



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 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 284th 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 The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Parker-Centerville aquifer.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.



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/>

JASON R. RAVNSBORG
ATTORNEY GENERAL

RECEIVED

JAN 06 2021

**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

January 4, 2021

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman, SD 57029

Wayne L. Bossman
45692 274th Street
Parker, SD 57053

Seth A. Lapour
Woods, Fuller, Shultz and Smith
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57104

Don Weeg, President
Weeg Family Farms, LLLP
4504 West 12th Street
Sioux Falls, SD 57107

Darrin Ihnen
28065 459th Avenue
Hurley, SD 57036

Roger Ihnen
28065 459th Avenue
Hurley, SD 57036

Don Boyd
Pine Knoll, Inc.
4504 West 12th Street
Sioux Falls, SD 57107

Glenn J. Boomsma
Breit & Boomsma, Pc
606 East Tan Tara Circle
Sioux Falls, SD 57108

David M. McVey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501

Re: *In the Matter of Water Permit Application No. 8428-3;*
Knodel Contractors, LLC

To Whom It May Concern:

In preparation for the hearing scheduled in December, the Chief Engineer conducted an onsite visit to the general area where Knodel Contractors, LLC

seeks to divert water. Based upon that visit, the Chief Engineer has revised his recommendation, a copy of which is enclosed. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann F. Mines Bailey". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Ann F. Mines Bailey
Counsel for Chief Engineer and Water Rights Program

AFM/mn

Enclosure

cc w/enc: Ron Duvall, Water Rights Program ✓

RECEIVED

JAN 06 2021

WATER RIGHTS
PROGRAM



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8428-3, Knodel Contractors, LLC**

Pursuant to SDCL 46-2A-2, the following is the revised 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 284th 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 withdrawals from the excavation so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Parker-Centerville aquifer.
3. Water Permit No. 8428-3 authorizes a total annual diversion of 795.46 acre feet of water from the Parker-Centerville aquifer.
4. No diversion may violate county or state ordinances or permits.

See report on application for additional information.

A handwritten signature in blue ink that reads "Eric Gronlund". The signature is written in a cursive, flowing style.

Eric Gronlund, Chief Engineer
December 31, 2020

**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 to 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.

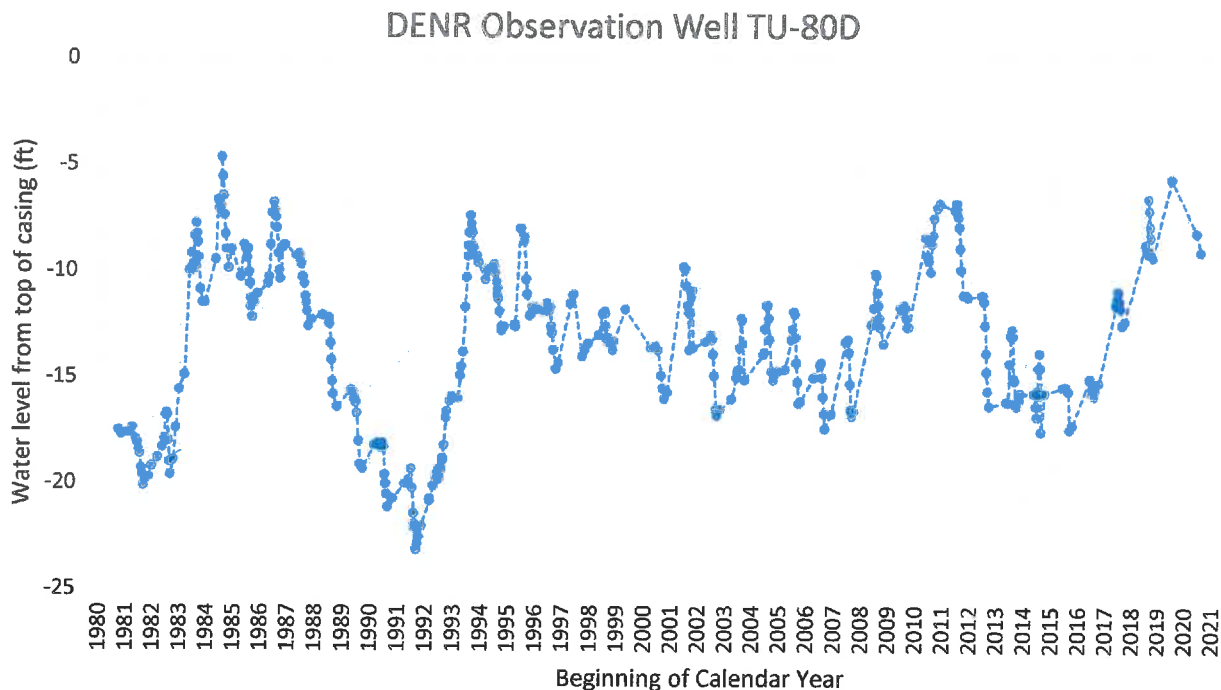


Figure 1: Water level data for DENR Observation Well TU-80D [13]

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.

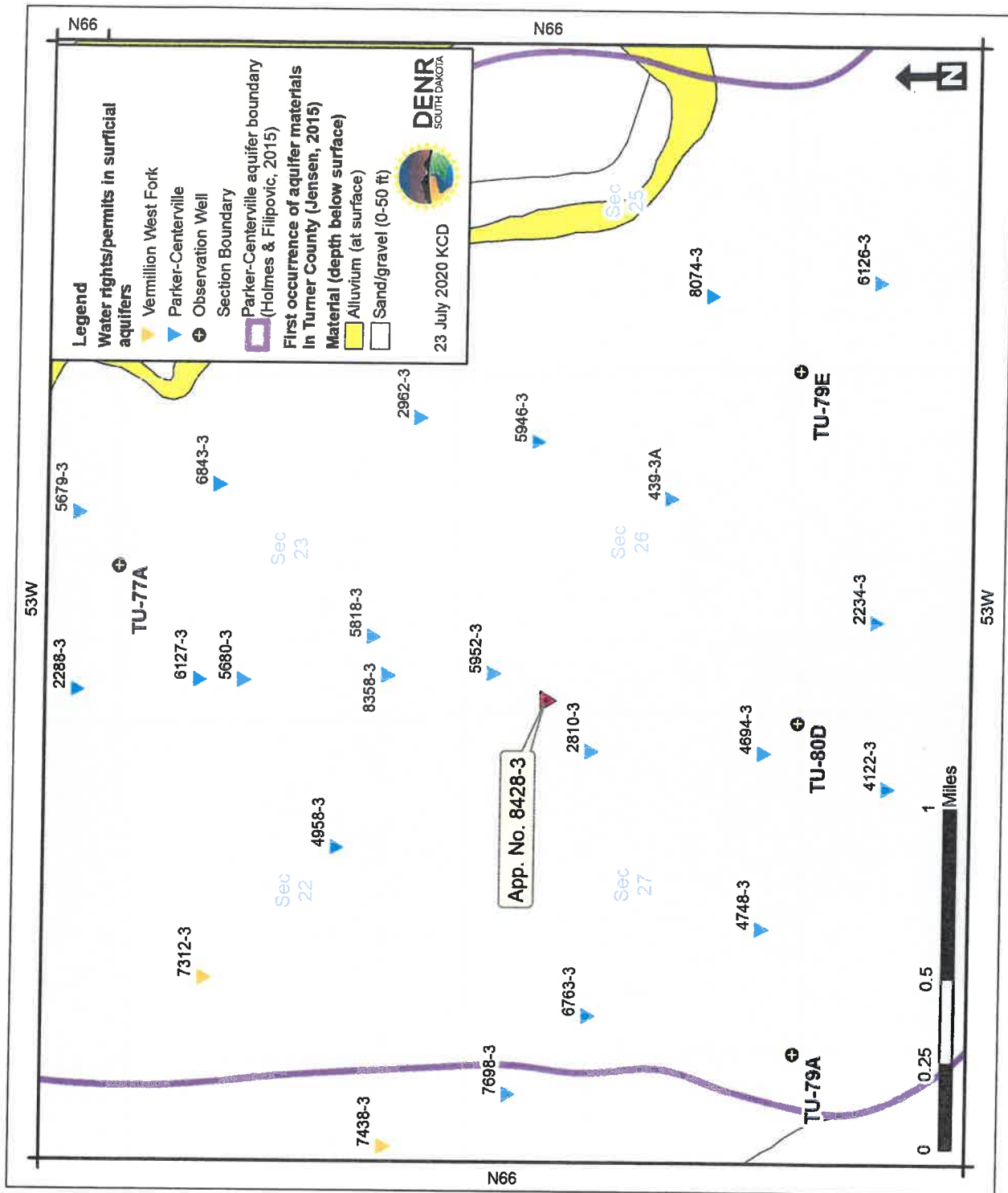


Figure 2: Nearby water rights/permits [6], observation wells [2], aquifer boundary as interpreted by Holmes and Filipovic [1], and aquifer materials encountered near the surface in the area [9].

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.

RECEIVED

SEP 08 2020

WATER RIGHTS
PROGRAM

9-5-20

TO: Knodel Contractors LLC
43725 284th ST
Freeman, SD 57029

Ron Duvall, Water Rights Program
Foss Building
503 E Capital
Pierre, SD 57501

FROM: Darrin + Roger Ihnen
28065 45th Ave
Hurley, SD 57036

(605) 201-1209

RECEIVED

SEP 08 2020

WATER RIGHTS
PROGRAM

Roger and Darrin Ihnen 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 Ihnen'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 Ihnen

Roger Ihnen

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. My mailing address is 45692 274th 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 12th 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

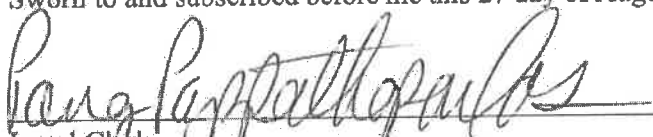
STATE OF SOUTH DAKOTA

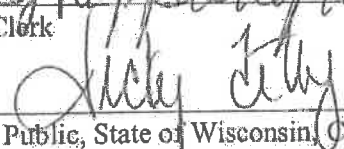
COUNTY OF MINNEHAHA

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

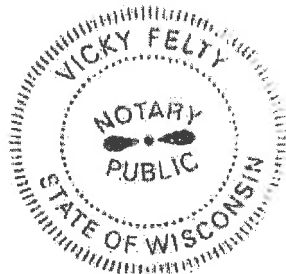
Thursday, August 27, 2020

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:

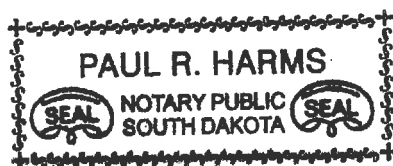
Aug, 27 2020

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

January 21, 2021

NOTICE OF HEARING

TO: Kelly Knodel Don Weeg, President Don Boyd
Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc
43725 284th Street 4504 W 12th Street 4504 W 12th Street
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darrin Ihnen Roger Ihnen
45692 274th Street 28065 459th Avenue 28065 459th Avenue
Parker SD 57053 Hurley SD 57036 Hurley SD 57036

Seth A. Lopour Glenn J. Boomsma
Woods, Fuller, Shultz and Smith Breit & Boomsma, PC
300 S. Phillips Ave., Suite 300 606 E. Tan Tara Circle
Sioux Falls SD 57104 Sioux Falls SD 57108

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application No. 8428-3, Knodel Contractors LLC

The Water Management Board will conduct a hearing to consider Application No. 8428-3 at 9:30 AM (Central Time), on Wednesday, February 10, 2021, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. If necessary, the hearing will continue at 8:30 AM (Central Time), Thursday, February 11, 2021, to complete any remaining testimony. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Applicable provisions of the notice dated September 18, 2020, and the public notice published August 27, 2020, in the Argus Leader and The New Era still apply.

Please note you need to enter the Joe Foss Building from the Capitol avenue main entrance and check in at the desk in the lobby area. Due to the Covid-19 pandemic, social distancing will be observed in the meeting room, masks are optional. Any party intending to testify, present evidence, or cross-examine witnesses will need to be physically present at 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.

c: Ann Mines Bailey
David McVey, Assistant Attorney General

CERTIFICATION

I hereby certify that on January 21, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated January 21, 2021, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

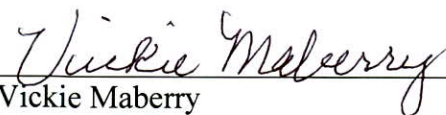
Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Glenn J. Boomsma
Breit & Boomsma, PC
606 E. Tan Tara Circle
Sioux Falls SD 57108

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

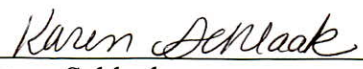
David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



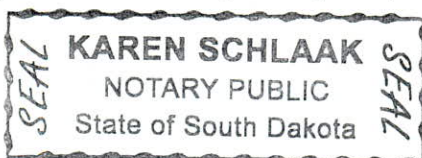
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 21st day of January, 2021.



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 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 284th Street 4504 W 12th Street 4504 W 12th Street
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darrin Ihnen Roger Ihnen
45692 274th Street 28065 459th Avenue 28065 459th 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.

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 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036


Roger Ihnen
28065 459th 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 th Street Freeman SD 57029	Don Weeg, President Weeg Family Farms, LLLP 4504 W 12 th Street Sioux Falls SD 57107	Don Boyd Pine Knoll, Inc 4504 W 12 th Street Sioux Falls SD 57107
	Wayne L Bossman 45692 274 th Street Parker SD 57053	Darrin Ihnen 28065 459 th Avenue Hurley SD 57036	Roger Ihnen 28065 459 th 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 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.

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 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

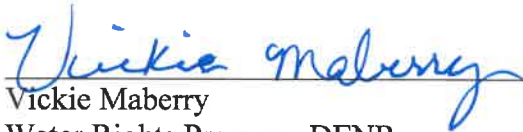
Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036


Sent Inter-office to:

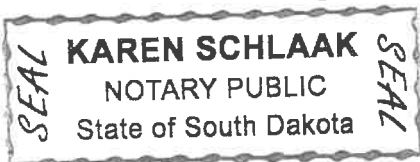
Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th 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

December 18, 2020

NOTICE OF ENTRY OF ORDER

TO: Kelly Knodel Don Weeg, President Don Boyd
Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc
43725 284th Street 4504 W 12th Street 4504 W 12th Street
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darrin Ihnen Roger Ihnen
45692 274th Street 28065 459th Avenue 28065 459th Avenue
Parker SD 57053 Hurley SD 57036 Hurley SD 57036

Seth A. Lopour Glenn J. Boomsma
Woods, Fuller, Shultz and Smith Breit & Boomsma, PC
300 S. Phillips Ave., Suite 300 606 E. Tan Tara Circle
Sioux Falls SD 57104 Sioux Falls SD 57108

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
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. The order requires numbering of exhibits and providing a copy of the numbered exhibits and number of individuals attending the hearing to Ron Duvall on or before January 25, 2021; filing any motions, including motions allowing video testimony, by January 13, 2021, with responses to any filed motions due by January 20, 2021; and have copies of numbered exhibits available at the hearing.

Questions regarding this matter may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

Enclosure

c: Ann Mines Bailey
David McVey, 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 February 10-11, 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. Petitioners represented by Glen J. Boomsma, Esq. including Weeg Family Farms, Pine Knoll, Inc., Wayne Bossman, Darrin Ihnen, and Roger Ihnen shall use numbers 100-599.
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 January 25, 2021, 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

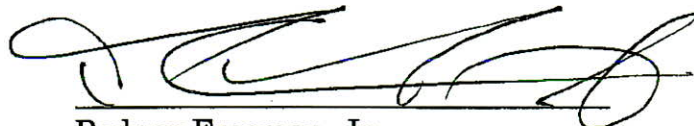
court reporter, and enough additional copies for all parties participating in the contested proceedings.

4. All witnesses who will be testifying or introducing or authenticating evidence must be present at the hearing in Pierre. If any Party or witness has special health issues related to COVID-19, they may file a motion to request to testify via video conferencing. Telephonic testimony will not be allowed.

All motions, including those to testify via video conference, must be received by January 13, 2021 at 5:00 P.M. Central Time. All responses to motions must be received by January 20, 2021 at 5:00 P.M. Central Time. All motions and responses as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.

5. On or before January 25, 2021, 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.

Dated this 17th day of December, 2020.



Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board

CERTIFICATION

I hereby certify that on December 18, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated December 18, 2020, including a copy of the Pre-hearing Officer's Procedural Order dated on December 17, 2020, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Glen J. Boomsma
Breit & Boomsma, PC
606 E. Tan Tara Circle
Sioux Falls SD 57108

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

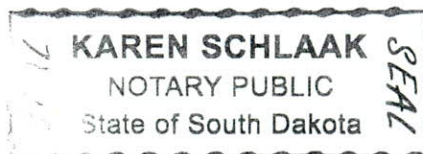


Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of December, 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 25, 2020

NOTICE OF ENTRY OF ORDER

TO:	Kelly Knodel Knodel Contractors, LLC 43725 284 th Street Freeman SD 57029	Don Weeg, President Weeg Family Farms, LLLP 4504 W 12 th Street Sioux Falls SD 57107	Don Boyd Pine Knoll, Inc 4504 W 12 th Street Sioux Falls SD 57107
	Wayne L Bossman 45692 274 th Street Parker SD 57053	Darrin Ihnen 28065 459 th Avenue Hurley SD 57036	Roger Ihnen 28065 459 th Avenue Hurley SD 57036
	Seth A. Lopour Woods, Fuller, Shultz and Smith 300 S. Phillips Ave., Suite 300 Sioux Falls SD 57104	Glen J. Boomsma Breit & Boomsma, PC 606 E. Tan Tara Circle Sioux Falls SD 57108	

FROM: Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Pre-hearing Officer's Order on Motion for Continuance in the matter of Water Permit
Application No. 8428-3, Knodel Contractors LLC

Enclosed is Pre-Hearing Officer Freeman's Order granting a continuance in the matter of Water Permit Application No. 8428-3, Knodel Contractors LLC. The contested case hearing on Application No. 8428-3 scheduled for December 2, 2020, has been cancelled.

However, as noted in the attached Order, the Board will take up the matter of scheduling the hearing for a future date. If you wish to participate in the discussion on the setting of a date for the hearing, the matter will be discussed by the Board at 12:00 PM, noon, Central Time on December 2, 2020. To participate remotely in the discussion, please call (605) 679-7263 and enter Conference ID 688370224# when prompted. Please note that the Board may be running behind schedule due to prior agenda items.

Questions regarding this matter 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

CERTIFICATION

I hereby certify that on November 25, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated November 25, 2020, regarding a continuance of the hearing scheduled for Water Right Permit Application No. 8428-3 also including a copy of the Pre-hearing Officer's Order received on November 25, 2020, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Glen J. Boomsma
Breit & Boomsma, PC
606 E. Tan Tara Circle
Sioux Falls SD 57108

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



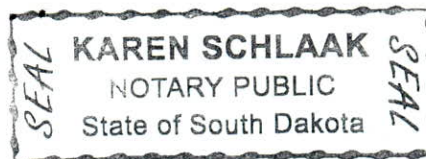
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 25th day of November, 2020.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



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

RECEIVED

NOV 25 2020

WATER RIGHTS
PROGRAM

IN THE MATTER OF WATER
APPLICATION NO. 8428-3, KNODEL
CONTRACTORS, LLC.

)
)
)
)
)
)
)
)
)
)

ORDER ON MOTION FOR
CONTINUANCE

WHEREAS, the Hearing for this matter is scheduled before the Board on December 2, 2020; and

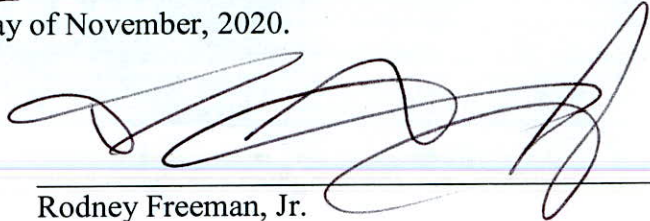
WHEREAS, on November 24, 2020, Glenn J. Boomsma, Attorney for Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman (hereinafter referred to as "Parties In Interest") and requested a continuance of the hearing; and

WHEREAS, Attorney Boomsma stated in his motion 1. That he was only recently retained and did not have adequate time to prepare; 2. That he had "appointments and court hearings scheduled on his calendar for December 2, 2020;" 3. That no previous requests for delays or continuances have been made; 4. that the request for continuance is not made for purposes of procrastination or bad faith; and 5. That the prejudice suffered by the Applicant Kelly Knodel would be minimal or non-existent.

NOW THEREFORE, upon consideration of the papers filed herein and relevant case law, the following Order shall be entered in the above captioned action.

Attorney Boomsma's Motion for a Continuance is hereby **GRANTED**. This contested case shall be heard on such date as determined by the Board, who shall take up this matter to determine a hearing date at the December 2, 2020 regularly scheduled meeting.

Dated this 24th 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.
Hearing Officer
South Dakota Water Management Board



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 th Street Freeman SD 57029	Don Weeg, President Weeg Family Farms, LLLP 4504 W 12 th Street Sioux Falls SD 57107	Don Boyd Pine Knoll, Inc 4504 W 12 th Street Sioux Falls SD 57107
	Wayne L Bossman 45692 274 th Street Parker SD 57053	Darrin Ihnen 28065 459 th Avenue Hurley SD 57036	Roger Ihnen 28065 459 th 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:

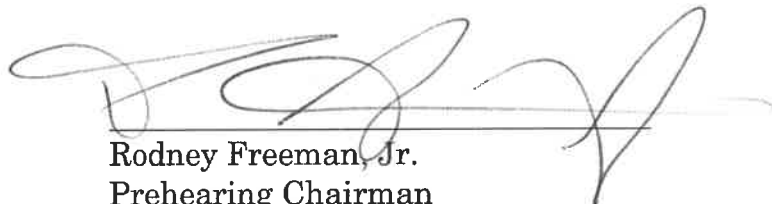
1. To facilitate distribution to those Board members who will be appearing remotely, the parties shall provide a hardcopy of each exhibit which may be used during the course of the hearing. Each exhibit is to be numbered prior to submission. The Applicant shall identify its exhibits using letters A-Z. 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 4th day of November, 2020.

A handwritten signature in black 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 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th 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 9th day of November, 2020.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025

