effect for the amounts listed. A roll call vote was taken, and the motion carried with Bjork, Dixon, Freeman, Holzbauer, Larson, and Hutmacher voting aye. Comes abstained.

WATER PERMIT APPLICATION NO. 8344-3. CITY OF LAKE NORDEN: Mr. Gronlund reported that the city of Lake Norden in Hamlin County applied for a water permit application to appropriate 1,458 acre feet of water at a diversion rate of 2.11 cfs (950 gpm). The application was filed based on their current wellfield being high in iron and manganese. The wellfield is completed into the Big Sioux:Brookings aquifer.

Early in the department's review of the application, the new water source was determined to be the Prairie Coteau aquifer. The Prairie Coteau aquifer is a discontinuous aquifer and made up of many glacial deposits. In this instance, there was not sufficient information on the aerial extent of the deposit to determine if unappropriated water is available or the potential impact on existing water rights.

In discussions with the city's consultant, a decision was made to conduct an aquifer performance or pump test to learn more about the aquifer. A recommendation was made for deferral for further study prior to the staff report being prepared. The application was public noticed for today's hearing with a deferral recommendation. No one petitioned to intervene in the hearing process.

Since the time of the public notice, Lake Norden hired a consultant to conduct an aquifer performance test, and last week the department received a report from the consultant. The department is now conducting a review and will prepare a standard report for the board. It is anticipated this matter will be presented to the Board at its December meeting.

Mr. Gronlund recommended that the board defer the application for further study.

Motion by Freeman, seconded by Holzbauer, to defer Water Permit Application No. 8433-3, City of Lake Norden. A roll call vote was taken, and the motion carried unanimously.

Mr. Comes departed from the meeting at 3:15 p.m.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION IN THE MATTER OF WATER PERMIT APPLICATION NO. 8409-3, SCHLEY FARMS & SCHLEY REAL ESTATE, LLP: David McVey, Assistant Attorney General, stated that applicant's proposed Findings of Fact and Conclusions of Law were submitted by Mr. Taylor. Objections to the applicant's proposed Findings of Fact, Conclusions of Law, and Final Decision and the chief engineer's proposed Findings of Fact, Conclusions of Law and Final Decision were submitted by Ms. Mines Bailey.

Mr. McVey stated that in compliance with SDCL 1-26-25, the proposed Findings of Fact, Conclusions of Law are accepted, modified or rejected as follows:

Applicants Proposed Findings of Fact and Conclusions of Law: The proposed facts set forth in paragraphs 2, 9, 11, 12, 14-16, 19, 21-29, and 31- 37 are accepted.

The proposed facts set forth in paragraphs 1, 3-8, 10, 13, 17, 18, 20, and 30 are accepted as modified herein.

Water Rights Proposed Findings of Fact and Conclusions of Law: The proposed facts set forth in paragraphs 1, 2, 4, 5, 7, 8, 11, 14-37 are accepted.

The proposed facts set forth in paragraphs 3, 6, 10, 13 are accepted as modified herein.

No facts proposed by the Water Rights Program were fully rejected.

Application No. 8409-3 is granted subject to the following permit qualifications:

1. Water Permit No. 8409-3 authorizes an impoundment with a storage capacity of 22 acre-feet of water on Mud Creek.
2. The permit holder shall install a low flow bypass mechanism in the dam.
3. Low flows as needed for downstream domestic use, including livestock water and prior rights must be by-passed. The bypass during periods of low flow is only required to the extent that there is inflow upstream of the dam. The permit holder is not required to bypass stored water if there is not inflow into the dam.

Mr. McVey noted that his proposed Findings of Fact, Conclusions of Law, and Final Decision incorporates the chief engineer's recommendations.

Motion by Freeman, seconded by Larson, to adopt the Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit Application No. 8409-2, Schley Farms & Schley Real Estate, LLP, as proposed by board attorney McVey. A roll call vote was taken, and the motion carried with Bjork, Freeman, Holzbauer, Larson, and Hutmacher voting aye. Dixon abstained and Comes was absent.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION IN THE MATTER OF WATER PERMIT APPLICATION NO. 2805-2, R & J, LLC: Mr. McVey stated that the proposed Findings of Fact, Conclusions of Law, and Final Decision was prepared by Ms. Mines Bailey. Mr. McVey received no objections or alternative Findings of Fact, Conclusions of Law, and Final Decision.

The final decision states that the board enters its determination that Water Permit Application No. 2805-2 is granted with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 2805-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Crystalline Rock aquifer.
4. Water Permit No. 2805-2 authorizes a total annual diversion of 4.0 acre foot of water.

Mr. Bjork stated that a suggested revision was submitted by Lon Buehner. He asked if any action is being considered on Mr. Buehner's suggestions about the potential lack of water rights or the over-use of water in some of these areas.

Mr. McVey did not receive a copy of Mr. Buehner's letter prior to the meeting. Chairman Hutmacher called for a break while Mr. McVey read Mr. Buehner's letter.

Mr. McVey stated that during the break he reviewed the suggested revisions submitted by Mr. Buehner, and he would construe Mr. Buehner's submittal as more of a closing argument than a set of proposed facts and conclusions, and there are no additional proposed facts which would need to be addressed.

Mr. Buehner's suggested change to Qualification No. 3 is as follows: That the permit holder shall measure the amount of water withdrawn from the wells completed into the Crystalline Rock Aquifer. The amount of water withdrawn shall be reported to the chief engineer on June 1, August 1, and the closing date of the RV park season each year.

Mr. McVey stated that the existing qualification states that the permit holder shall report to the chief engineer annually, so essentially, Mr. Buehner is proposing triple reporting by R & J.

Mr. Bjork stated that Mr. Buehner makes some significant accusations in his letter. He asked if the Water Rights Program planned to look at the accusations that Mr. Buehner has made about the lack of water rights or the over-use of water. Mr. Gronlund stated that letters will be sent to the businesses that Mr. Buehner indicates do not have a water right. The letters will ask for the water source and whether the business holds a water right associated with the water use, and if not, a water permit application will be provided.

Motion by Freeman, seconded by Larson, to adopt the Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit Application No. 2805-2, R & J, LLC, as proposed by board attorney McVey. A roll call vote was taken, and the motion carried with Bjork, Dixon, Freeman, Holzbauer, Larson, and Hutmacher voting aye. Comes was absent.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION IN THE MATTER OF WATER PERMIT APPLICATION NO. 1992-1, TOWN OF BUFFALO: Mr. McVey stated that the proposed Findings of Fact, Conclusions of Law, and Final Decision were prepared by Ms. Mines Bailey. No alternative proposed Findings of Fact, Conclusions of Law, and Final Decision were submitted.

The final decision states that the board enters a determination that Water Permit Application No. 1992-1 is granted with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 1992-1 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Hell Creek aquifer.
4. Water Permit No. 1992-1 authorizes a total annual diversion of 82 acre foot of water.

Motion by Freeman, seconded by Bjork, to adopt the Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit Application No. 1992-1, Town of Buffalo. A roll call vote was taken, and the motion carried with Bjork, Dixon, Freeman, Holzbauer, Larson, and Hutmacher voting aye. Comes was absent.

ADJOURN: Motion by Freeman, seconded by Holzbauer, to adjourn the meeting. Motion carried.

A court reporter was present for the hearings, and a transcript of the proceedings may be obtained by contacting Jacqueline K. Perli Reporting, Inc., dba Black Hills Reporting, 1601 Mt. Rushmore Road, #3280, Rapid City, SD 57701, telephone number (605) 721-2600.

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

Approved this \_\_\_\_ day of December 2020.

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Water Management Board

# WATER MANAGEMENT BOARD MEETING

October 7, 2020

<b>Qualifications:</b> wi - well interference wcr - well construction rules iq - irrigation questionnaire lf - low flow
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## Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

No.	Name	Address	County	Amount	Use	Source	Qualifications
1995-1	Black Hawk Water User Dist.	Black Hawk	MD	1,300 AF	future use	Madison Aquifer	3 special
1997-1	Bear Butte Valley Water Inc	Sturgis	MD	0.89 cfs	rws	1 well-Madison Aquifer	wi, 3 special
1998-1	Dakota Cable Solutions	Black Hawk	MD	0.11 cfs	com/industrial	1 well-Madison Aquifer	wi, 3 special
2812-2	Canyon Springs Sanitary Dist	Rapid City	PE	0.22 cfs	wds	1 well-Madison Aquifer	wi, wcr, 3 special
8427-3	L. G. Everist Inc	Sioux Falls	MA	3.56 cfs	commercial	pond/dugout	3 special
8429-3	Norman Thorstenson	Selby	CA	1.78 cfs	60 acres	1 well-Grand Aquifer	wi, wcr, iq, 1 special
8430-3	Laverne Neuharth	Eureka	MP	0.89 cfs	66 acres	1 well-Spring Creek McPherson	wi, iq
8431-3	Hillcrest Golf & Country Club	Yankton	YA	1.89 cfs	27 add'l ac	3 wells-Lower James:Missouri	wi, iq, 2 special
8432-3	City of Pierre	Pierre	HU	4480.6 AF	municipal	Missouri River	1 special
8434-3	Dahlerup Family Trust	Yankton	YA	no add'l	129 acres	1 well-Lower James:Missouri	wi, iq
8436-3	New Fashion Pork	Jackson MN	MR	0.06 cfs	commercial	1 well-Floyd:East James	wi, wcr, 4 special

## Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
369-1	City of Belle Fourche	Belle Fourche	LA	2,478 AF	municipal	Spearfish Creek alluvium, Madison & Minnelusa	none
427-3	City of Mitchell	Mitchell	DN	5,765 AF	municipal	Firesteel Creek	none
747-3	City of Madison	Madison	LK	1,033 AF	municipal	Big-Sioux:Northern Skunk Ck	none
1289-3	City of Garretson	Garretson	MA	235 AF	municipal	Sioux Quartzite Aquifer	none
3142-3	City of Mitchell	Mitchell	DN	5,765 AF	municipal	Missouri River	none
4051-3	Town of Florence	Florence	CD	38 AF	municipal	Prairie Choteau Aquifer	none
4053B-3	Town of South Shore	South Shore	CD	192 AF	municipal	Antelope Valley Aquifer	none
5643-3	Kingbrook RWS	Arlington	KG	425 AF	rural water	Big-Sioux:Northern Skunk Ck	none
6705-3	TM RW District	Parker	TU	210 AF	rural water	Upper Vermillion:Missouri	none
7853-3	Sioux RWS	Watertown	CD	2,400 AF	rural water	Big Sioux:Brookings	none

**CANCELLATIONS – December 2, 2020**

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 PERMITS**

<b>PE 1707B-1</b>	City of Spearfish, SD	Michael Harmon, City Admin. Miles Burtzlaff, Water Supt., both w/City of Spearfish	LA	233.5 AF (1.035 cfs)	SHD COM DOM	NC	Ground water Madison Aquifer	10-28-2020	
<b>PE 1707C-1</b>	City of Spearfish, SD	Michael Harmon, City Admin. Miles Burtzlaff, Water Supt., both w/City of Spearfish	LA		MUN	NC	Ground water Madison Aquifer	10-28-2020	
<b>PE 1707D-1</b>	City of Spearfish, SD	Michael Harmon, City Admin. Miles Burtzlaff, Water Supt., both w/City of Spearfish	LA		MUN	NC	Ground water Madison Aquifer	10-28-2020	

- No. 1707B-1 contained the authorization to divert of up to 233.5 AF of water;
- No. 1707C-1 changed the use to municipal – no additional water;
- No. 1707D-1 authorized an extension of time for construction and placement of water to beneficial use – no additional water

**DIVISION III WATER RIGHTS AND FUTURE USE PERMIT**

<b>RT 1237-3</b>	Rolland Vander Pol	G & M Land LLC % Galen and Monica Vander Pol	CM	1.14	IRR	A/F	Ground water Choteau West Aquifer	10-28-2020	
<b>RT 1395-3</b>	Rolland Vander Pol	G & M Land LLC % Galen and Monica Vander Pol	CM	1.14	IRR	A/F	Ground water Choteau West Aquifer	10-28-2020	
<b>FU 3977-3</b>	City of Flandreau	City of Flandreau, % Jeff Pederson, City Admin. and Karen Gundvaldson, FO	MY	830 AF	MUN	A	Ground water Big Sioux Moody Aquifer	10-28-2020	
<b>RT 5055-3</b>	Willow Run Management Company	Willow Run Golf Course % Barry Anderson; G L Management Co. % Thomas Walsh Sr	MA	1.01	IRR	A	Big Sioux River	10-28-2020	

**ABBREVIATIONS**

**PAGE 1**

<b>N/C = NON-CONSTRUCTION</b>	<b>A/F = ABANDONMENT OR FORFEITURE</b>	<b>A = ABANDONMENT</b>	<b>F = FORFEITURE</b>
<b>FU = FUTURE USE PERMIT</b>	<b>VR = VESTED WATER RIGHT</b>	<b>PE = WATER PERMIT</b>	<b>RT = WATER RIGHT</b>
<b>IRR = IRRIGATION</b>	<b>GEO = GEOTHERMAL</b>	<b>COM = COMMERCIAL</b>	<b>MUN = MUNICIPAL</b>
<b>INS = INSTITUTIONAL</b>	<b>GWR = GROUND WATER REMEDIATION</b>	<b>DOM = DOMESTIC</b>	<b>IND = INDUSTRIAL</b>



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**DEPARTMENT of ENVIRONMENT  
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JOE FOSS BUILDING  
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October 28, 2020

**NOTICE OF CANCELLATION**

**TO:** Michael Harmon, City Administrator, City of Spearfish, 625 5th St, Spearfish SD 57783

Miles Burtzlaff, Water Supt., City of Spearfish, 625 5th St, Spearfish SD 57783

**FROM:** Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
Water Rights Program

**SUBJECT:** Cancellation of Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1

Water Permit No. 1707B-1 authorized a total appropriation of 233.5 acre feet of water from ground water (4 wells) in the Madison Aquifer to be used for suburban housing development, commercial and domestic use purposes for the City of Spearfish. Permit No. 1707C-1 was obtained to change the uses of water to municipal purposes. Permit No. 1707D-1 extended the time to complete construction of works and the length of time allowed to put water to beneficial use to December 6, 2010 and December 6, 2013 respectively.

On October 27, 2020, information was received from Miles Burtzlaff indicating the authorized wells into the Madison Aquifer have not been drilled. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1 due to non-construction. The time to construct works expired in 2010.

The Water Management Board will consider cancellation of Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1 at **10:00 am, Wednesday, December 2, 2020** (Central Time) in the Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate and the actual time of hearing may be later*).

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1 based upon facts presented at the public hearing. If you wish to oppose the cancellations 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 November 23, 2020. 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-8; 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 November 23, 2020.

Prior to November 23, 2020, 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 November 9, 2020.



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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER PERMIT NOS. 1707B-1, 1707C-1 AND 1707D-1, CITY OF SPEARFISH**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1.

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

The water permits collectively authorized a total appropriation of 233.5-acre feet of water annually from the Madison Aquifer. No. 1707D-1 authorized an extension of time to complete the project and put water to beneficial use. Construction of the project, including drilling of the wells was to be completed by December 2005 with water placed to beneficial use by December 2009. The water superintendent for the City of Spearfish confirmed during a phone conversation on October 27, 2020 the wells had not been drilled.

Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
October 28, 2020



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October 28, 2020

**NOTICE OF CANCELLATION**

**TO:** Michael Harmon, City Administrator, City of Spearfish, 625 5th St, Spearfish SD 57783

Miles Burtzlaff, Water Supt., City of Spearfish, 625 5th St, Spearfish SD 57783

**FROM:** Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
Water Rights Program

**SUBJECT:** Cancellation of Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1

Water Permit No. 1707B-1 authorized a total appropriation of 233.5 acre feet of water from ground water (4 wells) in the Madison Aquifer to be used for suburban housing development, commercial and domestic use purposes for the City of Spearfish. Permit No. 1707C-1 was obtained to change the uses of water to municipal purposes. Permit No. 1707D-1 extended the time to complete construction of works and the length of time allowed to put water to beneficial use to December 6, 2010 and December 6, 2013 respectively.

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The Water Management Board will consider cancellation of Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1 at **10:00 am, Wednesday, December 2, 2020** (Central Time) in the Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1 based upon facts presented at the public hearing. If you wish to oppose the cancellations 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 November 23, 2020. 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-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER PERMIT NOS. 1707B-1, 1707C-1 AND 1707D-1, CITY OF SPEARFISH**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1.

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

The water permits collectively authorized a total appropriation of 233.5-acre feet of water annually from the Madison Aquifer. No. 1707D-1 authorized an extension of time to complete the project and put water to beneficial use. Construction of the project, including drilling of the wells was to be completed by December 2005 with water placed to beneficial use by December 2009. The water superintendent for the City of Spearfish confirmed during a phone conversation on October 27, 2020 the wells had not been drilled.

Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
October 28, 2020



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October 28, 2020

**NOTICE OF CANCELLATION**

**TO:** Michael Harmon, City Administrator, City of Spearfish, 625 5th St, Spearfish SD 57783

Miles Burtzlaff, Water Supt., City of Spearfish, 625 5th St, Spearfish SD 57783

**FROM:** Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
Water Rights Program

**SUBJECT:** Cancellation of Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1

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According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If 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 November 9, 2020.



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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER PERMIT NOS. 1707B-1, 1707C-1 AND 1707D-1, CITY OF SPEARFISH**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Nos. 1707B-1, 1707C-1 and 1707D-1.

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

The water permits collectively authorized a total appropriation of 233.5-acre feet of water annually from the Madison Aquifer. No. 1707D-1 authorized an extension of time to complete the project and put water to beneficial use. Construction of the project, including drilling of the wells was to be completed by December 2005 with water placed to beneficial use by December 2009. The water superintendent for the City of Spearfish confirmed during a phone conversation on October 27, 2020 the wells had not been drilled.

Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
October 28, 2020





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October 28, 2020

**NOTICE OF CANCELLATION**

**TO:** Galen & Monica Vander Pol, G & M Land LLC, PO Box 107, Geddes SD 57342

**FROM:** Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
Water Rights Program

**SUBJECT:** Cancellation of Water Right Nos. 1237-3 and 1395-3

Water Right Nos. 1237-3 and 1395-3, listed in the name of Rolland Vander Pol, authorize diversion of ground water from the Choteau: West Aquifer to irrigate the NE ¼ Section 10, T97N, R64W in Charles Mix County. On September 9, 2020, Genny McMath with our program spoke with you about the water rights. It is our understanding the acreage has not been irrigated in about 25 years. Irrigation was discontinued due to poor water quality in the well. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right Nos. 1237-3 and 1395-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right Nos. 1237-3 and 1395-3 at **10:00 am, Wednesday, December 2, 2020** (Central Time) in the Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right Nos. 1237-3 and 1395-3 based upon facts presented at the public hearing. Our records show you to be the owners of property covered by these water rights. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by November 23, 2020. 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.

October 28, 2020  
Galen & Monica Vander Pol  
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-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NOS. 1237-3 and 1395-3, ROLLAND VANDER POL**

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 Nos. 1237-3 and 1395-3 now owned by Galen & Monica Vander Pol, G & M Land LLC.

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

The owners of the land were contacted to find out if irrigation was still taking place. In a September 9, 2020 phone conversation, Galen Vander Pol indicated they no longer irrigated and had no intent to irrigate. Due to poor water quality in the well, irrigation was discontinued about 25 years ago.

Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
October 27, 2020

**Note:**

Cancellation of the water rights does not prohibit new applications for the projects in the future.



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
denr.sd.gov

October 28, 2020

**NOTICE OF CANCELLATION**

**TO:** Galen & Monica Vander Pol, G & M Land LLC, PO Box 107, Geddes SD 57342

**FROM:** Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
Water Rights Program

**SUBJECT:** Cancellation of Water Right Nos. 1237-3 and 1395-3

Water Right Nos. 1237-3 and 1395-3, listed in the name of Rolland Vander Pol, authorize diversion of ground water from the Choteau: West Aquifer to irrigate the NE ¼ Section 10, T97N, R64W in Charles Mix County. On September 9, 2020, Genny McMath with our program spoke with you about the water rights. It is our understanding the acreage has not been irrigated in about 25 years. Irrigation was discontinued due to poor water quality in the well. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right Nos. 1237-3 and 1395-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right Nos. 1237-3 and 1395-3 at **10:00 am, Wednesday, December 2, 2020** (Central Time) in the Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right Nos. 1237-3 and 1395-3 based upon facts presented at the public hearing. Our records show you to be the owners of property covered by these water rights. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by November 23, 2020. 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.

October 28, 2020  
Galen & Monica Vander Pol  
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-8; 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 November 23, 2020.

Prior to November 23, 2020, 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 November 9, 2020.



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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NOS. 1237-3 and 1395-3, ROLLAND VANDER POL**

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 Nos. 1237-3 and 1395-3 now owned by Galen & Monica Vander Pol, G & M Land LLC.

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

The owners of the land were contacted to find out if irrigation was still taking place. In a September 9, 2020 phone conversation, Galen Vander Pol indicated they no longer irrigated and had no intent to irrigate. Due to poor water quality in the well, irrigation was discontinued about 25 years ago.

Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
October 27, 2020

**Note:**

Cancellation of the water rights does not prohibit new applications for the projects in the future.



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PIERRE, SOUTH DAKOTA 57501-3182  
denr.sd.gov

October 28, 2020

**NOTICE OF CANCELLATION**

**TO:** Jeff Pederson, City Administrator, City of Flandreau, 1005 W Elm Ave., Flandreau SD 57028

Karen Gundvaldson, Finance Officer, City of Flandreau, 1005 W Elm Ave., Flandreau, SD 57028

**FROM:** Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
Water Rights Program

**SUBJECT:** Cancellation of Future Use Permit No. 3977-3

Future Use Permit No. 3977-3, with a priority date of May 27, 1977, reserves 830-acre feet of water from the Big Sioux Moody Aquifer for municipal purposes. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. Mr. Pederson has notified the Water Rights Program the city no longer wants to retain the future use permit. The Chief Engineer of the Water Rights Program is recommending cancellation of Future Use Permit No. 3977-3 due to abandonment.

The Water Management Board will consider cancellation of Future Use Permit No. 3977-3 at **10:00 am, Wednesday, December 2, 2020** (Central Time) in the 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 Future Use Permit No. 3977-3 based upon facts presented at the public hearing. Our records show the City of Flandreau to be the holder of the future use 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 November 23, 2020. 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-8; 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 November 23, 2020.

Prior to November 23, 2020, 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 November 9, 2020.





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**RECOMMENDATION OF CHIEF ENGINEER**

**FOR FUTURE USE PERMIT NO. 3977-3, CITY OF FLANDREAU**

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 Future Use Permit No. 3977-3.

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

The future use permit was obtained in 1977 and reserves 830 acre feet of water annually. A review by the Water Management Board has been conducted every seven years as required by law. The city was contacted in late 2019 for the review to be conducted in 2020. Verification was received by the city administrator on September 15, 2020 the city no longer wanted to maintain the future use permit. The City of Flandreau has received water from the Big Sioux Community Water system for many years.

Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
October 28, 2020



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denr.sd.gov

October 28, 2020

**NOTICE OF CANCELLATION**

**TO:** Barry Anderson, Supt., Willow Run Golf Course, 8000 E Hwy 42, Sioux Falls SD 57110  
Thomas Walsh Sr., G L Management LLC, 8000 E Arrowhead Parkway, Sioux Falls SD 57110

**FROM:** Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
Water Rights Program

**SUBJECT:** Cancellation of Water Right No. 5055-3

Water Right No. 5055-3, listed under the Willow Run Management Company, authorizes diversion of water from the Big Sioux River to irrigate 71 acres of the golf course. On September 29, 2020, during discussions on transferring existing water rights to the same name, an email communication was received from Mr. Anderson indicating the river was no longer used to supply the golf course and the request was made to cancel the water right. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 5055-3 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 5055-3 at **10:00 am, Wednesday, December 2, 2020** (Central Time) in the 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. 5055-3 based upon facts presented at the public hearing. Our records show Willow Run Management Company 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 November 23, 2020. 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-8; 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 November 23, 2020.

Prior to November 23, 2020, 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 November 9, 2020.



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denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER**

**FOR WATER RIGHT NO. 5055-3, WILLOW RUN MANAGEMENT COMPANY**

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. 5055-3.

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

Verification was received from Barry Anderson, Superintendent of the Willow Run Golf Course on September 29, 2020 they no longer used the Big Sioux River to irrigate the golf course. A request was made by them to cancel the water right.

Ron Duvall, Water Rights Permitting Administrator  
for Eric Gronlund, Chief Engineer  
October 28, 2020

**Note:**

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

## LAKE ANDES-WAGNER/MARTY II PROJECT DEVELOPMENT

Lake Andes-Wagner Water Systems has been trying for years to make reality of the promises committed by the Federal Government some seventy-five (75) years ago. We stepped back to allow other SD water projects to move forward to completion. Now, in a time of federal spending our project has been made ever more difficult to move forward.

In the past, we always had the support of the State Government that this spending would be effective economic development. Irrigation development would be a tremendous boost to area farmers and businesses. It would help the Governor's stated desire to bring economic development to the Yankton Sioux Tribe.

In view of this, it is with some surprise, we find SCWDD no longer willing to maintain the 1969 future use permit that Lake Andes-Wagner/Marty II Water System, Inc. would need when built.

With this shift in priorities of SCWDD, we are now faced with another obstacle. With no taxing authority Lake Andes-Wagner/Marty II intends to ask interested people, businesses, developers and landowners, to donate funds needed to pay the future use permit fee. This would be in addition to the taxes that they have already paid SCWDD to ostensible development of our water resource in our area.

Today we are asking the Water Rights Board to allow the future use permit to stay in effect for the next seven (7) years with the proper permit fees being paid.





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**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 1688A-3, Lake Andes-Wagner Irrigation District**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 1688A-3, Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, Chairman, 28774 395<sup>th</sup> Ave, Armour SD 57313.

The Chief Engineer is recommending that Future Use Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1688A-3, 2) the district has demonstrated a reasonable need for the water reserved by Permit No. 1688A-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. 1688A-3 is subject to payment of the \$8,055.00 fee which was submitted on September 23, 2020 pursuant to SDCL 46-2-13(2).

Eric Gronlund, Chief Engineer  
October 27, 2020

# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

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NOV 09 2020

WATER RIGHTS  
PROGRAM

LAKE ANDES- WAGNER IRRIGATION DISTRICT  
C/O CHARLES EITEMILLER  
28774 395TH AVE  
ARMOUR SD 57313

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

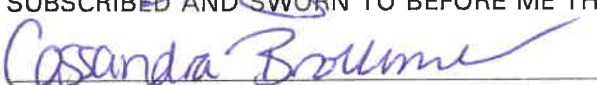
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON  
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE  
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER  
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY  
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID  
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED  
11+4 NOTICE OF HEARING TO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
NEWSPAPER ON THE 4th DAY OF November, 2020  
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$40.45 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: 11/04/2020

FILED ON: 11/04/2020

  
SUBSCRIBED AND SWORN TO BEFORE ME THIS 4th DAY OF November, 2020

  
NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES 07/04/2026

Ad text : 11 + 4

NOTICE OF HEARING TO  
REVIEW FUTURE USE WATER PERMIT NO. 1688A-3

RECEIVED

NOV 09 2020

WATER RIGHTS  
PROGRAM

Notice is given that the Water Management Board will review Future Use Permit No. 1688A-3 held by the Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, Chairman, 28774 395th Ave, Armour SD 57313 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. 1688A-3. This permit has a priority date of July 1, 1969 and currently reserves 96,000 acre-feet from the Missouri River. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county. The water will be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1688A-3 at 10:00 am, December 2, 2020, Floyd Matthew 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 November 23, 2020. 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 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. 1688A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron Duvall, Water Rights Program, (605 773-3352) by November 23, 2020. 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 November 23, 2020.

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 November 16, 2020. Published once at the approximate cost of \$40.45



# Affidavit of Publication

STATE OF SOUTH DAKOTA)

)SS

COUNTY OF CHARLES MIX)

Barbra Pechous, of said County and State being first duly sworn on her oath says: That **The Wagner Post** is a legal newspaper of general circulation, printed and published in Wagner, in said County and State, by Barbra Pechous, and has been such newspaper during the time herein mentioned; and that I, Barbra Pechous, the undersigned, of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in supplement, once each week for 1 successive weeks.

1st publication made on 4 day of Nov, 2020

2nd publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2020

3rd publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2020

4th publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2020

5th publication made on \_\_\_\_\_ day of \_\_\_\_\_, 2020

That said newspaper is a legal newspaper, and has a bonafide circulation of more than two hundred copies weekly, and has been published within the County of Charles Mix for more than fifty-two successive weeks prior to the first publication of said notice, and is printed in an office maintained in Wagner, South Dakota, the place of publication of said newspaper. That the full amount of the fee for the publication of the annexed notice is

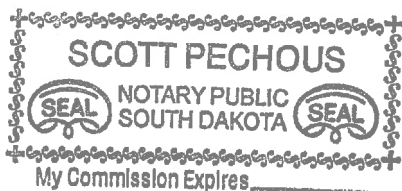
\$ 45.00

Barbra Pechous

Subscribed and sworn before me this 11 day of Nov, 2020.

Scott Pechous

Notary Public



7/27/2022

RECEIVED

NOV 16 2020

WATER RIGHTS  
PROGRAM

**NOTICE OF HEARING TO  
REVIEW FUTURE USE  
WATER PERMIT NO. 1688A-3**

Notice is given that the Water Management Board will review Future Use Permit No. 1688A-3 held by the Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, Chairman, 28774 395th Ave, Armour SD 57313 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. 1688A-3. This permit has a priority date of July 1, 1969 and currently reserves 96,000 acre-feet from the Missouri River. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county. The water will be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1688A-3 at 10:00 am, December 2, 2020, Floyd Matthew 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 November 23, 2020. 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. 1688A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

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

Duvall, Water Rights Program, (605, 773-3352) by November 23, 2020. 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 November 23, 2020.

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 November 16, 2020.

Published once at the total approximate cost of: \$45.62.

Published: November 4, 2020.

September 21, 2020

TO: KAREN SCHLAAK, WATER RIGHTS PROGRAM  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SD 57501-3182

RECEIVED

SEP 23 2020

FROM: STEVE ERICKSON, UTILITIES SUPT.  
CITY OF CANTON  
210 N. DAKOTA ST.  
CANTON, SD 57013

WATER RIGHTS  
PROGRAM

The City of Canton respectfully requests to renew Future Use Water Permit No. 1262C-3 at the current 674 acre-feet.

The City has seen an increasing demand for water as the summer of 2020 has been our first "dry" year in several years. Average daily consumption reached a new peak of 600,000/day.

The most current population projection study conservatively estimates Canton's population increasing by 1100 persons by 2027.

Given the average daily consumption of 88 gallons/day, this would be an increase of 35,232,000 gallons/year.

If there is any other information required, please contact me.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Steve Erickson".

Steve Erickson



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 1262C-3, City of Canton**

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. 1262C-3, City of Canton, 210 N Dakota St, Canton SD 57013.

The Chief Engineer is recommending that Future Use Permit No. 1262C-3 REMAIN in EFFECT for 674 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1262C-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 1262C-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. 1262C-3 is subject to payment of the \$115.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Eric Gronlund, Chief Engineer  
October 27, 2020

# Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF LINCOLN

**TERESA ZOMER**

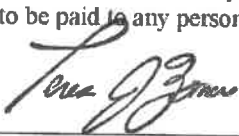
being first duly sworn on his oath says; that the Sioux Valley News is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Sioux Valley News, Inc., in Canton, in said county and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

City of Canton  
Notice of Hearing

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

November 5, 2020

that the full amount of the fees charged for publishing the same to-wit: the sum of \$42.82 inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.



Ascribed and sworn to before me this 5th day of  
November, 2020



Notary Public, South Dakota

(Seal)



## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1262C-3

Notice is given that the Water Management Board will review Future Use Permit No. 1262C-3 held by the City of Canton, Steve Erickson, Utilities Supt, 210 N Dakota St, Canton SD 57013 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. 1262C-3. This permit was approved in 1966 and currently reserves 674 acre-feet from the Dakota Aquifer located in N 1/2 Section 23 and the NW 1/4 Section 24; all in T98N-R49W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1262C-3 REMAIN in EFFECT for 674 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. 1262C-3 at 10:00 am, December 2, 2020, Floyd Matthew 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 November 23, 2020. 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. 1262C-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron Duvall, Water Rights Program, (605 773-3352) by November 23, 2020. 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 November 23, 2020.

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 November 16, 2020.

Published in the Sioux Valley News on November 5, 2020 at the total approximate cost of \$42.82.

My Commission Expires  
January 12, 2024

# Argus Leader

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

CANTON CITY OF  
210 N DAKOTA ST  
CANTON, SD 57013

Account No.: SFA-050399  
Ad No.: 0004443348  
PO #: AD# 4443348  
Lines : 164  
Ad Total: \$102.89  
**This is not an invoice**  
# of Affidavits 1

Account No.: SFA-050399  
Ad No.: 0004443348

## Argus Leader AFFIDAVIT OF PUBLICATION

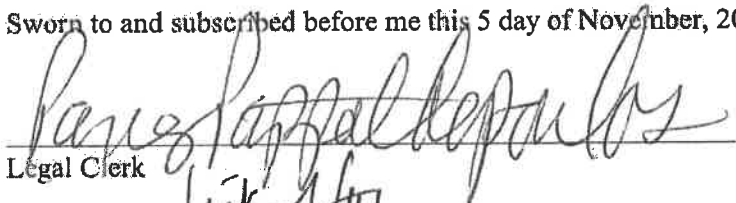
STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA

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

Thursday, November 5, 2020

Sworn to and subscribed before me this 5 day of November, 2020.

  
Legal Clerk

  
Notary Public, State of Wisconsin, County of Brown

  
My Commission expires



NOTICE OF HEARING TO  
REVIEW FUTURE USE  
WATER PERMIT NO.  
1262C-3

Notice is given that the Water Management Board will review Future Use Permit No. 1262C-3 held by the City of Canton, Steve Erickson, Utilities Supt, 210 N Dakota St, Canton SD 57013 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. 1262C-3. This permit was approved in 1966 and currently reserves 674 acre-feet from the Dakota Aquifer located in N 1/2 Section 23 and the NW 1/4 Section 24; all in T98N-R49W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1262C-3 REMAIN in EFFECT for 674 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. 1262C-3 at 10:00 am, December 2, 2020, Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

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position to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel. If legal counsel is obtained, the permit owner need not file a petition.

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4443348 Nov. 5, 2020

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

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WATER RIGHTS  
PROGRAM

**JASON R. RAVNSBORG**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

November 6, 2020

Todd D. Wilkinson  
Counsel for Ratio, LLC  
Wilkinson & Schumacher Law Prof. LLC  
P.O. Box 29  
DeSmet, SD 57231

David M. McVey  
Assistant Attorney General  
Counsel for Water Management Board  
1302 East Highway 14, Suite 1  
Pierre, SD 57501  
*Hand Delivered*

Patricia Moriarty  
36611 208<sup>th</sup> Street  
St. Lawrence, SD 57373

Brian S. Caruso  
US Fish and Wildlife Service  
P.O. Box 25486  
Denver Federal Center  
Denver, CO 80225-0486

Re: *In the Matter Water Application No. 8413-3, Ratio LLC.*

To Whom it May Concern:

Enclosed please find a copy of the Water Rights' proposed Findings of Fact, Conclusions of Law, and Final Decision in the above-referenced file.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann F. Mines Bailey".

Ann F. Mines Bailey  
Assistant Attorney General

AFM/mb  
Enclosures  
cc w/enc: Ron Duvall, DENR Water Rights Program



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NOV 09 2020

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	WATER RIGHTS' PROPOSED
PERMIT APPLICATION NO. 8413-3,	)	FINDINGS OF FACT,
RATIO LLC	)	CONCLUSIONS OF LAW,
	)	AND FINAL DECISION

This matter came before the South Dakota Water Management Board for hearing on October 7, 2020. Board members Jim Hutmacher, Rodney Freeman, Leo Holzbauer, Bill Larson, Peggy Dixon, Chad Comes, and Tim Bjork were present at the hearing. Todd Wilkinson appeared on behalf of Ratio LLC. Petitioner, Patricia Moriarty, personally appeared and represented herself. The Department of Environment and Natural Resources, Water Rights Program Department and the Chief Engineer were represented by Assistant Attorney General Ann F. Mines Bailey.

The Board, having considered the testimony and exhibits presented and all records and documents on file, and having entered its oral decision and rulings on the parties' submissions and motions, now enters the following:

FINDINGS OF FACT

1. On October 30, 2019, Water Rights received Water Permit Application No. 8413-3 on behalf of Ratio, LLC seeking an appropriation of water for commercial use. The application seeks a diversion rate of 0.134 cubic feet of water per second (cfs) for a maximum annual diversion of 77 acre-feet of water per year (ac-ft/yr) from two wells both of which would be

completed into either the Niobrara aquifer or the Dakota aquifer and located in the SE¼ NW¼ Section 32, T111N, R67W, Hand County, South Dakota.

Applicant intends to use the water in a swine production facility to be located in E½ NW¼ Section 32, T111N, R67W, Hand County, South Dakota.

2. The original application sought an appropriation from the glacial aquifer in the area. In the process of reviewing the application, it was requested that a test hole be completed. Based upon a review of the information from that test hole and other lithologic logs, it was determined that there was not sufficient water in the glacial deposits in the area to satisfy the application.

3. It was then requested that a second test hole be completed to determine if the Niobrara aquifer was present in the area. Due to equipment limitations, this second test hole was unable to be completed through the Pierre shale which overlies the Niobrara aquifer. As a result, it is unknown if the Niobrara aquifer occurs in this location. Accordingly, the review contemplates both the Niobrara aquifer, should it be encountered in this location, and the Dakota aquifer which is known to occur in this area.

4. The Chief Engineer recommended approval of the application with the following qualifications:

1. The well approved under Water Permit No. 8413-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under these Permits shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The well authorized by Permit No. 8413-3 shall be constructed into a single aquifer, either the Niobrara aquifer or Dakota aquifer, but not both. At the time of the licensing, the final water right will be issued for the developed water source.
3. The well authorized by Permit No. 8413-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. Water Permit No. 8413-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
5. Water Permit No. 8413-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
  - a) Chapter 74:54:01 Ground Water Quality Standards
  - b) Chapter 74:54:02 Ground Water Discharge Permit
  - c) Chapter 74:51:01 Surface Water Quality Standards
  - d) Chapter 74:51:02 Uses Assigned to Lakes
  - e) Chapter 74:51:03 Uses Assigned to Streams, and
  - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.
6. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the aquifer.
7. Water Permit No. 8413-3 authorizes a total annual diversion of 77 acre feet of water from the aquifer.

5. Public notice of the application was published in the Huron Plainsman newspaper on May 6, 2020, and The Miller Press newspaper on May 2, 2020.

6. DENR received a “letter of concern” from United States Fish and Wildlife Service and petition in opposition to the application from Patricia Moriarty.

7. The matter was initially scheduled for hearing at the July 2020 Water Management Board meeting; however, an automatic delay was requested by Ratio. The matter was then set for the October 2020 board meeting.

8. Water Permit Application No. 8413-3 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 that there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

9. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater source would exceed the quantity of the estimated average annual recharge of water to the groundwater source if this permit was granted.

10. Because it is uncertain if the Niobrara aquifer occurs at this location, a review was conducted as to both the Niobrara and Dakota aquifers.

11. DENR witness, Timothy Magstadt, a natural resources engineer, reviewed the permit application, analyzed the hydrology of both the Niobrara and Dakota aquifers, and reviewed the information obtained from the observation wells completed into the aquifers, as well as current water right/permit files and well completion reports for each aquifer.

12. The Niobrara aquifer is composed primarily of chalk, marl, and shale. In Hand County, it is estimated that the areal extent of the Niobrara aquifer is 210,000 acres. In this location, the aquifer varies in thickness from 25 to 100 feet. It is expected in this area that the aquifer exists in confined conditions with artesian head pressures of approximately 80-130 feet.

13. Mr. Magstadt testified that the Niobrara aquifer receives recharge through the infiltration of precipitation and inflow from the Dakota and Codell aquifers. No studies have been done to estimate the recharge rate to the Niobrara aquifer.

14. Water Rights monitors 57 observation wells completed into the Niobrara aquifer. The observation well data demonstrated that, over the period of record, recharge is greater than discharge.

15. Mr. Magstadt further testified that withdrawals from the Niobrara include evapotranspiration, outflow to other aquifers and rivers, and well withdrawals. Mr. Magstadt estimated well withdrawals in the amount of 3,948 acre-feet/year.

16. There are 83 water rights completed into the Niobrara aquifer. The nearest water right on record completed into the Niobrara aquifer is approximately five miles to the southwest of the proposed diversion point.

17. The nearest domestic well on file is approximately 1.5 miles to the northwest of the proposed point of diversion. Given that there are glacial aquifers at shallower depths, it is unlikely that domestic wells would be completed into either the Niobrara or the Dakota aquifers.

18. Mr. Magstadt opined that there is a low probability of unlawful impairment to existing rights with adequate wells completed into the Niobrara aquifer due to the estimated artesian head pressure in the area and distance to the nearest domestic user or water right.

19. The Dakota aquifer is composed of sandstone, quartz, and shale. In Hand County, it is estimated that the areal extent of the Dakota aquifer is 912,640 acres and contain an estimated 22,245,608 acre-feet of water is held in storage. The aquifer is estimated to have a thickness of 200-320 feet in this area. In this area, the Dakota aquifer exists in confined conditions with artesian head pressure of 970-1200 feet.

20. The Dakota aquifer receives recharge through infiltration of precipitation, leakage through confining layers, and upward leakage from deeper aquifers. While there are no estimates of the entirety of the recharge to the Dakota aquifer, there has been an estimate of recharge received from confining layers which is estimated at 56,780 acre-feet/yr.

21. The Water Rights program monitors 46 observation wells completed into the Dakota aquifer. The observation well data shows that the Dakota aquifer is in a state of equilibrating and that as the artesian head pressure in the aquifer drops, flowing wells are ceasing to flow to waste. Furthermore, the observation well data shows that water is available for appropriation.

22. Mr. Magstadt further testified that withdrawals from the Dakota aquifer include leakage to confining layers, uncontrolled flowing wells, outflow to other aquifers, and well withdrawals. Mr. Magstadt estimated well withdrawals in the amount of 24,485.25 acre-feet/year.

23. There are 238 water rights completed into the Dakota aquifer. The closest water right to the proposed diversion point completed into the Dakota aquifer is approximately nine miles to the north.

24. Mr. Magstadt opined that there is a low probability of unlawful impairment to existing rights with adequate wells completed into the Dakota aquifer due to the estimated artesian head pressure in the area and distance to the nearest domestic user or water right.

25. Mr. Magstadt also reviewed Ms. Moriarty's petition. Based upon the information set forth in her petition, Mr. Magstadt opined that Ms. Moriarty's well is completed into a glacial aquifer and as such would not be affected by this proposed diversion. Mr. Magstadt further opined that Ms. Moriarty's second well is completed into the Dakota aquifer and given the artesian head pressure, there would not be an unlawful impairment but perhaps a need to lower the pump.

26. Chief Engineer Eric Gronlund also provided testimony to the Board. Chief Engineer Gronlund testified that he recommended approval of the application. He offered corrections to his recommendation, namely that the reference to "well" in Qualifications Nos. 1, 2, and 3 should be plural. He

further modified Qualification No. 2 to read “shall be constructed into the same aquifer” as opposed to “constructed into a single aquifer” as originally drafted.

26. The Board also received the testimony of Kirk Aughenbaugh. Mr. Aughenbaugh is one of the members of Ratio, LLC. Mr. Aughenbaugh testified that the water will be used in a swine production facility which will be operated by Pipestone. The farm will be comprised of five buildings: a farrowing barn, a gestation barn, a gilt growing barn, a compost building, and a storage shed. Mr. Aughenbaugh further testified of the benefits which would be derived by the community from the facility.

27. Nick Fitzgerald also provided testimony to the Board. Mr. Fitzgerald is employed by Pipestone. As part of his employment, he has been working with Ratio regarding the design of the facility. Mr. Fitzgerald testified that this is a deep-pitted structure, a zero discharge facility. The facility has been engineered per state standards. The holding tanks have been designed to exceed DENR requirements for storage capacity.

28. Ms. Patricia Moriarty also testified. Ms. Moriarty lives two miles east of the site. She testified that they occasionally have troubles getting sufficient water for all their needs and that water availability is a great concern for her. She is also very concerned about water quality and the potential contamination of the well by manure. Ms. Moriarty further expressed concerns regarding several abandoned wells on the Ratio site.

29. Board member Rodney Freeman moved to approve the application subject to the qualifications set forth by the Chief Engineer and as modified



during the Chief Engineer's testimony. Board member Peggy Dixon seconded the motion. A roll call vote was taken and the motion carried unanimously.

30. The Board finds Mr. Magstadt to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Magstadt's testimony and the reports and exhibits which he prepared and/or relied upon.

31. Petitioner did not submit sufficient evidence through expert opinions, testimony, or evidence that would support a determination that there is a reasonable probability that there is not unappropriated water available in this aquifer.

32. The Board finds that there is a reasonable probability there is unappropriated water available for the Applicant's proposed use.

33. The Board further finds that granting this application will not result in withdrawals from the aquifer exceeding the estimated average annual recharge to the aquifer.

34. The Board finds that the proposed diversion is unlikely to result in an unlawful impairment to adequate wells.

35. The Board additionally finds that the proposed use of the water for commercial use in a swine production facility constitutes beneficial use.

36. The Board further finds that placing the water to this beneficial use is in the public interest.

37. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based upon the forgoing Findings of Fact, the Board makes the following:

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over the application and the parties pursuant to SDCL Ch. 46-2A.
2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.
3. The Chief Engineer recommended granting this application. That recommendation, however, is not binding upon the Board. See SDCL § 46-2A-4(8).
4. South Dakota Codified Law, section 46-2A-9 provides that provides that a permit to appropriate water may be issued “only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.
5. The Applicant bore the burden of proof under SDCL § 46-2A-9. The Applicant met its burden of proof and is entitled to a permit subject to qualifications adopted by the Board.
6. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: whether “according to the best information

reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

7. The Board concludes there is a reasonable probability that there is unappropriated water is available to fulfill the amount requested by the Applicant.

8. The Board further concludes that it is not probable that withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if this application is granted.

9. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing water rights.

10. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use (commercial use in a swine production facility) is a beneficial use.

11. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be “consistent with the interests of the public of this state in the best utilization of water supplies.” SDCL § 6-1-6(3). The Board finds that appropriating water for commercial use is in the public interest.

12. Any Conclusion of Law more properly designated as a Finding of Fact shall be treated as such.

#### FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8413-3 is granted with the following qualifications:

1. The wells approved under Water Permit No. 8413-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under these Permits shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 8413-3 shall be constructed into the same aquifer, either the Niobrara aquifer or Dakota aquifer, but not both. At the time of the licensing, the final water right will be issued for the developed water source.
3. The wells authorized by Permit No. 8413-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
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  - b) Chapter 74:54:02 Ground Water Discharge Permit
  - c) Chapter 74:51:01 Surface Water Quality Standards
  - d) Chapter 74:51:02 Uses Assigned to Lakes
  - e) Chapter 74:51:03 Uses Assigned to Streams, and
  - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.

6. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the aquifer.
7. Water Permit No. 8413-3 authorizes a total annual diversion of 77 acre feet of water from the aquifer.

Dated this \_\_\_\_ day of December, 2020.

BY THE BOARD:

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Jim Hutmacher, Chairman  
South Dakota Water Management Board

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

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IN THE MATTER OF WATER )  
APPLICATION NO. 8413-3, RATIO LLC. )  
)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Water Rights' proposed Findings of Fact, Conclusions of Law, and Final Decision in the above matter was served by U.S. mail, first class, postage prepaid, upon the following on this 6th day of November 2020:

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## **ARTICLE 74:51**

### **SURFACE WATER QUALITY**

#### **Chapter**

- 74:51:01      Surface water quality standards.
- 74:51:02      Uses assigned to lakes.
- 74:51:03      Uses assigned to streams.

### **CHAPTER 74:51:01**

#### **SURFACE WATER QUALITY STANDARDS**

#### **Section**

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- 74:51:01:02    Compliance with criteria for beneficial use.
- 74:51:01:02.01 Beneficial use analysis required.
- 74:51:01:03    Restrictions for water with dual classifications.
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- 74:51:01:37.01 Antidegradation review public notice requirements.
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- 74:51:01:43 Missouri River impoundments classified as streams.
- 74:51:01:44 Criteria for domestic water supply waters.
- 74:51:01:45 Criteria for coldwater permanent fish life propagation waters.
- 74:51:01:45.01 Site-specific criteria for coldwater permanent fish life propagations waters -- Black Hills Trout Management Area.
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- 74:51:01:46.01 Site-specific criteria for coldwater marginal fish life propagation waters -- Black Hills Trout Management Area.
- 74:51:01:47 Criteria for warmwater permanent fish life propagation waters.

- 74:51:01:48 Criteria for warmwater semipermanent fish life propagation waters.
- 74:51:01:48.01 Site-specific criteria for semipermanent fish life propagation waters -- White River from the Nebraska-South Dakota border to its confluence with the Missouri River.
- 74:51:01:48.02 Site-specific criterion for semipermanent fish life propagation waters -- Little White River from its confluence with Rosebud Creek to its confluence with the White River.
- 74:51:01:49 Criteria for warmwater marginal fish life propagation waters.
- 74:51:01:50 Criteria for immersion recreation waters.
- 74:51:01:51 Criteria for limited contact recreation waters.
- 74:51:01:52 Criteria for fish and wildlife propagation, recreation, and stock watering waters.
- 74:51:01:53 Criteria for irrigation waters.
- 74:51:01:53.01 Site specific criterion for irrigation waters -- Belle Fourche River from the Wyoming-South Dakota border to its confluence with the Cheyenne River.
- 74:51:01:54 Criteria for commerce and industry waters.
- 74:51:01:55 Criteria for toxic pollutants.
- 74:51:01:56 Site-specific criteria for Whitewood Creek from Interstate 90 to its confluence with Gold Run Creek.
- 74:51:01:57 Repealed.
- 74:51:01:58 Water resource enhancement or restoration projects -- Use of toxic pollutants.
- 74:51:01:59 Water resource enhancement or restoration projects -- Use of EPA-registered pesticides.
- 74:51:01:60 Water resource enhancement or restoration projects -- Department approval required.

- 74:51:01:61 Publication of notice of application for water resource enhancement or restoration projects -- Exception for registered pesticides.
- 74:51:01:62 Hearing procedure for water resource enhancement or restoration projects.
- 74:51:01:63 Application requirements for certification of compliance with water quality standards.
- 74:51:01:64 Notice requirements for certification of compliance with water quality standards for hydropower facilities.
- 74:51:01:64.01 Notice requirements for certification of compliance with water quality standards for dredge and fill permits.
- 74:51:01:64.02 Notice requirements for certification of compliance with water quality standards for federal issued national pollutant discharge elimination system permits.
- 74:51:01:64.03 Contents of public notice for certification of compliance with water quality standards.
- 74:51:01:65 Secretary's certification of compliance with water quality standards.
- Appendix A Total Ammonia Criteria.
- Appendix B Toxic Pollutant Criteria.
- Appendix C Approved Test Procedures, Repealed.

**74:51:01:02.01. Beneficial use analysis required.** Before renewing an existing or issuing a new individual surface water discharge permit under article 74:52, the secretary shall conduct an analysis of the water body that receives, or is proposed to receive, the discharge. This analysis is required for those water bodies that only have the fishery beneficial use classification of fish and wildlife propagation, recreation, and stock watering waters. Upon completion of the analysis, the secretary shall determine whether the water body deserves a higher designation as listed in §§ 74:51:01:45 to ~~74:51:01:49~~ 74:51:01:51, inclusive, based on the attainable use or uses identified

during the analysis. If the secretary determines that a higher classification is warranted, the secretary shall include water quality-based limits in the renewed or new permit that are necessary to protect the attainable beneficial use as determined by the analysis. A review is required for any affected surface water discharge permit issued after March 31, 1999.

**Source:** 25 SDR 98, effective January 27, 1999; 31 SDR 29, effective September 13, 2004.

**General Authority:** SDCL 34A-2-10, 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11, 34A-2-93.

**74:51:01:15. Concentrations established for miscellaneous radionuclides.** For all radionuclides not listed in § 74:51:01:14, the average dissolved concentration limits in surface waters of the state are 1/150 of the corresponding maximum permissible concentration in water for continuous occupational exposure for a 168-hour week as contained in pages 24 to 91, inclusive, of Handbook 69.

**Source:** SL 1975, ch 16, § 1; transferred from § 34:04:02:18, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:18, July 1, 1996; 31 SDR 29, effective September 13, 2004.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Reference:** Handbook 69, Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure, issued June 5, 1959, amended August 1963, AEP 160-6-7, 101 pages, U.S. Department of

Commerce, National Bureau of Standards. This document is available from the Hilton M. Briggs Library, South Dakota State University, Brookings, SD 57007-1098. The Call Number for this document is C13.11:~~6069~~. The document may be borrowed from the library, ~~and copied, or the library can copy the document~~ or copied at the library at ~~\$0.50~~\$0.05 per page. The document can be scanned for free. It is also available online at <https://www.osti.gov/etdeweb/servlets/purl/20738430>.

**74:51:01:18. Suspended radionuclides.** For radionuclides associated with suspended materials in the water, the average concentration limits are 1/150 of the corresponding maximum permissible concentration in water (insoluble form) for continuous occupational exposure for a 168-hour week as contained in pages 24 to 91, inclusive, of Handbook 69. Instream sedimentation of those materials may not produce solids beds and result in noncompliance, because of leaching, with the provisions of § 74:51:01:14, 74:51:01:15, or 74:51:01:16.

**Source:** SL 1975, ch 16, § 1; transferred from § 34:04:02:21, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; transferred from § 74:03:02:21, July 1, 1996; 31 SDR 29, effective September 13, 2004.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Reference:** **Handbook 69, Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure**, issued June 5, 1959, amended August 1963, AFP 160-6-7, 101 pages, is published by the U.S. Department of Commerce, National Bureau of Standards. This document is available from the Hilton

M. Briggs Library, South Dakota State University, Brookings, SD 57007-1098. The Call Number for this document is C13.11:~~6069~~. The document may be borrowed from the library ~~and copied, or the library can copy the document~~ or copied at the library at ~~\$0.50~~\$0.05 per page. The document can be scanned for free. It is also available at <https://www.osti.gov/etdeweb/servlets/purl/20738430>.

**74:51:01:21. Variances from radioactive concentration criteria.** Variances from concentration limits specified in §§ 74:51:01:14 to 74:51:01:19, inclusive, are permitted only if there is a natural, uncontrollable contributing source or sources of radionuclides, the best available treatment is provided for all man-made discharges, and the concentration of radionuclides to which humans could be exposed is within the dose limits established in pages 24 to 91, inclusive, of Handbook 69.

**Source:** SL 1975, ch 16, § 1; transferred from § 34:04:02:24, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; transferred from § 74:03:02:24, July 1, 1996; 31 SDR 29, effective September 13, 2004.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Reference: Handbook 69, Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure,** issued June 5, 1959, amended August 1963, AFP 160-6-7, 101 pages, is published by the U.S. Department of Commerce, National Bureau of Standards. This document is available from the Hilton M. Briggs Library, South Dakota State University, Brookings, SD 57007-1098. The Call Number for this document is C13.11:~~6069~~. The document may be borrowed from the ~~library and copied, or~~

~~the library can copy the document~~ or copied at the library at ~~\$0.50~~\$0.05 per page. The document can be scanned for free. It is also available at <https://www.osti.gov/etdeweb/servlets/purl/20738430>.

**74:51:01:22. Laboratory procedures for tests.** Tests or analytical procedures to determine conformity with criteria shall be made in accordance with methods approved or references listed in 40 C.F.R. Part 136 (July 1, ~~2014~~2020), guidelines for establishing test procedures for the analysis of pollutants, unless other test procedures are required by the secretary.

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; 5 SDR 21, effective September 21, 1978; transferred from § 34:04:02:05, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 11, 1993; transferred from § 74:03:02:05, July 1, 1996; 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-7, 34A-2-11, 34A-2-44.

**74:51:01:23. Bioassay methods.** The toxicity of pollutants to aquatic life shall be based on bioassays which determine concentrations of a substance which at a defined period of exposure are toxic to aquatic life. Toxicity tests shall simulate expected receiving water conditions. Tests shall be conducted according to test procedures approved or methods given in the references listed in 40 C.F.R. Part 136 (July 1, ~~2014~~2020), guidelines for establishing test procedures for the analysis of pollutants.

The term, acute, means a stimulus severe enough to rapidly induce an effect. In aquatic toxicity tests, a deleterious response (e.g., mortality, disorientation, immobilization) to a stimulus observed in 96 hours or less is considered acute. When referring to aquatic toxicology or human health, an acute effect is not always measured in terms of lethality.

The term, chronic, means a stimulus of the lowest concentration of a constituent causing observable effects. In aquatic toxicity tests, observable effects may include lethality, reduced growth, or reduced reproduction, usually a four- to seven-day test.

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:02:06, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:06, July 1, 1996; 24 SDR 10, effective July 20, 1997; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:24. Modification of criteria for specific sites.** Criteria established in §§ 74:51:01:31, 74:51:01:32, and 74:51:01:44 to 74:51:01:54, inclusive, and in § 74:51:01:56 may be modified to reflect local conditions through determination of site-specific criteria for toxic pollutants in a segment. Modification of criteria must incorporate analyses of physical, chemical, and biological conditions of the receiving waters to assure maintenance of the assigned beneficial use. Actual effluents or effluent simulations may be evaluated in a toxicity testing program conducted under environmental conditions similar to the discharge site in the receiving waters. Analytical procedures,



calculation procedures used to measure or demonstrate the toxicological significance of a pollutant, and numerical criteria may be modified by the board after opportunity for public review and comment.

All data necessary to defend the proposed modification of criteria are the responsibility of the person or entity requesting the modification. Methods used to develop site-specific criteria must be approved by the secretary and shall include methods to evaluate effects of bioaccumulative pollutants where appropriate. The **Water Quality Standards Handbook**, ~~1983 and August 1994~~2017, may be used as guidance in developing methods. The document is also available at <https://www.epa.gov/wqs-tech/water-quality-standards-handbook>

**Source:** SL 1975, ch 16, § 1; transferred from § 34:04:02:15, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:15, July 1, 1996; 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Reference:** **Water Quality Standards Handbook**, ~~December 1983 and August 1994~~2017, U.S. Environmental Protection Agency, Office of Water Regulations and Standards. Copies are available from the U.S. Environmental Protection Agency, Region VIII, Denver, Colorado 80203. There is no charge for this document. The document is also available at <https://www.epa.gov/wqs-tech/water-quality-standards-handbook>.

**Cross-Reference:** Antidegradation requirements, §§ 74:51:01:34 to 74:51:01:39, inclusive.

**74:51:01:44. Criteria for domestic water supply waters.** The criteria of parameters for domestic water supply waters and their allowable variations that are not included under § 74:51:01:55 and Appendix B, unless set under § 74:51:01:24, are as found in the following table:

Parameter	Criteria	Unit of Measure	Special Conditions
Total dissolved solids	$\leq 1,000$	mg/L	30-day average
	$\leq 1,750$	mg/L	daily maximum
Nitrates as N	$\leq 10$	mg/L	daily maximum
pH	$\geq 6.5 - \leq 9.0$	units	
Total Coliform	$\leq 5,000$	/100 mL	geometric mean of a minimum of 5 samples during separate 24-hour periods for a 30-day period and may not exceed this value in more than 20 percent of the samples examined in the same 30-day period
	$\leq 20,000$	/100 mL	in any one sample
Barium	$\leq 1.0$	mg/L	daily maximum

Parameter	Criteria	Unit of Measure	Special Conditions
Chloride	$\leq 250$	mg/L	30-day average
	$\leq 438$	mg/L	daily maximum
Fluoride	$\leq 4.0$	mg/L	daily maximum
Sulfate	$\leq 500$	mg/L	30-day average
	$\leq 875$	mg/L	daily maximum
Total Petroleum Hydrocarbons	$\leq 1.0$	mg/L	daily maximum

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:02:33, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:33, July 1, 1996; 24 SDR 10, effective July 20, 1997; 35 SDR 253, effective May 12, 2009.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:47. Criteria for warmwater permanent fish life propagation waters.** The criteria of parameters for warmwater permanent fish life propagation waters and their allowable variations that are not included under § 74:51:01:55 and Appendix B, unless set under § 74:51:01:24, are as found in the following table:

Parameter	Criteria	Unit of Measure	Special Conditions
Total ammonia nitrogen as N	Equal to or less than the result from Equation 3 in Appendix A	mg/L	30-day average <del>March 1—October 31</del>
	<del>Equal to or less than the result from Equation 4 in Appendix A</del>	<del>mg/L</del>	<del>30-day average November 1— February 29</del>
	Equal to or less than the result from Equation 2 in Appendix A	mg/L	daily maximum
Dissolved oxygen as measured anywhere in the water column of a non-stratified water body, or in the epilimnion and metalimnion of a stratified water body	$\geq 5.0$	mg/L	daily minimum
	$\geq 6.0$		in Big Stone Lake and Lake Traverse during April and May
Undissociated hydrogen sulfide	$\leq 0.002$	mg/L	daily maximum
pH	$\geq 6.5 - \leq 9.0$	units	see § 74:51:01:07
Total Suspended Solids	$\leq 90$	mg/L	30-day average

Parameter	Criteria	Unit of Measure	Special Conditions
	$\leq 158$	mg/L	daily maximum
Temperature	$\leq 80$	°F	see § 74:51:01:31

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; 5 SDR 21, effective September 21, 1978; transferred from § 34:04:02:36, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:36, July 1, 1996; 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:48. Criteria for warmwater semipermanent fish life propagation waters.** The criteria of parameters for warmwater semipermanent fish life propagation waters and their allowable variations that are not included under § 74:51:01:55 and Appendix B, unless set under § 74:51:01:24, are as found in the following table:

Parameter	Criteria	Unit of Measure	Special Conditions
Total ammonia nitrogen as N	Equal to or less than the result from Equation 3 in Appendix A	mg/L	30-day average <del>March 1–</del> <del>October 31</del>

Parameter	Criteria	Unit of Measure	Special Conditions
	<del>Equal to or less than the result from Equation 4 in Appendix A</del>	<del>mg/L</del>	<del>30-day average November 1 – February 29</del>
	Equal to or less than the result from Equation 2 in Appendix A	mg/L	daily maximum
Dissolved oxygen as measured anywhere in the water column of a non-stratified water body, or in the epilimnion and metalimnion of a stratified water body	$\geq 5.0$	mg/L	daily minimum
Undisassociated hydrogen sulfide	$\leq 0.002$	mg/L	daily maximum
pH	$\geq 6.5 - \leq 9.0$	Units	see § 74:51:01:07
Total Suspended Solids	$\leq 90$	mg/L	30-day average
	$\leq 158$	mg/L	daily maximum
Temperature	$\leq 90$	°F	see § 74:51:01:31

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; 5 SDR 21, effective September 21, 1978; transferred from § 34:04:02:37, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:37, July 1, 1996; 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:49. Criteria for warmwater marginal fish life propagation waters.** The criteria for warmwater marginal fish life propagation waters and their allowable variations that are not included under § 74:51:01:55 and Appendix B, unless set under § 74:51:01:24, are as found in the following table:

Parameter	Criteria	Unit of Measure	Special Conditions
Total ammonia nitrogen as N	Equal to or less than the result from Equation 3 in Appendix A	mg/L	30-day average <del>May 1—October 31</del>
	<del>Equal to or less than the result from</del>	<del>mg/L</del>	<del>30-day average November 1—April 30</del>

Parameter	Criteria	Unit of Measure	Special Conditions
	<del>Equation 4 in Appendix A</del>		
	Equal to or less than the result from Equation 2 in Appendix A	mg/L	daily maximum
Dissolved oxygen as measured anywhere in the water column of a non-stratified water body, or in the epilimnion and metalimnion of a stratified water body	$\geq 4.0$	mg/L	daily minimum October 1 - April 30
	$\geq 5.0$	mg/L	daily minimum May 1 - September 30
Undisassociated hydrogen sulfide	$\leq 0.002$	mg/L	daily maximum
pH	$\geq 6.0 - \leq 9.0$	units	see § 74:51:01:07
Total Suspended Solids	$\leq 150$	mg/L	30-day average
	$\leq 263$	mg/L	daily maximum
Temperature	$\leq 90$	°F	see § 74:51:01:31

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; 5 SDR 21, effective September 21, 1978; transferred from § 34:04:02:38, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:38, July 1, 1996; 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009.

**General Authority:** SDCL 34A-2-11, 34A-2-93.



**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:50. Criteria for immersion recreation waters.** The criteria of parameters for immersion recreation waters and their allowable variations that are not included under § 74:51:01:55 and Appendix B, unless set under § 74:51:01:24, are as found in the following table and only apply May 1 - September 30:

Parameter	Criteria	Unit of Measure	Special Conditions
Dissolved oxygen as measured anywhere in the water column of a non-stratified water body, or in the epilimnion and metalimnion of a stratified water body	$\geq 5.0$	mg/L	daily minimum
<i>Escherichia coli</i>	$\leq 126$	/100 mL	geometric mean based on a minimum of 5 samples obtained during separate 24- hour periods for any 30-day period
	$\leq 235$		in any one sample
<u>Microcystin</u>	<u>8</u>	<u>µg/L</u>	<u>Not be exceeded in more than three 10-</u>
<u>Cylindrospermopsin</u>	<u>15</u>	<u>µg/L</u>	

Parameter	Criteria	Unit of Measure	Special Conditions
			<u>day assessment</u> <u>periods over the</u> <u>course of the</u> <u>recreation season</u>

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:02:40, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:40, July 1, 1996; 24 SDR 10, effective July 20, 1997; 35 SDR 253, effective May 12, 2009; 42 SDR 103, effective January 19, 2016.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:51. Criteria for limited contact recreation waters.** The criteria of parameters for limited contact recreation waters and their allowable variations that are not included under § 74:51:01:55 and Appendix B, unless set under § 74:51:01:24, are as found in the following table and only apply May 1 - September 30:

Parameter	Criteria	Unit of Measure	Special Conditions
Dissolved oxygen as measured anywhere in the water column of a non-stratified water body, or in the	$\geq 5.0$	mg/L	daily minimum

Parameter	Criteria	Unit of Measure	Special Conditions
epilimnion and metalimnion of a stratified water body			
<i>Escherichia coli</i>	$\leq 630$	/100mL	geometric mean based on a minimum of 5 samples obtained during separate 24- hour periods for any 30-day period
	$\leq 1178$		in any one sample
<u>Microcystin</u>	<u>8</u>	<u>µg/L</u>	<u>Not be exceeded in more than three 10- day assessment periods over the course of the recreation season</u>
<u>Cylindrospermopsin</u>	<u>15</u>	<u>µg/L</u>	

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:02:41, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:41, July 1, 1996; 24 SDR 10, effective July 20, 1997; 35 SDR 253, effective May 12, 2009; 42 SDR 103, effective January 19, 2016.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:53. Criteria for irrigation waters.** The criteria of parameters for irrigation waters and their allowable variations that are not included under § 74:51:01:55 and Appendix B, unless set under § 74:51:01:24, are as found in the following table:

Parameter	Criteria	Unit of Measure	Special Conditions
	<del>≤ 2,500</del>	<del>micromhos/cm</del>	<del>30-day average</del>
	<del>≤ 4,375</del>	<del>micromhos/cm</del>	<del>daily maximum</del>
Sodium adsorption ratio	≤ 10		see definition

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:02:43, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:43, July 1, 1996; 24 SDR 10, effective July 20, 1997.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:55. Criteria for toxic pollutants.** Toxic pollutants at levels which are or may become injurious to public health, safety, or welfare; plant, aquatic, and animal life; or the existing or designated uses of waters may not be present in the surface waters of the state. The toxic pollutants to which this section applies are the priority pollutants and chemicals in 40 C.F.R. Part 131 (July 1, ~~2008~~2020) and any other toxic pollutants or substances determined by the secretary to be of concern

at a specific site. Appendix B at the end of this chapter lists the priority pollutants and chemicals for which specific numerical criteria have been adopted by the board.

The levels of toxic pollutants allowed in surface waters shall be determined by the secretary in accordance with the chronic/acute criteria levels specified for human health and aquatic life in the National Recommended Water Quality Criteria and as translated in Appendix B. The secretary shall use a one-in-a-million ( $10^{-6}$ ) risk level when determining applicable human health criteria.

Upon written request, the board may determine allowable levels of toxic pollutants in surface waters of the state in accordance with § 74:51:01:23 or 74:51:01:24, after opportunity for public review and comment. If a numerical criterion has been established for a toxic pollutant in §§ 74:51:01:31, 74:51:01:32, and 74:51:01:44 to 74:51:01:54, inclusive, and in § 74:51:01:56, the provisions of this section do not apply to that substance. Toxic pollutants identified in and allowed by §§ 74:51:01:58 and 74:51:01:59 for water resource enhancement or restoration projects are exempt from the provisions of this section.

**Source:** SL 1975, ch 16, § 1; transferred from § 34:04:02:14, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 16 SDR 196, effective May 23, 1990; 18 SDR 128, effective February 11, 1992; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:14, July 1, 1996; 24 SDR 10, effective July 20, 1997; 25 SDR 98, effective January 27, 1999; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Reference: National Recommended Water Quality Criteria:** (October ~~2014~~2020) The priority pollutants can be found on the United States Environmental Protection Agency's website at <https://www.epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table> and <https://www.epa.gov/wqc/national-recommended-water-quality-criteria-human-health-criteria-table> <http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm#hhtable>.

**Cross-References:** Toxic pollutant criteria, Appendix B, ch 74:51:01; Protection of wetlands as waters of the state, § 74:51:01:11.

**74:51:01:60. Water resource enhancement or restoration projects -- Department approval required.** Projects designed to enhance or restore overall water quality or beneficial uses may include application of registered pesticides for elimination of nuisance aquatic life, including algae, weeds, and undesirable fish life; furtherance of fish and wildlife research projects; and removal of accumulated sediment. The secretary may allow these projects after review and approval of a written project plan and after opportunity for public review and comment if this is required pursuant to § 74:51:01:61. The project plan shall be submitted on a form provided by the department and shall contain the following information:

- (1) Name and address of responsible party;
- (2) Project goals and purpose;
- (3) Project description;
- (4) Legal location of project, including maps;
- (5) Bodies of water affected;

- (6) Estimated date and duration of project;
- (7) Methods implemented to minimize pollution;
- (8) Other alternatives available and reasons for rejection;
- (9) Name and label of pesticide product to be used;
- (10) Application rates of pesticide product to be used;
- (11) Application methods of pesticide product to be used; and
- (12) Surfactant toxicity information of pesticide product to be used, if available.;
- (13) Disposition and quantity of accumulated/dredged sediment, if applicable; and
- (14) Equipment used to remove accumulated sediment, if applicable.

~~If applicable, the applicant shall provide the department proof of application to or the applicant can provide~~ authorization from the South Dakota Department of Game, Fish and Parks under the provisions of SDCL 41-13-1 and 41-13-2 and of 41-12-13 for the application of registered pesticides. the secretary will consider the project approved and no further information or approval will be required. If authorization from the South Dakota Game, Fish and Parks is not provided the applicant shall follow the requirements in this section and §§ 74:51:01:6. The applicant shall provide the department proof of notification to the local emergency planning committee for projects that include the use of a registered pesticide.

**Source:** 18 SDR 128, effective February 11, 1992; 19 SDR 111, effective January 31, 1993; 21 SDR 214, effective June 21, 1995; transferred from § 74:03:02:47.02, July 1, 1996; 24 SDR 10, effective July 20, 1997.

**General Authority:** SDCL 34A-2-11, 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:01:63. Application requirements for certification of compliance with water quality standards.** An applicant for a federal permit or license to conduct an activity, including the construction or operation of facilities, which may result in a discharge of pollutants into surface waters of the state must receive certification of compliance with water quality standards from the secretary. A copy of the federal project application as submitted by the applicant or the responsible federal agency shall serve as request for certification. If the contents of the federal application do not provide adequate information to determine compliance with applicable water quality standards, the secretary may request any additional information required to determine compliance, including the following:

- (1) The name and address of the applicant;
- (2) A description of the activity to be performed, including the amount, duration, and potential impacts of any discharges to surface waters of the state;
- (3) A description of the uses of the surface waters of the state within a one-quarter mile radius of the affected area;
- (4) A description of any monitoring to be conducted prior to, during, and following the activity to assess impacts on water quality;
- (5) A description of the present water quality in the affected area;



(6) A list and description of processes and operating procedures conducted by the permittee to reduce or eliminate impacts on water quality;

(7) The date or dates that the activity will begin and end, if known, and the date or dates that a discharge will occur; and

(8) A plan to avoid, minimize, or compensate for any adverse impacts directly attributable to the project, including changes in or reduction of:

- (a) Channel length or width;
- (b) Flood storage;
- (c) Riparian habitat;
- (d) Hydrology;
- (e) Acreage; or
- (f) Biological community.

**Source:** 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:55, July 1, 1996; 31 SDR 29, effective September 13, 2004; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-33, 34A-2-34, 34A-2-93.

**Law Implemented:** SDCL 34A-2-33, 34A-2-34.

**Cross-Reference:** State certification of activities requiring a federal license or permit, 40 C.F.R. § 121 (~~July 1~~September 11, 2014-2020).

**74:51:01:64. Notice requirements for certification of compliance with water quality standards for hydropower facilities.** The secretary shall ensure that public notice of any proposed actions for water quality certification for hydropower facilities regulated by the Federal Energy Regulatory Commission is provided either by the responsible federal agency or by the department. The public notice for hydropower facilities shall follow requirements in § 74:52:05:13 and must be published in a daily or weekly newspaper that serves the affected area.

**Source:** 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; 21 SDR 18, effective August 8, 1994; transferred from § 74:03:02:56; July 1, 1996, 24 SDR 10, effective July 20, 1997 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-33, 34A-2-34, 34A-2-93.

**Law Implemented:** SDCL 34A-2-33, 34A-2-34.

**Cross-Reference:** State certification of activities requiring a federal license or permit, 40 C.F.R. § 121 (~~July 1~~September 11, ~~2014~~2020).

**74:51:01:64.01. Notice requirements for certification of compliance with water quality standards for dredge and fill permits.** The secretary shall ensure that public notice of any proposed actions for water quality certification under § 404 of the Federal Water Pollution Control Act as amended to February 4, 1987, is provided either by the responsible federal agency or by the department. ~~The public notice for dredge and fill activities must be distributed for posting in post offices or other public places in the county of the site of the proposed project.~~ The public notice must be sent to the applicant, to applicable city and county officials, to adjoining property owners, and to applicable state and federal agencies. Copies of the public notice must be sent to all parties requesting copies and shall follow requirements in § 74:52:05:13.

**Source:** 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; 21 SDR 18, effective August 8, 1994; transferred from § 74:51:01:64, 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-33, 34A-2-34, 34A-2-93.

**Law Implemented:** SDCL 34A-2-33, 34A-2-34.

**Cross-Reference:** State certification of activities requiring a federal license or permit, 40 C.F.R. § 121 (~~July 1~~September 11, 2014 2020).

**74:51:01:64.02. Notice requirements for certification of compliance with water quality standards for federal issued national pollutant discharge elimination system permits.** The secretary shall ensure that public notice of any proposed actions for water quality certification for

national pollutant discharge elimination system permits issued by the EPA, under § 402 of the Federal Water Pollution Control Act as amended to February 4, 1987, is provided either by the responsible federal agency or by the department. The public notice for federal issued national pollutant discharge elimination system permits must follow requirements in § 74:52:05:13 and must be published in a daily or weekly newspaper that serves the affected area.

**Source:** 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; 21 SDR 18, effective August 8, 1994; transferred from § 74:51:01:64, 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-33, 34A-2-34, 34A-2-93.

**Law Implemented:** SDCL 34A-2-33, 34A-2-34.

**Cross-Reference:** State certification of activities requiring a federal license or permit, 40 C.F.R. § 121 (~~July 1~~September 11, ~~2014~~2020).

**74:51:01:64.03. Contents of public notice for certification of compliance with water quality standards.** At a minimum, the public notice required in §§ 74:51:01:64 to 74:51:01:64.02, inclusive, must include the following:

(1) A brief description of the proposed activity and a summary of the application information required in the application;

(2) A period of time, at least 15 days from the date of mailing, within which interested parties may express their views concerning the permit application; and

(3) A statement that any person may request, in writing, within the comment period specified in the notice, that a public hearing pursuant to chapter 74:50:02 be held to consider the application. Requests for public hearings must state the reasons for holding a public hearing.

**Source:** 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; 21 SDR 18, effective August 8, 1994; transferred from § 74:51:01:64, 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-33, 34A-2-34, 34A-2-93.

**Law Implemented:** SDCL 34A-2-33, 34A-2-34.

**Cross-Reference:** State certification of activities requiring a federal license or permit, 40 C.F.R. § 121 (~~July 1, September 11, 2014-2020~~).

**74:51:01:65. Secretary's certification of compliance with water quality standards.** The certification of the secretary that water quality standards are protected must include the conditions that are necessary to ensure compliance with the provisions of this chapter and a statement that there is a reasonable assurance that the activity will be conducted in a manner that will not violate applicable water quality standards. The secretary shall provide certification or denial of certification to the applicant within 60 working days after receipt of the complete application.

If the secretary fails to issue certification within the 60 working days after receipt of the application or fails to submit to the responsible federal agency a written request to allow an extension of time for a determination, the applicant may consider water quality certification to be waived. The secretary may expressly waive in writing the authority to act on the request for certification.

**Source:** 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:02:57, July 1, 1996; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-11, 34A-2-33, 34A-2-34, 34A-2-93.

**Law Implemented:** SDCL 34A-2-33, 34A-2-34.

**Cross-Reference:** State certification of activities requiring a federal license or permit, 40 C.F.R. § 121 (~~July 1~~September 11, ~~2014~~2020).

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER POLLUTION CONTROL PROGRAM

TOTAL AMMONIA CRITERIA

Chapter 74:51:01

APPENDIX A

SEE: § 74:51:01:22

**Source:** Effective November 14, 1980; transferred from Chapter 74:03:02, Appendix A, July 1, 1996; transferred from Chapter 74:51:01, Appendix C, 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009.



## APPENDIX A TO CHAPTER 74:51:01

Equation 1: ~~For~~ Acute criterion for waters where salmonid fish are present.

$$(0.275/(1+10^{-7.204-\text{pH}})) + (39.0/(1+10^{\text{pH}-7.204}))$$

$$\text{MIN}(((0.275/(1+10^{7.204-\text{pH}})) + (39/(1+10^{\text{pH}-7.204}))), (0.7249 * ((0.0114/(1+10^{7.204-\text{pH}})) + (1.6181/(1+10^{\text{pH}-7.204}))) * (23.12 * 10^{0.036 * (20-T)})))$$

MIN = use either the value of  $((0.275/(1+10^{7.204-\text{pH}})) + (39/(1+10^{\text{pH}-7.204})))$  or the value of  $(0.7249 * ((0.0114/(1+10^{7.204-\text{pH}})) + (1.6181/(1+10^{\text{pH}-7.204}))) * (23.12 * 10^{0.036 * (20-T)}))$ , whichever is the smaller value.

T = the water temperature of the sample in degrees Centigrade.

pH = the pH of the water quality sample in standard units.

Equation 2: ~~For~~ Acute criterion for waters where salmonid fish are not present.

$$(0.411/(1+10^{-7.204-\text{pH}})) + (58.4/(1+10^{\text{pH}-7.204}))$$

$$0.7249 * (((0.0114/(1+10^{7.204-\text{pH}})) + (1.6181/(1+10^{\text{pH}-7.204}))) * \text{MIN}(51.93, 23.12 * 10^{0.036 * (20-T)}))$$

MIN = use either 51.93 or the value of  $23.12 * 10^{0.036 * (20-T)}$ , whichever is the smaller value.

T = the water temperature of the sample in degrees Centigrade.

pH - the pH of the water quality sample in standard units.

Equation 3: ~~For waters where early life stages are present.~~ Chronic criterion

$$\frac{(((0.0577/(1 + 10^{7.688 - \text{pH}})) + (2.487/(1 + 10^{\text{pH} - 7.688})))) * \text{MIN}(2.85, 1.45 * 10^{0.028 * (25 - T)})}{0.8876 * (((0.0278/(1 + 10^{7.688 - \text{pH}})) + (1.1994/(1 + 10^{\text{pH} - 7.688})))) * (2.126 * 10^{0.028 * (20 - \text{MAX}(T, 7))})}$$

~~MIN = use either 2.85 or the value of 1.45 \* 10<sup>0.028 \* (25 - T)</sup>, whichever is the smaller value.~~

T = the water temperature of the sample in degrees Centigrade.

pH - the pH of the water quality sample in standard units.

MAX = use either the water temperature (T) for the sample, or 7, whichever is the greater value.

Equation 4: ~~For waters where early life stages are absent.~~

$$(((0.0577/(1 + 10^{7.688 - \text{pH}})) + (2.487/(1 + 10^{\text{pH} - 7.688})))) * 1.45 * 10^{0.028 * (25 - \text{MAX}(T, 7))}$$

~~T = the water temperature of the sample in degrees Centigrade.~~

~~pH = the pH of the water quality sample in standards units.~~

~~MAX = use either the water temperature (T) for the sample, or 7, whichever is the greater value.~~

**Reference:** ~~1999 Update of Ambient Water Quality Criteria for Ammonia, EPA 822-R-99-014,~~  
~~December 1999.~~ Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater 2013,  
EPA 822-R-13-001, April 2013.

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER POLLUTION CONTROL PROGRAM

TOXIC POLLUTANT CRITERIA

Chapter 74:51:01

APPENDIX B

SEE: § 74:51:01:55

**Source:** 19 SDR 111, effective January 31, 1993; transferred from Chapter 74:03:02, Appendix C, July 1, 1996; transferred from Chapter 74:51:01, Appendix A, 24 SDR 10, effective July 20, 1997; 25 SDR 98, effective January 27, 1999; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015; 42 SDR 103, effective January 19, 2016.

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
Acenaphthene	83329	<del>670</del> <u>70</u>	<del>990</del> <u>90</u>		
Acenaphthylene (PAH) <sup>(6)</sup>	208968				
Acrolein	107028	<del>6</del> <u>3</u>	<del>9</del> <u>400</u>	3	3
Acrylonitrile <sup>(4)</sup>	107131	<del>0.051</del> <u>0.061</u>	<del>0.25</del> <u>7.0</u>		
Aldrin <sup>(4)</sup>	309002	<del>0.000049</del> <u>0.0000007</u> <u>7</u>	<del>0.000050</del> <u>0.0000007</u> <u>7</u>	3.0	
<u>Alpha-Hexachlorocyclohexane</u> <u>(HCH)<sup>(4)</sup></u>	<u>319846</u>	<u>0.00036</u>	<u>0.003039</u>		
Anthracene (PAH) <sup>(5)</sup>	120127	<del>8,300</del> <u>300</u>	<del>40,000</del> <u>400</u>		
Antimony	7440360	5.6	640		
Arsenic <sup>(4)</sup>	7440382	0.018 <del>(4)</del> <sup>(11)</sup>	0.14 <del>(4)</del> <sup>(11)</sup>	340	150

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
Asbestos <sup>(4)</sup>	1332214	7,000,000 fibers/L			
alpha-BHC <sup>(4)</sup>	319846	0.0026	0.0049		
beta-BHC <sup>(4)</sup>	319857	0.0091	0.017		
gamma-BHC (Lindane) <sup>(4)</sup>	58899	0.98	1.8	0.95	
Benzene <sup>(4)</sup>	71432	<del>2.2</del> 0.58	<del>5.1</del> 16		
Benzidine <sup>(4)</sup>	92875	<del>0.000086</del> 0.00014	<del>0.00020</del> 0.011		
Benzo(a)Anthracene <sup>(4)</sup>	56553	<del>0.0038</del> 0.0012	<del>0.018</del> 0.0013		
Benzo(a)Pyrene <sup>(4)</sup>	50328	<del>0.0038</del> 0.00012	<del>0.018</del> 0.00013		
Benzo(b)Fluoroanthene <sup>(4)</sup>	205992	<del>0.0038</del> 0.0012	<del>0.018</del> 0.0013		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
Benzo(k)Flouroanthene <sup>(4)</sup>	207089	<del>0.0038</del> <u>0.012</u>	<del>0.018</del> <u>0.013</u>		
Beryllium <sup>(4)</sup>	7440417	4			
<u>beta-Hexachlorocyclohexane</u> (HCH)	<u>319857</u>	<u>0.0080</u>	<u>0.014</u>		
<u>Bis(2-Chloro-1-methylethyl) Ether</u>	<u>108601</u>	<u>200</u>	<u>4,000</u>		
Bis(2-Chloroethyl) Ether <sup>(4)</sup>	111444	0.030	<del>0.53</del> <u>2.2</u>		
<del>Bis(2-Chloroisopropyl)Ether<sup>(4)</sup></del>	<del>108601</del>	<del>1,400</del>	<del>65,000</del>		
Bis(2-Ethylhexyl)Phthalate <sup>(4)</sup>	117817	<del>1.2</del> <u>0.32</u>	<del>2.2</del> <u>0.37</u>		
<u>Bis(Chloromethyl) Ether<sup>(4)</sup></u>	<u>542881</u>	<u>0.00015</u>	<u>0.017</u>		
Bromoform <sup>(5)</sup>	75252	<del>4.3</del>	<del>140</del>		



# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
		<u>7.0</u>	<u>120</u>		
Butylbenzyl Phthalate <sup>(4)</sup>	85687	<del>1,500</del> <u>0.10</u>	<del>1,900</del> <u>0.10</u>		
Cadmium	7440439			2.0 <sup>(7)</sup>	0.25 <sup>(7)</sup>
Carbon Tetrachloride <sup>(4)</sup>	56235	<del>0.23</del> <u>0.4</u>	<del>1.6</del> <u>5</u>		
Chlordane <sup>(4)</sup>	57749	<del>0.00080</del> <u>0.00031</u>	<del>0.00081</del> <u>0.00032</u>	2.4	0.0043
Chlorine	7782505			19	11
Chlorobenzene	108907	<del>130</del> <u>100</u>	<del>1,600</del> <u>800</u>		
Chlorodibromomethane <sup>(4)</sup>	124481	<del>0.40</del> <u>0.80</u>	<del>13</del> <u>21</u>		
Chloroform <sup>(4)</sup>	67663	<del>5.7</del>	<del>470</del>		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
		<u>60</u>	<u>2,000</u>		
<u>Chlorophenoxy Herbicide (2,4-D)</u>	<u>94757</u>	<u>1,300</u>	<u>12,000</u>		
<u>Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]</u>	<u>93721</u>	<u>100</u>	<u>400</u>		
2-Chloronaphthalene	91587	<del>1,000</del> <u>800</u>	<del>1,600</del> <u>1,000</u>		
2-Chlorophenol	95578	<del>84</del> <u>30</u>	<del>150</del> <u>800</u>		
<u>3-Methyl-4-Chlorophenol</u>	<u>59507</u>	<u>500</u>	<u>2,000</u>		
Chromium(III)	16065831			570 <sup>(7)</sup>	74 <sup>(7)</sup>
Chromium(VI)	18540299			16	11
Chrysene <sup>(4)</sup>	218019	<del>0.0038</del> <u>0.12</u>	<del>0.018</del> <u>0.13</u>		
Copper	7440508	1,300		13 <sup>(7)</sup>	9.0 <sup>(7)</sup>

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
Cyanide ( <del>weak acid dissociable</del> )	57125	<del>140</del> <u>4<sup>(8)</sup></u>	<del>140</del> <u>400<sup>(8)</sup></u>	22 <sup>(12)</sup>	5.2 <sup>(12)</sup>
<u>Diazinon</u>	<u>333415</u>	<u>0.17</u>	<u>0.17</u>		
4,4'-DDD <sup>(4)</sup>	72548	<del>0.00031</del> <u>0.00012</u>	<del>0.00031</del> <u>0.00012</u>		
4,4'-DDE <sup>(4)</sup>	72559	<del>0.00022</del> <u>0.000018</u>	<del>0.00022</del> <u>0.000018</u>		
4,4'-DDT <sup>(4)</sup>	50293	<del>0.00022</del> <u>0.000030</u>	<del>0.00022</del> <u>0.000030</u>	1.1	0.001
Dibenzo(a,h)Anthracene <sup>(4)</sup>	53703	<del>0.0038</del> <u>0.00012</u>	<del>0.018</del> <u>0.00013</u>		
1,2-Dichlorobenzene	95501	<del>420</del> <u>1,000</u>	<del>1,300</del> <u>3,000</u>		
1,3-Dichlorobenzene	541731	<del>320</del>	<del>960</del>		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
		<u>7</u>	<u>10</u>		
1,4-Dichlorobenzene	106467	<del>63</del> <u>300</u>	<del>190</del> <u>900</u>		
3,3'-Dichlorobenzidine <sup>(4)</sup>	91941	<del>0.021</del> <u>0.049</u>	<del>0.028</del> <u>0.15</u>		
Dichlorobromomethane <sup>(5)(4)</sup>	75274	<del>0.55</del> <u>0.95</u>	<del>17</del> <u>27</u>		
1,2-Dichloroethane <sup>(4)</sup>	107062	<del>0.38</del> <u>9.9</u>	<del>37</del> <u>650</u>		
1,1-Dichloroethylene <sup>(4)</sup>	75354	<del>330</del> <u>300</u>	<del>7,100</del> <u>20,000</u>		
2,4-Dichlorophenol	120832	<del>77</del> <u>10</u>	<del>290</del> <u>60</u>		
1,2-Dichloropropane <sup>(4)</sup>	78875	<del>0.50</del>	<del>15</del>		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
		<u>0.90</u>	<u>31</u>		
1,3-Dichloropropene <sup>(4)</sup>	542756	<del>0.34</del> <u>0.27</u>	<del>21</del> <u>12</u>		
Dieldrin <sup>(4)</sup>	60571	<del>0.000052</del> <u>0.0000012</u>	<del>0.000054</del> <u>0.0000012</u>	0.24	0.056
Diethyl Phthalate	84662	<del>17,000</del> <u>600</u>	<del>44,000</del> <u>600</u>		
2,4-Dimethylphenol	105679	<del>380</del> <u>100</u>	<del>850</del> <u>3,000</u>		
Dimethyl Phthalate	131113	<del>270,000</del> <u>2,000</u>	<del>1,100,000</del> <u>2,000</u>		
Di-n-Butyl-Phthalate	84742	<del>2,000</del> <u>20</u>	<del>4,500</del> <u>30</u>		
<u>Dinitrophenols</u>	<u>25550587</u>	<u>10</u>	<u>1,000</u>		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
2-Methyl-4,6-Dinitrophenol	534521	<del>13</del> <u>2</u>	<del>280</del> <u>30</u>		
2,4-Dinitrophenol	51285	<del>69</del> <u>10</u>	<del>5,300</del> <u>300</u>		
<del>Dioxin (2,3,7,8-TCDD)<sup>(4)</sup></del>	<del>1746016</del>	<del>5.0E-9</del>	<del>5.1E-9</del>		
2,4-Dinitrotoluene <sup>(4)</sup>	121142	<del>0.11</del> <u>0.049</u>	<del>3.4</del> <u>1.7</u>		
1,2-Diphenylhydrazine <sup>(4)</sup>	122667	<del>0.036</del> <u>0.03</u>	<del>0.20</del> <u>0.2</u>		
alpha-Endosulfan	959988	<del>62</del> <u>20</u>	<del>89</del> <u>30</u>	0.22	0.056
beta-Endosulfan	33213659	<del>62</del> <u>20</u>	<del>89</del> <u>40</u>	0.22	0.056
Endosulfan Sulfate	1031078	<del>62</del>	<del>89</del>		



# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
		<u>20</u>	<u>40</u>		
Endrin	72208	<del>0.059</del> <u>0.03</u>	<del>0.060</del> <u>0.03</u>	0.086	0.036
Endrin Aldehyde	7421934	<del>0.29</del> <u>1</u>	<del>0.30</del> <u>1</u>		
Ethylbenzene	100414	<del>530</del> <u>68</u>	<del>2,100</del> <u>130</u>		
Fluoranthene	206440	<del>130</del> <u>50</u>	<del>140</del> <u>70</u>		
Fluorene <sup>(5)</sup>	86737	<del>1,100</del> <u>50</u>	<del>5,300</del> <u>70</u>		
Heptachlor <sup>(4)</sup>	76448	<del>0.000079</del> <u>0.0000059</u>	<del>0.000079</del> <u>0.0000059</u>	0.52	0.0038
Heptachlor epoxide <sup>(4)</sup>	1024573	<del>0.000039</del>	<del>0.000039</del>	0.52	0.0038

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
		<u>0.000032</u>	<u>0.000032</u>		
Hexachlorobenzene <sup>(4)</sup>	118741	<del>0.00028</del> <u>0.000079</u>	<del>0.00029</del> <u>0.000079</u>		
Hexachlorobutadiene <sup>(4)</sup>	87683	<del>0.44</del> <u>0.01</u>	<del>18</del> <u>0.01</u>		
<u>gamma-Hexachlorocyclohexane</u> <u>(HCH) [Lindane]</u>	<u>58899</u>	<u>4.2</u>	<u>4.4</u>	<u>0.95</u>	
<u>Hexachlorocyclohexane (HCH) –</u> <u>Technical<sup>(4)</sup></u>	<u>608731</u>	<u>0.0066</u>	<u>0.010</u>		
Hexachlorocyclopentadiene	77474	<del>40</del> <u>4</u>	<del>1,100</del> <u>4</u>		
Hexachloroethane <sup>(4)</sup>	67721	<del>1.4</del> <u>0.1</u>	<del>3.3</del> <u>0.1</u>		
<del>Ideno</del> (1,2,3-cd)Pyrene	193395	<del>0.0038</del>	<del>0.018</del>		



# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
<u>Indeno(1,2,3-cd)pyrene<sup>(4)</sup></u>		<u>0.0012</u>	<u>0.0013</u>		
Isophorone <sup>(4)</sup>	78591	<del>35</del> <u>34</u>	<del>960</del> <u>1,800</u>		
Lead	7439921			65 <sup>(7)</sup>	2.5 <sup>(7)</sup>
Mercury	7439976	0.050	0.051	1.4	0.77 <sup>(8)</sup>
<del>Methyl Bromide</del>	<del>74839</del>	<del>47</del>	<del>1,500</del>		
Methyl Chloride <sup>(5)</sup>	74873				
<del>Methylene Chloride<sup>(4)</sup></del>	<del>75092</del>	<del>4.6</del>	<del>590</del>		
Methylmercury	22967926		0.3 mg/kg		
<u>Methoxychlor</u>	<u>72435</u>	<u>0.02</u>	<u>0.02</u>		<u>0.03</u>
<u>Methyl Bromide</u>	<u>74839</u>	<u>47</u>	<u>1,500</u>		
<u>Methylene Chloride<sup>(4)</sup></u>	<u>75092</u>	<u>20</u>	<u>1,000</u>		
N-Nitrosodimethylamine <sup>(4)</sup>	62759	0.00069	3.0		
N-Nitrosodi-n-Propylamine <sup>(4)</sup>	621647	0.0050	0.51		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
N-Nitrosodiphenylamine <sup>(4)</sup>	86306	3.3	6.0		
Nickel	7440020	610	4,600	470 <sup>(7)</sup>	52 <sup>(7)</sup>
Nitrobenzene	98953	<del>17</del> <u>10</u>	<del>690</del> <u>600</u>		
Nonylphenol	84852153			28	6.6
<del>Polychlorinated Biphenyls,</del> <del>PCBs</del> <sup>(4)(9)</sup>		<del>0.000064</del>	<del>0.000064</del>		<del>0.014</del>
<u>Pentachlorobenzene</u>	<u>608935</u>	<u>0.1</u>	<u>0.1</u>		
Pentachlorophenol <sup>(4)</sup>	87865	<del>0.27</del> <u>0.03</u>	<del>3.0</del> <u>0.04</u>	19 <sup>(6)</sup>	15 <sup>(6)</sup>
Phenanthrene <sup>(5)</sup>	85018				
Phenol	108952	<del>10,000</del> <u>4,000</u>	<del>860,000</del> <u>300,000</u>		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
<u>Polychlorinated Biphenyls,</u> <u>PCBs<sup>(4)(9)</sup></u>		<u>0.000064</u>	<u>0.000064</u>		<u>0.014</u>
Pyrene <sup>(5)</sup>	12900	<u>830</u> <u>20</u>	<u>4,000</u> <u>30</u>		
Selenium	7782492	170	4,200	<sup>(10)</sup>	5.0 <sup>(8)</sup>
Silver	7440224			3.2 <sup>(7)</sup>	
<u>1,2,4-Trichlorobenzene</u>	<u>120821</u>	<u>35</u>	<u>70</u>		
<u>1,2,4,5-Tetrachlorobenzene</u>	<u>95943</u>	<u>0.03</u>	<u>0.03</u>		
<u>2,3,7,8-Tetrachlorodibenzo-p-</u> <u>dioxon (Dioxin)<sup>(4)</sup></u>	<u>1746016</u>	<u>5.0E-9</u>	<u>5.1E-9</u>		
1,1,2,2-Tetrachloroethane <sup>(4)</sup>	79345	<u>0.17</u> <u>0.2</u>	<u>4.0</u> <u>4</u>		
Tetrachloroethylene <sup>(5)(4)</sup>	127184	<u>0.69</u> <u>10</u>	<u>3.3</u> <u>29</u>		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
Thallium	7440280	0.24	0.47		
Toluene	108883	<del>1,300</del> <u>57</u>	<del>15,000</del> <u>520</u>		
Toxaphene <sup>(4)</sup>	8001352	<del>0.00028</del> <u>0.00070</u>	<del>0.00028</del> <u>0.00071</u>	0.73	0.0002
1,2-Trans-Dichloroethylene	156605	<del>140</del> <u>100</u>	<del>10,000</del> <u>4,000</u>		
<u>1,2,4-Trichlorobenzene</u>	<u>120821</u>	<u>0.071</u>	<u>0.076</u>		
1,1,1-Trichloroethane	71556	<u>10,000</u>	<u>200,000</u>		
1,1,2-Trichloroethane <sup>(4)</sup>	79005	<del>0.59</del> <u>0.55</u>	<del>16</del> <u>8.9</u>		
Trichloroethylene <sup>(4)</sup>	79016	<del>2.5</del> <u>0.6</u>	<del>30</del> <u>7</u>		
<u>2,4,5-Trichlorophenol</u>	<u>95954</u>	<u>300</u>	<u>600</u>		

# SOUTH DAKOTA SURFACE WATER QUALITY STANDARDS<sup>(1)</sup>

## FOR TOXIC POLLUTANTS - ARSD 74:51:01

Pollutant	CAS Number	Human Health Value Concentrations in µg/L		Freshwater Aquatic Life Value Concentrations in µg/L Uses 2-3-4-5-6-9	
		Use 1 <sup>(2)</sup>	Uses 2-3-4-5-6- 9 <sup>(3)</sup>	Acute (CMC)	Chronic (CCC)
2,4,6-Trichlorophenol <sup>(4)</sup>	88062	<del>1.4</del> <u>1.5</u>	<del>2.4</del> <u>2.8</u>		
Vinyl Chloride <sup>(4)</sup>	75014	<del>0.025</del> <u>0.022</u>	<del>2.4</del> <u>1.6</u>		
Zinc	7440666	7,400	26,000	120 <sup>(7)</sup>	120 <sup>(7)</sup>

## SOUTH DAKOTA

### Surface Water Quality Standards<sup>(1)</sup>

#### for Toxic Pollutants

<sup>(1)</sup> The aquatic life values for arsenic, cadmium, chromium (III), chromium (VI), copper, lead, mercury (acute), nickel, selenium, silver and zinc given in this document refer to the dissolved amount of each

substance unless otherwise noted. All surface water discharge permit effluent limits for metals shall be expressed and measured in accordance with § 74:52:03:16.

(2) Based on two routes of exposure - ingestion of contaminated aquatic organisms and drinking water.

(3) Based on one route of exposure - ingestion of contaminated aquatic organisms only.

(4) Substance classified as a carcinogen with the value based on an incremental risk of one additional instance of cancer in one million persons ( $10^{-6}$ ).

(5) Chemicals which are not individually classified as carcinogens but which are contained within a class of chemicals with carcinogenicity as the basis for the criteria derivation for that class of chemicals; an individual carcinogenicity assessment for these chemicals is pending.

(6) pH-dependent criteria. Value given is an example only and is based on a pH of 7.8. Criteria for each case must be calculated using the following equation taken from National Recommended Water Quality Criteria: 2002 (EPA-822-R-02-047, November 2002):

***Pentachlorophenol (PCP), ug/L***

$$\text{Chronic} = e^{[1.005(\text{pH}) - 5.134]}$$

$$\text{Acute} = e^{[1.005(\text{pH}) - 4.869]}$$

(7) Hardness-dependent criteria in ug/L. Value given is an example only and is based on a  $\text{CaCO}_3$  hardness of 100 mg/L. Criteria for each case must be calculated using the following equations taken from

National Recommended Water Quality Criteria:

<http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm#hhtable>, June 2013:

***Cadmium, ug/L***

$$\text{Chronic} = (*0.909)e^{(0.7409[\ln(\text{hardness})]-4.719)} \quad \text{Acute} = (*0.944)e^{(1.0166[\ln(\text{hardness})]-3.924)}$$

\*Conversion factors are hardness-dependent. The values shown are with a hardness of 100 mg/L as calcium carbonate (CaCO<sub>3</sub>). Conversion factors (CF) for any hardness can be calculated using the following equations:

$$\text{Chronic: CF} = 1.101672 - [(\ln \text{ hardness})(0.041838)]$$

$$\text{Acute: CF} = 1.136672 - [(\ln \text{ hardness})(0.041838)]$$

***Chromium (III), ug/L***

$$\text{Chronic} = (0.860)e^{(0.8190[\ln(\text{hardness})]+0.6848)} \quad \text{Acute} = (0.316)e^{(0.8190[\ln(\text{hardness})]+3.7256)}$$

***Copper, ug/L***

$$\text{Chronic} = (0.960)e^{(0.8545[\ln(\text{hardness})]-1.702)} \quad \text{Acute} = (0.960)e^{(0.9422[\ln(\text{hardness})]-1.700)}$$

***Lead, ug/L***

$$\text{Chronic} = (*0.791)e^{(1.273[\ln(\text{hardness})]-4.705)} \quad \text{Acute} = (*0.791)e^{(1.273[\ln(\text{hardness})]-1.460)}$$

\*Conversion factors are hardness-dependent. The values shown are with a hardness of 100 mg/L as calcium carbonate (CaCO<sub>3</sub>). Conversion factors (CF) for any hardness can be calculated using the following equations:

$$\text{Acute and Chronic: } CF = 1.46203 - [(\ln \text{ hardness})(0.145712)]$$

***Nickel, ug/L***

$$\text{Chronic} = (0.997)e^{(0.8460[\ln(\text{hardness})]+0.0584)} \quad \text{Acute} = (0.998)e^{(0.8460[\ln(\text{hardness})]+2.255)}$$

***Silver, ug/L***

$$\text{Acute} = (0.85)e^{(1.72[\ln(\text{hardness})]-6.59)}$$

***Zinc, ug/L***

$$\text{Chronic} = (0.986)e^{(0.8473[\ln(\text{hardness})]+0.884)} \quad \text{Acute} = (0.978)e^{(0.8473[\ln(\text{hardness})]+0.884)}$$

<sup>(8)</sup> These criteria are based on the total-recoverable fraction of the metal.

<sup>(9)</sup> This criterion applies to total pcbs, (e.g. the sum of congener or all isomer or homolog or Aroclor analyses).

<sup>(10)</sup> The  $(0.996)CMC = 1/[f_1/CMC1) + (f_2/CMC2)]$  where  $f_1$  and  $f_2$  are the fractions of total selenium that are treated as selenite and selenate, respectively, and CMC1 and CMC2 are 185.9  $\Phi$ g/L and 12.82  $\Phi$ g/L, respectively.

<sup>(11)</sup> This criterion for arsenic refers to the inorganic form only.



(12) This criterion for cyanide are expressed as free cyanide.

## **CHAPTER 74:51:02**

### **USES ASSIGNED TO LAKES**

#### **Section**

74:51:02:01	Beneficial use of fish and wildlife propagation, recreation, and stock watering assigned to lakes.
74:51:02:02	Beneficial uses of recreation assigned to some lakes.
74:51:02:03	Beneficial uses of lakes indicated by listings.
74:51:02:04	Uses of certain lakes.
74:51:02:05	Repealed.
74:51:02:06	Repealed.
74:51:02:07	Repealed.
74:51:02:08	Repealed.
74:51:02:09	Repealed.
74:51:02:10	Repealed.
74:51:02:11	Repealed.
74:51:02:12	Repealed.
74:51:02:13	Repealed.
74:51:02:14	Repealed.
74:51:02:15	Repealed.
74:51:02:16	Repealed.
74:51:02:17	Repealed.
74:51:02:18	Repealed.

74:51:02:19	Repealed.
74:51:02:20	Repealed.
74:51:02:21	Repealed.
74:51:02:22	Repealed.
74:51:02:23	Repealed.
74:51:02:24	Repealed.
74:51:02:25	Repealed.
74:51:02:26	Repealed.
74:51:02:27	Repealed.
74:51:02:28	Repealed.
74:51:02:29	Repealed.
74:51:02:30	Repealed.
74:51:02:31	Repealed.
74:51:02:32	Repealed.
74:51:02:33	Repealed.
74:51:02:34	Repealed.
74:51:02:35	Repealed.
74:51:02:36	Repealed.
74:51:02:37	Repealed.
74:51:02:38	Repealed.
74:51:02:39	Repealed.
74:51:02:40	Repealed.
74:51:02:41	Repealed.
74:51:02:42	Repealed.
74:51:02:43	Repealed.

74:51:02:44	Repealed.
74:51:02:45	Repealed.
74:51:02:46	Repealed.
74:51:02:47	Repealed.
74:51:02:48	Repealed.
74:51:02:49	Repealed.
74:51:02:50	Repealed.
74:51:02:51	Repealed.
74:51:02:52	Repealed.
74:51:02:53	Repealed.
74:51:02:54	Repealed.
74:51:02:55	Repealed.
74:51:02:56	Repealed.
74:51:02:57	Repealed.
74:51:02:58	Repealed.
74:51:02:59	Repealed.
74:51:02:60	Repealed.
74:51:02:61	Repealed.
74:51:02:62	Repealed.
74:51:02:63	Repealed.
74:51:02:64	Repealed.
74:51:02:65	Repealed.
74:51:02:66	Repealed.
74:51:02:67	Repealed.
74:51:02:68	Repealed.

74:51:02:69 Repealed.

**Cross-Reference:** Definitions, § 74:51:01:01.

**74:51:02:04. Uses of certain lakes.** Lakes covered by §§ 74:51:02:02 and 74:51:02:03 include the following:

County	Waterbody	<u>State Lake Identifier</u>	Uses
<b>Aurora</b>	Crystal	<u>LJA-Lake-340-000</u>	6
	Fish	<u>LJA-Lake-655-000</u>	6
	Frazer, <u>also known as Fraser Dam</u>	<u>LJA-Lake-18-000</u>	5
	Hansons	<u>FTR-Lake-5652-000</u>	6
	Jail Pond <u>Jail Pond, also known as Plankinton</u> <u>Community Fishing Pond</u>	<u>LJA-Lake-774-000</u>	6
	New Stickney, <u>also known as Nelson</u>	<u>LJA-Lake-772-000</u>	4
	Old Stickney	<u>LJA-Lake-55-000</u>	6
	Patton	<u>FTR-Lake-5113-000</u>	3
	White	<u>FTR-Lake-5129-000</u>	6
	Wilmarth	<u>LJA-Lake-233-000</u>	4
<b>Beadle</b>	Bergers	<u>MJA-Lake-638-000</u>	5

County	Waterbody	State Lake Identifier	Uses
	Byron	<a href="#">MJA-Lake-531-000</a>	5,10
	Cavour	<a href="#">MJA-Lake-532-000</a>	6
	Mud, includes Conners and Spring	<a href="#">MJA-Lake-531-001</a>	6
	Ravine	<a href="#">MJA-Lake-540-000</a>	5
	Staum	<a href="#">MJA-Lake-354-000</a>	5
	Stoney Run	<a href="#">MJA-Lake-317-000</a>	6
<b>Bennett</b>	Allan Dam	<a href="#">UWH-Lake-19-000</a>	3
	Allen	<a href="#">LIW-Lake-143-000</a>	2
	Bad Hair	<a href="#">MWH-Lake-38-000</a>	5
	Cedar Creek No. 1	<a href="#">LIW-Lake-9-000</a>	2
	Cedar Creek No. 2	<a href="#">LIW-Lake-9-001</a>	2
	Jacquot, <a href="#">also known as Risse</a>	<a href="#">MWH-Lake-41-000</a>	4
	LaCreek <a href="#">National Wildlife</a> Refuge Pools No. <del>1-91</del>	<a href="#">LIW-Lake-289-000</a>	6
	<a href="#">LaCreek National Wildlife Refuge Pool 2</a>	<a href="#">LIW-Lake-292-000</a>	<a href="#">6</a>
	<a href="#">LaCreek National Wildlife Refuge Pool 3</a>	<a href="#">LIW-Lake-291-000</a>	<a href="#">6</a>
	<a href="#">LaCreek National Wildlife Refuge Pool 4</a>	<a href="#">LIW-Lake-290-000</a>	<a href="#">6</a>
	<a href="#">LaCreek National Wildlife Refuge Pool 5</a>	<a href="#">LIW-Lake-147-000</a>	<a href="#">6</a>
	<a href="#">LaCreek National Wildlife Refuge Pool 6</a>	<a href="#">LIW-Lake-286-000</a>	<a href="#">6</a>
	<a href="#">LaCreek National Wildlife Refuge Pool 7</a>	<a href="#">LIW-Lake-288-000</a>	<a href="#">6</a>
	<a href="#">LaCreek National Wildlife Refuge Pool 8</a>	<a href="#">LIW-Lake-287-000</a>	<a href="#">6</a>
	<a href="#">LaCreek National Wildlife Refuge Pool 9</a>	<a href="#">LIW-Lake-28-000</a>	<a href="#">6</a>

County	Waterbody	State Lake Identifier	Uses
	LaCreek <u>National Wildlife</u> Refuge Pools No. 10	<u>LIW-Lake-27-000</u>	5
	Little White River Project Dam	<u>LIW-Lake-8-000</u>	4
	Scharman	<u>MWH-Lake-68-000</u>	4
<b>Bon Homme</b>	Bucholz WPA	<u>LCL-Lake-62-000</u>	6, no 7
	Clear	<u>LCL-Lake-9-000</u>	6
	Cosby WPA	<u>LCL-Lake-60-000</u>	6, no 7
	Hieb WPA	<u>LCL-Lake-60-000</u>	6, no 7
	Henry	<u>LJA-Lake-588-000</u>	4
	Kloucek	<u>LJA-Lake-490-000</u>	6
	Schaefer WPA	<u>LCL-Lake-63-000</u>	6, no 7
	Tyndall Kids Pond	<u>LCL-Lake-71-000</u>	6
<b>Brookings</b>	Campbell	<u>MBS-Lake-234-000</u>	6
	East 81 Lake	<u>MBS-Lake-233-001</u>	4
	Goldsmith	<u>MBS-Lake-236-000</u>	6
	Hendricks	<u>LQP-Lake-23-000</u>	5
	Johnson Pond, also known as Interstate-Lake <u>Urban Fishing Pond</u>	<u>MBS-Lake-278-000</u>	5
	Oak	<u>LQP-Lake-68-000</u>	6
	East Oakwood	<u>MBS-Lake-215-001</u>	5
	North Oakwood, also known as Johnson Lake	<u>MBS-Lake-215-702</u>	5

County	Waterbody	State Lake Identifier	Uses
	West Oakwood, also known as Tetonkaha	<a href="#"><u>MBS-Lake-215-700</u></a>	5
	Sinai	<a href="#"><u>MBS-Lake-232-000</u></a>	4
<b>Brown</b>	Elm	<a href="#"><u>ELM-Lake-5-000</u></a>	1,4
	Elm River No. 1	<a href="#"><u>ELM-Lake-190-001</u></a>	1,6
	Elm River No, 2, also known as Ordway Dam	<a href="#"><u>ELM-Lake-190-001</u></a>	1,6
	Elm River No. 4	<a href="#"><u>ELM-Lake-190-002</u></a>	1,6
	Frederick	<a href="#"><u>ELM-Lake-189-000</u></a>	6
	Pigors	<a href="#"><u>MUD-Lake-281-000</u></a>	5
	Richmond	<a href="#"><u>UJA-Lake-831-000</u></a>	4
	Sand, which includes Mud Lake and Columbia Road Reservoirs	<a href="#"><u>UJA-Lake-803-000</u></a>	6
	Tacoma Park	<a href="#"><u>UJA-Lake-1218-000</u></a>	6
	Tollefson	<a href="#"><u>MJA-Lake-343-000</u></a>	6
	Wiley Park	<a href="#"><u>UJA-Lake-836-000</u></a>	6
	Willow Creek Dam	<a href="#"><u>ELM-Lake-11-000</u></a>	1,5
<b>Brule</b>	American	<a href="#"><u>FTR-Lake-5577-000</u></a>	6
	Sharping	<a href="#"><u>FTR-Lake-5167-000</u></a>	6
	Sixteen	<a href="#"><u>FTR-Lake-5436-000</u></a>	6
	Wanalain	<a href="#"><u>FTR-Lake-5333-000</u></a>	5
	Wells	<a href="#"><u>CRW-Lake-141-000</u></a>	5
<b>Buffalo</b>	Koch	<a href="#"><u>CRW-Lake-454-000</u></a>	5
<b>Butte</b>	Newell	<a href="#"><u>LBF-Lake-528-000</u></a>	4



County	Waterbody	<u>State Lake Identifier</u>	Uses
	Newell City Pond	<u>LBF-Lake-479-000</u>	3
	Orman Dam, also known as Belle Fourche Reservoir	<u>LBF-Lake-768-000</u>	4,10
<b>Campbell</b>	Campbell	<u>WMC-Lake-891-000</u>	5
	Chester, also known as Boor	<u>ULO-Lake-460-000</u>	6
	Pocasse	<u>ULO-Lake-302-000</u>	4
<b>Charles Mix</b>	Academy	<u>FTR-Lake-5208-000</u>	4
	Andes	<u>FTR-Lake-6099-000</u>	6
	Dante	<u>LCL-Lake-33-000</u>	4
	Dowd	<u>FTR-Lake-6087-000</u>	6
	Geddes	<u>FTR-Lake-6083-000</u>	5
	Platte	<u>FTR-Lake-5745-000</u>	6
	Song Hawk	<u>LCL-Lake-47-000</u>	4
	Wagner	<u>LCL-Lake-64-001</u>	5
<b>Clark</b>	Antelope Lake	<u>MBS-Lake-65-701</u>	5
	Bailey	<u>UBS-Lake-88-000</u>	6
	Fordham	<u>MJA-Lake-91-000</u>	6
	Indian Springs	<u>MBS-Lake-65-000</u>	4
	Logan, also known as Paine	<u>MJA-Lake-188-000</u>	6
	Reid	<u>UBS-Lake-76-000</u>	6
	Round	<u>UBS-Lake-76-001</u>	6
	Willow	<u>MBS-Lake-121-003</u>	6

County	Waterbody	State Lake Identifier	Uses
Clay	Burbank	<a href="#">LCL-Lake-52-000</a>	5
Codington	Bramble Pond	<a href="#">UBS-Lake-639-000</a>	6
	Dry	<a href="#">UBS-Lake-106-001</a>	6
	Grass	<a href="#">UBS-Lake-106-000</a>	6
	Kampeska	<a href="#">UBS-Lake-171-000</a>	1,4
	Kampeska Trout Pond	<a href="#">UBS-Lake-171-001</a>	4
	Pelican	<a href="#">UBS-Lake-173-000</a>	5
	Punished Woman	<a href="#">UMN-Lake-610-000</a>	5
	Round	<a href="#">UMN-Lake-610-001</a>	6
Corson	Bohle	<a href="#">GRA-Lake-632-000</a>	5
	<a href="#">East McIntosh</a>	<a href="#">GRA-Lake-16-000</a>	<a href="#">6</a>
	<a href="#">East Morristown, also known as Railroad Dam</a>	<a href="#">CED-Lake-55-000</a>	<a href="#">5</a>
	Kellers	<a href="#">ULO-Lake-74-000</a>	5
	Mallard	<a href="#">GRA-Lake-993-000</a>	5
	McGee	<a href="#">GRA-Lake-513-000</a>	5
	<del>East McIntosh</del>		<del>6</del>
	West McIntosh	<a href="#">GRA-Lake-184-000</a>	6
	<del>East Morristown also known as Railroad Dam</del>		<del>5</del>
	West Morristown	<a href="#">CED-Lake-41-000</a>	5
	Pudwell, also known as McCarthy	<a href="#">GRA-Lake-511-000</a>	4
	Tetanka	<a href="#">GRA-Lake-914-000</a>	4
	Trail City	<a href="#">ULO-Lake-765-000</a>	5

<b>County</b>	<b>Waterbody</b>	<b><u>State Lake Identifier</u></b>	<b>Uses</b>
<b>Custer</b>	Berner Dam	<u>MCS-Lake-165-000</u>	6
	Bitmore, also known as Lakota	<u>MCS-Lake-2-000</u>	3
	Bismarck	<u>MCS-Lake-7-000</u>	3
	Butler	<u>MCS-Lake-17-000</u>	3
	Center	<u>MCS-Lake-1-000</u>	2
	Custer Municipal	<u>MCS-Lake-24-000</u>	3
	Legion	<u>MCS-Lake-3-000</u>	3
	Pilgrim	<u>MCS-Lake-182-000</u>	3
	Stockade	<u>MCS-Lake-12-000</u>	3
	Sylvan	<u>MCS-Lake-4-000</u>	2
<b>Davison</b>	Mitchell	<u>LJA-Lake-623-000</u>	1,4
<b>Day</b>	Amsden	<u>MUD-Lake-22-000</u>	4
	Anderson	<u>UBS-Lake-248-000</u>	6
	Bitter	<u>UBS-Lake-409-000</u>	4
	Blue Dog	<u>UBS-Lake-411-003</u>	4
	Campbell Slough	<u>UBS-Lake-196-001</u>	6
	Enemy Swim	<u>UBS-Lake-196-000</u>	4
	Minnewasta	<u>UBS-Lake-411-705</u>	5
	North Waubay	<u>UBS-Lake-411-700</u>	5
	Pickeral	<u>UBS-Lake-358-000</u>	4
	Pierpont	<u>MUD-Lake-43-000</u>	4
	Rush	<u>UBS-Lake-411-001</u>	6

County	Waterbody	<u>State Lake Identifier</u>	Uses
	South Waubay	<u>UBS-Lake-411-000</u>	5
	Unnamed lake west of Bristol in Sections 26, 27 and 35 in T122N, R58W	<u>MUD-Lake-351-002</u> <u>and 011</u>	4
<b>Deuel</b>	Alice	<u>UMN-Lake-710-000</u>	5
	Briggs	<u>LQP-Lake-6-000</u>	6
	Bullhead	<u>UBS-Lake-320-000</u>	5
	Clear	<u>MBS-Lake-138-000</u>	6
	Cochrane	<u>LQP-Lake-56-000</u>	4
	<del>South</del> Coteau <u>South</u>	<u>MBS-Lake-131-000</u>	6
	Fish	<u>LQP-Lake-14-000</u>	6
	Francis	<u>LQP-Lake-34-000</u>	6
	Ketchum	<u>MBS-Lake-133-000</u>	5
	Lone Tree	<u>LQP-Lake-1-000</u>	6
	Oliver	<u>LQP-Lake-8-000</u>	6
	Round	<u>UBS-Lake-320-001</u>	6
	School	<u>UBS-Lake-322-001</u>	6
<b>Dewey</b>	Adams	<u>LMO-Lake-871-000</u>	5
	Dewberry	<u>LMO-Lake-1087-000</u>	4
	Eagle Butte	<u>LMO-Lake-999-000</u>	4
	Firesteel	<u>GRA-Lake-525-000</u>	6
	Goose Creek	<u>LMO-Lake-1141-000</u>	5

County	Waterbody	<u>State Lake Identifier</u>	Uses
	Isabel	<u>GRA-Lake-613-000</u>	1,4
	Jewett	<u>LMO-Lake-831-000</u>	6
	Lantry	<u>LMO-Lake-755-000</u>	4
	Little Moreau No. 1	<u>LMO-Lake-1058-000</u>	4
	Little Moreau No. 2	<u>LMO-Lake-1057-000</u>	2
	Little Moreau No. 3	<u>LMO-Lake-1106-000</u>	6
	Peach	<u>LMO-Lake-767-000</u>	6
	Rockcowen	<u>LMO-Lake-759-000</u>	5
	Whitehorse	<u>LMO-Lake-1835-000</u>	5
<b>Douglas</b>	Armour <u>Kids Fishing Pond</u>	<u>LCL-Lake-21-000</u>	6
	Corsica	<u>LCL-Lake-16-000</u>	5
<b>Edmunds</b>	Bowdle-Hosmer	<u>WMC-Lake-125-000</u>	6
	Kraft	<u>NFS-Lake-918-000\</u>	6
	Loyalton, also known as Stafford	<u>NFS-Lake-874-000</u>	5
	North Scatterwood	<u>SNK-Lake-435-000</u>	6
	Mina, also known as Parmley	<u>SNK-Lake-23-001</u>	4
	Picton	<u>NFS-Lake-1008-000</u>	6
	Rosette	<u>SNK-Lake-26-000</u>	6
<b>Fall River</b>	Angostura	<u>ANR-Lake-4-000</u>	4,10
	Bochart	<u>MCS-Lake-180-000</u>	6
	Coffee	<u>ANR-Lake-62-000</u>	5
	Coldbrook	<u>MCS-Lake-5-000</u>	2

County	Waterbody	<u>State Lake Identifier</u>	Uses
	Cottonwood Springs	<u>MCS-Lake-6-000</u>	4
	Crow, <u>also known as Crowe</u>	<u>HAT-Lake-6-000</u>	5
	Dukes	<u>HAT-Lake-26-000</u>	4
	Ebersol	<u>MCS-Lake-91-000</u>	5
	<del>Upper</del> Edgemont Airport <u>North</u> Pond	<u>ANR-Lake-72-000</u>	3
	<del>Lower</del> Edgemont Airport <u>South</u> Pond	<u>ANR-Lake-72-001</u>	5
	Ellison	<u>ANR-Lake-74-000</u>	5
	Fiddle Creek Dam	<u>ANR-Lake-50-000</u>	4
	Five, <u>also known as Fire</u>	<u>ANR-Lake-75-000</u>	5
	<del>South</del> Indians <u>South</u> 1	<u>HAT-Lake-25-000</u>	4
	Limestone Butte, also known as Oelrichs Dam	<u>UWH-Lake-6-000</u>	6
	Old Pioneer	<u>UWH-Lake-139-000</u>	5
	Otto	<u>ANR-Lake-68-000</u>	2
	Ray	<u>MCS-Lake-179-000</u>	5
	Sandoz	<u>UWH-Lake-85-000</u>	6
	Sherberth	<u>MCS-Lake-167-000</u>	5
	Sides	<u>MCS-Lake-130-000</u>	5
	South East Highway Canyon	<u>UWH-Lake-53-000</u>	5
	Vanderberg	<u>MCS-Lake-181-000</u>	5
	White	<u>MCS-Lake-76-000</u>	5
	Williams	<u>ANR-Lake-22-000</u>	5
<b>Faulk</b>	Cresbard	<u>NFS-Lake-820-000</u>	5

County	Waterbody	<u>State Lake Identifier</u>	Uses
	Faulkton	<u>SNK-Lake-196-000</u>	5
	Hamak	<u>NFS-Lake-826-000</u>	6
	Latham	<u>SNK-Lake-202-000</u>	6
	Scatterwoods, <u>also known as Scatterwood</u> <u>South</u>	<u>SNK-Lake-435-001</u>	6
	Voegler	<u>SNK-Lake-209-000</u>	6
<b>Grant</b>	Blue Cloud Abbey	<u>UMN-Lake-827-000</u>	5
	Farley	<u>UMN-Lake-517-000</u>	6
	Hunter Granite Quarry	<u>UMN-Lake-850-000</u>	2
	LaBolt	<u>UMN-Lake-1584-000</u>	4
	Summit	<u>UMN-Lake-697-000</u>	5
<b>Gregory</b>	Berry	<u>PON-Lake-89-000</u>	4
	<del>Burke</del>		<del>5</del>
	Burch, also known as Dixon	<u>FTR-Lake-5039-000</u>	5
	<u>Burke</u>	<u>FTR-Lake-3197-000</u>	<u>5</u>
	Fairfax	<u>FTR-Lake-5880-000</u>	5
	Herrick, also known as Spendor	<u>PON-Lake-75-000</u>	5
	Ponca, also known as Indian	<u>PON-Lake-142-000</u>	5
	Star	<u>PON-Lake-222-000</u>	6
<b>Haakon</b>	Kroetche	<u>LCH-Lake-374-000</u>	4
	Ottumwa	<u>BAD-Lake-1145-000</u>	6
	Sunshine	<u>BAD-Lake-204-000</u>	4

County	Waterbody	State Lake Identifier	Uses
	Waggoner	<a href="#">BAD-Lake-2426-000</a>	1,4
<b>Hamlin</b>	Clear	<a href="#">UBS-Lake-175-001</a>	6
	Dry	<a href="#">MBS-Lake-405-001</a>	6
	Florence	<a href="#">MBS-Lake-405-002</a>	6
	John, also known as St. John	<a href="#">MBS-Lake-176-701</a>	6
	Marsh	<a href="#">MBS-Lake-160-000</a>	6
	Mary	<a href="#">MBS-Lake-176-002</a>	6
	Norden	<a href="#">MBS-Lake-176-001</a>	6
	Poinsett	<a href="#">MBS-Lake-405-000</a>	5
<b>Hand</b>	Crystal <a href="#">City Park</a>	<a href="#">TUR-Lake-65-000</a>	6
	Dakotah	<a href="#">TUR-Lake-14-000</a>	3
	Jones	<a href="#">TUR-Lake-64-000</a>	5
	Louise	<a href="#">TUR-Lake-155-000</a>	5
	Pearl	<a href="#">MJA-Lake-28-000</a>	5
	Rose Hill	<a href="#">MJA-Lake-614-000</a>	4
<b>Hanson</b>	Alexandria Quarry	<a href="#">LJA-Lake-565-000</a>	2
	Eli	<a href="#">LJA-Lake-678-000</a>	5
	Ethan	<a href="#">LJA-Lake-621-000</a>	5
	Fulton	<a href="#">LJA-Lake-539-000</a>	6
	Hanson	<a href="#">LJA-Lake-425-000</a>	5
	Long	<a href="#">LJA-Lake-714-000</a>	6
<b>Harding</b>	Buffalo, also known as Gardener	<a href="#">SFG-Lake-581-000</a>	4



County	Waterbody	<u>State Lake Identifier</u>	Uses
	Hanson	<u>NFG-Lake-184-000</u>	3
	Jacobi	<u>SFG-Lake-64-000</u>	3
	<del>East</del> Ledger <u>East</u>	<u>SFM-Lake-64-000</u>	6
	<del>West</del> Ledger <u>West</u>	<u>SFM-Lake-563-000</u>	5
	Painter	<u>ULM-Lake-220-000</u>	3
	Phillips	<u>UMO-Lake-561-000</u>	3
	Rabbit Creek Dam	<u>UMO-Lake-567-000</u>	5
	Vessey Dam	<u>NFG-Lake-295-000</u>	3
<b>Hutchinson</b>	Dimock	<u>LJA-Lake-34-000</u>	5
	Menno	<u>LJA-Lake-52-000</u>	5
	Silver	<u>VER-Lake-103-000</u>	6
	Tripp	<u>LCL-Lake-24-000</u>	5
<b>Hyde</b>	Boehm	<u>CRW-Lake-891-000</u>	5
	Chapelle	<u>FTR-Lake-3578-001</u>	5
	Holabird	<u>MKN-Lake-242-000</u>	6
	Mission, also known as Stephan <u>or as</u> <u>Ambrose</u>	<u>CRW-Lake-1035-000</u>	6
	Peno	<u>CRW-Lake-48-000</u>	5
	Quirk	<u>CRW-Lake-843-000</u>	5
<b>Jackson</b>	Andrews	<u>BAD-Lake-850-000</u>	6
	Bashen, also known as Bresham	<u>BAD-Lake-854-000</u>	4
	Belevidere	<u>BAD-Lake-1438-000</u>	5

County	Waterbody	State Lake Identifier	Uses
	Brooke No. 1	<a href="#"><u>BAD-Lake-1301-000</u></a>	4
	Cottonwood Range	<a href="#"><u>BAD-Lake-903-000</u></a>	4
	Ditmar, <a href="#"><u>also known as Dithmer</u></a>	<a href="#"><u>MWH-Lake-239-000</u></a>	5
	Freeman	<a href="#"><u>BAD-Lake-1459-000</u></a>	4
	Kadoka	<a href="#"><u>BAD-Lake-2118-000</u></a>	6
	May	<a href="#"><u>MWH-Lake-295-000</u></a>	5
	Poor Bear	<a href="#"><u>MWH-Lake-60-000</u></a>	2
	Wheeler No. 1	<a href="#"><u>BAD-Lake-2639-000</u></a>	4
	Wheeler No. 2	<a href="#"><u>BAD-Lake-2288-000</u></a>	4
<b>Jerauld</b>	Crow	<a href="#"><u>CRW-Lake-767-000</u></a>	6
<b>Jones</b>	Draper Dam	<a href="#"><u>MED-Lake-32-000</u></a>	5
	Murdo	<a href="#"><u>BAD-Lake-2898-000</u></a>	4
	Murdo Railroad Dam	<a href="#"><u>LWH-Lake-1079-002</u></a>	5
	National Grasslands Trout Dam		3
	Okaton	<a href="#"><u>BAD-Lake-2188-000</u></a>	5
	Richland	<a href="#"><u>BAD-Lake-280-000</u></a>	4
<b>Kingsbury</b>	Agnew	<a href="#"><u>MJA-Lake-419-000</u></a>	6
	Albert	<a href="#"><u>MBS-Lake-176-000</u></a>	6
	Arlington Kid's Pond	<a href="#"><u>MBS-Lake-624-000</u></a>	6
	Badger	<a href="#"><u>MBS-Lake-12-000</u></a>	6
	Cherry	<a href="#"><u>LKT-Lake-96-000</u></a>	6
	Henry	<a href="#"><u>LKT-Lake-55-003</u></a>	6

County	Waterbody	<u>State Lake Identifier</u>	Uses
	Iroquois	<u>MJA-Lake-640-000</u>	6
	Osceola	<u>MJA-Lake-322-000</u>	6
	Spirit	<u>LKT-Lake-95-000</u>	6
	<del>Thistad</del> Thisted	<u>MBS-Lake-11-000</u>	6
	Thompson	<u>LKT-Lake-55-000</u>	4
	West 81 Lake, also known as Twin	<u>MBS-Lake-233-000</u>	4
	Whitewood	<u>LKT-Lake-55-002</u>	6
<b>Lake</b>	Badus	<u>MBS-Lake-238-000</u>	6
	Bourne <u>Slough</u>	<u>LBS-Lake-135-004</u>	6
	Brandt	<u>LBS-Lake-135-001</u>	4
	Green	<u>MBS-Lake-221-000</u>	6
	Herman	<u>LBS-Lake-136-000</u>	5
	Long	<u>LBS-Lake-137-000</u>	6
	Madison	<u>LBS-Lake-135-000</u>	4
	Mud Lakes	<u>MBS-Lake-243-000</u>	6
	Round	<u>LBS-Lake-135-002</u>	6
	Winfred	<u>VER-Lake-134-000</u>	6
<b>Lawrence</b>	Columbia	<u>RED-Lake-24-000</u>	3
	Coxes	<u>RED-Lake-6-000</u>	1,2
	Dalton	<u>MCE-Lake-3-000</u>	2
	Dumont Ponds	<u>RAP-Lake-35-000</u>	3
	Iron Creek	<u>RED-Lake-8-000</u>	2

County	Waterbody	State Lake Identifier	Uses
	Mirror 1 & 2	<a href="#">RED-Lake-5-000</a>	2
	<a href="#">Mirror 2</a>	<a href="#">RED-Lake-5-001</a>	<a href="#">2</a>
	Reausaw	<a href="#">MCE-Lake-4-000</a>	3
	Roubaix	<a href="#">MCE-Lake-5-000</a>	2
	Strawberry <a href="#">Hill Pond</a>	<a href="#">LBF-Lake-800-000</a>	3
	Swede Gulch Beaver Pond	<a href="#">RAP-Lake-57-000</a>	3
	Yates Ponds	<a href="#">RED-Lake-10-000</a>	2
<b>Lincoln</b>	Alvin	<a href="#">LBS-Lake-180-000</a>	4
	Pattee Creek Watershed Reservoir No. 1, also known as Lakota	<a href="#">LBS-Lake-181-000</a>	4
	Pattee Creek Watershed Reservoir No. 2	<a href="#">LBS-Lake-42-000</a>	5
<b>Lyman</b>	Brakke	<a href="#">MED-Lake-667-000</a>	4
	Byre	<a href="#">MED-Lake-25-000</a>	4
	Dybing	<a href="#">MED-Lake-654-000</a>	4
	Fate	<a href="#">MED-Lake-638-000</a>	4
	Fenenga	<a href="#">FTR-Lake-6328-000</a>	6
	Jackson	<a href="#">LWH-Lake-2307-000</a>	6
	Kennebec	<a href="#">MED-Lake-760-000</a>	6
	Knudtson	<a href="#">MED-Lake-564-000</a>	5
	Larson	<a href="#">FTR-Lake-4666-000</a>	5
	National Grasslands Dam (Ft. Pierre National Grassland Dam), <a href="#">also known as Trout</a>	<a href="#">BAD-Lake-320-000</a>	4

County	Waterbody	State Lake Identifier	Uses
	Reliance	<a href="#">FTR-Lake-3897-000</a>	4
<b>McCook</b>	Baureles, also known as Schultz	<a href="#">LJA-Lake-751-001</a>	6
	Forsch	<a href="#">LJA-Lake-749-000</a>	6
	Gross	<a href="#">LJA-Lake-745-000</a>	6
	Jansen	<a href="#">LJA-Lake-298-000</a>	6
	Lerhman	<a href="#">LJA-Lake-725-000</a>	6
	Sabers	<a href="#">LJA-Lake-374-000</a>	6
	Schimmels	<a href="#">LJA-Lake-743-001</a>	6
	Tuschens	<a href="#">LJA-Lake-743-000</a>	6
	Vermillion	<a href="#">VER-Lake-62-000</a>	4
<b>McPherson</b>	Eureka No. 1	<a href="#">WMC-Lake-1372-002</a>	5
	Eureka No. 2	<a href="#">WMC-Lake-1372-000</a>	5
	Hillview	<a href="#">WMC-Lake-133-002</a>	6
	Leola	<a href="#">UJA-Lake-756-000</a>	6
	Long	<a href="#">WMC-Lake-521-000</a>	6
	Rau, <a href="#">also known as Rath</a>	<a href="#">WMC-Lake-774-003</a>	6
	Twin	<a href="#">WMC-Lake-526-000</a>	6
	Wolff	<a href="#">ULO-Lake-683-000</a>	5
<b>Marshall</b>	Abraham	<a href="#">WWR-Lake-260-000</a>	6
	Almos	<a href="#">UJA-Lake-917-003</a>	6
	<a href="#">North</a> Buffalo <a href="#">North</a>	<a href="#">UJA-Lake-917-800</a>	5
	<a href="#">South</a> Buffalo <a href="#">South</a>	<a href="#">UJA-Lake-917-000</a>	5

County	Waterbody	State Lake Identifier	Uses
	Bullhead	<a href="#">UJA-Lake-866-022</a>	5
	Cattle/Kettle Lake System	<a href="#">UJA-Lake-866-000</a>	6
	Clear	<a href="#">UJA-Lake-917-001</a>	4
	Cottonwood	<a href="#">UJA-Lake-882-000</a>	5
	Crystal, also known as Howley	<a href="#">UJA-Lake-416-000</a>	6
	DuMarceDumarce	<a href="#">UJA-Lake-881-000</a>	6
	Emma	<a href="#">UJA-Lake-60-000</a>	6
	Flat	<a href="#">WWR-Lake-78-000</a>	6
	Four Mile	<a href="#">UJA-Lake-866-007</a>	6
	Goodbird	<a href="#">UJA-Lake-890-000</a>	6
	Grays, also known as Greys	<a href="#">UJA-Lake-891-000</a>	6
	Hickman	<a href="#">UJA-Lake-458-000</a>	5
	High	<a href="#">WWR-Lake-63-000</a>	5
	Hills	<a href="#">UMN-Lake-304-000</a>	6
	Hoop	<a href="#">UJA-Lake-880-001</a>	6
	Horseshoe	<a href="#">UJA-Lake-866-015</a>	6
	Isabella	<a href="#">UJA-Lake-917-005</a>	6
	Island	<a href="#">UJA-Lake-900-000</a>	6
	Long	<a href="#">UJA-Lake-892-000</a>	6
	Lost	<a href="#">UJA-Lake-866-021</a>	6
	Martha	<a href="#">UJA-Lake-967-000</a>	6
	Mud	<a href="#">UJA-Lake-891-001</a>	6

County	Waterbody	<u>State Lake Identifier</u>	Uses
	Nine Mile	<u>UJA-Lake-882-001</u>	5
	<del>North</del> Red Iron <u>North</u>	<u>UJA-Lake-917-004</u>	6
	<del>South</del> Red Iron <u>South</u>	<u>UJA-Lake-917-002</u>	4
	Roy	<u>UJA-Lake-866-001</u>	4
	Sarah	<u>UJA-Lake-329-000</u>	6
	Simons	<u>UJA-Lake-259-000</u>	6
	Six Mile	<u>UJA-Lake-882-005</u>	6
	Turtle Foot	<u>UMN-Lake-305-000</u>	6
	Two Island	<u>UJA-Lake-882-006</u>	6
	White	<u>WWR-Lake-42-000</u>	4
<b>Meade</b>	Bear Butte	<u>LBF-Lake-42-000</u>	5
	Bonita	<u>LBF-Lake-403-000</u>	5
	Choate	<u>CHE-Lake-204-000</u>	6
	Curlew	<u>MCE-Lake-6-000</u>	4
	Durkee	<u>CHE-Lake-516-000</u>	1,4
	Follet	<u>LBF-Lake-100-000</u>	5
	Ft. Meade Bureau of Land Management	<u>LBF-Lake-43-000</u>	3
	Herford	<u>LBF-Lake-516-000</u>	5
	Lundgren	<u>LBF-Lake-208-000</u>	5
	Maurine	<u>UMO-Lake-256-000</u>	5
	Mud Butte	<u>CHE-Lake-111-000</u>	5
	Opal	<u>CHE-Lake-200-000</u>	5

County	Waterbody	State Lake Identifier	Uses
	Pinnacle	<a href="#">CHE-Lake-147-000</a>	5
	Red Owl	<a href="#">CHE-Lake-179-000</a>	5
	<del>Sulphur</del> Sulphur	<a href="#">CHE-Lake-54-000</a>	5
	Tisdale	<a href="#">MCE-Lake-44-000</a>	5
<b>Mellette</b>	Blackpipe	<a href="#">MWH-Lake-255-000</a>	4
	Deiss	<a href="#">LIW-Lake-21-000</a>	5
	Rohloff	<a href="#">LIW-Lake-43-000</a>	4
	Sinclair	<a href="#">LWH-Lake-2311-000</a>	6
	White River, also known as Putranele	<a href="#">LIW-Lake-207-000</a>	4
<b>Miner</b>	Carthage	<a href="#">MJA-Lake-598-000</a>	4
<b>Minnehaha</b>	Baltic	<a href="#">LBS-Lake-276-000</a>	6
	Beaver	<a href="#">LBS-Lake-70-000</a>	6
	Clear	<a href="#">LBS-Lake-232-000</a>	6
	Covell	<a href="#">LBS-Lake-90-000</a>	6
	Dell Rapids	<a href="#">LBS-Lake-289-000</a>	6
	Diamond	<a href="#">LBS-Lake-223-000</a>	5
	Garretson	<a href="#">LBS-Lake-287-000</a>	6
	Grass	<a href="#">LBS-Lake-82-000</a>	6
	Island	<a href="#">LBS-Lake-213-000</a>	5
	Loss	<a href="#">VER-Lake-10-000</a>	6
	Lost	<a href="#">LBS-Lake-60-000</a>	6
	Scott	<a href="#">LBS-Lake-65-000</a>	6



County	Waterbody	State Lake Identifier	Uses
	Twin Lakes	<a href="#">LBS-Lake-204-000</a>	4
	Wall	<a href="#">LBS-Lake-95-000</a>	5
<b>Moody</b>	Allen	<a href="#">LBS-Lake-123-000</a>	6
	Flandreau	<a href="#">LBS-Lake-110-001</a>	6
	Lester Anderson GPA	<a href="#">LBS-Lake-225-000</a>	6, no 7
<b>Pennington</b>	Alexander, <a href="#">also known as Medicine Mountain</a> <a href="#">Boy Scout Camp</a>	<a href="#">MCS-Lake-72-000</a>	2
	Big Foot	<a href="#">BAD-Lake-2220-000</a>	6
	Bloom	<a href="#">BAD-Lake-482-000</a>	5
	Bruce	<a href="#">MCE-Lake-54-000</a>	5
	Canyon	<a href="#">RAP-Lake-3-000</a>	1,2
	Caspers Dam	<a href="#">BAD-Lake-2647-000</a>	5
	Cement Plant	<a href="#">RAP-Lake-34-000</a>	2
	Conata	<a href="#">MWH-Lake-402-000</a>	6
	Deerfield	<a href="#">RAP-Lake-31-000</a>	2
	Eisenbaum	<a href="#">LCH-Lake-627-000</a>	6
	Farmingdale Dam	<a href="#">RAP-Lake-56-000</a>	5
	Farmingdale National Grasslands	<a href="#">RAP-Lake-8-000</a>	3
	Gage	<a href="#">BAD-Lake-484-000</a>	5
	Hamann	<a href="#">LCH-Lake-54-000</a>	5
	Hanlon	<a href="#">MCS-Lake-184-000</a>	3
	Hoffman	<a href="#">LCH-Lake-71-000</a>	5

County	Waterbody	<u>State Lake Identifier</u>	Uses
	Horsetheif	<u>MCS-Lake-8-000</u>	2
	Imby	<u>UWH-Lake-151-000</u>	6
	Johnson	<u>BAD-Lake-476-000</u>	6
	Kellam Dam	<u>MCE-Lake-108-000</u>	5
	Koopman Dam	<u>MCS-Lake-40-000</u>	3
	Major	<u>MCS-Lake-9-000</u>	3
	Mako Sica	<u>MCE-Lake-56-000</u>	5
	Missle Allotment	<u>BAD-Lake-2213-000</u>	4
	<del>Newton Fork</del>		<del>2</del>
	New Underwood	<u>MCE-Lake-8-000</u>	4
	New Wall No. 1	<u>MCE-Lake-9-000</u>	4
	<u>Newton Fork</u>	<u>MCS-Lake-10-000</u>	<u>2</u>
	North White Water	<u>BAD-Lake-1907</u>	4
	Old Wall	<u>MCE-Lake-214-000</u>	5
	Owonka	<u>MCE-Lake-219-000</u>	6
	Pactola	<u>RAP-Lake-1-000</u>	1,2,10
	Pierce	<u>LCH-Lake-108-000</u>	5
	Quinn Dam	<u>BAD-Lake-613-000</u>	5
	Quinn Township Dam	<u>BAD-Lake-2236-000</u>	5
	Rapid City	<u>RAP-Lake-27-000</u>	5
	Richardson	<u>LCH-Lake-159-000</u>	6
	Roosevelt Pond	<u>RAP-Lake-37-000</u>	5

<b>County</b>	<b>Waterbody</b>	<b><u>State Lake Identifier</u></b>	<b>Uses</b>
	Scanlon	<u>MCS-Lake-48-000</u>	3
	Schroeder	<u>LCH-Lake-626-000</u>	6
	Schulte	<u>MCE-Lake-217-000</u>	5
	Sheridan	<u>MCS-Lake-11-000</u>	2
	Slate Creek	<u>RAP-Lake-33-000</u>	3
	Smith Dam	<u>LCH-Lake-73-000</u>	5
	Table 71 Dam	<u>MCE-Lake-116-000</u>	5
	Tennyson Dam	<u>BAD-Lake-2235-000</u>	5
	Teuber Dam	<u>LCH-Lake-94-000</u>	5
	U.S.D.A. Trout Dam	<u>BAD-Lake-3556-000</u>	3
	White	<u>MCE-Lake-134-000</u>	5
	Wicksville	<u>MCE-Lake-10-000</u>	4
<b>Perkins</b>	Ada Dam	<u>UMO-Lake-354-000</u>	6
	Coal Springs	<u>LMO-Lake-1689-000</u>	4
	Cole	<u>SFG-Lake-913-000</u>	4
	Dam No. 73 (on National Grasslands)	<u>SFG-Lake-1020-000</u>	3
	Flat Creek	<u>GRA-Lake-767-000</u>	5
	Imogene	<u>UMO-Lake-224-000</u>	6
	Jensen	<u>SFG-Lake-902-000</u>	3
	Johnson	<u>NFG-Lake-81-000</u>	3
	Lemmon State	<u>GRA-Lake-392-000</u>	5
	Lewton	<u>SFG-Lake-873-000</u>	5

County	Waterbody	State Lake Identifier	Uses
	Marshfield	<a href="#"><u>SFG-Lake-897-000</u></a>	5
	Meadow	<a href="#"><u>SFG-Lake-983-000</u></a>	6
	<del>Owens</del> Owen Lake	<a href="#"><u>LMO-Lake-397-000</u></a>	5
	Peck	<a href="#"><u>GRA-Lake-1002-000</u></a>	6
	Perkins	<a href="#"><u>LMO-Lake-408-001</u></a>	5
	Reidy	<a href="#"><u>GRA-Lake-92-000</u></a>	6
	Rowhotham	<a href="#"><u>LMO-Lake-408-000</u></a>	5
	Seymour	<a href="#"><u>UMO-Lake-40-000</u></a>	6
	Shadehill	<a href="#"><u>SFG-Lake-1017-000</u></a>	4,10
	Sorum Dam	<a href="#"><u>UMO-Lake-25-000</u></a>	5
	<del>Strool</del>		<del>5</del>
	Viking	<a href="#"><u>NFG-Lake-166-000</u></a>	5
	Vobedja	<a href="#"><u>NFG-Lake-132-000</u></a>	6
	Week's Dam	<a href="#"><u>SFG-Lake-747-000</u></a>	3
	White Butte	<a href="#"><u>GRA-Lake-683-000</u></a>	6
	Whitehill	<a href="#"><u>SFG-Lake-752-000</u></a>	5
<b>Potter</b>	Gorman	<a href="#"><u>LLO-Lake-2397-000</u></a>	5
	Hurley	<a href="#"><u>LLO-Lake-2201-000</u></a>	4
	Potts	<a href="#"><u>LLO-Lake-2378-000</u></a>	5
	Simon	<a href="#"><u>LLO-Lake-2144-000</u></a>	5
<b>Roberts</b>	Big Stone	<a href="#"><u>UMN-Lake-720-000</u></a>	4,10
	<del>North</del> Drywood <del>North</del>	<a href="#"><u>UMN-Lake-476-000</u></a>	6

County	Waterbody	State Lake Identifier	Uses
	<del>South</del> Drywood <u>South</u>	<u>UMN-Lake-476-005</u>	6
	Hurricane	<u>UBS-Lake-207-000</u>	6
	Mud	<u>BDS-Lake-182-000</u>	6
	One Road	<u>UBS-Lake-345-031</u>	6
	Traverse	<u>BDS-Lake-181-000</u>	4,10
	Whitestone	<u>UMN-Lake-667-000</u>	5
<b>Sanborn</b>	Letcher	<u>LJA-Lake-653-000</u>	6
	Prior, <u>also known as Woonsocket City Park</u>	<u>LJA-Lake-531-000</u>	6
	Twin	<u>LJA-Lake-290-000</u>	5
<b>Oglala Lakota</b>	Denby	<u>UWH-Lake-25-000</u>	2
	Kyle	<u>UWH-Lake-17-000</u>	4
	Oglala	<u>UWH-Lake-101-000</u>	4
	White Clay	<u>UWH-Lake-1-000</u>	4
	Wolf Creek	<u>UWH-Lake-152-000</u>	2
<b>Spink</b>	Bierman	<u>SNK-Lake-372-000</u>	4
	Cottonwood	<u>TUR-Lake-498-000</u>	6
	Dudley	<u>MJA-Lake-461-000</u>	4
	Mirage Dam	<u>MJA-Lake-605-000</u>	4
	Redfield	<u>TUR-Lake-1-000</u>	6
	Timber Creek Dam	<u>MJA-Lake-644-000</u>	6
	Twin	<u>TUR-Lake-589-000</u>	5

County	Waterbody	State Lake Identifier	Uses
Stanley	Hayes	<a href="#">BAD-Lake-3119-000</a>	5
	<del>Smith Pond (Ft. Pierre National Grassland)</del>		<del>3</del>
	Red Plum	<a href="#">BAD-Lake-3555-000</a>	5
	<del>Smith Pond (Ft. Pierre National Grassland)</del>	<a href="#">FTR-Lake-3716-000</a>	<del>3</del>
Sully	Cottonwood	<a href="#">LLO-Lake-2428-000</a>	5
	Fuller	<a href="#">LLO-Lake-2464-000</a>	5
	Okobojo	<a href="#">LLO-Lake-2524-000</a>	6,10
	Post	<a href="#">MKN-Lake-148-000</a>	6
	Sully	<a href="#">LLO-Lake-2457-000</a>	6
Todd	Beads	<a href="#">LIW-Lake-161-000</a>	4
	Boarding School	<a href="#">LIW-Lake-161-000</a>	4
	Chases Woman	<a href="#">LIW-Lake-110-000</a>	2
	Colombe	<a href="#">KYP-Lake-2-000</a>	5
	Eagle Feather	<a href="#">LIW-Lake-23-000</a>	4
	Enemy Woman	<a href="#">LWH-Lake-1878-000</a>	6
	Ghost Hawk	<a href="#">LIW-Lake-106-000</a>	3
	He Dog	<a href="#">LIW-Lake-25-000</a>	4
	Heifer	<a href="#">LIW-Lake-105-000</a>	5
	Hidden Timber	<a href="#">KYP-Lake-34-000</a>	6
	Indian Scout	<a href="#">LIW-Lake-107-000</a>	5
	Ironwood	<a href="#">LIW-Lake-109-000</a>	3
	Mission	<a href="#">KYP-Lake-284-000</a>	5

County	Waterbody	<u>State Lake Identifier</u>	Uses
	Omaha Boy	<u>LIW-Lake-283-000</u>	5
	Parmlee		5
	Rosebud	<u>LIW-Lake-108-000</u>	2
	Sharps		2
	Spotted Tail	<u>LIW-Lake-282-000</u>	3
	Swift Bear	<u>LIW-Lake-123-000</u>	4
<b>Tripp</b>	Beaulieu	<u>LWH-Lake-458-000</u>	6
	Big Dog Ear	<u>KYP-Lake-4-000</u>	6
	Carter	<u>LWH-Lake-2310-000</u>	5
	Dog Ear	<u>KYP-Lake-116-000</u>	5
	Irwin	<u>FTR-Lake-3116-000</u>	6
	King	<u>LWH-Lake-529-000</u>	5
	Lone Tree	<u>LWH-Lake-126-000</u>	5
	Rahn	<u>KYP-Lake-122-000</u>	4
	Roosevelt	<u>PON-Lake-203-000</u>	4
	Sinkler	<u>LWH-Lake-1372-000</u>	6
	<del>Sundahl</del>		<del>5</del>
	Snow	<u>LWH-Lake-801-000</u>	6
	Sully	<u>FTR-Lake-5029-000</u>	5
	<u>Sundahl</u>	<u>KYP-Lake-95-000</u>	<u>5</u>
	Witten	<u>LWH-Lake-2309-000</u>	5
	Woolheizer	<u>KYP-Lake-136-000</u>	5

County	Waterbody	<u>State Lake Identifier</u>	Uses
<b>Turner</b>	Marion Kid's Pond	<u>VER-Lake-293-000</u>	6
	Swan	<u>VER-Lake-113-000</u>	5
<b>Union</b>	Cole	<u>LBS-Lake-283-000</u>	6
	McCook	<u>LCL-Lake-5-000</u>	4
	Mud	<u>LCL-Lake-74-000</u>	8 only
	Nixon	<u>LBS-Lake-233-000</u>	6
<b>Walworth</b>	Hiddenwood	<u>WMC-Lake-1312-000</u>	5
	Molstad	<u>ULO-Lake-370-000</u>	4
	Spring	<u>LLO-Lake-239-000</u>	6
	Swan	<u>LLO-Lake-512-000</u>	6
<b>Yankton</b>	Beaver, <u>also known as State</u>	<u>LJA-Lake-371-000</u>	6
	Marindahl	<u>VER-Lake-276-000</u>	4
	Westside Kid's Pond	<u>LCL-Lake-69-000</u>	6
	Yankton	<u>LCL-Lake-72-000</u>	4
<b>Ziebach</b>	Bedner	<u>LMO-Lake-29-000</u>	6
	Buffalo	<u>LCH-Lake-204-000</u>	4
	Glad Valley	<u>GRA-Lake-271-000</u>	5
	Matter	<u>LMO-Lake-197-000</u>	6
	Miller	<u>LCH-Lake-541-000</u>	4
	Rattlesnake	<u>CHE-Lake-676-000</u>	6
	Trent Dam	<u>LMO-Lake-677-000</u>	6



**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:03:04, effective July 1, 1979; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:03:04, July 1, 1996; 41 SDR 109, effective January 12, 2015; SL 2015, ch 56, § 1, effective May 1, 2015.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

## **CHAPTER 74:51:03**

### **USES ASSIGNED TO STREAMS**

#### **Section**

- 74:51:03:01 Beneficial uses of South Dakota streams to include irrigation and fish and wildlife propagation, recreation, and stock watering.
- 74:51:03:02 Beneficial uses of stream segments indicated by listings.
- 74:51:03:03 Segment boundaries described.
- 74:51:03:04 Minnesota River's tributaries' uses.
- 74:51:03:05 Missouri River and certain small tributaries' beneficial uses.
- 74:51:03:06 Bad River and certain tributaries' uses.
- 74:51:03:07 Big Sioux River and certain tributaries' uses.
- 74:51:03:08 Cheyenne River and certain tributaries' uses.
- 74:51:03:09 Battle Creek and certain tributaries' uses.

- 74:51:03:10 The Belle Fourche River and certain tributaries' uses.
- 74:51:03:11 Box Elder Creek and certain tributaries' uses.
- 74:51:03:12 Elk Creek and certain tributaries' uses.
- 74:51:03:13 Fall River and certain tributaries' uses.
- 74:51:03:14 French Creek and certain tributaries' uses.
- 74:51:03:15 Lame Johnny Creek and certain tributaries' uses.
- 74:51:03:16 Pleasant Valley Creek and certain tributaries' uses.
- 74:51:03:17 Rapid Creek and certain tributaries' uses.
- 74:51:03:18 Spring Creek and certain tributaries' uses.
- 74:51:03:19 Grand River and certain tributaries' uses.
- 74:51:03:20 James River and certain tributaries' uses.
- 74:51:03:21 Little Missouri River and certain tributaries' uses.
- 74:51:03:22 Moreau River and certain tributaries' uses.
- 74:51:03:23 Little Moreau River's uses.
- 74:51:03:24 Niobrara's tributaries' uses.
- 74:51:03:25 Vermillion River and certain tributaries' uses.
- 74:51:03:26 White River and certain tributaries' uses.
- 74:51:03:27 Red River of the North's tributaries' uses.

**Cross-Reference:** Definitions, § 74:51:01:01.

**74:51:03:05. Missouri River and certain small tributaries' beneficial uses.** Stream segments of the Missouri River and certain small tributaries covered by § 74:51:03:02 include the following:

Water Body	From	To	Beneficial Uses	County
Missouri River	Iowa Border	Big Bend Dam	1,4,7,8,11	Buffalo\Lyman
Missouri River	Big Bend Dam	North Dakota border	1,2,7,8,11	Campbell\Corson
American Creek	Lake Francis Case	Lake Wanalin	6,8	Brule
American Crow Creek	Lake Francis Case	Interstate 90	6,8	Lyman
Bull Creek	Lake Frances Case	<del>S23, T99N, R74W of</del> <u>the fifth principal meridian the confluence with the West Branch Bull Creek in S25, T100N, R74W</u>	6,8	Tripp
<u>West Branch Bull Creek</u>	<u>Bull Creek</u>	<u>S23, T99N, R74W of</u> <u>the fifth principal meridian</u>	<u>6,8</u>	<u>Tripp</u>
Artichoke Creek	Lake Oahe	S35, T117N, R79W	6,8	Sully
Cedar Creek	Lake Sharpe	S22, T108N, R76W	6,8	Lyman
Chapelle Creek	Lake Sharpe	S36, T111N, R75W	6,8	Hughes
Choteau Creek	Lewis and Clark Lake	S34, T96N, R63W	5,8	Charles Mix
Dante Creek	Choteau Creek	Dante Lake	6,8	Charles Mix
Dry Choteau Creek	Choteau Creek	S.D. Highway 50	6,8	Charles Mix

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Crow Creek	Lake Francis Case	S18, T107N, R67W	5,8	Jerauld
Elm Creek	Crow Creek	West Fork Elm Creek	6,8	Buffalo
West Fork Elm Creek	Elm Creek	Stephan Lake	6,8	Hyde
Smith Creek	Crow Creek	Crow Lake	6,8	Jerauld
Emanuel Creek	Lewis and Clark Lake	S20, T94N, R60W	5,8	Bon Homme
Little Cheyenne Creek	Lake Oahe	Lake Hurly	5,8	Potter
Medicine Creek	Lake Sharpe	U.S. Highway 83	6,8	Lyman
Medicine Knoll Creek	Lake Sharpe	confluence with its north and south forks	6,8	Hughes
North Fork Medicine Knoll Creek	confluence with South Fork Medicine Knoll Creek	S7, T114N, R74W	6,8	Sully
South Fork Medicine Knoll Creek	confluence with North Fork Medicine Knoll Creek	S16, T112N, R74W	6,8	Hughes
Oak Creek	Lake Oahe	S20, T21N, R28E	6,8	Corson
Okobojo Creek	Lake Oahe	U.S. Highway 83	6,8	Sully

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Pease Creek	Lake Francis Case	Lake Geddes	6,8	Charles Mix
Platte Creek	Lake Francis Case	S21, T100N, R67W	6,8	Charles Mix
Ponca Creek	Nebraska border	U.S. Highway 183	5,8	Tripp
Willow Creek	Ponca Creek	S32, T96N, R70W	5,8	Gregory
Snake Creek (Charles Mix County)	Lake Francis Case	Lake Academy	6,8	Charles Mix
Snake Creek (Corson County)	Lake Oahe	Trail City R.R. Lake	6,8	Corson
Spring Creek	Lake Pocasse	U.S. Highway 83	5,8	Campbell
Spring Creek	U.S. Highway 83	State Highway 271	6,8	Campbell
Swan Creek	Lake Oahe	Rieger Creek	5,8	Walworth
Swan Creek	Rieger Creek	Swan Lake	6,8	Walworth
Rieger Creek	Swan Creek	S18, T122N, R76W	6,8	Walworth
South Fork Whetstone Creek	Lake Francis Case	Coon Creek	5,8	Gregory

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:04:04, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:04:04, July 1, 1996; 24 SDR 10, effective July 20, 1997; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Note:** Certain other segments in the Missouri River Basin are covered in §§ 74:51:03:06 to 74:51:03:26, inclusive.

**74:51:03:07. Big Sioux River and certain tributaries' uses.** Stream segments of the Big Sioux River and certain tributaries covered by § 74:51:03:02 include the following:

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Big Sioux River	Missouri River	Sioux Falls Diversion Ditch	5,7,8	Minnehaha
Big Sioux River	Sioux Falls Diversion Ditch	S2, T104N, R49W of the fifth principal meridian	1,5,7,8	Minnehaha
Big Sioux River	S2, T104N, R49W	Brookings-Moody County Line	1,5,8	Brookings/ Moody
Big Sioux River	Brookings-Moody County Line	Lake Kampeska	5,8	Codington
Big Sioux River	Lake Kampeska	S28, T121N, R52W	5,8	Grant
Bachelor Creek	Big Sioux River	S28, T106N, R50W	6,8	Moody
Battle Creek	Big Sioux River	S16, T107N, R52W	6,8	Lake

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Beaver Creek (Lincoln County)	Big Sioux River	S9, T98N, R49W	6,8	Lincoln
Beaver Creek (Minnehaha County)	Split Rock Creek	South Dakota - Minnesota border	6,8	Minnehaha
Four Mile Creek	Beaver Creek (Minnehaha County)	South Dakota - Minnesota border	6,8	Minnehaha
Springwater Creek	Beaver Creek (Minnehaha County)	South Dakota - Minnesota border	6,8	Minnehaha
Big Ditch Creek	Big Sioux River	S1,T91N, R50W	5,8	Union
Big Ditch Creek	S1,T91N, R50W	S21, T92N, R50W	6,8	Union
Brule Creek	Big Sioux River	confluence of its east and west forks	6,8	Union
East Brule Creek	confluence with Brule Creek	S3, T95N, R49W	6,8	Union
Flandreau Creek	Big Sioux River	Minnesota Border	6,8	Moody
Hidewood Creek	Big Sioux River	U.S. Highway 15	6,8	Deuel
Medary Creek	Big Sioux River	South Dakota - Minnesota border	6,8	Brookings
Deer Creek	Medary Creek	S30, T111N, R47W	6,8	Brookings
Nine Mile Creek	Big Sioux River	Lake Alvin	6,8	Lincoln

Water Body	From	To	Beneficial Uses	County
No Name Creek, also known as Brookfield Creek, (Brookings and Moody Counties)	Big Sioux River	S22, T104N, R48W	6,8	Brookings
Owens Creek	Blue Dog Lake	S17, T122N, R52W	4,8	Roberts
Pattee Creek	Big Sioux River	Lake Lakota outlet	5,8	Lincoln
Peg Munky Run	Big Sioux River	S17, T113N, R50W	6,8	Deuel
Pickereel Creek (Day County)	Pickereel Lake	Waubay Lake	6,8	Day
Park Creek	Bourne Slough	Silver Creek	6,8	Lake
Silver Creek	Park Creek	Lake Herman	6,8	Lake
Six Mile Creek	<del>Big Sioux River</del> <u>North Deer Creek</u>	S30, T112N, R48W	6,8	Brookings
College Creek	Big Sioux River	S12, T110N, R50W	6,8	Brookings
North Deer Creek	<del>Six Mile Creek</del> <u>Big Sioux River</u>	U.S. Highway 15	6,8	Deuel
Skunk Creek	Big Sioux River	outlet of Brant Lake	6,8	Lake
Unnamed tributary Skunk Creek	Skunk Creek	S21, T102N, R51W	6,8	Minnehaha
Willow Creek	Skunk Creek	S16, T102N, R50W	6,8	Minnehaha
Split Rock Creek	Big Sioux River	Minnesota border	5,7,8	Minnehaha



Water Body	From	To	Beneficial Uses	County
West Pipestone Creek	Split Rock Creek	S33, T105N, R48W	6,8	Minnehaha
Unnamed tributary of West Pipestone Creek	West Pipestone Creek	Confluence with an unnamed tributary in S9, T103N, R48W	5,8	Minnehaha
Unnamed tributary	Unnamed tributary of West Pipestone Creek	EROS outfall in S8, T103N, R48W	5,8	Minnehaha
Slip-Up Creek	Big Sioux River	<del>Minnehaha/Moody</del> <del>County line to its</del> <del>headwaters in S19,</del> <del>T104N, R48W</del>	6,8	Minnehaha /Moody
Pipestone Creek	Split Rock Creek	Minnesota border	5,7,8	Minnehaha
Strayhorse Creek	Big Sioux River	S26, T116N, R51W	6,8	Codington
Spring Creek (Moody County)	Big Sioux River	S22, T109, R47W	6,8	Brookings
Jack Moore Creek	Big Sioux River	S33, T107N, R49W	6,8	Moody
Union Creek	Big Sioux River	confluence with East and West Forks	6,8	Union
<del>Unnamed Tributary</del> <del>(Grant County)</del> <del>Indian</del> <del>River</del>	Big Sioux River	U.S. Highway 81	6,8	Grant
Willow Creek	Big Sioux River	S7, T117N, R50W	6,8	Deuel

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:04:06, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:04:06, July 1, 1996; 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 32 SDR 38, effective September 6, 2005; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:03:08. Cheyenne River and certain tributaries' uses.** Stream segments of the Cheyenne River and certain tributaries covered by § 74:51:03:02 include the tributaries listed in §§ 74:51:03:09 to 74:51:03:18, inclusive, and the following:

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Cheyenne River	Lake Oahe	confluence with the Belle Fourche River	4,7,8	Meade
Cheyenne River	confluence with the Belle Fourche River	confluence with the Fall River	5,7,8	Fall River
Cheyenne River	confluence with the Fall River	Angostura Reservoir	4,7,8	Fall River

Water Body	From	To	Beneficial Uses	County
Cheyenne River	Angostura Reservoir	Wyoming border	5,8	Fall River
Bear Creek	Cheyenne River	S26, T3S, R13E of the Black Hills meridian	6,8	Pennington
Beaver Creek (Custer and Fall River Counties)	Cheyenne River	Wyoming border	5,8	Custer
Beaver Creek	Cheyenne River	S.D. Highway 79	4,8	Custer
Beaver Creek	S.D. Highway 79	S13, T5S, R4E	2,8	Custer
Beaver Creek (Stockade Beaver)	Wyoming border	S5, T1N, R1E	2,8	Pennington
Cascade Creek	Cheyenne River	headwaters	3,7,8	Fall River
Cedar Canyon Creek	Cheyenne River	S23, T8S, R4E	3,8	Fall River
Cherry Creek	Cheyenne River	confluence with Sulphur-Creek and <u>Beaver Dam Creeks</u>	6,8	Meade
Red Scaffold Creek	Cherry Creek	<u>S24, T12N,</u> <u>R16E</u> <u>Beaver Creek</u>	6,8	<u>Ziebach</u> <u>Mea</u> <u>de</u>
<del>Beaver Creek</del>	<del>Red Scaffold</del> <del>Creek</del>	<del>S24, T12N, R16E</del>	<del>6,8</del>	<del>Meade</del>
Beaver Dam Creek and <del>East Fork</del>	Cherry Creek	<del>S24, T12N, R13E</del> <u>the</u> <u>confluence with the</u>	6,8	Meade

Water Body	From	To	Beneficial Uses	County
		<u>Middle and West Branches Beaver Dam Creek</u>		
<u>Middle Branch Beaver Dam Creek</u>	<u>Beaver Dam Creek</u>	<u>confluence with Beaver Creek</u>	<u>6,8</u>	<u>Meade</u>
<u>Beaver Creek</u>	<u>Middle Branch Beaver Dam Creek</u>	<u>S24, T12N, R13E</u>	<u>6,8</u>	<u>Meade</u>
West <del>Fork</del> Branch Beaver Dam Creek	<del>Cherry Creek</del> <u>Beaver Dam Creek</u>	S21, T12N, R13E	6,8	Meade
<u>Brushy Creek</u>	<u>Cherry Creek</u>	<u>Unnamed Creek in S2, T11N, R15E</u>	<u>6,8</u>	<u>Meade</u>
<u>Unnamed Creek</u>	<u>Brushy Creek</u>	<u>S34, T12N, R15E</u>	<u>6,8</u>	<u>Meade</u>
Red Owl Creek	Cherry Creek	confluence with White Owl Creek	6,8	Meade
Sulphur Creek	Cherry Creek	<u>S18, T11N, R8E</u> <del>South Fork Sulphur Creek</del>	6,8	<del>Meade</del> <u>Butte</u>
<del>North Fork Sulphur Creek</del>	<del>Sulphur Creek</del>	<del>S18, T11N, R8E</del>	<del>6,8</del>	<del>Butte</del>
South <del>Fork</del> Sulphur Creek	Sulphur Creek	S8, T10N, R10E	6,8	Meade

Water Body	From	To	Beneficial Uses	County
Pine Creek	Sulphur Creek	S18, T11N, R12E	6,8	Meade
<del>Unnamed Creek</del>	<del>Cherry Creek</del>	<del>S34, T12N, R15E</del>	<del>6,8</del>	<del>Meade</del>
Deep Creek	Cheyenne River	S31, T4N, R17E	6,8	Pennington
Hat Creek	Cheyenne River	Nebraska border	5,8	Fall River
Hell Canyon Creek	Cheyenne River	S21, T8S, R4E	3,8	Fall River
Horsehead Creek	Angostura Reservoir	S27, T11S, R7E	5,8	Fall River
Beef Creek	Horsehead Creek	S29, T10S, R6E	6,8	Fall River
Highland Creek	Wind Cave National Park Boundary	S6, T5S, R6E	2,8	Custer
Mixes Food Creek	Cheyenne River	S24, T4N, R17E	6,8	Pennington
Cedar Breaks Creek	Cheyenne River	S36, T5N, R15E	6,8	Pennington
Plum Creek	Cheyenne River	West Fork Plum Creek	6,8	Haakon
West Fork Plum Creek	Plum Creek	S22, T5N, R21E	6,8	Haakon

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:04:07, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; transferred from § 74:03:04:07, July 1, 1996; 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 32 SDR 38, effective September 6, 2005; 35 SDR 253, effective May 12, 2009.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:03:10. The Belle Fourche River and certain tributaries' uses.** Stream segments of the Belle Fourche River and certain tributaries covered by § 74:51:03:02 include the following:

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Belle Fourche River	Cheyenne River	Wyoming Border	4,7,8	Butte
Alkali Creek	Interstate 90	S4, T4N, R5E of the Black Hills meridian	1,3,8	Meade
Bear Butte Creek	Belle Fourche River	Highway 79	3,8	Meade
Bear Butte Creek	Highway 79	Deadman Creek	2,8	Meade
Bear Butte Creek	Deadman Creek	S2, T4N, R4E	3,8	Lawrence
Bear Butte Creek and its south fork	S2, T4N, R4E	S22, T4N, R3E	2,8	Lawrence
Boulder Creek	Bear Butte Creek	Two Bit Creek	3,8	Lawrence
Two Bit Creek	Boulder Creek	S30, T5N, R4E	3,8	Lawrence
North Fork of Bear Butte Creek	Bear Butte Creek	S14, T4N, R3E	3,8	Lawrence
Park Creek	Bear Butte Creek	S11, T4N, R4E	3,8	Lawrence
Spring Creek	Bear Butte Creek	S14, T6N, R5E	3,8	Meade
Strawberry Creek	Bear Butte Creek	S5, T4N, R4E	3,8	Lawrence
Vanocker Creek	Bear Butte Creek	S32, T5N, R5E	3,8	Meade

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Crow Creek (Butte County)	Orman Canal	Wyoming border	6,8	Butte
Elm Creek	Belle Fourche River	S8, T8N, R10E	6,8	Meade
East Elm Creek	Elm Creek	S10, <del>R7N</del> T7N, R11E	6,8	Meade
Hay Creek (Butte County)	Redwater River	Wyoming border	6,8	Butte
Hay Creek (Meade County)	Belle Fourche River	S.D. Highway 34	6,8	Meade
Horse Creek	Belle Fourche River	Indian Creek	5,8	Butte
Horse Creek	confluence of Indian Creek	S29, T10N, R5E	6,8	Butte
Indian Creek	Horse Creek	confluence with North Fork and South Fork Indian Creeks	5,8	Butte
North Fork Indian Creek	Indian Creek	S5, T12N, R2E	6,8	Butte
South Fork Indian Creek	Indian Creek	S4, T12N, R1E	6,8	Butte
Owl Creek	Belle Fourche River	Orman Dam	6,8	Butte

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Owl Creek	Belle Fourche Reservoir	S16, T11N, R1E	6,8	Butte
Redwater River	Belle Fourche River	U.S. Highway 85	3,8	Butte\ Lawrence
Redwater River	U.S. Highway 85	Wyoming border	2,8	Butte\ Lawrence
Spring Creek	Redwater River	S13, T7N, R2E	3,8	Lawrence
Bear Gulch Creek	Wyoming border	S6, T5N, R1E	2,8	Lawrence
Cold Springs Creek	Wyoming border	S13, T2N, R1E	2,8	Pennington
Cold Creek	Cold Springs Creek	S23, T2N, R1E	3,8	Pennington
Crow Creek	Redwater River	S22, T6N, R1E	2,8	Lawrence
Beaver Creek (north)	Crow Creek	S20, T5N, R1E	2,8	Lawrence
Unnamed tributary of Crow Creek	Crow Creek	McNenney outfall 002 in S21, T7N, R1E	2,8	Lawrence
Potato Gulch Creek	Beaver Creek (north)	S30, T5N, R1E	2,8	Lawrence
Chicken Creek	Redwater River	U.S. Highway 14	2,8	Lawrence
False Bottom Creek	Redwater River	S23, T7N, R3E	2,8	Lawrence
False Bottom Creek	S23, T7N,R3E	S26, T5N, R2E	3,8	Lawrence
Burno Gulch Creek	False Bottom Creek	S14, T5N, R2E	3,8	Lawrence
Columbia Dam Creek	False Bottom Creek	headwaters	3,8	Lawrence



<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Tetro Creek	False Bottom Creek	S6, T5N, R3E	3,8	Lawrence
Lake Creek	Redwater River	S21, T7N, R1E	2,8	Lawrence
Spearfish Creek	Redwater River	Homestake Hydro- electric Plant discharge (Spearfish Plant) in S15, T6N, R2E	1,2,7,8	Lawrence
Spearfish Creek	Homestake Hydro- electric Plant at Spearfish in S15, T6N, R2E	Spearfish City intake dam in S33, T6N, R2E	3,8	Lawrence
Spearfish Creek	Spearfish City intake dam in S33, T6N, R2E	Homestake Hydro- electric Plant intake dam, known as Maurice, in S8, T5N, R2E	2,8	Lawrence
Spearfish Creek	Homestake Hydro- electric Plant intake dam, known as Maurice, in S8, T5N, R2E	Intake Gulch	1,2,7,8,11	Lawrence
Rubicon Gulch	Spearfish Creek	S14, T5N, R2E	3,8	Lawrence

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Annie Creek	Spearfish Creek	S3, T4N, R2E	3,8	Lawrence
Higgins Gulch Creek	Spearfish Creek	S34, T6N, R1E	2,8	Lawrence
Hanna Creek (east fork of Spearfish Creek)	Spearfish Creek	S6, T3N, R3E	2,8	Lawrence
Ward Draw Creek	Hanna Creek	S16, T3N, R2E	1,2,8	Lawrence
Ice Box Gulch Creek	Spearfish Creek	S24, T4N, R2E	3,8	Lawrence
Iron Creek	Spearfish Creek	Iron Creek Lake	2,8	Lawrence
Deer Creek	Iron Creek	S21, T5N, R1E	2,8	Lawrence
Pettigrew Gulch Creek	Iron Creek	S33, T5N, R1E	3,8	Lawrence
Tollgate Flats Creek	Deer Creek	S14, T5N, R1E	2,8	Lawrence
Little Spearfish Creek	Spearfish Creek	S16, T4N, R1E	2,8	Lawrence
Dry Gulch Creek	Little Spearfish Creek	S14, T4N, R1E	2,8	Lawrence
Cleopatra Creek	Spearfish Creek	confluence with East Branch Cleopatra Creek	2,7,8	Lawrence
Stinkingwater Creek	Belle Fourche River	S13, T8N, R4E	3,8	Butte
Willow Creek	Belle Fourche River	S10, T10N, R6E	6,8	Butte
Whitewood Creek	Belle Fourche River	Interstate 90	4,8	Lawrence

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
Whitewood Creek	Interstate 90	confluence with Gold Run Creek	3,7,8	Lawrence
Whitewood Creek	confluence with Gold Run Creek	S5, T4N, R3E (includes a reach sometimes called Kirk Creek)	2,7,8	Lawrence
Whitewood Creek	S5, T4N, R3E	S31, T4N, R3E	2,8	Lawrence
Fantail Creek	Whitetail Creek	S6, T4N, R3E	2,7,8	Lawrence
Nevada Gulch Creek	the confluence with Fantail Creek	S6, T4N, R3E	3,8	Lawrence
Whitetail Creek	Whitewood Creek	S18, T4N, R3E	2,7,8	Lawrence
Stewart Gulch Creek	Whitetail Creek	NW1/4, NW1/4, Sec. 7, T4N, R3E	2,8	Lawrence
Deadwood Creek	Whitewood Creek	S30, T5N, R3E	3,7,8	Lawrence
West Strawberry Creek	Whitewood Creek	S12, T4N, R3E	2,8	Lawrence
Grizzly Creek	West Strawberry Creek	S3, T4N, R3E	2,8	Lawrence
Yellow Creek	Whitewood Creek	S10, T4N, R3E	3,8	Lawrence

**Source:** SL 1975, ch 16, § 1; 2 SDR 17, effective September 9, 1975; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:04:09, effective July 1, 1979; 9 SDR 143, effective May 15, 1983; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987;

14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:04:09, July 1, 1996; 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 32 SDR 38, effective September 6, 2005; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Cross-References:** Modification of criteria for specific sites, § 74:51:01:24; Criteria for Whitewood Creek from Interstate 90 to its confluence with Gold Run Creek, § 74:51:01:56.

**74:51:03:11. Box Elder Creek and certain tributaries' uses.** Stream segments of Box Elder Creek and certain tributaries covered by § 74:51:03:02 include the following:

Water Body	From	To	Beneficial Uses	County
Box Elder Creek	Cheyenne River	S22, T2N, R8E	6,8	Pennington
Box Elder Creek	S22, T2N, R8E	Haines Avenue	4,8	<del>Pennington</del> <u>Meade</u>
Box Elder Creek	Haines Avenue	Interstate 90	2,7,8	<del>Meade</del> <u>Pennington</u>
Box Elder Creek	Interstate 90	S16, T2N, R6E (Custer's Gap)	3,8	Pennington

Water Body	From	To	Beneficial Uses	County
Box Elder Creek	S16, T2N, R6E	the confluence of its middle and north forks at S14, T3N, R4E	2,8	Lawrence
Middle Fork Box Elder Creek	S14, T3N, R4E	S23, T3N, R3E	2,8	Lawrence
North Fork Box Elder Creek	S14, T3N, R4E	S11, T3N, R3E	2,8	Lawrence
South Fork Box Elder Creek	Box Elder Creek	S33, T3N, R4E	2,8	Lawrence
Unnamed tributary	Box Elder Creek	southeast ¼ of southeast ¼ of S18, T2N, R9E	6,8	Pennington
Unnamed tributary	Box Elder Creek	south ½ of southeast ¼ of S13, T2N, R8E	6,8	Pennington
Bogus Jim Creek	Box Elder Creek	headwaters of its north, middle and south forks at S15, 16 and 22, T2N, R5E	3,8	Pennington
Corral Creek	Box Elder Creek	S6, T3N, R4E	2,8	Lawrence
Estes Creek	Box Elder Creek	<del>S6, T2N, R5E</del> West Fork Estes Creek	3,8	Lawrence

Water Body	From	To	Beneficial Uses	County
<u>West Fork Estes Creek</u>	<u>Estes Creek</u>	<u>S6, T2N, R5E</u>	<u>3,8</u>	<u>Lawrence</u>
Hay Creek	Box Elder Creek	S32, T4N, R4E	2,8	Lawrence
Jim Creek	Box Elder Creek	S14, T2N, R4E	2,8	Pennington

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 14, 1977; transferred from § 34:04:04:10, effective July 1, 1979; 7 SDR 77, effective February 19, 1981; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:04:10, July 1, 1996, 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:03:13. Fall River and certain tributaries' uses.** Stream segments of Fall River and certain tributaries covered by § 74:51:03:02 include the following:

Water Body	From	To	Beneficial Uses	County
Fall River	Cheyenne River	<del>confluence with Cold Brook and Hot Brook Creeks</del> <u>S13, T7S, R5E</u>	<del>4</del> <u>3</u> ,8	Fall River

Water Body	From	To	Beneficial Uses	County
<u>Fall River</u>	<u>S13, T7S, R5E</u>	<u>Confluence with Cold Brook and Hot Brooks Creeks</u>	<u>4,7,8</u>	<u>Fall River</u>
Cold Brook Creek	Fall River	S25, T6S, R5E	1,3,8	Custer
Hot Brook Creek	Fall River	S19, T7S, R5E	1,4,8	Fall River

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; 6 SDR 59, effective December 16, 1979; transferred from § 34:04:04:12, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:03:04:12, July 1, 1996, 24 SDR 10, effective July 20, 1997; 31 SDR 29, effective September 13, 2004; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:03:14. French Creek and certain tributaries' uses.** Stream segments of French Creek and certain tributaries covered by § 74:51:03:02 include the following:

Water Body	From	To	Beneficial Uses	County
French Creek	Cheyenne River	S.D. Highway 79	6,8	Custer
French Creek	S.D. Highway 79	S23, T3S, R3E of the Black Hills meridian	3,8	Custer
Bismarck Lake Creek	French Creek	S9, T3S, R5E	3,8	Custer
Glen Erin Dam Creek	French Creek	S7, T4S, R5E	3,8	Custer
Laughing Water Creek	French Creek	S34, T2S, R4E	3,8	Custer
Ruby Creek	French Creek	<del>S1, T3S, R3E</del> S36, T2S, R3E	3,8	Custer
Sidney Creek	French Creek	confluence with unnamed tributary	3,8	Custer
Unnamed tributary	Sidney Creek	S1, T4S, R4E	3,8	Custer
Willow Creek	French Creek	S36, T2S, R4E	3,8	Custer

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:04:13, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:03:04:13, July 1, 1996, 24 SDR 10, effective July 20, 1997.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.



**74:51:03:17. Rapid Creek and certain tributaries' uses.** Stream segments of Rapid Creek and certain tributaries covered by § 74:51:03:02 include the following:

Water Body	From	To	Beneficial Uses	County
Rapid Creek	Cheyenne River	S15, T1N, R8E of the Black Hills meridian	4,7,8	Pennington
Rapid Creek	S15, T1N, R8E	Canyon Lake	1,2,7,8	Pennington
Rapid Creek	Canyon Lake	its confluence with the North Fork Rapid Creek	1,2,7,8	Pennington
North Fork Rapid Creek	its confluence with Rapid Creek	S8, T3N, R3E	2,8	Lawrence
South Fork Rapid Creek	its confluence with the North Fork Rapid Creek	S4, T2N, R2E	2,8	Lawrence
Bittersweet Creek	Castle Creek	S23, T1N, R3E	3,8	Pennington
Bjorland Draw Creek	Castle Creek	S12, T1N, R1E	3,8	Pennington
Black Fox Springs Creek	South Fork Rapid Creek	S3, T2N, R2E	3,8	Lawrence
Buskala Creek	North Fork Rapid Creek	S19, T3N, R3E	2,8	Lawrence
Cabin Draw Creek	Castle Creek	S17, T1N, R2E	3,8	Pennington
California Gulch Creek	Skull Gulch Creek	S36, T1N, R4E	3,8	Pennington
Castle Creek	Rapid Creek	S36, T2N, R1E	2,8	Pennington
North Fork Castle Creek	Castle Creek	S26, T2N, R2E,	2,8	Pennington
Cement Draw Creek	Gold Run Creek	S6, T1S, R3E	3,8	Pennington
Crooked Creek	Castle Creek	S24, T1N, R3E	3,8	Pennington
Deer Creek	Rapid Creek	U.S. Highway 385	3,8	Pennington
Ditch Creek	South Fork Castle Creek	S23, T1S, R2E	2,8	Pennington
Friday Gulch Creek	California Gulch Creek	S35, T1N, R4E	3,8	Pennington
Frink Draw Creek	Slate Creek	S24, T1S, R3E	3,8	Pennington
Fulton Draw Creek	Castle Creek	S7, T1N, R2E	3,8	Pennington
Gimlet Creek	Rapid Creek	S8, T2N, R4E	2,8	Pennington
East Gimlet Creek	Gimlet Creek	S15, T2N, R4E	2,8	Pennington
West Gimlet Creek	Gimlet Creek	S6, T2N, R4E	3,8	PenningtonLa wrence
Gold Run Creek	Castle Creek	S8, T1S, R3E	2,8	Pennington
Hop Creek	South Fork Rapid Creek	S6, T2N, R3E	3,8	Lawrence
Jenny Gulch Creek	Rapid Creek	S24, T2N, R4E	2,8	Pennington
Kelley Gulch Creek	Rapid Creek	S23, T2N, R4E	2,8	Pennington
Lime Creek	Rapid Creek	S32, T2N, R7E	2,8	Pennington

Water Body	From	To	Beneficial Uses	County
Lind Gulch Creek	Castle Creek	S16, T1N, R4E	3,8	Pennington
Long Draw Creek	South Fork Rapid Creek	S20, T2N, R3E	3,8	Pennington
Heely Creek	South Fork Castle Creek	S18, T1S, R3E	2,8	Pennington
Nichols Creek	South Fork Castle Creek	S34, T1N, R2E	3,8	Pennington
West Nugget Gulch	Rapid Creek	S14, T1N, R4E	3,8	Pennington
Plantation Draw Creek	North Fork Rapid Creek	S4, T2N, R3E	3,8	Lawrence
Pole Creek	South Fork Castle Creek	S15, T1S, R2E	3,8	Pennington
Prairie Creek	Rapid Creek	U.S. Highway 385	2,8	Pennington
Rickover Springs Creek	South Fork Rapid Creek	<del>S4</del> S11, T2N, R2E	3,8	Lawrence
Rhoads Fork Creek	South Fork Rapid Creek	S29, T2N, R2E	2,8	Pennington
Silver Creek	Castle Creek	S21, T1N, R2E	2,8	Pennington
Silver Creek	Rapid Creek	S2, T2N, R3E	2,8	Lawrence
Skull Gulch Creek	Slate Creek	Confluence with California Gulch and Spruce Gulch Creeks	3,8	Pennington
Spruce Gulch Creek	Skull Gulch Creek	S25, T1N, R4E	3,8	Pennington
Slate Creek	Rapid Creek	S14, T1S, R3E	2,8	Pennington
South Fork Slate Creek	Slate Creek	S3, T1S, R3E	2,8	Pennington
Swede Gulch Creek	North Fork Rapid Creek	S1, T2N, R2E	2,8	Lawrence
Tillson Creek	Swede <del>Gulch</del> Creek	S26, T3N, R2E	2,8	Lawrence
Trebor Draw Creek	South Fork Rapid Creek	S8, T2N, R2E	3,8	Lawrence
Victoria Creek	Rapid Creek	S19, T1N, R6E	2,8	Pennington
South Fork Victoria Creek	Victoria Creek	S30, T1N, R6E	3,8	Pennington

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:04:16, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:04:16, July 1, 1996, 24 SDR 10, effective July 20, 1997.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:03:20. James River and certain tributaries' uses.** Stream segments of the James River and certain tributaries covered by § 74:51:03:02 include the following:

<b>Water Body</b>	<b>From</b>	<b>To</b>	<b>Beneficial Uses</b>	<b>County</b>
James River	Missouri River	Huron Third Street Dam	5,8	Beadle
James River	Huron Third Street Dam	James River Diversion Dam	1,5,8	Beadle
James River	James River Diversion Dam	North Dakota border	5,8	Brown
Beaver Creek	James River	Beaver Lake	6,8	Yankton
Cain Creek	James River	S33, T110N, R63W of the fifth principal meridian	6,8	Beadle
Dawson Creek	James River	Lake Henry	6,8	Bon Homme
Elm River	James River	North Dakota border	1,5,8	Brown
Maple River	Elm River	North Dakota border	1,5,8	Brown
Enemy Creek	James River	S18, T102N, R60W	6,8	Davison
North Fork Enemy Creek	Enemy Creek	S36, T103N, R61W	6,8	Davison
Firesteel Creek	James River	confluence with West Fork Firesteel Creek	1,4,8	Davison
Firesteel Creek	confluence West Fork Firesteel Creek	S.D. Highway 34	1,5,8	Jerauld
West Fork Firesteel Creek	Firesteel Creek	Wilmarth Lake	1,6,8	Aurora
Foster Creek	James River	S6, T114N, R60W	6,8	Spink
North Fork Foster Creek	James River	U.S. Highway 212	6,8	Spink
Jim Creek	James River	S19, T106N, R59W	6,8	Sanborn
Johnson Creek	James River	Fulton Dam	6,8	Hanson
Lonetree Creek	James River	S31, T98N, R58W	6,8	Hutchinson
Dry Creek	James River	confluence with its north and south branches	6,8	Hutchinson
North Branch Dry Creek	Dry Creek	S27, T99N, R61W	6,8	Hutchinson
Morris Creek, also known as Dry Run Creek	James River	S10, T104N, R61W	6,8	Davison
Moccasin Creek	James River	S24, T123N, R64W	6,8	Brown
Foot Creek	Moccasin Creek	Richmond Dam	6,8	Brown
Mud Creek (Brown and Spink Counties)	James River	S.D. Highway 37	6,8	Brown
Mud Creek (Yankton County)	James River	S.D. Highway 46	6,8	Yankton

Water Body	From	To	Beneficial Uses	County
Pearl Creek	James River	S8, T109N, R60W	6,8	Beadle
Pierre Creek	James River	S11, T102N, R58W	5,8	Hanson
Plum Creek	James River	S30, T100N, R58W	6,8	Hutchinson
Redstone Creek	James River	State Highway 14	6,8	<del>Sanborn</del> Kingsbury
Rock Creek	James River	S9, T103N, R59W	6,8	Hanson
Sand Creek	James River	S32, T110N, R66W	5,8	Hand
Snake Creek	James River	confluence with South Fork Snake Creek	5,8	Spink
Snake Creek	confluence with the South Fork Snake Creek	S26, T124N, R66W	6,8	Edmunds
South Fork Snake Creek	confluence with Snake Creek	S23, T118N, R70W	6,8	Faulk
Shue Creek	James River	S23, T112N, R60W	6,8	Beadle
Turtle Creek	James River	S17, T113N, R65W	6,8	Beadle
Timber Creek	James River	S31, T118N, R61W	6,8	Spink
Twelve Mile Creek	James River	S11, T101N, R60W	6,8	Davison
South Fork Twelve Mile Creek	Twelve Mile Creek	S12, T100N, R61W	6,8	Hutchinson
Willow Creek	Elm River	S31, T126N, R65W	1,6,8	Brown
Wolf Creek (Spink and Hand Counties)	Turtle Creek	S10, T114N, R66W	6,8	Hand
Wolf Creek (Hutchinson, McCook, and Hanson Counties)	James River	S5, T103N, R56W	6,8	McCook

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; 6 SDR 59, effective December 16, 1979; transferred from § 34:04:04:19, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; 19 SDR 111, effective January 31, 1993; transferred from § 74:03:04:19, July 1, 1996, 24 SDR 10, effective July 20, 1997; 29 SDR 107, effective February 2, 2003; 31 SDR 29, effective September 13, 2004; 35 SDR 253, effective May 12, 2009; 41 SDR 109, effective January 12, 2015.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:03:22. Moreau River and certain tributaries' uses.** Stream segments of the Moreau River and certain tributaries covered by § 74:51:03:02 include the following:

Water Body	From	To	Beneficial Uses	County
Moreau River	Lake Oahe	North and South forks of the Moreau River	5,8	Perkins
North Fork Moreau River	Moreau River	U.S. Highway 85	6,8	Harding
South Fork Moreau River	Moreau River	S17, T14N, R4E of the Black Hills meridian	6,8	Butte
Battle Creek	South Fork Moreau River	S32, T13N, R5E	6,8	Butte
Deep Creek	Moreau River	S9, T13N, R13E	6,8	Perkins
Flint Creek	Deep Creek	U.S. Highway 212	6,8	Meade
Four Mile Creek	Battle Creek	S11, T13N, R4E	6,8	HardingButte
Rabbit Creek	Moreau River	S.D. Highway 79	6,8	Harding
Antelope Creek	Rabbit Creek	S8, T16N, R9E	6,8	Harding
Sand Creek	South Fork Moreau River	U.S. Highway 85	6,8	Harding
Sheep Creek	North Fork Moreau River	S30, T16N, R9E	6,8	Harding
Thunder Butte Creek	Moreau River	<del>S11, T18N, R10E</del> confluence with the South Branch Thunder Butte Creek	6,8	Perkins
<u>South Branch Thunder Butte Creek</u>	<u>Thunder Butte Creek</u>	<u>S11, T18N, R10E</u>	<u>6,8</u>	<u>Perkins</u>

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:04:21, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 14 SDR 86, effective December 24, 1987; transferred from § 74:03:04:21, July 1, 1996, 24 SDR 10, effective July 20, 1997.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**74:51:03:27. Red River of the North's tributaries' uses.** Stream segments of the tributaries of the Red River of the North covered in § 74:51:03:02 include the following:

Water Body	From	To	Beneficial Uses	County
Bois de Sioux River	Lake Traverse	South Dakota-North Dakota-Minnesota border	5,8	Roberts
Big Slough Creek	Bois de Sioux River	S13, T128N, <u>R47WR49W</u>	5,8	Roberts
Jim Creek	Lake Traverse	S13, T126N, R50W of the fifth principal meridian	6,8	Roberts

**Source:** SL 1975, ch 16, § 1; 4 SDR 32, effective December 4, 1977; transferred from § 34:04:04:26, effective July 1, 1979; 10 SDR 145, effective July 4, 1984; 13 SDR 129, 13 SDR 141, effective July 1, 1987; transferred from § 74:03:04:26, July 1, 1996, 24 SDR 10, effective July 20, 1997; 35 SDR 253, effective May 12, 2009.

**General Authority:** SDCL 34A-2-93.

**Law Implemented:** SDCL 34A-2-10, 34A-2-11.

**Note:** The Red River of the North is located in North Dakota.

## **ARTICLE 74:52**

### **SURFACE WATER DISCHARGE PERMITS**

#### **Chapter**

- 74:52:01 General provisions.
- 74:52:02 Application requirements.
- 74:52:03 Permit conditions.
- 74:52:04 Transfer, modification, revocation and reissuance, and termination of permits.
- 74:52:05 Application process.
- 74:52:06 Secondary treatment standards.
- 74:52:07 Criteria and standards for permits.
- 74:52:08 Toxic pollutant effluent standards for permits.
- 74:52:09 Sewage sludge standards.
- 74:52:10 Effluent guidelines and standards for permits and pretreatment industrial users.
- 74:52:11 Pretreatment regulations.
- 74:52:12 Industrial stormwater fees.

#### **CHAPTER 74:52:12**

### **INDUSTRIAL STORMWATER FEES**

Section

74:52:12:01 Definitions.

74:52:12:02 Sector J annual fees.

74:52:12:03 Other industrial sectors fees.

74:52:12:04 Annual fee due date.

74:52:12:05 Maximum annual fee.

74:52:12:01. Definitions. Words and phrases defined in SDCL 34A-2-2, have the same meaning when used in chapter 74:52:12. Terms and abbreviations which are not specifically defined shall be construed in conformance with the context and in relation to the applicable section of the standards or the statute concerned. In addition, terms used in chapter 74:52:12 are defined as follows:

(1) "Sector A," means timber products facilities as described by standard industrial classification major group 24. This sector includes all facilities that produce lumber and wood products, except furniture;

(2) "Sector AA," means fabricated metal products manufacturing facilities as defined by standard industrial classification major groups 34 and 39;

(3) "Sector AB," means facilities that manufacture transportation equipment, industrial, or commercial machinery as described in standard industrial classification major groups 35 and 37 (except standard industrial groups 357 and 373);



(4) "Sector AC," means electronic and electrical equipment and components, photographic, and optical goods manufacturing facilities as defined by standard industrial classification major groups 36 and 38 and standard industrial group 357;

(5) "Sector AD," means facilities required by the secretary to obtain a permit for stormwater discharges associated with industrial activity;

(6) "Sector B," means paper and allied products manufacturing facilities as defined by standard industrial classification major group 26;

(7) "Sector C," means chemical and allied products manufacturing facilities as described by standard industrial classification major group 28 and primary standard industrial classification of 3952, which is limited to inks and paints;

(8) "Sector D," means asphalt paving and roofing materials manufacturers and lubricant manufacturers as described by standard industrial classification major group 29;

(9) "Sector E," means glass, clay, cement, concrete, and gypsum product manufacturing facilities as described by standard industrial classification major group 32;

(10) "Sector F," means primary metals facilities as described by standard industrial classification major group 33;

(11) "Sector G," means metal mining, ore mining, and dressing facilities as defined by standard industrial classification major group 10;

(12) "Sector H," means coal mines and coal mining-related facilities as defined by standard industrial classification major group 12;

(13) "Sector I," means oil and gas extraction facilities as defined by standard industrial classification major group 13;

(14) "Sector J," means active and inactive mining, quarrying, and processing of nonmetallic minerals (except fuels) as defined by standard industrial classification major group 14;

(15) "Sector K," means hazardous waste treatment, storage, or disposal facilities, as defined by § 74:28:21:01;

(16) "Sector L," means landfills, land application sites, and open dumps that receive or have received industrial waste as defined by § 74:27:07:01;

(17) "Sector M," means automobile salvage yards and automobile recyclers with a primary standard industrial classification of 5015;

(18) "Sector N," means scrap recycling and waste recycling facilities with a primary standard industrial classification of 5093;

(19) "Sector O," means steam electric power generating facilities;

(20) "Sector P," means land transportation and warehousing activities as defined by standard industrial classification major groups 40, 41, 42, 43, and standard industrial classification 5171;

(21) "Sector Q," means water transportation facilities with vehicle maintenance shops or equipment cleaning operations as defined by standard industrial classification major group 44;

(22) "Sector R," means ship and boat building or repair yards with a primary standard industrial classification of 3731 or 3732;

(23) "Sector S," means vehicle maintenance areas, equipment cleaning areas, or deicing areas located at air transportation facilities as defined by standard industrial classification major group 45;

(24) "Sector T," means stormwater discharges from treatment works including those facilities that treat domestic sewage with a design flow of one million gallons per day or more, are required to have an approved pretreatment program under chapter 74:52:10, or have land dedicated to the disposal of sewage sludge within the confines of the facility;

(25) "Sector U," means food and kindred products facilities as defined by standard industrial classification major group 20;

(26) "Sector V," means textile facilities as described by standard industrial classification major groups 22, 23, and 31 (except standard industrial classification of 3111), which includes all facilities that produce textiles;

(27) "Sector W," means wood and metal furniture and fixture manufacturing facilities as defined by standard industrial classification major group 25 and standard industrial classification 2434;

(28) "Sector X," means printing and publishing facilities including allied industries facilities described in standard industrial classification major group 27;

(29) "Sector Y," means rubber, miscellaneous plastic products, and miscellaneous manufacturing facilities as described by standard industrial classification major groups 30 and 39 (except standard industrial classification of 3952); and,

(30) "Sector Z," means leather tanning and finishing facilities with a primary standard industrial classification of 3111.

**Source:**

**General Authority:** SDCL 34A-2-119.1.

**Law Implemented:** SDCL 34A-2-36.

**Reference:** standard industrial classification Manual, 1987, Executive Office of the President, Office of Management and Budget. Copies may be obtained from National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, order no. PB 87-100012. Cost: \$31. The document is available online at [https://www.osha.gov/pls/imis/sic\\_manual.html](https://www.osha.gov/pls/imis/sic_manual.html).

**74:52:12:02. Sector J annual fees.** The owner or operator of a sector J industrial site that is required to operate under a general water pollution control permit for stormwater discharges associated with industrial activities shall pay an annual fee. The annual fee shall be as follows based on the unreclaimed acreage reported under SDCL 45-6-72 as of December 31 of each year:

- (1) \$100 for sites with less than 1.0 acre unreclaimed;
- (2) \$200 for sites with 1.0 acre to less than 20.0 acres unreclaimed;
- (3) \$400 for sites with 20.0 acres to less than 40.0 acres unreclaimed;
- (4) \$600 for sites with 40.0 acres to less than 80 acres unreclaimed; and
- (5) \$800 for sites with 80 acres or more unreclaimed.

**Source:**

**General Authority:** SDCL 34A-2-119.1.

**Law Implemented:** SDCL 34A-2-36.

**74:52:12:03. Other industrial sectors fees.** The owner or operator of an industrial site that is required to operate under a general water pollution control permit for stormwater discharges associated with industrial activities, except sector J sites, shall pay an annual fee as follows:

(1) \$100 for sectors B, P, Q, R, T, U, V, W, and X;

(2) \$200 for sectors C, F, O, S, Y, Z, AA, AB, AC, and AD;

(3) \$400 for sectors A, D, E, M, and N;

(4) \$600 for sectors K and L; and

(5) \$800 for sectors G, H, and I.

**Source:**

**General Authority:** SDCL 34A-2-119.1.

**Law Implemented:** SDCL 34A-2-36.

**74:52:12:04. Annual fee due date.** The annual fee for coverage under a general water pollution control permit for stormwater discharges associated with industrial activities accrues on January 1

of each year and is due on January 31 of that year, beginning January 31, 2022. The annual fee will accrue each year until the permit coverage is terminated by the secretary.

**Source:**

**General Authority:** SDCL 34A-2-119.1.

**Law Implemented:** SDCL 34A-2-36.

**74:52:12:05. Maximum annual fee.** The maximum annual fee for an owner with multiple sites covered under a general water pollution control permit for stormwater discharges associated with industrial activities shall not exceed \$2,500 per year.

**Source:**

**General Authority:** SDCL 34A-2-119.1.

**Law Implemented:** SDCL 34A-2-36.



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
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**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 8428-3, Knodel Contractors, LLC**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8428-3, Knodel Contractors, LLC, c/o Kelly Knodel, 43725 284<sup>th</sup> St, Freeman SD 57029.

The Chief Engineer is recommending APPROVAL of Application No. 8428-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualification:

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 his 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 is allowed which would result in a violation of county or state ordinances or permits.
5. Diversion of water is authorized under this Permit when the diversion will not increase the likelihood or the severity of flood damages between the discharge point and the Vermillion River.

See report on application for additional information.

Eric Gronlund, Chief Engineer  
August 17, 2020

NOTE: The gravel pit completed into the water table of the Parker-Centerville aquifer is not considered an adequate well and therefore will not be afforded protection under water rights law should fluctuation in the water levels occur. If approved, the water permit authorizes only dewatering and does not allow diversion of water for gravel washing or irrigation.



**Report to the Chief Engineer on  
Water Permit Application No. 8428-3**

Knodel Contractors, LLC, c/o Kelly Knodel  
29 June 2020

Water Permit Application No. 8428-3 proposes to appropriate up to 795.46 acre-feet of water per year (ac-ft/yr) from the Parker-Centerville aquifer at a maximum pump rate of 3.34 cubic feet of water per second (cfs) for industrial use in a sand and gravel operation. The applicant is proposing to lower the water level in the excavation site located in the W ½ NW ¼ Section 26-T99-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch, which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker, South Dakota.

**Aquifer: Parker-Centerville (PAC)**

*Hydrogeological characteristics*

The Parker-Centerville aquifer is a sand and gravel outwash that was deposited in an ancient river bed during the Quaternary period [1]. The aquifer can generally be encountered within 50 feet of ground surface with water levels typically within 30 feet of ground surface [2]. Multiple estimates of the area and boundaries of the Parker-Centerville aquifer are available. The first report on the Parker-Centerville aquifer mostly interpreted aquifer boundaries by visual survey of the landscape [3]. That study is likely to be the source used by Hedges et al [4], although they do not explicitly list sources for county-level aquifer information in their report. The boundary interpreted by Hedges et al. [4] was used by the Water Rights Program until 2015, when it was superseded by a boundary interpreted by Holmes and Filipovic [1]. Lindgren and Hansen [5] also published a county study including boundaries for the Parker-Centerville aquifer that do not agree with Hedges et al. [4] or Holmes and Filipovic [1]. Based on where water rights/permits are interpreted as belonging to the Parker-Centerville aquifer, it does not appear that the boundaries interpreted by Lindgren and Hansen [5] were consistently used by the Water Rights Program [6]. Other geological information is available in the form of lithologic logs [7], well completion reports [8], and a map of the first occurrences of aquifer materials in Turner county [9] indicate the boundaries of the Parker-Centerville aquifer may be wider than the area interpreted by Holmes and Filipovic [1]. For this report, the boundaries interpreted by Holmes and Filipovic [1] will be used, since they are the boundaries most recently used by the Water Management Board.

According to the most recent estimate, the Parker-Centerville aquifer primarily underlies the Vermillion River valley with an approximate areal extent of 40,270 acres in Clay, Lincoln, and Turner Counties [1]. The northern boundary of the Parker-Centerville aquifer is in hydraulic connection to the Vermillion East Fork: Montrose and Vermillion West Fork aquifers, which are made of the same material at the same elevation as the Parker-Centerville aquifer [7] [8] [5]. The Parker-Centerville aquifer directly overlies portions of the Upper Vermillion-Missouri aquifer [1], and the two aquifers both blend into the Lower Vermillion-Missouri aquifer to the south [4] [8]. The Parker-Centerville aquifer also has some hydrologic connection to the Vermillion River [1] and possibly other surface water features. Generally, the direction of groundwater movement in the Parker-Centerville aquifer is from north to south [2].

The applicant proposes to withdraw water from a sand and gravel quarry to lower the water level during operations. No well completion report was submitted with the application and no well will be required to develop this application, but since the applicant is withdrawing water from an excavation site including water that flows in from the aquifer, it is groundwater.

The Parker-Centerville aquifer is almost exclusively under unconfined (water table) conditions [2]. There are multiple water rights in the Parker-Centerville aquifer that withdraw amounts comparable to the applicant's request from a single well per water right/permit [6], indicating the aquifer is highly transmissive.

### **Applicable South Dakota Codified Law (SDCL)**

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights, and that the proposed use is a beneficial use and in the public interest. This report will assess the availability of water and possibility of developing this application without unlawful impairment of existing rights only.

Pursuant to SDCL 46-6-3.1, no application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of the water to the groundwater source. An exception allows water distribution systems to withdraw from groundwater sources older or stratigraphically lower than the Greenhorn Formation regardless of a hydrologic budget. Knodel Contractors, LLC is not a water distribution system as defined in SDCL 46-1-6, and the Parker-Centerville aquifer is younger and stratigraphically higher than the Greenhorn Formation. Therefore, it is necessary to find that recharge exceeds withdrawals to approve this application.

### **Availability of water**

#### *Hydrologic budget*

#### Recharge

Recharge to the Parker-Centerville aquifer is by infiltration from precipitation, seepage from surface water features when the surface water level is higher than the potentiometric surface of the aquifer, and by groundwater inflow from adjacent aquifers when the potentiometric surface of those aquifers is higher than that of the Parker-Centerville aquifer [3]. Hedges, et al. [10] estimated the average annual recharge rate to the aquifer is 4.9 inches per year based on observation well analysis. Multiplying the Hedges, et al. [10] estimate of recharge rate over the most recent estimate of the aquifer's area [1], the estimated average annual recharge rate is 16,444 ac-ft/yr.

#### Discharge

Natural discharge from the Parker-Centerville aquifer occurs through evapotranspiration when the potentiometric surface of the aquifer is at or near land surface, outflow to surface water features when the surface water level is lower than the potentiometric surface of the aquifer, groundwater outflow to the Lower Vermillion-Missouri and the Upper Vermillion-Missouri

aquifers when the potentiometric surface of the Parker-Centerville aquifer is higher than that of those aquifers [1] [5]. The other form of discharge is withdrawals by domestic and appropriative well users. Given the prevalence of appropriative water distribution systems and the relatively low pump rate allowed for domestic well use, domestic well withdrawals are considered negligible for this hydrologic budget.

There are 141 active water rights/permits authorized to withdraw water from the Parker-Centerville aquifer [6]. Due to the new lithologic information available as discussed in the Hydrogeological Characteristics section, four water rights/permits that were previously identified as belonging to other aquifers are within the boundaries of the Parker-Centerville aquifer interpreted by Holmes and Filipovic [1] that were used to estimate the area of the aquifer and have similar well depths and aquifer materials as the Parker-Centerville aquifer. Therefore, a total of 145 water rights/permits will be considered to withdraw from the Parker-Centerville aquifer for this hydrologic budget [6]. The four additional water rights/permits are Water Permit Nos. 7312-3, 7596-3, 7597-3 and Water Right No. 6491-3 and are all for irrigation [6].

Of the 141 water rights/permits officially categorized as being in the Parker-Centerville aquifer, 138 are for irrigation use [6]. Two water rights are for municipal use for the Town of Hurley and one water right is for commercial use [6]. The Town of Hurley purchases its water from another water distribution system [11] and is assumed to keep its water rights for emergency purposes. Therefore, those permits are likely to withdraw a negligible amount of water from the Parker-Centerville aquifer. The one commercial water permit, No. 8358-3 for Sonstegard Food Company appropriates 222.2 ac-ft/yr [6]. Sonstegard Food Company is also required to report their annual withdrawals to the Water Rights Program, but they acquired that permit in 2018 and reported no withdrawals that year. For the hydrologic budget, it is assumed they withdraw the full amount appropriated.

Irrigation withdrawal data is available for the period of record from 1979 through 2019 and shown in Table 1. The average irrigation reported over the period of record for the 142 irrigation water rights/permits in this hydrologic budget is 9,947 ac-ft/yr [12]. After the drought of 2012, the number of irrigation water rights/permits increased from 125 to 138 and an increase in permitted acres from 16,374 to 17,700 acres in the aquifer, including the four water rights/permits not previously identified as appropriating from the Parker-Centerville aquifer. Currently, there are 17,705 acres permitted/licensed for irrigation in the aquifer, which is an increase of 1,331 acres since 2012. Many of the newer permits in the aquifer may not be represented by the average over the period of record. The average irrigation per acre licensed/permitted over the period of record is 7.67 inches per acre. Conservatively assuming the 1,331 new acres permitted/licensed irrigate 12 inches of water per year, that would add 1,331 ac-ft/yr of withdrawals for irrigation to the 9,947 ac-ft/yr average. Therefore, the total estimated withdrawal due to irrigation is 11,278 ac-ft/yr.

# Report on Water Permit Application No. 8428-3

Table 1: Irrigation reported over the period of record for the Parker-Centerville aquifer and the four shallow glacial outwash water rights/permits within the boundaries interpreted by Holmes and Filipovic [1] [12].

Year	Parker-Centerville		Within Boundaries		Total	
	No. Permits	Irrigation Reported (ac-ft/yr)	No. Permits	Irrigation Reported (ac-ft/yr)	No. Permits	Irrigation Reported (ac-ft/yr)
1979	114	7,481	0	0	114	7,481
1980	110	7,675	0	0	110	7,675
1981	121	9,321	0	0	121	9,321
1982	111	6,494	0	0	111	6,494
1983	110	5,523	0	0	110	5,523
1984	111	5,152	0	0	111	5,152
1985	112	6,515	0	0	112	6,515
1986	113	6,120	0	0	113	6,120
1987	111	8,620	0	0	111	8,620
1988	108	13,558	0	0	108	13,558
1989	110	13,959	0	0	110	13,959
1990	110	12,201	0	0	110	12,201
1991	110	11,186	0	0	110	11,186
1992	111	3,909	0	0	111	3,909
1993	110	1,919	0	0	110	1,919
1994	111	10,724	0	0	111	10,724
1995	108	9,664	0	0	108	9,664
1996	107	10,897	0	0	107	10,897
1997	110	11,585	0	0	110	11,585
1998	108	10,072	0	0	108	10,072
1999	112	11,027	0	0	112	11,027
2000	113	12,955	0	0	113	12,955
2001	113	12,238	0	0	113	12,238
2002	114	13,865	0	0	114	13,865
2003	116	12,471	0	0	116	12,471
2004	117	14,668	1	44	118	14,712
2005	119	13,450	1	99	120	13,549
2006	117	15,304	1	33	118	15,337
2007	120	11,995	1	53	121	12,048
2008	123	13,224	1	71	124	13,294
2009	125	7,260	1	23	126	7,283
2010	123	392	1	0	124	392
2011	123	11,315	1	42	124	11,357
2012	123	19,045	2	122	125	19,168
2013	134	15,083	4	127	138	15,210
2014	136	11,269	4	66	140	11,336
2015	137	9,606	4	102	141	9,707
2016	139	11,934	4	135	143	12,069
2017	139	11,430	4	117	143	11,548
2018	138	3,808	4	15	142	3,823
2019	138	1,842	4	11	142	1,852
Average						9,947

### Balance of hydrologic budget

The estimated average annual recharge to the Parker-Centerville aquifer is 16,444 ac-ft/yr. One commercial permit in the aquifer appropriates 222.2 ac-ft/yr and the two municipal permits in the aquifer are assumed to withdraw a negligible amount. The average annual withdrawal for irrigation over the period of record is 9,947 ac-ft/yr, but some newer water rights/permits may not be represented by that average. The total estimated average annual withdrawal for irrigation is 11,278 ac-ft/yr. The total estimated withdrawal in the aquifer is approximately 11,500 ac-ft/yr. The applicant seeks to appropriate up to 795.46 ac-ft/yr. Therefore, based on a hydrologic budget, there is reasonable probability unappropriated water is available for this application.

### *Observation well analysis*

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely upon the record of observation wells in addition to other information to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer. The Water Rights Program maintains 22 observation wells in the Parker-Centerville aquifer [2]. The nearest observation well to this application is Observation Well TU-80D, located approximately 0.7 miles to the south of this application [2]. Figure 1 shows water level data for that observation well [2]. Observation Well TU-80D is representative of the Parker-Centerville aquifer's behavior at other wells in the aquifer [2]. Some seasonal declines are observed, but springtime water levels in the aquifer are dominated by the influence of climate more than pumping [13]. Therefore, based on Observation well analysis, there is reasonable probability unappropriated water is available for this application.

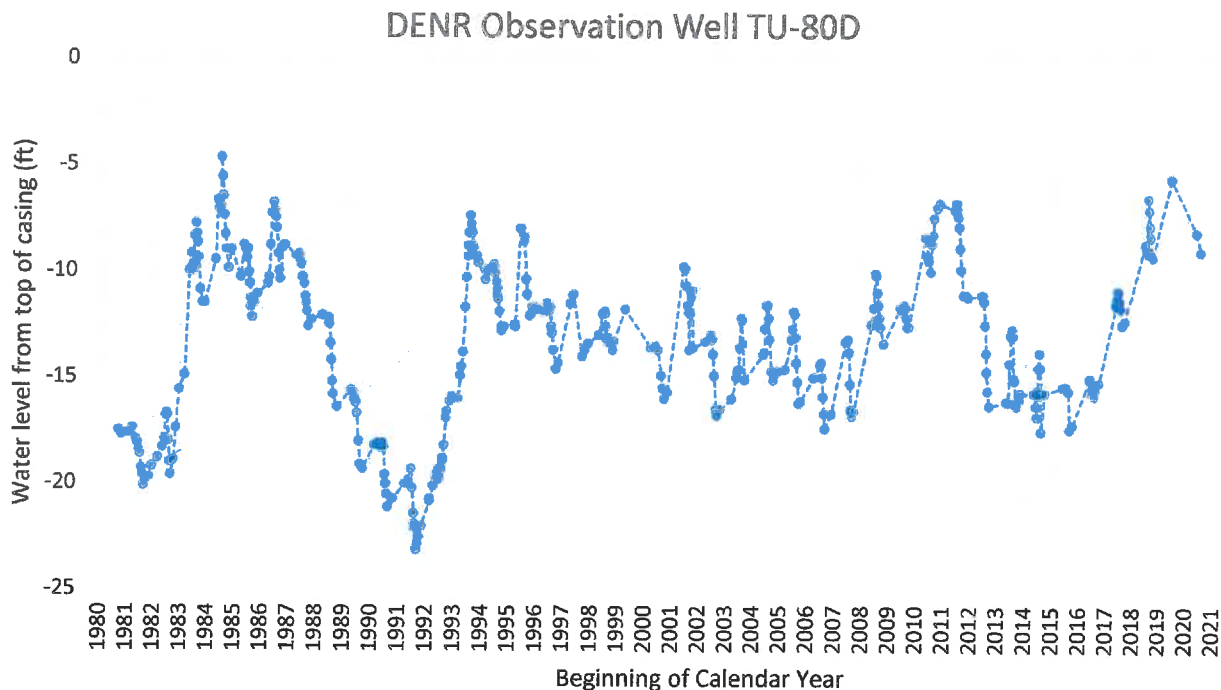


Figure 1: Water level data for DENR Observation Well TU-80D [13]

### Existing users

The nearest water right to the diversion points proposed for this application in the Parker-Centerville aquifer is Water Right No. 5952-3, held by Knodel Contractors, LLC for irrigation and located approximately 0.17 miles northeast of this application [6]. The next nearest water right to this application is Water Right No. 2810-3, which is located approximately 0.2 miles southwest of this application [6]. Figure 2 shows nearby water rights/permits [6], observation wells in the Parker-Centerville aquifer [2], the boundary of the Parker-Centerville aquifer as interpreted by Holmes and Filipovic [1], and aquifer materials near the surface in the area [9]. Table 2 shows details about the water rights/permits in Figure 2. The nearest domestic well on file with the Water Rights Program that is likely to be completed into the Parker-Centerville aquifer is located approximately 1.1 miles to the east of this application [8]. There may be nearby domestic wells that are not on file with the Water Rights Program. Precise drawdown behavior cannot be known without an aquifer performance test. However, some drawdown is likely to occur. To protect domestic well users, the Water Management Board defined an “adversely impacted adequate well” in ARSD 74:02:04:20(7) as:

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

There is one complaint in Turner county regarding well interference in the Dolton aquifer, but the Water Rights Program engineer responding to the complaint determined that the well that was not delivering water did not have its pump placed deep enough to meet the definition of an adequate well [14]. Given the lack of complaints for adequate wells completed into this aquifer in Turner County, the unconfined and highly transmissive nature of the aquifer, the fact that the applicant will likely impact their own irrigation well before they impact anyone else, and given the distance from the applicant’s proposed pumping site to the nearest water right in the aquifer not owned by the applicant, it is likely this application can be developed without unlawful impairment of existing water rights or domestic wells. However, out of an abundance of caution, the applicant should control their withdrawals so that nearby adequate wells are not adversely impacted.

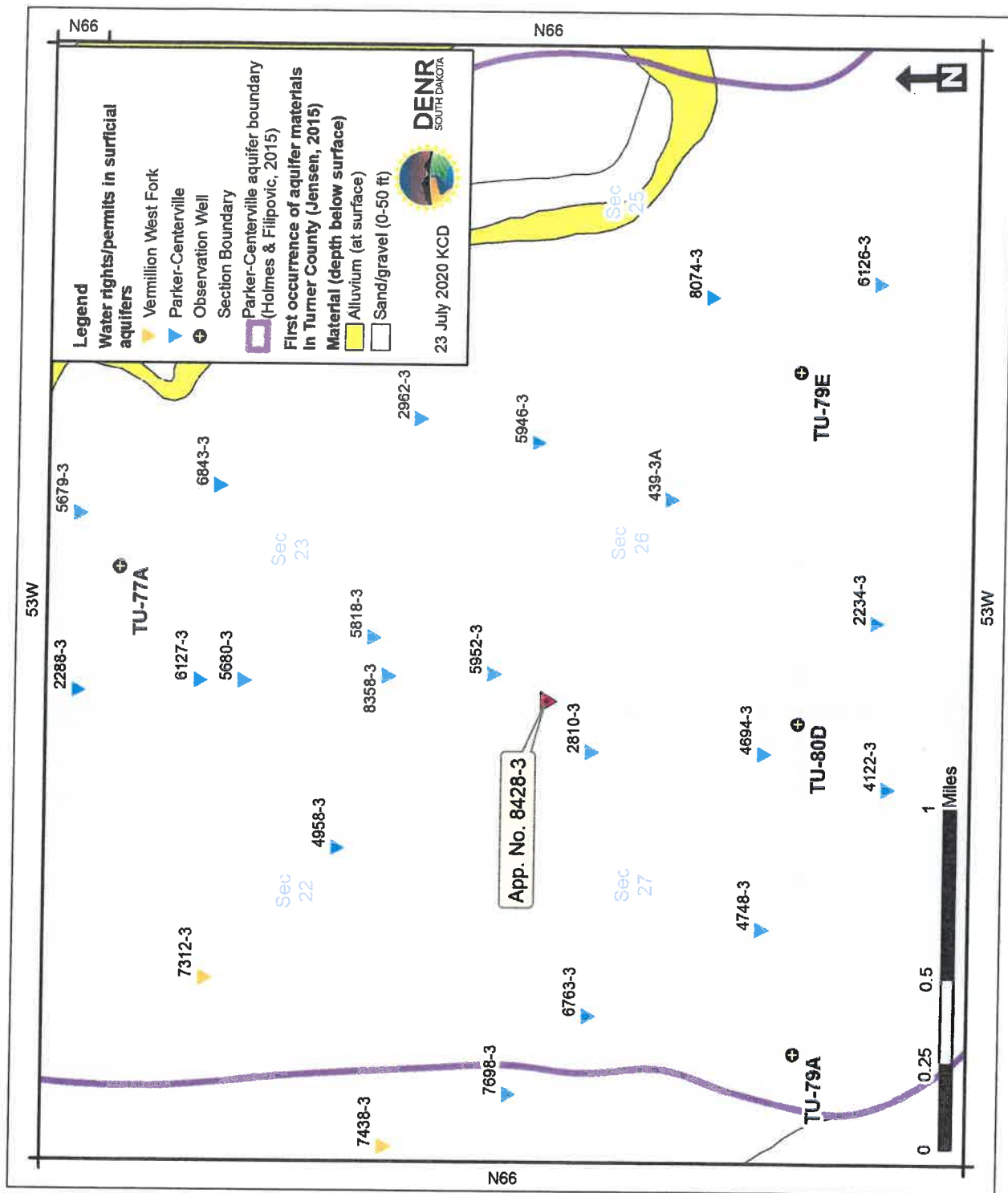


Figure 2: Nearby water rights/permits [6], observation wells [2], aquifer boundary as interpreted by Holmes and Filipovic [1], and aquifer materials encountered near the surface in the area [9].

## Report on Water Permit Application No. 8428-3

Table 2: Water rights/permits shown in Figure 2 [6].

Permit No.	Name/Business	Status	Priority	Use Type	Max. Withdrawal Rate (cfs)	Acres licensed/ permitted
5818-3	Allen Abbas	License	04/06/1994	IRR	1.110	132
7312-3	Allen Merrill	Permit	11/28/2011	IRR	1.110	75
7698-3		Permit	02/08/2013	IRR	1.110	145
2288-3	Allen or Kristi Merrill	License	05/09/1975	IRR	1.000	76
5679-3	Ballacostain LLP	License	06/22/1951	IRR	1.520	107
5680-3		License	06/22/1951	IRR	1.110	78
6843-3		License	06/22/1951	IRR	1.560	105
6127-3		Permit	02/12/1999	IRR	0.860	60
6126-3		License	04/19/1999	IRR	1.670	147
2234-3	Glyndon Knutson	License	03/18/1975	IRR	1.890	132
2810-3	James J Davis	License	06/07/1976	IRR	1.880	136
7438-3		Permit	09/17/2012	IRR	1.560	160
5952-3	Kelly Knodel	License	08/19/1996	IRR	1.330	104
4748-3	Kent & Vickie Plucker	License	04/17/1981	IRR	1.440	155
2962-3	Linda J Bartels	License	08/30/1976	IRR	1.770	136
6763-3	Plucker Family Limited Partnership I	Permit	10/18/2006	IRR	1.780	160
5946-3	Ralph & Lucille Marquardt	License	06/20/1996	IRR	0.880	62
8074-3	Sam Oltmanns	Permit	01/12/2015	IRR	1.780	120
8358-3	Sonstegard Food Company	Permit	05/31/2018	COM	1.110	0
4122-3	Weeg Family Farms LLLP	License	04/20/1955	IRR	1.660	140
439-3A		License	01/13/1959	IRR	1.780	127
4694-3		License	02/26/1981	IRR	1.880	150
4958-3		License	03/30/1983	IRR	1.440	101
COM – Commercial, IRR – Irrigation						

### Special considerations

On April 27, 2020, the Water Rights Program received a complaint regarding Knodel Contractors, LLC's pumping from their gravel pit [14]. The complainant was concerned that the discharge from the applicant's dewatering activities was causing his farmland to be oversaturated. Generally, in South Dakota, drainage issues are adjudicated by county authorities [14]. Knodel Contractors, LLC acquired a General Permit for Temporary Drainage Activities from the DENR Surface Water Quality Program [14]. On May 20, 2020, the Chief Engineer of the Water Rights Program informed the applicant that if they intended to pump water from the gravel pit, they would be required to get a water right permit [14].

### Conclusions

1. Water Permit Application No. 8428-3 seeks to appropriate 795.46 acre-feet of water per year (ac-ft/yr) from the Parker-Centerville aquifer at a maximum pump rate of 3.34 cubic feet of water per second (cfs) for industrial use in a sand and gravel operation. The applicant is proposing to lower the water level in the excavation site located in the W ½ NW ¼ Section 26-T99-R53W.
2. Based on a hydrologic budget, there is reasonable probability unappropriated water is available for this application.



## Report on Water Permit Application No. 8428-3

3. Based on observation well analysis, there is reasonable probability unappropriated water is available for this application.
4. There is reasonable probability this application can be developed without unlawful impairment to existing water rights and domestic users.



Kimberly Drennon, Natural Resources Engineer  
DENR Water Rights Program

### References

- [1] S. L. Holmes and D. Filipovic, "Hydrogeologic investigation of the Upper-Vermillion-Missouri aquifer," SD DENR Geological Survey Program, Vermillion, South Dakota, 2015. Open-File Report 93-UR.
- [2] SD Water Rights, "Observation wells," Pierre, South Dakota, 2020.
- [3] M. J. Tipton, "Geology and hydrology of the Parker-Centerville outwash," SD DENR Geological Survey Program, Vermillion, South Dakota, 1957. Report of Investigations No. 82.
- [4] L. S. Hedges, S. L. Burch, D. L. Iles, R. A. Barari and R. A. Schoon, "Evaluation of ground-water resources eastern South Dakota and upper Big Sioux River, South Dakota and Iowa, Tasks 1-4," U.S. Army Corps of Engineers, Omaha, Nebraska, 1982.
- [5] R. J. Lindgren and D. S. Hansen, "Major aquifers in Hutchinson and Turner Counties, South Dakota," SD DENR Geological Survey Program, Vermillion, South Dakota, 1993. Information Pamphlet No. 45.
- [6] SD Water Rights, "Water right/permit files," Pierre, South Dakota, 2020.
- [7] SD Geological Survey, "Lithologic logs," Vermillion, South Dakota, 2020.
- [8] SD Water Rights, "Well completion reports," Pierre, South Dakota, 2020.
- [9] A. Jensen, "First occurrence of aquifer materials in Turner County, South Dakota," SD DENR Geological Survey Program, Vermillion, South Dakota, 2015. Aquifer Materials Map 36.
- [10] L. S. Hedges, J. Allen and D. E. Holly, "Evaluation of ground-water resources eastern South Dakota and upper Big Sioux River - South Dakota and Iowa: Task 7: Ground water recharge," U.S. Army Corps of Engineers, Omaha, Nebraska, 1985.

Report on Water Permit Application No. 8428-3

- [11] SD Drinking Water Program, "Town of Hurley Drinking Water Report," SD DENR Drinking Water Program, Joe Foss Bldg., Pierre, South Dakota, 2019.
- [12] SD Water Rights, "Irrigation summaries," SD DENR Water Rights Program, Joe Foss Bldg., Pierre, SD, 2020.
- [13] NOAA National Centers for Environmental Education, "Climate at a glance: Divisional Time Series for South Dakota Climate Division 9," 1 07 2020. [Online]. Available: <https://www.ncdc.noaa.gov/cag/>. [Accessed 27 07 2020].
- [14] SD Water Rights, "County Files," SD DENR Water Rights Program, Joe Foss Bldg., Pierre, SD, 2020.

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SEP 08 2020

WATER RIGHTS  
PROGRAM

9-5-20

TO: Knodel Contractors LLC  
43725 284<sup>th</sup> ST  
Freeman, SD 57029

Ron Duvall, Water Rights Program  
Foss Building  
503 E Capital  
Pierre, SD 57501

FROM: Darrin + Roger Ihnen  
28065 45<sup>th</sup> Ave  
Hurley, SD 57036

(605) 201-1209

RECEIVED

SEP 08 2020

WATER RIGHTS  
PROGRAM

Roger and Darrin Innes adamantly oppose the water permit requested by Knodel Contractors LLC.

We farm land that the Alberta Ditch runs through. This ditch is more like a draw through farm ground. It normally only runs if there is an excessive rain event or if the Vermillion river severely floods. This land is normally farmed and our irrigation pivots cross these lower areas.

Because Knodel pumped down the aquifer at his gravel pit with a temporary water permit the discharge into this ditch keep the water running. This artificially raised our aquifer down stream. This keep us from farming 285 acres this crop year 2020. This land is located in Section 36 of Parker Twp, Section 1 of Hurley Twp, Sections 7, 8 and 17 of Middleton Twp.

RECEIVED

SEP 08 2020

WATER RIGHTS  
PROGRAM

This is causing a financial burden for our farm and also affects Roger Inman's ability to rent the land out to others.

As the land was flooded this spring these acres couldn't be planted to corn or soybeans. This also caused extra expense of trying to irrigate the land around the flooded acres. We had to purchase rock and fill to try to keep the irrigators from getting stuck in these areas.

Other gravel companies ~~can~~ either have the equipment to get the gravel mined without pumping the aquifer down or they do not mine below the water table.

We feel this permit should be denied. This flooding has affected many of our neighbors as well.

Sincerely

Darin Inman

Roger Inman

RECEIVED

SEP 08 2020

WATER RIGHTS  
PROGRAM

September 4, 2020

Water Rights Program  
Foss Building  
523 Capitol  
Pierre, SD 57501

To Whom it may concern:

I would like to file a petition objecting to Mr. Kelly Knodel's application No. 8428-3 to appropriate water. My concern is with his pumping of 795.46 acre feet of water annually that it will lower of the water level of our irrigation wells. With my brother and I being renters of land in the vicinity with four irrigation wells within one and a half miles of the gravel pit, it could seriously affect our ability to grow crops if unable to irrigate due to low water levels. With the drought we are having at this time, some of our wells are sucking air now. If he lowers the water level, it will greatly affect irrigation systems in the area.

While I understand Mr. Knodel's business and appreciate why he needs to lower the water level, this is a serious concern for not only us, but other farmers who irrigate in the area.

I appreciate your consideration in the matter. If you have any questions, please contact me at (605)750-0385 or email [waynebossman@gmail.com](mailto:waynebossman@gmail.com). My mailing address is 45692 274<sup>th</sup> Street, Parker, SD 57053.

Sincerely,

A handwritten signature in cursive script that reads "Wayne L. Bossman Partner".

Wayne L. Bossman  
Bossman Bros.

9/1/2020

RECEIVED

To: Ron Duvall

SEP 08 2020

CC: Knodel Contractors LLC

WATER RIGHTS  
PROGRAM

Re: Application #8428-3 for Knodel Contractors, LLC.

From: Weeg Family Farms, LLLP. and Pine Knoll Inc.

4504 W 12<sup>th</sup> St Sioux Falls, SD 57107

Weeg Family Farms LLLP. and Pine Knoll Inc. object to the application No. 8428-3 for Knodel Contractors LLC., to appropriate 759 acre-feet of water annually for use in sand and gravel.

We have land along the Alberty ditch and in the spring of 2020, we were unable to farm approximately 40 acres due to excess saturation which is attributed to the pumping of water from the gravel operation for Knodel Contractors.

One of the conditions for a permit is for the good of the public interest. When we farm and irrigate, we ensure we are using water on our land only and not discharging water onto other landowners crops and property. Our issue is that Knodel's operation saturates our land and crops. We have to plant our crops in a timely manner each season. It is hard enough to accomplish with weather issues and now we have to wait for our land next to the ditch to dry out because of their usage. July is too late to be planting crops in South Dakota. We do not claim to know the specifics of the ditch development, but it appears it was not designed to carry 795 acre-feet of water, but rather was designed to carry the routine participation of snow and rain.

We understand that in your recommendation you address this point, but who will judge if there is flood damage from pumping? Will a simple call to the state from an affected landowner suffice to shut off the pumps and how quickly? We believe this process leaves too many unknowns and not enough assurances for farmers who already deal with too many uncontrollable issues. This is our lively hood and we invest heavily in the welfare of South Dakota.

Our recommendation would be to grant Knodel the right to release their water directly into the Vermillion River which is just to their East. It would be a much more viable solution than allowing over 5 miles of flow through all of this productive field acreage.

Our second objection comes from the amount of water Knodel would be allocated. Almost 6% of the aquifer usage would be theirs. It is not right that so much of the public water availability would be consumed simply so they can more easily get to the gravel.

Our final objection is also about the amount of water usage. We have begun experiencing air in our wells during August of this year. We know that if he has the right to pump 794 acre-feet of water, the supply to our wells will certainly be affected by the magnitude of that disbursement. We understand that the state says that you will recharge what we use each year, but when we are in the midst of a summer drought we cannot be delayed in irrigating because we have air in our wells.

Thank you for your consideration of the issues outlined in this memo. We strongly object to this approach to resolving Knodel Contractor's request. We want all businesses to be profitable, just not at the expense of others, especially when there are certainly other viable solutions.

Respectfully,

Weeg Family Farms, LLLP.

*Don Weeg* 9-4-20

Pine Knoll Inc.

*Don Boyd* 9-4-2020



# Argus Leader

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

KNODEL CONTRACTORS LLC  
43725 284TH STREET  
FREEMAN, SD 57029

Account No.: 6059254595KNOD

Ad No.: 0004341046

PO #: AD#4341046

Lines : 113

Ad Total: \$74.00

**This is not an invoice**

# of Affidavits 1

Account No.: 6059254595KNOD

Ad No.: 0004341046

## Argus Leader AFFIDAVIT OF PUBLICATION

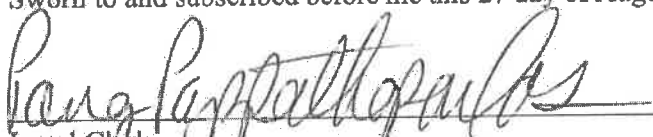
STATE OF SOUTH DAKOTA

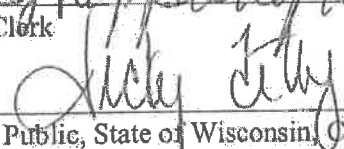
COUNTY OF MINNEHAHA

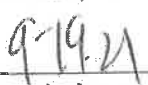
I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher 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

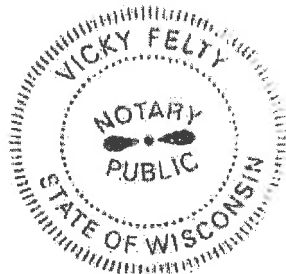
Thursday, August 27, 2020

Sworn to and subscribed before me this 27 day of August, 2020.

  
Legal Clerk

  
Notary Public, State of Wisconsin, County of Brown

  
My Commission expires



**NOTICE OF  
APPLICATION NO. 8428-3  
to Appropriate Water**

Notice is given that Knodel Contractors LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029 has filed an application for a water permit to appropriate 795.46 acre-feet of water annually 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 is proposing to lower the water level in the excavation site located in the W 1/2 NW 1/4 Section 26-199N-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8428-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) It is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Ron Duval for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 8, 2020.

The petition may be informal but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of \$74.00  
Pub: August 27, 2020

RECEIVED

SEP 03 2020

WATER RIGHTS  
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County of Turner ) SS

I, Dawn Rye

certify that the attached printed Notice was taken

from the The New Era

printed and published in The New Era

County of Turner and

state of South Dakota. The notice was published

in the newspaper on the following date:

Aug, 27 2020

Cost of Printing \$33.10

[Signature]

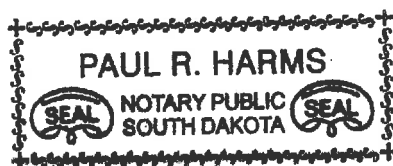
(Signature)

Office manager

(Title)

8/1/2020

(Date Signed)



Notice of application no.

8428-3 to appropriate water

Notice is given that Knodel Contractors LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029 has filed an application for a water permit to appropriate 795.46 acre-feet of water annually 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 is proposing to lower the water level in the excavation site located in the W 1/2 NW 1/4 Section 26-T99N-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8428-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/> public or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 8, 2020.

The petition may be informal but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of \$33.10 (N0827-1)

September 1  
Paul R Harms  
My Commission  
expires  
April 24



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
denr.sd.gov

November 16, 2020

**NOTICE OF RESCHEDULED HEARING**

TO: Kelly Knodel Don Weeg, President Don Boyd  
Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc  
43725 284<sup>th</sup> Street 4504 W 12<sup>th</sup> Street 4504 W 12<sup>th</sup> Street  
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darrin Ihnen Roger Ihnen  
45692 274<sup>th</sup> Street 28065 459<sup>th</sup> Avenue 28065 459<sup>th</sup> Avenue  
Parker SD 57053 Hurley SD 57036 Hurley SD 57036

Seth A. Lopour  
Woods, Fuller, Shultz and Smith  
300 S. Phillips Ave., Suite 300  
Sioux Falls SD 57104

FROM: Eric Gronlund, Chief Engineer  
Water Rights Program

SUBJECT: Notice of Rescheduled Hearing on Water Permit Application No. 8428-3, Knodel  
Contractors LLC

The hearing on Water Permit Application No. 8428-3, Knodel Contractors LLC, scheduled to start at 11:00 AM, Wednesday, December 2, 2020 has been rescheduled to start at 1:00 PM on the same day. The Water Management Board will now consider Application No. 8428-3 **at 1:00 PM, Central Time, on Wednesday, December 2, 2020**, 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 items on the agenda.

All other provisions detailed in the Notice of Hearing dated September 18, 2020, still apply.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or [ron.duvall@state.sd.us](mailto:ron.duvall@state.sd.us).

c: Ann Mines Bailey  
David McVey, Assistant Attorney General

## CERTIFICATION

I hereby certify that on November 16, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Rescheduled Hearing dated November 16, 2020, regarding Water Right Permit Application No. 8428-3, as addressed below:

Kelly Knodel  
Knodel Contractors, LLC  
43725 284<sup>th</sup> Street  
Freeman SD 57029

Don Weeg, President  
Weeg Family Farms, LLLP  
4504 W 12<sup>th</sup> Street  
Sioux Falls SD 57107

Don Boyd  
Pine Knoll, Inc  
4504 W 12<sup>th</sup> Street  
Sioux Falls SD 57107

Wayne L Bossman  
45692 274<sup>th</sup> Street  
Parker SD 57053

Darrin Ihnen  
28065 459<sup>th</sup> Avenue  
Hurley SD 57036


Roger Ihnen  
28065 459<sup>th</sup> Avenue  
Hurley SD 57036

Seth A. Lopour  
Woods, Fuller, Shultz and Smith  
300 S. Phillips Ave., Suite 300  
Sioux Falls SD 57104

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

David McVey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
Vickie Maberry  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
  )   SS  
COUNTY OF HUGHES         )

Sworn to, before me, this \_\_\_\_\_ day of November, 2020.

\_\_\_\_\_  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
denr.sd.gov

September 18, 2020

**NOTICE OF HEARING**

TO:	Kelly Knodel Knodel Contractors, LLC 43725 284 <sup>th</sup> Street Freeman SD 57029	Don Weeg, President Weeg Family Farms, LLLP 4504 W 12 <sup>th</sup> Street Sioux Falls SD 57107	Don Boyd Pine Knoll, Inc 4504 W 12 <sup>th</sup> Street Sioux Falls SD 57107
	Wayne L Bossman 45692 274 <sup>th</sup> Street Parker SD 57053	Darrin Ihnen 28065 459 <sup>th</sup> Avenue Hurley SD 57036	Roger Ihnen 28065 459 <sup>th</sup> Avenue Hurley SD 57036

FROM: *for* Eric Gronlund, Chief Engineer  
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 8428-3, Knodel Contractors LLC

Water Permit Application No. 8428-3 proposes to appropriate 795.46 acre-feet of water annually 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 is proposing to lower the water level in the excavation site located in the W 1/2 NW 1/4 Section 26-T99N-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker SD.

In response to the Notice of Application published in the New Era and Argus Leader, petitions in opposition were filed in the matter of Water Permit Application No. 8428-3. This notice schedules a contested case hearing before the South Dakota Water Management Board on Application No. 8428-3.

The Water Management Board will consider Application No. 8428-3 at 11:00 AM, Central Time, on Wednesday, December 2, 2020, 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 items on the agenda. Notice will be provided to parties if there is a change in the time or date of the hearing.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends approval of Application No. 8428-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application after it reaches a conclusion based on the facts presented at the public hearing.

The hearing is an adversary proceeding and any party has the right to be present at the hearing and is required to be represented by a lawyer. **The applicant and any petitioner participating as part of an entity, such as Weeg Family Farms LLLP and Pine Knoll, Inc., are required to be represented by legal counsel in this administrative proceeding.** These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the circuit court and State Supreme Court as provided by law.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

The December 2, 2020 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by November 23, 2020. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Ron Duvall at [ron.duvall@state.sd.us](mailto:ron.duvall@state.sd.us) or (605) 773-3352 to request the report, recommendation, application or any other information. For your convenience, enclosed is a copy of the report, recommendation, publication affidavits and the petitions filed in the matter of Water Permit Application No. 8428-3. Filings regarding the application can also be found on the department's contested case page 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. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing. Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or [ron.duvall@state.sd.us](mailto:ron.duvall@state.sd.us).

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is September 28, 2020. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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

Enclosures

c: Ann Mines Bailey

## CERTIFICATION

I hereby certify that on September 18, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated September 18, 2020, with enclosures regarding notice of hearing for Water Right Permit Application No. 8428-3, as addressed below:

Kelly Knodel  
Knodel Contractors, LLC  
43725 284<sup>th</sup> Street  
Freeman SD 57029

Don Weeg, President  
Weeg Family Farms, LLLP  
4504 W 12<sup>th</sup> Street  
Sioux Falls SD 57107

Don Boyd  
Pine Knoll, Inc  
4504 W 12<sup>th</sup> Street  
Sioux Falls SD 57107

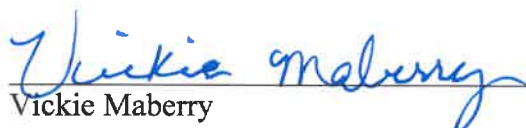
Wayne L Bossman  
45692 274<sup>th</sup> Street  
Parker SD 57053

Darrin Ihnen  
28065 459<sup>th</sup> Avenue  
Hurley SD 57036

Roger Ihnen  
28065 459<sup>th</sup> Avenue  
Hurley SD 57036


Sent Inter-office to:

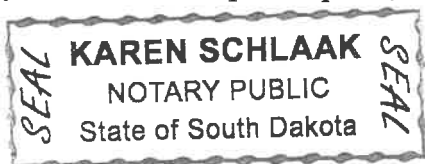
Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
Vickie Maberry  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 18<sup>th</sup> day of September, 2020.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025







**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
denr.sd.gov

November 9, 2020

**NOTICE**

TO:	Kelly Knodel Knodel Contractors, LLC 43725 284 <sup>th</sup> Street Freeman SD 57029	Don Weeg, President Weeg Family Farms, LLLP 4504 W 12 <sup>th</sup> Street Sioux Falls SD 57107	Don Boyd Pine Knoll, Inc 4504 W 12 <sup>th</sup> Street Sioux Falls SD 57107
	Wayne L Bossman 45692 274 <sup>th</sup> Street Parker SD 57053	Darrin Ihnen 28065 459 <sup>th</sup> Avenue Hurley SD 57036	Roger Ihnen 28065 459 <sup>th</sup> Avenue Hurley SD 57036

Seth A. Lopour  
Woods, Fuller, Shultz and Smith  
300 S. Phillips Ave., Suite 300  
Sioux Falls SD 57104

FROM: Eric Gronlund, Chief Engineer  
Water Rights Program

SUBJECT: Pre-hearing Officer's Procedural Order in the matter of Water Permit Application No. 8428-3, Knodel Contractors LLC

Enclosed is Pre-Hearing Officer Freeman's Procedural Order in the matter of Water Permit Application No. 8428-3, Knodel Contractors LLC.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey  
David McVey, Assistant Attorney General

RECEIVED

NOV 09 2020

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

---

IN THE MATTER OF WATER	)	PROCEDURAL ORDER
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC	)	

---

Hearing on this matter is scheduled for December 2, 2020. In preparation for hearing, the parties are hereby ordered to comply with the following:

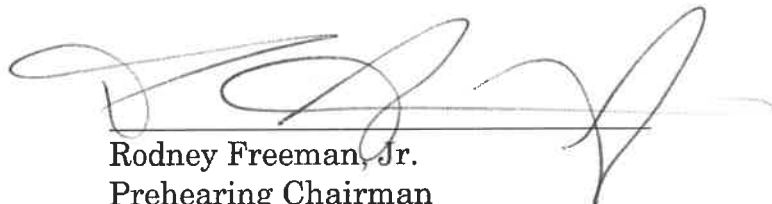
1. To facilitate distribution to those Board members who will be appearing remotely, the parties shall provide a hardcopy of each exhibit which may be used during the course of the hearing. Each exhibit is to be numbered prior to submission. The Applicant shall identify its exhibits using letters A-Z. Water Rights shall use numbers 1-99. Weeg Family Farms shall use numbers 100-199. Pine Knoll, Inc. shall use numbers 200-299. Wayne Bossman shall use numbers 300-399. Darrin Ihnen shall use numbers 400-499. Roger Ihnen shall use numbers 500-599.
2. In order to comply with the guidance issued by the Centers for Disease Control and the South Dakota Department of Health, the parties shall also submit on or before November 23, 2020, the number of individuals who will be present on their behalf during the hearing.
3. The parties must be prepared to provide a sufficient number of copies of exhibits, with the exception of the administrative file, for use at the contested

case hearing, including at least nine (9) copies for the Board, its counsel, and court reporter, and enough additional copies for all parties participating in the contested proceedings.

On or before November 23, 2020, the number of participants to be present and the exhibits as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.

Finally, Knodel Contractors, LLC, Weeg Family Farms, LLLP, and Pine Knoll, Inc. are reminded that entities are required to be represented by licensed counsel during legal proceedings such as this hearing.

Dated this 4<sup>th</sup> day of November, 2020.

A handwritten signature in dark ink, appearing to read 'Rodney Freeman, Jr.', is written over a horizontal line.

Rodney Freeman, Jr.  
Prehearing Chairman  
Water Management Board

## CERTIFICATION

I hereby certify that on November 9, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of issuance of a procedural order received November 9, 2020, with the procedural order enclosed regarding Water Right Permit Application No. 8428-3, as addressed below:

Kelly Knodel  
Knodel Contractors, LLC  
43725 284<sup>th</sup> Street  
Freeman SD 57029

Don Weeg, President  
Weeg Family Farms, LLLP  
4504 W 12<sup>th</sup> Street  
Sioux Falls SD 57107

Don Boyd  
Pine Knoll, Inc  
4504 W 12<sup>th</sup> Street  
Sioux Falls SD 57107

Wayne L Bossman  
45692 274<sup>th</sup> Street  
Parker SD 57053

Darrin Ihnen  
28065 459<sup>th</sup> Avenue  
Hurley SD 57036

Roger Ihnen  
28065 459<sup>th</sup> Avenue  
Hurley SD 57036

Seth A. Lopour  
Woods, Fuller, Shultz and Smith  
300 S. Phillips Ave., Suite 300  
Sioux Falls SD 57104

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501


David McVey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

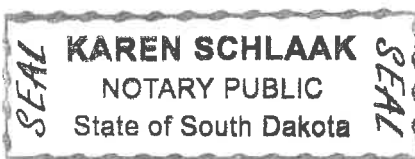


Vickie Maberry  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 9<sup>th</sup> day of November, 2020.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025



STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

<http://atg.sd.gov/>

RECEIVED

NOV 06 2020

WATER RIGHTS  
PROGRAM

**JASON R. RAVNSBORG**

ATTORNEY GENERAL

**CHARLES D. McGUIGAN**

CHIEF DEPUTY ATTORNEY GENERAL

November 5, 2020

Seth A. Lopour  
Woods, Fuller, Shultz and Smith  
300 S. Phillips Ave., Suite 300  
Sioux Falls, SD 57104

Kelly Knodel  
Knodel Contractors, LLC  
43725 284<sup>th</sup> Street  
Freeman, SD 57029

Don Weeg, President  
Weeg Family Farms, LLLP  
4504 W. 12<sup>th</sup> Street  
Sioux Falls, SD 57107

Don Boyd  
Pine Knoll, Inc.  
4504 W. 12<sup>th</sup> Street  
Sioux Falls, SD 57101

Wayne L. Bossman  
45692 274<sup>th</sup> Street  
Parker, SD 57053

Darrin Ihnen  
28065 459<sup>th</sup> Ave.  
Hurley, SD 57036

David M. McVey  
Assistant Attorney General  
1302 E. Highway 14, Suite 1  
Pierre, SD 57501  
*Hand delivered*

Roger Ihnen  
28065 459<sup>th</sup> Ave.  
Hurley, SD 57036

RE: ***In the Matter of Water Application No. 8428-3, Knodel Contractors, LLC***

To Whom it May Concern:

Enclosed please find a copy of the Motion for Procedural Order and Procedural Order in the above-entitled matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann F. Mines-Bailey".

Ann F. Mines-Bailey  
Assistant Attorney General  
AFM/mb

Enc.

cc w/enc.: Ron Duvall, DENR Water Rights Program

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

---

IN THE MATTER OF WATER )  
APPLICATION NO. 8428-3, KNODEL )  
CONTRACTORS, LLC. )

---

MOTION FOR  
PROCEDURAL ORDER

COME NOW the Chief Engineer and the Water Rights Program and request the Prehearing Chair enter a Procedural Order regarding the conduct of the hearing to be held on December 2, 2020. The COVID-19 pandemic is ongoing. In an effort to comply with the guidelines set forth by the Centers for Disease Control, such as social distancing, the Chief Engineer and Water Rights Program request that the Prehearing Chairman order that the parties submit their exhibits, properly numbered, in order to effectuate the provision of those exhibits to Board members who may be attending the meeting remotely. It is also requested that the Prehearing Chairman order the parties to provide the administrator responsible for the physical arrangements of the hearing room with the number of people that will be in attendance so that the room could be set up in a manner which would allow for social distancing. A proposed order is submitted with this motion for the Prehearing Chairman's consideration.

Dated this 5th day of November, 2020.

  
Ann F. Mines Bailey  
Assistant Attorney General

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

---

IN THE MATTER OF WATER	)	PROCEDURAL ORDER
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC	)	

---

Hearing on this matter is scheduled for December 2, 2020. In preparation for hearing, the parties are hereby ordered to comply with the following:

1. To facilitate distribution to those Board members who will be appearing remotely, the parties shall provide a hardcopy of each exhibit which may be used during the course of the hearing. Each exhibit is to be numbered prior to submission. The Applicant shall identify its exhibits using letters A-Z. Water Rights shall use numbers 1-99. Weeg Family Farms shall use numbers 100-199. Pine Knoll, Inc. shall use numbers 200-299. Wayne Bossman shall use numbers 300-399. Darrin Ihnen shall use numbers 400-499. Roger Ihnen shall use numbers 500-599.
2. In order to comply with the guidance issued by the Centers for Disease Control and the South Dakota Department of Health, the parties shall also submit on or before November 23, 2020, the number of individuals who will be present on their behalf during the hearing.
3. The parties must still be prepared to provide a sufficient number of copies of exhibits, with the exception of the administrative file, for use at the contested

case hearing, including at least nine (9) copies for the Board, its counsel, and court reporter, and enough additional copies for all parties participating in the contested proceedings.

On or before November 23, 2020, the number of participants to be present and the exhibits as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.

Finally, Knodel Contractors, LLC, Weeg Family Farms, LLLP, and Pine Knoll, Inc. are reminded that entities are required to be represented by licensed counsel during legal proceedings such as this hearing.

Dated this \_\_\_\_ day of November, 2020.

---

Rodney Freeman, Jr.  
Prehearing Chairman  
Water Management Board



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

---

IN THE MATTER OF WATER )  
APPLICATION NO. 8428-3, KNODEL )  
CONTRACTORS, LLC. )

---

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Motion for Procedural Order and the proposed Procedural Order in the above matter was served by U.S. mail, first class, postage prepaid, upon the following on this 5th day of November, 2020:

Seth A. Lopour  
Woods, Fuller, Shultz and Smith  
300 S. Phillips Ave., Suite 300  
Sioux Falls, SD 57104

Kelly Knodel  
Knodel Contractors, LLC  
43725 284<sup>th</sup> Street  
Freeman, SD 57029

Don Weeg, President  
Weeg Family Farms, LLLP  
4504 W. 12<sup>th</sup> Street  
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Assistant Attorney General  
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Pierre, SD 57501

Roger Ihnen  
28065 459<sup>th</sup> Ave.  
Hurley, SD 57036

*Hand-delivered and emailed WORD version of Order*

And on the same date, the original was filed with:

Ron Duvall  
DENR Water Rights Program  
Joe Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

  
Ann F. Mines Bailey  
Assistant Attorney General