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MINUTES OF THE 219<sup>th</sup> WATER MANAGEMENT BOARD  
VIA TELEPHONE CONFERENCE CALL MEETING  
FLOYD MATTHEW TRAINING CENTER  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA  
December 3, 2019

**CALL TO ORDER:**

Vice-Chairman Tim Bjork called the meeting to order at 11:00 a.m. Central time.

Julie Smith conducted a roll call of members present.

The following attended the meeting:

**BOARD MEMBERS:**

Chad Comes, Everett Hoyt, Tim Bjork, Rodney Freeman, Peggy Dixon and Leo Holzbauer were on the conference call. Chairman Jim Hutmacher was not on the conference call. A quorum was present.

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR):**

Jeanne Goodman, Eric Gronlund, Ron Duvall, Adam Mathiowetz, Mark Rath; with the Water Rights Program; Julie Smith, with Drinking Water Program.

**ATTORNEY GENERAL'S OFFICE:**

Ann Mines Bailey, representing the Water Rights Program and David McVey, Board Counsel, called into the conference call.

**ADOPT FINAL AGENDA:**

Mr. Gronlund stated that there is a correction needed on the agenda. The application number on the agenda for the Stockmen's Livestock Inc. issue should be 5749-3 and 5750-3.

Motion by Rodney Freeman, second by Leo Holzbauer, to adopt the final agenda with the change noted. Motion carried unanimously by roll call vote

**CONFLICTS DISCLOSURES AND REQUEST FOR STATE BOARD WAIVERS:** None

**APPROVAL OF BOARD MINUTES FOR OCTOBER 29-31, 2019:**

Mr. Hoyt stated on page 28, there is a typo as it relates to Juno, Alaska. The city is spelled Juneau.

Motion by Ev Hoyt second by Rodney Freeman, to approve the board minutes for October 29-31, 2019, with the change on page 28. Mr. Comes abstained from the vote since he was not present for this meeting. Motion carried unanimously by roll call vote.

**MARCH 4-5, 2020 MEETING AND LOCATION:**

Mr. Gronlund stated that the Board had two contested applications auto-delayed from today's meeting. The intent is to schedule them for the March meeting. This is separate to any meetings on the TransCanada issue.

**STATUS AND REVIEW OF WATER RIGHTS LITIGATION:**

Ann Mines Bailey stated there is no litigation involving Water Rights.

**ADMINISTER OATH TO DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES STAFF:**

Carla Bachand, the court reporter, administered the oath to the DENR employees who intended to testify.

**DENR UPDATE – WATER RUNOFF YEAR:**

Ms. Jeanne Goodman, the Chief Engineer of the Water Rights Program provided the DENR update.

The months of January through October of 2019, were the wettest on record for South Dakota, Minnesota, Wisconsin, Illinois and Michigan. DENR has been working with the Missouri River flow issues almost constantly since the first of the year. The annual run-off for the Missouri River basin is predicted at 60.2 million-acre feet of water. Above North Sioux City Iowa, the basin is just ahead of the 1997 record of 49 million-acre feet of water and only second to the 61 million-acre feet of run-off that occurred in 2011. That is based on 121 years of record. The normal is usually 25.2 million-acre feet of water.

All the major rivers in South Dakota were in a flood stage at least once in 2019. The Big Sioux, James, Keya Paha, White River, Cheyenne and Missouri Rivers have all been in flood stage at multiple times this year.

The James River is currently in flood stage throughout most of each reach in South Dakota and appears that might continue for most of the winter.

Mr. Holzbauer inquired regarding why the water level impounded by Fort Randall is so low. Mr. Rath indicated that is the Corps of Engineers normal operation of the Missouri River mainstem system. Ft. Randall dam is drawdown this time of year.

**CANCELLATION CONSIDERATIONS:**

A table listing the water rights/permits proposed for cancellation, the notices of cancellation, and the chief engineer’s recommendations were included in the packet the board members received prior to the meeting. No letters were received in response to the notices of cancellation.

Eric Gronlund stated the seven water rights/permits as listed on the table are scheduled for cancellation. One water right is in division two and the remaining six water rights are in division three. The Chief Engineer’s recommendation is for cancellation.

Regarding Water Permit No. 8069-3, Mr. Holzbauer asked whether Cimpl’s drilled another well in addition to what is authorized by Water Right No. 5616-3. Mr. Gronlund stated that Cimpl’s holds an existing water right that they had been using to supply themselves and the neighboring livestock auction barn. Permit No. 8069-3 appropriated additional diversion rate authority and authorized a replacement well. Cimpl’s drilled the replacement well but did not get very good production and the water was high in mineral content. Therefore, Cimpl’s chose to abandon and plug that well. Mr. Gronlund indicated the original well authorized by Water Right No. 5616-3 is still intended to be used and this cancellation does not affect the original water right.

| <b>Number</b> | <b>Original Owner</b> | <b>Present Owner(s) &amp; Other Persons Notified</b> | <b>Reason</b> |
|---------------|-----------------------|--|---------------|
|---------------|-----------------------|--|---------------|

**DIVISION II WATER RIGHT**

|                 |                   |      |                        |
|-----------------|-------------------|------|------------------------|
| <b>RT 918-2</b> | Jerry Christensen | Same | Abandonment/Forfeiture |
|-----------------|-------------------|------|------------------------|

**DIVISION III WATER PERMIT AND WATER RIGHTS**

|                  |   |  |                        |
|------------------|---|--|------------------------|
| <b>RT3805B-3</b> | Craig Flyger                            | Same   | Abandonment/Forfeiture |
| <b>RT 5623-3</b> | City of Iroquois                        | City of Iroquois % Linda Geyer, Finance Officer                  | Abandonment/Forfeiture |
| <b>PE 7047-3</b> | Services Center<br>Federal Credit Union | Services Center Federal<br>Credit Union % David J<br>Wright, CEO | Abandonment/Forfeiture |
| <b>PE 7200-3</b> | RC Investments LLC                      | RC Investments % Randy<br>Golden                                 | Non-Construction       |
| <b>PE 8069-3</b> | Cimpl’s LLC                             | Cimpl’s LLC % Nick<br>Harkias, Manager                           | Abandonment            |

|                  |               |      |             |
|------------------|---------------|------|-------------|
| <b>PE 8240-3</b> | Arne Svarstad | Same | Abandonment |
|------------------|---------------|------|-------------|

Motion by Rodney Freeman, second by Peggy Dixon, to cancel the division two and three water rights as set forth in the table. Motion carried unanimously by roll call vote.

**FUTURE USE PERMITS SEVEN YEAR REVIEW:**

Mr. Gronlund stated that three future use permits are scheduled for their seven-year review as required by law. The Board packet included:

- a letter from permit holders requesting to retain the future use permit.
- the Chief Engineer's recommendation.
- the affidavits of publication.

Mr. Gronlund stated the three permits for review are:

- No. 512-2, City of Hot Springs reserving 1,846 acre feet from the alluvium along the Fall River.
- No. 1492-2, City of Rapid City reserving 28,880 acre feet from the Missouri River.
- No. 7393-3, Lincoln Pipestone Rural Water System reserving 614 acre feet from the Aurora Management unit of the Big Sioux Aquifer.

At the time the board packet was mailed the affidavits of publication had not been received for the City of Hot Springs and the City of Rapid City's future use review public notices. The Water Rights have received the affidavits and they are now on file.

In response to the publication notice, no petitions to intervene were received. The Chief Engineer recommends these future use permits to remain in effect as set forth in the recommendations.

Motioned by Rodney Freeman, seconded by Leo Holzbauer, to allow the three Future Use Permits to remain in effect as set forth in the recommendations. Motion carried unanimously by roll call vote.

**UNOPPOSED NEW WATER PERMITS ISSUED BY THE CHIEF ENGINEER WITHOUT A HEARING BEFORE THE BOARD:**

Prior to the meeting the board received a copy of the table listing the unopposed new water permits issued by the chief engineer (See attachment at the end of the minutes).

**WITHDRAWAL OF DEFERRED WATER PERMIT APPLICATION NOS. 5749-3 AND 5750-3, STOCKMEN'S LIVESTOCK INC:**

Eric Gronlund stated the board packet included the notice sent to the current owner as well as a copy of Application Nos. 5749-3 and 5750-3. These applications date back to 1993 when the owner of Stockman's Livestock was Gail Sohler.

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The applications located in Yankton SD proposed to appropriate water from wells to supply a cafe and for livestock watering. Back in 1993, the applications were deferred due to wastewater disposal and discharge permitting issues at the facility. It has been DENR's understanding that over the years Stockmen's Livestock has been supplied from a neighboring water right. Stockmen's Livestock has been sold to the Ryken family. DENR became aware this summer of a new well that was drilled for Stockmen's Livestock and consequently contacted them to file the proper application. Since that time Water Permit No. 8403-3 has been issued so a permit is in place for the recently drilled well.

DENR informed the new owner and the engineering consultant of the two deferred applications. DENR was informed that those old wells are not in existence. The consultant and Mr. Ryken have not expressed any opposition to withdrawal of the applications.

Mr. Gronlund stated in 1993, the issue was with the wastewater handling and discharge permitting at the facility. Kent Woodmansey, Administrator of the Feedlot Program, has indicated that those issues were resolved except for minor record keeping issues. Staff recommendation is for withdrawal of Nos. 5749-3 and 5750-3.

Motion by Rodney Freeman, second by Leo Holzbauer for withdrawal of Deferred Water Permit Application Nos. 5749-3 and 5750-3, Stockmen's Livestock Inc. Motion carried unanimously by roll call vote.

**PUBLIC COMMENT PERIOD IN ACCORDANCE WITH SDCL 1-25-1:**

There were no public comments.

Motion by Chad Comes, seconded by Rodney Freeman that the meeting be adjourned. Motion carried unanimously by roll call vote.

Tim Bjork declared the meeting adjourned at approximately 11:30AM.

A court reporter was present and a transcript of the hearing may be obtained by contacting Carla Bachand, PO Box 903, Pierre, SD 57501 (605) 224-7611.

Approved the \_\_\_\_\_ day of March, 2020

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Water Management Board

## WATER MANAGEMENT BOARD MEETING December 3, 2019

|   |
|---|
| <b>Qualifications:</b><br>wi - well interference<br>wcr - well construction rules<br>iq - irrigation questionnaire<br>lf - low flow |
|---|

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

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

|         |                             |              |    |          |                  |                                 |                    |
|---------|-----------------------------|--------------|----|----------|------------------|---------------------------------|--------------------|
| 1991-1  | Black Hawk Water User Dist. | Black Hawk   | MD | 1,120 AF | rws              | Madison Aquifer                 | wcr, 3 special     |
| 2656A-2 | Pete Lien & Sons Inc.       | Rapid City   | FR | 767 AF   | industrial       | Cheyenne River                  | lf, 1 special      |
| 2800-2  | Moreland Farms Inc.         | Valentine NE | TD | 1.89 cfs | 132 acres        | 2 wells-Arikaree Aquifer        | wr, wcr, iq        |
| 2801-2  | Moreland Farms Inc.         | Valentine NE | TD | 1.89 cfs | 132 acres        | 2 wells-Arikaree Aquifer        | wr, wcr, iq        |
| 2802-2  | John Ishmael                | Winner       | TR | no add'l | 135 acres        | Benson Dam                      | lf, iq, 1 special  |
| 2803-2  | XA Quarter Circle Ranch     | Rapid City   | FR | 1.0 cfs  | 65 acres         | Cheyenne River                  | lf, iq, 1 special  |
| 2804-2  | Dougherty Cattle Company    | Colome       | TR | 0.13 cfs | commercial       | 1 well-Dakota, 2 wells-Ogallala | wi, 4 special      |
| 8221A-3 | Sonstegard Food Company     | Sioux Falls  | TU | no add'l | no add'l         | 3 wells-Vermillion West Fork    | wi, wcr, 5 special |
| 8240A-3 | Arne Svarstad               | Aberdeen     | BN | 1.91 cfs | 134 acres        | James River                     | iq, 1 special      |
| 8400-3  | City of Harrisburg          | Harrisburg   | LN | 550 AF   | municipal        | Dakota Aquifer                  | 3 special          |
| 8401-3  | L.G. Everist Inc.           | Sioux Falls  | BG | 2,210 AF | industrial       | Big Sioux:Aurora Aquifer        | 2 special          |
| 8402-3  | Roger Volzke                | Java         | CA | 3.33 cfs | 240 acres        | 1 well-Grand River              | wi, wcr, iq        |
| 8403-3  | Stockmen's Livestock Inc.   | Yankton      | YA | 2.0 cfs  | commercial       | 1 well-Missouri:Elk Point       | wi, 2 special      |
| 8404-3  | James & Jason Kokes         | Tabor        | BH | no add'l | 6 add'l<br>acres | 1 well-Codell Aquifer           | wi, iq, 1 special  |
| 8405-3  | JD Bieber Enterprises Inc.  | Bowdle       | MP | 1.78 cfs | 136 acres        | 2 wells-Grand Aquifer           | wi, wcr, iq        |
| 8406-3  | JD Bieber Enterprises Inc.  | Bowdle       | WL | 1.78 cfs | 136 acres        | 2 wells-Java Aquifer            | wi, wcr, iq        |
| 8407-3  | Gayville-Volin School Dist. | Gayville     | YA | 0.056 cf | 0.5 add'l ac     | 1 well-Missouri:Elk Point       | wi, iq             |
| 8408-3  | Roy View LLC                | Lake City    | ML | 0.09 cfs | no add'l         | 1 well-Prairie Coteau Aquifer   | wi, iq             |

### Future Use Reviews

| No.    | Name                          | Address        | County | Amount<br>Remaining in<br>Reserve | Use         | Source                    | Qualifications |
|--------|-------------------------------|----------------|--------|-----------------------------------|-------------|---------------------------|----------------|
| 512-2  | City of Hot Springs           | Hot Springs    | FR     | 1,846 AF                          | municipal   | alluvium along Fall River | none           |
| 1492-2 | City of Rapid City            | Rapid City     | PE     | 28,880 AF                         | municipal   | Missouri River            | none           |
| 7393-3 | Lincoln Pipestone Rural Water | Lake Benton MN | BG     | 614 AF                            | rural water | Big Sioux:Aurora Aquifer  |                |