



**DENR**  
SOUTH DAKOTA

**WATER MANAGEMENT BOARD  
Meeting on March 3 & 4, 2021**

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, March 2, 2021, 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>**

**March 3, 2021**

9:30 AM Call to Order  
Adopt Final Agenda  
Conflicts Disclosures and Requests for State Board Waivers  
Adopt February 10, 2021 Board Minutes  
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

Request by DENR Secretary Hunter Roberts for Water Management Board to serve as Hearing Examiner in the matters of Groundwater Plan Renewal and Water Quality Variance Review of Wharf Resources' Reliance Spent Ore Depository (GWD 1-94) and Juno/Foley Spent Ore Depository (GWD 1-98) – David McVey

Appointment of Rapid Valley Water Master – Nakaila Steen

10:00 AM Irrigation Questionnaire Violations for Failure to Report 2020 Water Use – Genny McMath

Future Use Permit Seven Year Reviews – Ron Duvall

10:15 AM Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc. – Timothy Magstadt

**Lunch**

**Recess for day or adjourn if hearing on Application No. 2813-2 is completed.**

**WATER MANAGEMENT BOARD**  
**Meeting on March 3 & 4, 2021**

**March 4, 2021**

8:30 AM Continue Hearing on Application No. 2813-2, Mineral Mountain Resources (SD) Inc. —  
Timothy Magstadt

**ADJOURN**

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

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

# WATER MANAGEMENT BOARD MEETING

## March 3-4, 2021

<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

2813-2	Mineral Mountain Resources (SD) Inc.	Belle Fourche	PE	0.022 cfs	commercial & industrial	1 well-Crystalline Rock Aquifer	wi, 2 special
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### Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

2000-1	Troy Johnson	St. Onge	BU	0.011 cfs	commercial	1 well-Inyan Kara Aquifer	wi, 1 special
2001-1	Tilton Ranch Inc	Belgrade MT	CN	2.0 cfs	368 acres	Grand River	lf, 1 special
8445-3	G.L. Management LLC	Sioux Falls	MA	0.44 cfs	71 acres	1 well-Sioux Quartzite Aquifer	wi, wcr, iq
8446-3	Blue Barn LLC	Sioux Falls	MA	0.089 cfs	3.5 acres	1 well-Sioux Quartzite Aquifer	wi, wcr, iq
8447-3	Shannon Httrn Brethren	Winfred	HS	4.23 cfs	300 acres	James River	iq, 2 special
8448-3	Rockport Httrn Brethren	Alexandria	HS	2.0 cfs	140 acres	James River	iq, 2 special
8449-3	Rockport Httrn Brethren	Alexandria	HS	5.14 cfs	360 acres	James River	iq, 2 special
8452-3	TJ Farms LLC	Henry	CD	0.1 cfs	commercial	2 wells-Prairie Coteau Aquifer	wi, 4 special
8453-3	City of Redfield	Redfield	SP	0.09 cfs	14.92 acres	1 well-Quaternary Alluvium	wi, iq
8454-3	BKV Thorstenson Ranch LP	Selby	WL	1.78 cfs	132.6 acres	1 well-Grand Aquifer	wi, iq
8456-3	Shannon Klumb	Ethan	DN	0.133 cfs	commercial	2 wells-Codell Aquifer	wi, 4 special
8457-3	River Bend Dairy	Egan	MY	0.637 cfs	commercial	2 wells-Big Sioux:Moody Aqu	wi, 4 special
8458-3	Concrete Materials	Sioux Falls	MA	2.0 cfs	industrial	dewatering-Sioux Quartzite	wi, 2 special
8459-3	Paul Bremer	Vermillion	CL	no add'l	40 acres	1 well-Lower Vermillion Miss	wi, iq
8460-3	Kyle Sultz	Columbia	BN	3.56 cfs	475 acres	James River	iq, 2 special
8461-3	Jerome Hult	Davis	TU	1.78 cfs	140 acres	1 well-Upper Vermillion Miss:N	wi, wcr, iq
8462-3	Ace Ready Mix	Sioux Falls	MA	0.44 cfs	industrial	1 well-Big Sioux:South	wi, wcr, 2 special
8463-3	Brook Bye	Vermillion	CL	1.78 cfs	120 acres	1 well-Missouri:Elk Point	wi, wcr, iq, 1 special

## Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
1872-1	City of Spearfish	Spearfish	LA	2,704 AF	municipal	Madison Aquifer	none
2580-2	Southern Black Hills WS	Hot Springs	CU/FR	1,474 AF	rural water	Madison Aquifer	none
4002-3	City of Brandon	Brandon	MA	685 AF	municipal	Big Sioux:South Aquifer	none
4838A-3	Minnehaha Community Water Corp (MCWC)	Dell Rapids	MA	33 AF	rural water	Sioux Falls Management Unit of Big Sioux Aquifer	none
5063A-3	MCWC	Dell Rapids	MA	717 AF	rural water	wells less than 70 feet	none
5716-3	MCWC	Dell Rapids	MA	750 AF	rural water	Sioux Falls Management Unit of Big Sioux 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 228<sup>TH</sup> MEETING OF THE  
WATER MANAGEMENT BOARD  
FLOYD MATTHEW TRAINING CENTER  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA

FEBRUARY 10, 2021

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

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

The following were present for the meeting:

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

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

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

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

Court Reporter: Carla Bachand, Capital Reporting Services.

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

CONFLICT DISCLOSURES AND REQUESTS FOR STATE BOARD WAIVERS: None.

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

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

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

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

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

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

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

#### Appearances

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

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

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

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

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

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

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

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

Chairman Hutmacher requested board action.

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

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

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

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

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

Approved this 3<sup>rd</sup> day of March 2021.



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

February 18, 2021

**NOTICE**

TO: Max Main  
Bennett Main Gubbrud & Willert, P.C.  
618 State St.  
Belle Fourche SD 57717

Julie Santella  
422 Columbus St, Apt 1  
Rapid City SD 57701

And Other Interested Persons (see Certificate of Service)

FROM: Ron Duvall, Water Rights Permitting Administrator  
SD DENR, Water Rights Program

SUBJECT: Requests by DENR Secretary Hunter Roberts for Water Management Board to serve as Hearing Examiner in the matters of Groundwater Plan Renewal and Water Quality Variance Review of Wharf Resources' Reliance Spent Ore Depository (GWD 1-94) and Juno/Foley Spent Ore Depository (GWD 1-98)

Enclosed are requests by DENR Secretary Hunter Roberts for the Water Management Board to serve as Hearing Examiner in the matters of Groundwater Plan Renewal and Water Quality Variance Review of Wharf Resources' Reliance Spent Ore Depository (GWD 1-94) and Juno/Foley Spent Ore Depository (GWD 1-98). The request pertaining to GWD 1-94 is dated January 27, 2021, and the request pertaining to GWD 1-98 is dated January 29, 2021.

Notice is given that the Water Management Board will consider these requests at 9:30 AM (Central Time) on Wednesday, March 3, 2021, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda. The board has authority to act on this matter pursuant to Administrative Rules of South Dakota Chapter 74:50:02.

To participate in person, 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. To participate telephonically, please call 605-679-7263 and enter conference ID 402583619# or join via video conference by navigating to [ddn.sd.gov](https://ddn.sd.gov) in the Google Chrome browser, and entering 25535 in the "Person or conference to call" and then connecting as a guest.

Notice is given to individuals with disabilities that this matter is being heard 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





**DENR**  
SOUTH DAKOTA


**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**WHEREAS**, on December 15, 2020, Assistant Attorney General Ann Mines Bailey, on behalf of the DENR Groundwater Program, filed a Motion To Appoint Hearing Chair with the Water Management Board in the matter identified as follows: IN THE MATTER OF GROUNDWATER PLAN RENEWAL & WATER QUALITY VARIANCE REVIEW OF WHARF RESOURCES' RELIANCE SPENT ORE DEPOSITORY (GWD 1-94); and

**WHEREAS**, the Secretary of DENR formally requests that the Water Management Board act as the Secretary's Hearing Examiner for the purpose of conducting all proceedings in relation to the Reliance Groundwater Permit renewal, including the holding of prehearing conferences and conducting a formal contested case hearing. It is intended that in this role, the Board will be tasked with conducting its own proceedings regarding review of the Reliance Water Quality Variance Permit as well as issuing a written recommended decision to the Secretary regarding renewal of the Groundwater Discharge Permit. The Secretary will retain final decision-making authority regarding renewal of the Reliance Groundwater Discharge Permit.

SOUTH DAKOTA DEPARTMENT  
OF ENVIRONMENT & NATURAL  
RESOURCES

By:   
Hunter Roberts, Secretary  
Department of Environment  
and Natural Resources

1-27-2021  
(Date)



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**WHEREAS**, on December 15, 2020, Assistant Attorney General Ann Mines Bailey, on behalf of the DENR Groundwater Program, filed a Motion To Appoint Hearing Chair with the Water Management Board in the matter identified as follows: IN THE MATTER OF GROUNDWATER DISCHARGE PLAN RENEWAL & WATER QUALITY VARIANCE REVIEW OF WHARF RESOURCES' JUNO/FOLEY SPENT ORE DEPOSITORY (GWD 1-98); and

**WHEREAS**, the Secretary of DENR formally requests that the Water Management Board act as the Secretary's Hearing Examiner for the purpose of conducting all proceedings in relation to the Reliance Groundwater Permit renewal, including the holding of prehearing conferences and conducting a formal contested case hearing. It is intended that in this role, the Board will be tasked with conducting its own proceedings regarding review of the Reliance Water Quality Variance Permit as well as issuing a written recommended decision to the Secretary regarding renewal of the Groundwater Discharge Permit. The Secretary will retain final decision-making authority regarding renewal of the Reliance Groundwater Discharge Permit.

SOUTH DAKOTA DEPARTMENT  
OF ENVIRONMENT & NATURAL  
RESOURCES

By: Hunter Roberts  
Hunter Roberts, Secretary  
Department of Environment  
and Natural Resources

1-29-2021  
(Date)



## CERTIFICATE OF SERVICE

I hereby certify a Notice dated February 18, 2021, with enclosures regarding requests by DENR Secretary Hunter Roberts to the Water Management Board were served via United States Certified Mail (with courtesy copy provided via email) as addressed below:

Max Main  
Bennett Main Gubbrud & Willert, P.C.  
618 State St.  
Belle Fourche SD 57717  
[max@bellelaw.com](mailto:max@bellelaw.com)  
*Counsel for Wharf Resources (USA), Inc.*

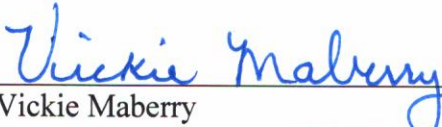
Julie Santella  
422 Columbus St, Apt 1  
Rapid City SD 57701  
[sante076@umn.edu](mailto:sante076@umn.edu)  
*Petitioner*

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501  
[Ann.MinesBailey@state.sd.us](mailto:Ann.MinesBailey@state.sd.us)

David McVey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501  
[David.McVey@state.sd.us](mailto:David.McVey@state.sd.us)


Personal service of above referenced documents (with courtesy copy provided via email) upon:

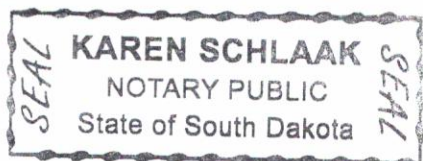
Hunter Roberts, DENR Secretary  
Dept of Environment and Natural Resources  
523 E Capitol Ave  
Pierre SD 57501  
[denrinternet@state.sd.us](mailto:denrinternet@state.sd.us)

  
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 February, 2021.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025



**REPORT ON  
IRRIGATION QUESTIONNAIRE VIOLATIONS  
March 3, 2021**

On October 23, 2020, 3,856 irrigation questionnaires were mailed by first class mail to 1,966 irrigators for reporting water use for 2020. The permit holders were given until December 4, 2020 to return the forms. The cover letter included the following examples of how questionnaires could be completed and returned:

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

On January 22, 2021, approximately 185 notices were mailed to those irrigators who had not returned their irrigation questionnaires. Additional questionnaire forms were included with the mailing. All notices were sent by "certified mail."

The January 22<sup>nd</sup> notice advised permit holders that the Board may take one or more of the following actions pursuant to SDCL 46-1-12 and SDCL 46-1-14:

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

**The Water Rights Program is recommending the Board take the following action for those permits with irrigation questionnaires not received by March 3, 2021:**

- Suspend the permits/rights (listed on attachment) as follows:
  1. First Violation - one year suspension – effective April 3, 2021
  2. Second Violation – three year suspension – effective April 3, 2021

*Following the hearing, all permit holders will be sent a notice informing them of the Board action with the opportunity to submit the questionnaire by April 3<sup>rd</sup> to avoid suspension. All follow-up notices will be sent by certified mail.*

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

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

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



Genny McMath  
Water Rights Program



# Permits/Rights Subject to Amendment or Suspension

## 2020 Irrigation Questionnaire Report Violations

March 3, 2021

Permit Nos.	Name	County	Irr Ques Violation
<b>Violation: 1</b>			
8012-3	CITY OF AURORA	BG	1
7244-3	RANDALL J BACKMAN	RB	1
4862C-3	RANDALL J BACKMAN	RB	1
515-3	DANIEL BENSON, OPERATOR	TU	1
6414-3	GALEN DEAN BOMGAARS	BG	1
7423-3	MICHAEL BOTTOLFSON	CL	1
7519-3	MICHAEL BOTTOLFSON	CL	1
577-1	MAX & BRENDA BOWEN	BU	1
6666-3	DAKOTA TRAILS GOLF COURSE INC	DG	1
2673-2	DIOCESE OF RAPID CITY	PE	1
5524-3	WADE & TODD DRUIN	CL	1
1554A-1	FRANKLIN DYCK	BU	1
1935-1	BRIAN DYCK	BU	1
2698-2	NEIL & LUPITA FANNING	BT	1
2721-2	NEIL & LUPITA FANNING	BT	1
6291-3	FLANDREAU PARK GOLF CLUB	MY	1
2197A-2	GORDON FLESNER	HK	1
2197B-2	KURT FLESNER	HK	1
2702-2	GORDON FLESNER	HK	1
2703-2	KURT FLESNER	HK	1
1231-1	FOOTHILL LAND & CATTLE LLC	BU	1
2675-3	BEAU GREGG, RENTER	HU	1
8070-3	HANSEN IRRIGATED FARMS	CL	1
8071-3	HANSEN IRRIGATED FARMS	CL	1
6822-3	HANSEN PROPERTIES	CL	1
6565-3	HANSEN VENTURES LLC, MGR	CL	1
6566-3	HANSEN VENTURES LLC, MGR	CL	1
6817-3	HANSEN VENTURES LLC, MGR	CL	1
6818-3	HANSEN VENTURES LLC, MGR	CL	1
6819-3	HANSEN VENTURES LLC, MGR	CL	1
7003-3	HANSEN VENTURES LLC, MGR	CL	1
7383-3	HANSEN VENTURES LLC, MGR	CL	1
7693-3	HANSEN VENTURES LLC, MGR	CL	1

### Violations:

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

Permit Nos.	Name	County	Irr Ques Violation
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**Violation: 1**

7994-3	HANSEN VENTURES LLC, MGR	CL	1
2132-2	BRETT A & JOY J HEATH	BT	1
7847-3	DANIEL HEINE	CL	1
6804A-3	DANIEL HEINE	CL	1
7970-3	DAVID HOOPS	CA	1
6316-3	HOWARD ATHLETIC CLUB, INC	MR	1
1150-2	O M IWAN & SONS	JA	1
4678-3	CRAIG JEPSEN	YA	1
6960-3	JEPSEN FARMS	YA	1
7114-3	MICHAEL A KOSLOWSKI	DA	1
7336-3	MICHAEL A KOSLOWSKI	DA	1
5735-3	MARK MCCLOUD	HY	1
7986-3	BRIAN MEYER	GT	1
7323B-3	MARK & HEIDI MORLOCK	MP	1
3012-3	MARK MORLOCK, MGR	MP	1
6807-3	JAMES ORR	CL	1
7898-3	JAMES ORR	CL	1
1703-1	MIKE & DEBIE PALMER	MD	1
1704-1	MIKE & DEBIE PALMER	MD	1
5566-3	WAYNE REIERSON	CA	1
7615-3	WAYNE REIERSON	CA	1
7616-3	WAYNE REIERSON	CA	1
7924-3	BRANDON RITTER	CA	1
4705-3	BRANDON RITTER, MGR	CA	1
2350-3	RIVER VALLEY FARMS	UN	1
8014-3	KEVIN SCHAEFFER	HT	1
4479-3	JOHN, DAVID & JENIFFER SIMON	CM	1
720-2	CLINT & MARY LOUISE STANLEY	MT	1
4687-3A	JAMES L SUTTON	SU	1
2497-2	MARTY VANDERPLOEG	BT	1

**Violation: 2**

4472-3	DARREL BIDDLE	CM	2
2547-3	JEFF DEVRIES	BD	2
2548-3	JEFF DEVRIES	BD	2
3085-3	JEFF DEVRIES	BD	2
6381-3	JEFF DEVRIES	BD	2
6440-3	JEFF DEVRIES	BD	2

**Violations:**

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

Permit Nos.	Name	County	Irr Ques Violation
<b>Violation: A</b>			
1813-3	HANSEN VENTURES LLC, MGR	CL	A
974-3	HANSEN VENTURES LLC, MGR	CL	A
3487-3	DAVE HANSON	CL	A
1994-3	ALBERT HATTUM	HU	A
408-1	JAMES A MICKELSON	BU	A
2460-3	RYAN PATTERSON	ML	A
3803-3	BRANDON RITTER, MGR	CA	A
4448-3A	BRANDON RITTER, MGR	CA	A
4687-3B	JAMES L SUTTON, JR	SU	A
4332-3	KASH VAN DYKE	BG	A
1268-3	RAY WENK, JR	LK	A
430-1	LEROY D WETZ	MD	A

As of Feb 19, 2021

**Violations:**

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

## Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
1872-1	City of Spearfish	Spearfish	LA	2,704 AF	municipal	Madison Aquifer	none
2580-2	Southern Black Hills WS	Hot Springs	CU/FR	1,474 AF	rural water	Madison Aquifer	none
4002-3	City of Brandon	Brandon	MA	685 AF	municipal	Big Sioux:South Aquifer	none
4838A-3	Minnehaha Community Water Corp (MCWC)	Dell Rapids	MA	33 AF	rural water	Sioux Falls Management Unit of Big Sioux Aquifer	none
5063A-3	MCWC	Dell Rapids	MA	717 AF	rural water	wells less than 70 feet	none
5716-3	MCWC	Dell Rapids	MA	750 AF	rural water	Sioux Falls Management Unit of Big Sioux Aquifer	none



CITY OF SPEARFISH  
625 N. 5<sup>TH</sup> STREET  
SPEARFISH, SD 57783

RECEIVED

JAN 25 2021

WATER RIGHTS  
PROGRAM

January 20, 2020

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

RE: Future Use Water Permit No. 1872-1

Dear Ms. Schlaak,

In response to the Department of Environment and Natural Resources (DENR) letter dated January 6, 2021, the City of Spearfish requests the continued reservation of 2,704 acre-feet of water under Permit 1872-1, in order to serve the future water supply needs of the City.

The City of Spearfish is rapidly expanding eastward near Interstate 90 Exit 17. The construction of approximately 230 homes in this area is anticipated over the next five years. In addition to these residences, the Spearfish Sport Complex will be complete in 2022, and significant commercial growth is expected in the vicinity of Exit 17.

In order to meet the water needs of the growing community, in 2021, the City has budgeted for and plans to initiate a hydrogeologic study at Exit 17 for a new municipal water well. The City's 2022 capital improvement plan includes budget for the construction of the new well and a storage tank upon the completion of the 2021 hydrogeologic study.

Please don't hesitate to contact me at 605.717.1127 or [brandy.kean@cityofspearfish.com](mailto:brandy.kean@cityofspearfish.com) with any questions or comments. We look forward to working with the DENR on the expansion of the City of Spearfish's water supply needs.

Sincerely,

Brandy Kean  
Public Works Director  
City of Spearfish

Cc: Miles Burtzlaff, City of Spearfish Water and Sewer Utility Superintendent  
Kyle Mathis, City of Spearfish City Engineer

642.1335 BUILDING & DEVELOPMENT SERVICES  
642.1325 FINANCE OFFICE  
642.1313 FIRE DEPARTMENT  
642.1354 HUMAN RESOURCES

LIBRARY 642.1330  
PARKS & REC 722.1430  
POLICE DEPARTMENT 642.1305  
PUBLIC WORKS 642.1333

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**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[denr.sd.gov](http://denr.sd.gov)

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 1872-1, City of Spearfish SD**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 1872-1, City of Spearfish, 625 N 5<sup>th</sup> St, Spearfish SD 57783.

The Chief Engineer is recommending that Future Use Permit No. 1872-1 REMAIN in EFFECT for 2,704 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1872-1, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 1872-1, 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. 1872-1 is subject to payment of the \$285.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Eric Gronlund, Chief Engineer  
January 28, 2021

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FEB 10 2021

WATER RIGHTS  
PROGRAM

# Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

## Notice Of Hearing

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 4<sup>th</sup> day of Feb, 2021, and the last publication on the \_\_\_\_\_ day of \_\_\_\_\_, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 42.97, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me this 8<sup>th</sup> day of Feb, 2021

Notary Public, Butte County, South Dakota

My commission expires: 3-21-2023

### NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1872-1

Notice is given that the Water Management Board will review Future Use Permit No. 1872-1 held by the City of Spearfish, c/o Brandy Kean, Public Works Director, 625 N 5th St, Spearfish SD 57783 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. 1872-1. This permit was approved 2007 and currently reserves 2,704 acre-feet from the Madison Aquifer. The area reserved for future water use is Sections 10, 15, 22, 26-29, 31-35, W 1/2 Section 36; all in T7N-R2E; Sections 1-18, E 1/2, NW 1/4 Section 19, Sections 20-29, 32-36; all in T6N-R2E; S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 4, Sections 7-9, W 1/2, SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 14, Sections 15-22, N 1/2 NW 1/4 Section 23, Sections 27-33, E 1/2, E 1/2 NW 1/4, NW 1/4 NW 1/4, E 1/2 SW 1/4 Section 34; all in T6N-R3E. Water is reserved for municipal use for the City.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1872-1 REMAIN in EFFECT for 2,704 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. 1872-1 at 10:00 am central time, March 3, 2021, in the 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 February 22, 2021. 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. 1872-1 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 February 22, 2021. The time of the hearing

will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2021.

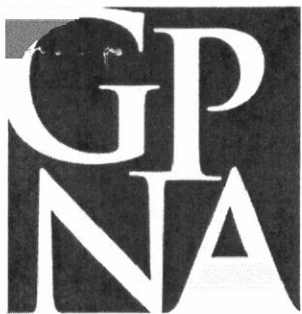
According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 15, 2021.

Published once at the total approximate cost of \$44.81.

#923

Feb 4





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FEB 3 2021

Ck# 98354

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FEB 03 2021

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PROGRAM

506 Sixth Street  
Post Office Box 8045  
Rapid City, South Dakota 57709  
Main: (605) 342-1078  
Fax: (605) 342-9503

[www.gpna.com](http://www.gpna.com)

January 27, 2021

Matthew E. Naasz  
Email: [mnaasz@gpna.com](mailto:mnaasz@gpna.com)  
Direct Dial: (605) 719-3424

VIA US MAIL AND EMAIL

DENR – South Dakota  
Attn: Karen Schlaak  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3182

Re: Southern Black Hills Water System, Inc. – Future Use Permit #2580-2

Dear Ms. Schlaak:

Our firm represents South Black Hills Water System, Inc. (“Southern Black Hills”). This letter is in response to your letter of January 6, 2021, wherein you requested a summary of Southern Black Hills’ intentions for Future Use Water Permit #2580-2 and whether it is still needed by Southern Black Hills. Please consider this Southern Black Hills’ request to maintain Future Use Permit #2580-2 at the currently reserved level of one thousand four hundred and seventy four (1,474) acre feet per year and for that permit to be reviewed in seven (7) years.

At the time of the application for the Future Use Permit (FUP), Southern Black Hills was not yet an operating rural water system. Southern Black Hills was formed in 2005 in an effort to bring much needed rural water service into the Southern Black Hills area, an area with a need for potable water. Southern Black Hills formed to serve a large portion of the Southern Black Hills area to include parts of Fall River County, Custer County and Pennington County using a multi-year, multi-phased rollout of services.

Permit #2580-2 provides that there is reserved to Southern Black Hills the amount of 1,474 acre feet of water per year to be drawn from the Madison Aquifer. The original application references four (4) general sites that are referred to in the Water Management Board’s March 19, 2007, Findings of Facts as the Hermosa site, the Argyle site, Gobbler Pass Site, and the Cascade Road (State Highway 71) site.

While at the time Southern Black Hills sought and received the FUP, it was not yet an operating system; Southern Black Hills is now an operating rural water system. To save costs in the initial construction of the system, Southern Black Hills acquired the right to purchase water through a third party’s existing well and Southern Black Hills currently provides water to its users using that well. Phase One of the water system was built out in the area primarily north of Hot Springs

Offices in Rapid City and Pierre, South Dakota

Attorneys licensed to practice in South Dakota, North Dakota, Nebraska, Wyoming, and Montana

area, following along U.S. Highway 385. A treatment facility and reservoir system were established.

Southern Black Hills' Phase Two has been constructed and is expanding. This phase runs along Argyle Road, a county road in northern Fall River County and southern Custer County, to State Highway 89. The water line then crosses State Highway 89 providing water to a number of homes in that area that haul water. Both Phase One and Phase Two are close to both the Argyle site area and Gobbler Pass site area, leaving these sites as viable locations to locate future wells.

The future expansion of Southern Black Hills' system is still being pursued. This includes running lines north to the Custer City area and potentially further north, building out the pipeline in the State Highway 71 area and extending services along U.S. Highway 79 in the Hermosa area.

As Southern Black Hills expands and grows, there will be future needs for additional wells and water from the Madison Aquifer. Southern Black Hills acknowledges and understands that before appropriating water at any of these sites it will have to come back and seek a permit for the appropriation.

Southern Black Hills respectfully requests that the Water Management Board allow the Permit to remain in effect and schedule it for review in seven (7) years. Please find enclosed a check in the amount of Two Hundred Sixty Five Dollars (\$265.00) for the fee for the Permit. If the Department of Environmental and Natural Resources needs further information from Southern Black Hills, please feel free to contact the Southern Black Hills Manager, Don Peterson at 605-745-4669.

Sincerely,



Matthew E. Naasz

MEN:eah

cc: Don Peterson, Southern Black Hills Water System



**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. 2580-2, Southern Black Hills Water System, Hot Springs SD**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 2580-2, Southern Black Hills Water System, c/o Don Peterson, 26858 Hwy 385, Hot Springs SD 57747.

The Chief Engineer is recommending that Future Use Permit No. 2580-2 REMAIN in EFFECT for 1,474 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 2580-2, 2) the system has demonstrated a reasonable need for the water reserved by Permit No. 2580-2, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 2580-2 is subject to payment of the \$265.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.

Eric Gronlund, Chief Engineer  
February 2, 2021

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WATER RIGHTS  
PROGRAM

Form 8

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
County of FALL RIVER )<sup>SS</sup>  
I, SHERYL GRIMES

certify that the attached printed Notice was taken  
from the FALL RIVER COUNTY  
HERALD-STAR

printed and published in HOT SPRINGS  
County of FALL RIVER and

state of South Dakota. The notice was published  
in the newspaper on the following date:  
FEBRUARY 11, 2021

Cost of Printing \$51.00

Sheryl Grimes  
(Signature)

PRODUCTION MANAGER  
(Title)

2-11-21

(Date Signed)

**Notice of Hearing**  
to Review Future Use Water Permit No. 2580-2

Notice is given that the Water Management Board will review Future Use Permit No. 2580-2 held by the Southern Black Hills Water System, c/o Don Peterson, 26858 Hwy 385, Hot Springs SD 57747 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. 2580-2. This permit was approved 2007 and currently reserves 1,474 acre-feet from the Madison Aquifer. The area reserved for future use is the approximate center of the NW 1/4 Section 6-T3S-R8E (Custer County); S 1/2 SE 1/4 Section 16-T6S-R4E (Custer County); W 1/2 NW 1/4 Section 21-T8S-R5E (Fall River County) and S 1/2 NW 1/4 Section 24-T6S-R5E (Custer County). The water is reserved for rural water use serving users in Fall River, Custer, and Pennington Counties.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 2580-2 REMAIN in EFFECT for 1,474 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. 2580-2 at 10:00 am central time, March 3, 2021 in the 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

Thursday, February 11, 2021 **B7**

and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2021. 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. 2580-2 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's 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 February 22, 2021. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2021.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 22, 2021.

Published once at the total approximate cost of \$51.06

Published: Feb. 11, 2021



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JAN 28 2021

WATER RIGHTS  
PROGRAM

CITY OF BRANDON  
304 S. Main Avenue, P.O. Box 95  
Brandon, SD 57005  
Telephone: (605) 582-6515

Monday, January 25, 2021

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

Re: Review of Future Use Water Permit 4002-3

Ms. Schlaak:

Your letter of January 6, 2021 requested a written response regarding the City of Brandon's Future Use Permit No. 4002-3.

In 2019, the City completed the City of Brandon Water Supply Evaluation that projected Brandon's population to increase by 60% of its current population in the next 25 years, and to more than double its current population in the next 50 years. This population growth is expected to exert a proportionately increased water demand, with an accompanying increased peak day water production, as summarized in the table below.

Year	Population	Average Day Production, MGD	Annual Production, Acre-Ft	Max Day Production, MGD	Maximum Day Production, cfs
2018	9,957	0.96	1,115	2.49	3.85
2045	16,000	1.52	1,703	3.80	5.88
2070	23,000	2.07	2,319	5.18	8.00

The City of Brandon Water Supply Evaluation included alternatives for additional wells that would obtain water from the Big Sioux South Aquifer and the Split Rock Creek Aquifer. These wells will likely consume water held in reserve by the existing future water use permits.

To provide water for anticipated future needs, the City of Brandon requests that the reserved water capacity of 685 acre-feet under Future Water Use Permit 4002-3 in the Big Sioux South Aquifer be retained by the City of Brandon.

Sincerely,

Tami Jansma, City Engineer  
City of Brandon



**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. 4002-3, City of Brandon**

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. 4002-3, City of Brandon, PO Box 95, Brandon SD 57005

The Chief Engineer is recommending that Future Use Permit No. 4002-3 REMAIN in EFFECT for 685 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4002-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4002-3, 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. 4002-3 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  
January 28, 2021

# Argus Leader

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

BRANDON, CITY OF  
304 S MAIN AVE  
BRANDON, SD 57005

Account No: SFA-127014

Ad No: 0004579471

PO #:

Lines : 158

Ad Total \$99.49

**This is not an invoice**

# of Affidavits: 1

Account No.: SFA-127014  
Ad No.: 0004579471

## 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, February 4, 2021

Sworn to and subscribed before me this 17 day of February, 2021.

Legal Clerk

Notary Public, State of Wisconsin, County of Brown

My Commission expires

VICKY FELTY  
Notary Public  
State of Wisconsin



NOTICE OF HEARING TO  
REVIEW FUTURE USE  
WATER PERMIT

NO. 4002-3

Notice is given that the Water Management Board will review Future Use Permit No. 4002-3 held by the City of Brandon, c/o Toml Jansma, City Engineer, PO Box 95, Brandon SD 57005 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. 4002-3. This permit was approved 1977 and currently reserves 685 acre-feet from the Big Sioux South Aquifer located in Section 34-T102N-R48W and Section 3-T101N-R48W. The water is for municipal use. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4002-3 REMAIN IN EFFECT for 685 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. 4002-3 at 10:00 am central time, March 3, 2021, in the 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 February 22, 2021. 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. 4002-3 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.

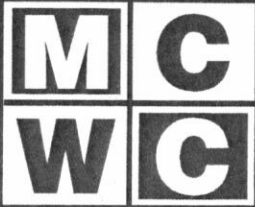
This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and 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 February 22, 2021. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2021.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 15, 2021. Published once at the approximate cost of \$99.49

4579471

Feb 4, 2021



# MINNEHAHA COMMUNITY WATER CORP.

47381 248<sup>th</sup> St.  
Dell Rapids, SD 57022

Phone : 605-428-3374  
Fax : 605-428-3395  
Web : [www.minnehahacommunitywater.com](http://www.minnehahacommunitywater.com)  
Email : [mcwcbilling@siouxvalley.net](mailto:mcwcbilling@siouxvalley.net)

January 8, 2021

RECEIVED

JAN 11 2021

WATER RIGHTS  
PROGRAM

Ms. Karen Schlaak  
Water Rights Program  
South Dakota DENR  
523 East Capitol  
Pierre, SD 57501-3182

Dear Karen,

I am writing in regards to the seven year review of Future Use Water Permit Nos. 4838A-3, 5063-3, and 5716-3 held by Minnehaha Community Water Corporation. We would like to renew these three future use permits and we submit the following justification for renewal.

- Existing farming operations within Minnehaha County are expanding and using more water. Two new dairies have added sites in the past year. MCWC has added between 50 and 90 new users in each of the last five years.
- During 2020, MCWC passed 1 Billion gallons sold for the first time.
- Bulk water delivered to the towns within Minnehaha County increases yearly. Hartford, Dell Rapids, Baltic and Crooks continue to add residential housing. Hartford and Dell Rapids have aggressive plans for industrial development.
- MCWC is a member of the Lewis & Clark Regional Water System and has reserved capacity of 2 MGD. During August of 2020, MCWC used the full allocated capacity from L&C.
- MCWC has contracted with Big Sioux Community Water to deliver 1 MGD. Big Sioux then delivers a portion of the volume to Madison, SD to help with supply until the L&C pipeline can reach Madison.

I hope that this is sufficient justification to retain our Future Use Permits. Thank you for your consideration of our renewal request.

Sincerely,

Scott J. Buss  
Executive Director



**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. 4838A-3, Minnehaha Community Water Corp.**

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. 4838A-3, Minnehaha Community Water Corp, 47381 248<sup>th</sup> St, Dell Rapids SD 57022.

The Chief Engineer is recommending that Future Use Permit No. 4838A-3 REMAIN in EFFECT for 33 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4838A-3, 2) the corporation has demonstrated a reasonable need for the water reserved by Permit No. 4838A-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. 4838A-3 is subject to payment of the \$50.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the corporation after the Board hearing.

Eric Gronlund, Chief Engineer  
January 28, 2021



**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. 5063A-3, Minnehaha Community Water Corp.**

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. 5063A-3, Minnehaha Community Water Corp, 47381 248<sup>th</sup> St, Dell Rapids SD 57022.

The Chief Engineer is recommending that Future Use Permit No. 5063A-3 REMAIN in EFFECT for 717 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 5063A-3, 2) the corporation has demonstrated a reasonable need for the water reserved by Permit No. 5063A-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. 5063A-3 is subject to payment of the \$115.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the corporation after the Board hearing.

Eric Gronlund, Chief Engineer  
January 28, 2021



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[denr.sd.gov](http://denr.sd.gov)

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT  
NO. 5716-3, Minnehaha Community Water Corp.**

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. 5716-3, Minnehaha Community Water Corp, 47381 248<sup>th</sup> St, Dell Rapids SD 57022.

The Chief Engineer is recommending that Future Use Permit No. 5716-3 REMAIN in EFFECT for 750 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 5716-3, 2) the corporation has demonstrated a reasonable need for the water reserved by Permit No. 5716-3, 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. 5716-3 is subject to payment of the \$125.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the corporation after the Board hearing.

Eric Gronlund, Chief Engineer  
January 28, 2021

## AFFIDAVIT OF PUBLICATION

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STATE OF SOUTH DAKOTA }  
 } ss.  
 County of Lake }

FEB 08 2021

WATER RIGHTS PROGRAM

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

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

## Water Rights Program

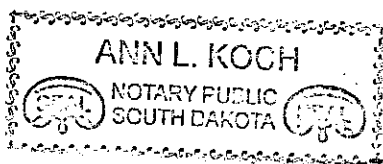
## Notice of Hearing to Review Future Use Water Permits

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

On Thursday, the 4th day of February, 2021;  
 On \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;  
 On \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;  
 On \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;  
 On \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;  
 On \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;  
 On \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;  
 On \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

That \$ 53.12 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publisher of the said newspaper; that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me this 5th day of February, 2021



Ann L. Koch  
 Notary Public, Lake County, South Dakota  
 Exp. 11-14-25

Thursday, Feb. 4

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMITS

Notice is given that the Water Management Board will review Future Use Permit Nos. 4838A-3, 5063A-3 and 5716-3 held by the Minnehaha Community Water Corp. c/o Scott J Buss, Director, 47381 248th St, Dell Rapids SD 57022 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits. The permits supply water for rural water system use in Minnehaha, Lincoln, Lake, Moody, Turner and McCook Counties and were last reviewed in 2014.

Permit No. 4838A-3 reserves water from the Sioux Falls Management Unit of the Big Sioux Aquifer to be located in the NE 1/4 NE 1/4 Section 32 and S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the permit indicates 33 acre-feet of water remains in reserve by Permit No. 4838A-3.

Permit No. 5063A-3 reserves water from wells less than 70 feet deep to be located in the NE 1/4 Section 17-T104N-R49W. A review of the permit indicates 717 acre-feet of water remains in reserve by Permit No. 5063A-3.

Permit No. 5716-3 reserves water from the Sioux Falls Management Unit of the Big Sioux Aquifer to be located in the NE 1/4 NE 1/4 Section 32 and S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the permit indicates that 750 acre-feet of water remains in reserve by Permit No. 5716-3.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4838A-3 remain in effect for 33 acre-feet annually, Permit No. 5063A-3 remain in effect for 717 acre-feet annually and Permit No. 5716-3 remain in effect for 750 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.

Publication Fees \$ \_\_\_\_\_

Notary Fees \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

Received Payment, \_\_\_\_\_

County of \_\_\_\_\_

# AFFIDAVIT OF PUBLICATION

.....he office of ..... on the ..... day of .....

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2021. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for

Published once at the total approximate cost of \$53.12

## Attorneys for

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FEB 08 2021

Form 8

WATER RIGHTS  
PROGRAM

## PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County of McCook ) SSI, Troy Schwans

certify that the attached printed Notice was taken

from the Salem Specialprinted and published in McCook SalemCounty of McCook and

state of South Dakota. The notice was published

in the newspaper on the following date:

Feb. 4, 2021

Cost of Printing \_\_\_\_\_

Approx. \$57.38  
(Signature)Editor  
(Title)2/4/21  
(Date Signed)

ay, February 4, 2021 - Page 7

## Public Notice

NOTICE OF HEARING  
TO REVIEW  
FUTURE USE WATER PERMITS

Notice is given that the Water Management Board will review Future Use Permit Nos. 4838A-3, 5063A-3 and 5716-3 held by the Minnehaha Community Water Corp. c/o Scott J Buss, Director, 47381 248th St, Dell Rapids SD 57022 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits. The permits supply water for rural water system use in Minnehaha, Lincoln, Lake, Moody, Turner and McCook Counties and were last reviewed in 2014.

Permit No. 4838A-3 reserves water from the Sioux Falls Management Unit of the Big Sioux Aquifer to be located in the NE 1/4 NE 1/4 Section 32 and S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the permit indicates 33 acre-feet of water remains in reserve by Permit No. 4838A-3.

Permit No. 5063A-3 reserves water from wells less than 70 feet deep to be located in the NE 1/4 Section 17-T104N-R49W. A review of the permit indicates 717 acre-feet of water remains in reserve by Permit No. 5063A-3.

Permit No. 5716-3 reserves water from the Sioux Falls Management Unit of the Big Sioux Aquifer to be located in the NE 1/4 NE 1/4 Section 32 and S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the permit indicates that 750 acre-feet of water remains in reserve by Permit No. 5716-3.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4838A-3 remain in effect for 33 acre-feet annually, Permit No. 5063A-3 remain in effect for 717 acre-feet annually and Permit No. 5716-3 remain in effect for 750 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 these future use permits at 10:00 am central time, March 3, 2021, in the 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 permits to remain in effect, 2) amends the permit by adding qualifications, 3) cancel the permits for



no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2021. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 4383A-3, 5063A-3 and 5716-3 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 recommendations, further information on the permits, 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 February 22, 2021. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2021.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 15, 2021.

Published once at the total approximate cost of \$57.38.

# Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF MOODY) SS

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

Notice of Hearing to  
Review Future  
Use Water

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

2-3-21

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

\$ 53<sup>96</sup>

M. Headrick bookkeeper

Subscribed and sworn to before me this

4 day of February AD 2021

Roger W Janssen  
Notary Public, County Moody, South Dakota

ROGER W JANSSEN

NOTARY PUBLIC  
SOUTH DAKOTA

My commission expires 2-16-24

## NOTICE OF HEARING TO REVIEW FUTURE USE WATER

Notice is given that the Water Management Board will review Future Use Permit Nos. 4838A-3, 5063A-3 and 5716-3 held by the Minnehaha Community Water Corp. c/o Scott J Buss, Director, 47381 248th St, Dell Rapids SD 57022 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits. The permits supply water for rural water system use in Minnehaha, Lincoln, Lake, Moody, Turner and McCook Counties and were last reviewed in 2014.

Permit No. 4838A-3 reserves water from the Sioux Falls Management Unit of the Big Sioux Aquifer to be located in the NE 1/4 NE 1/4 Section 32 and S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the permit indicates 33 acre-feet of water remains in reserve by Permit No. 4838A-3.

Permit No. 5063A-3 reserves water from wells less than 70 feet deep to be located in the NE 1/4 Section 17-T104N-R49W. A review of the permit indicates 717 acre-feet of water remains in reserve by Permit No. 5063A-3.

Permit No. 5716-3 reserves water from the Sioux Falls Management Unit of the Big Sioux Aquifer to be located in the NE 1/4 NE 1/4 Section 32 and S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the permit indicates that 750 acre-feet of water remains in reserve by Permit No. 5716-3.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4838A-3 remain in effect for 33 acre-feet annually, Permit No. 5063A-3 remain in effect for 717 acre-feet annually and Permit No. 5716-3 remain in effect for 750 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 these future use permits at 10:00 am central time, March 3, 2021, in the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2021. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit Nos. 4838A-3, 5063A-3 and 5716-3 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 recommendations, further information on the permits, 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 February 22, 2021. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by February 22, 2021.

According to SDCL 1-26-18.3 parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 15, 2021. Published once at

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FEB 08 2021

WATER RIGHTS  
PROGRAM

County of

**AFFIDAVIT OF PUBLICATION**

Filed in the office of

on the \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_

Attorney for



**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. 2813-2, Mineral Mountain Resources (SD) Inc.**

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. 2813-2, Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717.

The Chief Engineer is recommending APPROVAL of Application No. 2813-2 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 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 permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer.
3. Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling.

See report on application for additional information.

Eric Gronlund, Chief Engineer  
October 21, 2020

REPORT ON PERMIT APPLICATION NO. 2813-2  
Mineral Mountain Resources (SD) Inc.  
OCT 15, 2020

Water Permit Application No. 2813-2 requests the appropriation of 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet per second (cfs) (10 gallons per minute) from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW ¼ SW ¼ Section 24-T2N-R3E for commercial and industrial uses for exploratory drilling. The well site is located approximately one half mile southeast of Rochford SD. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

**Aquifer:** Crystalline Rock (CRSL)

**Hydrogeology**

The Crystalline Rock aquifers consists of localized aquifers in the Precambrian aged core of the Black Hills, where extensive fractures and weathering zones allow for the transmission of water (Driscoll & Carter, 2001). The Crystalline Rock aquifer is estimated to have an outcrop area of 540,000 acres (Rahn P. H., 1979). The Crystalline Rock that this application is completed into is composed of black graphitic slate and schist (Redden, Nichols, & Terry, 2015). The Crystalline Rock aquifer has very low primary porosity, so water movement in the aquifer is through secondary porosity (fractures, joints, and faults) (Rahn P. H., 1979). Secondary porosity for the Crystalline Rock aquifer is highly variable and uneven and therefore is site-specific. Rahn (1979) estimated an effective porosity containing recoverable groundwater primarily in cracks and joints that occur within a depth of 500 feet of ground surface to be one percent of the outcrop areas of the aquifer resulting in an estimated 2,700,000 acre-feet of recoverable water in storage for the Crystalline Rock aquifer in western South Dakota.

The well completion report included with the application indicates broken schist from ground surface to 30 feet, hard gray shale from 30 to 48 feet, schist fracture 2-3 gpm from 48 to 50 feet, hard grey shist from 50 to 210, schist fracture 5 gpm from 210 to 212 feet, hard grey shist from 212 to 338 feet, schist fracture 8 gpm from 338 to 340 feet, hard grey shist from 340 to 630 feet, schist fracture 9-10 gpm from 630 to 632 feet, and hard grey schist from 632 to 700 feet. The well completion report also indicated a static water level of 30 feet below ground surface (Water Rights, 2020b).



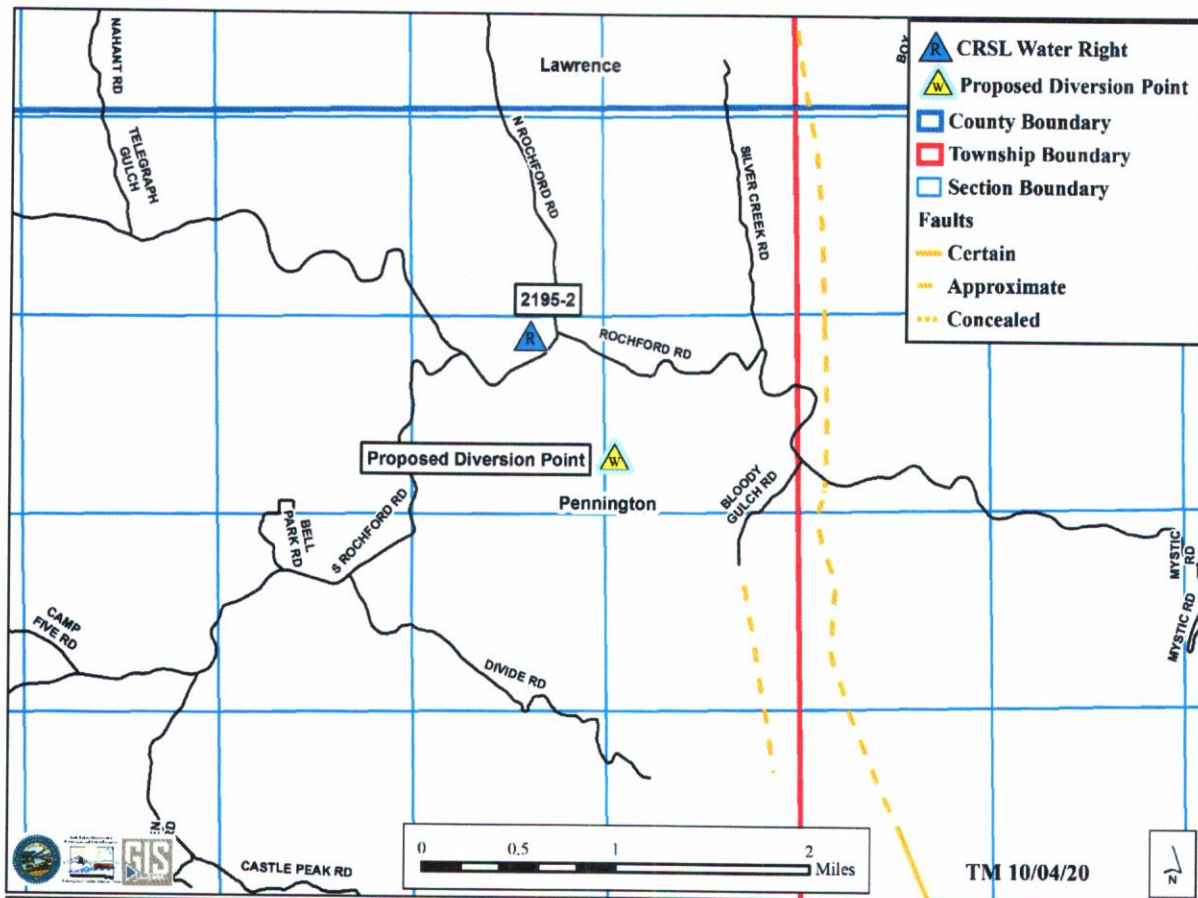


Figure 1: Map showing the location of the proposed diversion point, nearby water rights/permits completed into the Crystalline Rock aquifer, and fault locations (Water Rights, 2020a; Redden, Nichols, & Terry, 2015)

### **South Dakota Codified Law 46-2A-9**

Pursuant to SDCL 46-2A-9, “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.” This report will address the availability of unappropriated water and potential impacts to existing rights within the Crystalline Rock aquifer.

### **Water Availability**

SDCL 46-6-3.1 is considered when evaluating the probability of unappropriated water from an aquifer and states, “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 water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Crystalline Rock aquifer is older and lower than the Greenhorn Formation; however, there is no water distribution system involved.

## **Hydrologic Budget**

### ***Recharge***

The Crystalline Rock aquifers receive recharge from the infiltration of precipitation and streamflow losses on the outcrop area (Driscoll & Carter, 2001). Driscoll & Carter (2001) estimated the recharge to the entirety of the Crystalline Rock aquifers for the years 1950-1998 within the core of the Black Hills to be equal to the average withdrawals (3,600 ac-ft/yr). Driscoll and Carter (2001) concluded that the recharge to the Crystalline Rock aquifers must be much larger than estimated to account for discharge to streams. Driscoll and Carter (2001) stated, in regard to the Crystalline Rock aquifers, "Recharge conditions are highly transient and have large spatial variability; thus, quantification is not attempted." While looking at faults and other significant geological features may allow for some limiting of areal extent, there is not sufficient data available to attempt a delineation of the localized Crystalline Rock aquifer with any level of certainty. Therefore, there is no average annual recharge estimate available for the localized Crystalline Rock aquifer the applicant proposes to use.

### ***Withdrawals***

Currently, the nearest water right/permit (Water Right No. 2195-2 for Moonshine Gulch Saloon) authorized to withdraw water from the Crystalline Rock aquifer is approximately 0.8 miles to the northwest of the proposed diversion point, with the next nearest water right/permit being approximately 7.6 miles to the southeast of the proposed diversion point (Water Rights, 2020a). The amount of water that can be expected to be withdrawn by Water Right No. 2195-2 can be estimated assuming that the water right will pump at the maximum permitted diversion rate (0.015 cfs) 60 percent of the time resulting in 6.52 ac-ft/yr. This application, if approved, would authorize the appropriation of 3.68 ac-ft/yr assuming the application will use the entire permitted volume annually.

There are a number of well completion reports on file with the DENR-Water Rights Program for domestic wells that appear to be completed into the Crystalline Rock aquifer in the area of the proposed diversion point (Water Rights, 2020b). It is also likely there are other domestic wells completed into the Crystalline Rock aquifer in this area that are not on file with the Water Rights Program. In general, the volume of water pumped by domestic users is not significant to a hydrologic budget due to limited diversion rate (less than 18 gpm). Furthermore, in the Crystalline Rock aquifer it is common for most wells to produce less than 10 gpm with many users frequently getting less than 5 gpm from their wells. However, due to the unpredictable nature of the fracturing that comprises the localized Crystalline Rock aquifers, it is difficult to determine exactly how large a component of the hydrologic budget domestic use may represent.

### **Observation Well Data**

In determining the availability of unappropriated water for a permit application, Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer.



The SD DENR-Water Rights Program maintains two observation wells that have historically been considered completed into the Crystalline Rock aquifer in western South Dakota (Water Rights, 2020c). Observation well CU-86A is located approximately 24.3 miles southeast, and observation well PE-95D is located approximately 19.5 miles southeast of the proposed well sites. Kilts W. K. (2018) determined that observation well PE-95D is open to both the Deadwood Formation and the Crystalline Rock. It is uncertain how representative observation well PE-95D is of either the Deadwood or Crystalline Rock aquifers. For this reason, only observation well CU-86A will be used for analysis. Figure 2 shows the hydrograph for observation well CU-86A.

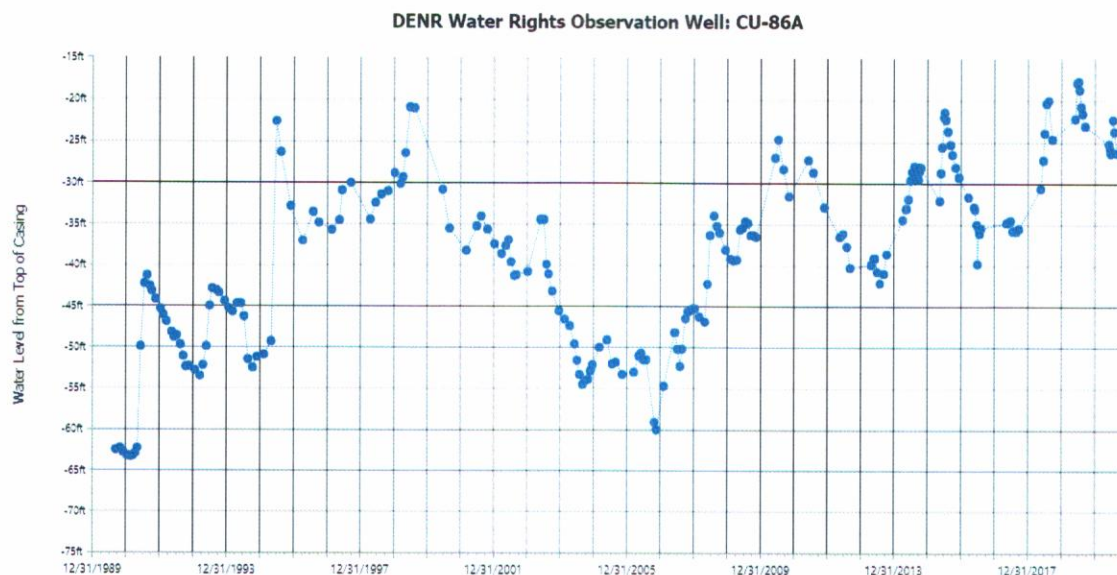


Figure 2: Hydrograph for observation well CU-86A (24.3 miles southeast) (Water Rights, 2020c).

Water levels shown in the observation well change in response to climatic conditions declining during drier periods and rising during wetter periods and show no or minimal responses to pumping. Any responses to pumping are relatively short term and are masked by recharge to and natural discharge from the aquifer. Over the period of record, the water levels for observation well CU-86A have fluctuated 45 feet. Recharge to and natural discharge from aquifers can be captured for pumping. Water level data for observation well CU-86A shows the Crystalline Rock aquifer receives recharge, and while the observation well is not close to the proposed diversion point, it still shows that the Crystalline Rock aquifers receive recharge.

Driscoll and Carter (2001) stated recharge to the Crystalline Rock aquifer must be much greater than the estimated 3,600 ac-ft/yr to account for the groundwater discharge that contributes to the base flow to many streams and is supported by the hydrograph for observation well CU-86A (Figure 2), which shows the water level generally rising over its period of record despite increased development of the aquifer.

When considering the hydrograph for observation well CU-86A, Driscoll's and Carter's (2001) commentary regarding recharge to the Crystalline Rock aquifer, the continued development of the Crystalline Rock aquifer, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation.



### **Potential For Unlawful Impairment Of Existing Water Rights**

The nearest well completion report on file with SD DENR-Water Rights Program is approximately 0.5 miles to the northeast of the proposed diversion point for this application (Water Rights, 2020b). There are likely other wells completed into the Crystalline Rock aquifer within approximately 1 mile of the proposed diversion point for this application that are not on file with the SD DENR-Water Rights Program.

The nearest water right/permit (Water Right No. 2195-2) currently authorized to withdraw water from the Crystalline Rock aquifer is approximately 0.8 miles to the northwest of the proposed diversion point (Figure 1), with the next nearest water right/permit being approximately 7.6 miles to the southeast of the proposed diversion point (Water Rights, 2020a). Considering the proximity of Water Right No. 2195-2 to nearby domestic users (approximately 0.2 miles southeast) in the area without any reports of well interference and the limited diversion rate requested by this application, there is a reasonable probability this application can be developed without unlawful impairment to nearby adequate wells (Water Rights, 2020a; Water Rights, 2020b; Water Rights, 2019e).

An adequate well as defined in ARSD 74:02:04:20(6):

“A well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.”

Due to the very low primary porosity of the Crystalline Rock aquifer and the highly variable and uneven nature of secondary porosity, 20 feet of saturated thickness may not be sufficient for a dependable water supply. Without conducting an aquifer pumping test, the precise drawdown effects caused by pumping a well cannot be determined. Over the period of record, the water levels for observation well CU-86A (Figure 2) have fluctuated 45 feet due to climatic conditions. Pump depth requirements are detailed in ARSD 74:02:04:60(2) which states “The depth of the pump setting shall be determined by dividing the specific capacity into the required yield and adding at least 10 additional feet to maintain pump inlet submergence below the maximum anticipated drawdown, where possible.”

There has only been one reported instance of well interference in Pennington County for wells completed into the Crystalline Rock aquifer. This involved Water Right No. 2572-2 during the permit’s initial development. The water right was limited to a maximum diversion rate of 18 gallons per minute, the limit for reasonable domestic use, by the Chief Engineer in October 2006. The permit holder reported to the Water Rights Program that the issue was resolved sometime before January 2009, and there have not been any other reports of well interference issues since then (Water Rights, 2019e).

Considering the continued development of the Crystalline Rock aquifer without a significant history of well interference complaints, the hydrograph for observation well CU-86A (Figure 2) and the natural fluctuations in water levels over the period of record, Driscoll’s and Carter’s (2001)

commentary regarding recharge to the Crystalline Rock aquifer, the protection afforded to adequate wells by South Dakota Water Law, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation. If this application is approved, a qualification requiring the applicant to control their withdrawals so there is not a reduction of needed water supplies in adequate wells should be included.

### **Conclusions**

1. Water Permit Application No. 2813-2 requests the appropriation of 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet per second (cfs) from one well completed into the Crystalline Rock aquifer (700 feet deep) located approximately one-half mile southeast of Rochford SD for exploratory drilling.
2. There is a reasonable probability that the diversion proposed by this application will not unlawfully impair adequate wells for existing water rights and domestic use.
3. There is a reasonable probability unappropriated water is available for this proposed appropriation.



Timothy Magstadt  
Natural Resources Engineer II  
SD DENR – Water Rights Program

Reviewed by:



Adam Mathiowetz, PE  
Natural Resources Engineer III  
SD DENR-Water Rights Program

### **References**

- Carter, J. M., Driscoll, D. G., & Hamade, G. R. (2001). *Estimated Recharge to the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota and Wyoming, Water Years 1931-98; Water-Resources Investigations Report 00-4278*. Rapid City, South Dakota: United States Geological Survey.
- Driscoll, D. G., & Carter, J. M. (2001). *Hydrologic Conditions and Budgets for the Black Hills of South Dakota, Through Water Year 1998; Water-Resources Investigations Report 01-4226*. Rapid City, South Dakota: U.S. Geological Survey.
- Kilts, W. K. (2018). *Report to the Chief Engineer Water Permit No. 2789-2 Rushmore Cave*. Pierre, South Dakota: SD DENR-Water Rights Program.
- Rahn, P. H. (1979). *Ground Water Resources of Western South Dakota*. Rapid City: Department of Geology and Geological Engineering South Dakota School of Mines and Technology.
- Redden, J. A., Nichols, C. E., & Terry, M. P. (2015). *Geologic Map of the Rochford Quadrangle, South Dakota 7.5 Minute Series Geologic Quadrangle Map 25: Scale 1:24,000*. Vermillion, South Dakota: SD DENR-Geological Survey.
- Water Rights. (2019e). *Pennington County Complaint/Investigation File*. Pierre, South Dakota: SD DENR-Water Rights Program, Joe Foss Bldg.
- Water Rights. (2020a). *Water Right/Permit Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2020b). *Well Completion Report Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2020c). *Observation Well Database*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.

## ERRATA SHEET

The Following Corrections and Clarifications Apply to: Report on Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Original Report Issuance Date: October 15, 2020

This Errata Sheet is Issued On: January 25, 2021


### Corrections:

1. The estimated outcrop area cited in the report on page one under the Hydrogeology section in the second sentence of the first paragraph is 574,000 acres instead of 540,000 acres.
2. The estimated amount of recoverable water cited in the report on page one under the Hydrogeology section in the last sentence of the first paragraph should be 2,900,000 acre feet instead of 2,700,000 acre-feet.

### Explanation:

Originally the 2,900,000 acre-feet of recoverable water (this was the correct value) was listed in the report. However, it was noted during the review process that the 2,900,000 acre-feet did not match up to the 540,000 acres in the report. The recoverable water was recalculated based on the 540,000 acres which resulted in 2,700,000 acre-feet of recoverable water that is currently in the report. The source of the error was the listing of the 540,000 acres which compounded into the error when calculating the amount of recoverable water.

These values were not used to calculate any other quantities in the report and are used primarily as an overview of the Crystalline Rock aquifers. This does not change my conclusions stated in the report.



Timothy Magstadt

Natural Resources Engineer II

SD DENR – Water Rights Program

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WATER RIGHTS  
PROGRAM

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application by MMR.

I am concerned about this application because I am interested and depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills, and especially along their eastern slope.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- Studies have shown that the Rapid Creek watershed is hydrologically connected to at least the Madison and Minnelusa aquifers. The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.

- The creeks flow year round and are fisheries, including Rapid Creek's world-class trout fishery.
- This is not a beneficial use of water.
- Waters in the project area flow downstream into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. I not only drink water downstream from the Lake, but enjoy the lake for recreational purposes.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources and will likely destroy cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project, especially as it is in a hydrologically and culturally sensitive area and could have far-reaching impacts. A full analysis of the potential and cumulative impacts of this project is required.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate to cover the cost of damage to the environment, water, economy, and roads. This bond would not cover even a small percentage of the cost of curing a drill bit break in the drill shaft, as has happened near Wasta in recent years, or the abandonment of the project, as happened in Harding County recently.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown -- and whose environmental record, ethical record, and financial status are also unknown.

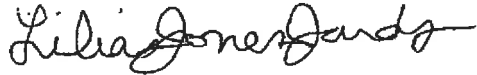
I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lili Jones Jarding".

Lilias Jones Jarding, Ph.D.  
418 N. 44<sup>th</sup> St.  
Rapid City, SD 57702

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

November 11, 2020

Chief Engineer Eric Gronlund  
Water Rights Program  
Foss Building  
523 E Capitol  
Pierre, SD 57501

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RE: Petition to Contest and Oppose Mineral Mountain Resources (SD) Inc.'s water permit application 2813-2

Dear Chief Engineer Eric Gronlund:

I am writing to contest and oppose Mineral Mountain Resources (SD) Inc.'s water permit application 2813-2.

I live in Rapid City. I am concerned about Mineral Mountain Resources (SD) Inc.'s proposal to appropriate 1.2 million gallons of water for several reasons:

- 1) I am concerned about qualitative (and by extension, quantitative) impacts to the Rapid Creek watershed (which is Rapid City's water supply) should any accidents or spills occur.
- 2) I am concerned about quantitative impacts to the Rapid Creek watershed should this quantity of water be removed, even if no accidents or spills occur.
- 3) There is no mention of the impacts of this proposal to cultural or historic resources in the area.
- 4) There is no mention of contact or consultation with, or consent from, the 16 Tribal Nations on the Black Hills National Forest Tribal/THPO mailing list, regarding this proposal. Proper permission has not been granted for this appropriation of water.

My concerns arise from information from several sources, including but not limited to: my knowledge of waterways in this area, MMR's application, information relating to MMR's current and previous activities, relevant research publications, and relevant case law.

I am contesting the Chief Engineer's Recommendation of Approval of Application 2813-2. I am requesting that the Board not grant approval for this appropriation of water.

I also request that the public hearing scheduled for December 2, 2020, be pushed back to allow me adequate time to prepare my case in this matter.

I understand that this contested case would unfold according to the Administrative Rules of South Dakota Chapter 74:50:02, and the regulations governing the South Dakota Department of Environment and Natural Resources.

Please keep me informed of all proceedings and documents related to this application.

Submitted by:  
Julie Santella  
422 Columbus St, Apt 1  
Rapid City, SD

 11/11/2020

Copy sent to:

Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche, SD 57717



# JAY DAVIS LAW OFFICE

710 N. LaCrosse St. #1  
Rapid City, SD 57701  
November 17, 2020

JEREMIAH J. DAVIS, ATTORNEY AT LAW

Telephone: (605) 519-5128  
Fax: (605) 355-9319

Mr. Eric Gronlund  
Chief Engineer, Water Rights Program  
Foss Building  
523 E. Capitol Ave.  
Pierre, SD 57501

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NOV 19 2020

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RE: Application #2813-2 to Appropriate Water (Mineral Mountain Resources)

Dear Mr. Gronlund:

As a resident and water user in Rapid City, I am hereby requesting that a contested case be initiated in the above-referenced matter, and that I be admitted as an intervener in the application by MMR. This application concerns me because I depend upon clean drinking water, and also hope that our community can maintain its wildlife and natural resources, as well as a tourism industry that depends upon the protection of our natural environment in the Black Hills.

As you know, this region has a long and storied history of gold mining operations, many of which have caused long-term harm to the environment and some of which have developed into Superfund sites. I oppose the MMR application because I believe that their proposed exploration, and any large-scale gold or other mineral mine, will inevitably harm our economy and environment.

I do not believe that MMR's proposal is a beneficial use of water, or in the public interest. It may result in the destruction of existing water rights in the central Black Hills. The \$20,000 bond paid by MMR to conduct potentially unlimited drilling is clearly inadequate protection for our resources. Lake Pactola, which provides our domestic water in Rapid City and which is a cherished recreational resource, is directly threatened by exploration and gold mining by MMR. The Minnelusa and Madison formations downstream from the proposed project area are directly threatened. There needs to be more extensive environmental analysis, including study of the geology and hydrology of the project area.

I am hereby requesting that there be a public hearing on this matter, and that it be held in Rapid City, in the area that is threatened by this proposed development. Please delay the hearing for at least 20 days. Please keep me informed of all proceedings and documents related to MMR's application. Thank you for your consideration in this matter.

Sincerely,



Jeremiah J. Davis  
Attorney at Law

cc: Mineral Mountain Resources (SD) Inc. c/o Bennett, Main & Gubbrud

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

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RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe 'Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.

- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Mark LaCompte  
PO BOX 175  
Timber Lake, SD 57656

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

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RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Thank you.

Sincerely,

Julie Benedict  
1115 McGuigan Rd.  
Spearfish, SD 57783

A handwritten signature in cursive script, appearing to read "Julie Benedict", written in dark ink.

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

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**WATER RIGHTS  
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RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund,

As a downstream resident of the proposed project area, I am concerned about this application because we depend upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. As Rapid City is one of the larger cities in South Dakota, risking clean drinking water to its residents is unethical.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. My well is in the Minnelusa aquifer and thus this proposed project puts a risk to mine as well as many others drinking water.
- Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.

- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose the proposed project and want the permit application to be denied. Since this matter substantially impacts the people and environment of Pennington County, I request a Public Hearing be moved to Rapid City with an option for online participation due to COVID-19.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Rajni Lerman  
Hot Springs, SD

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

Via  
email

November 23, 2020

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

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WATER RIGHTS  
PROGRAM

RE: Application No. 2813-2 to Appropriate Water by Mineral Mountain Resources (MMR)

Dear Mr. Gronlund:

I am requesting that a contested case be initiated in the above matter. I am a downstream resident of the proposed project area and would also like to be admitted as an intervener in the above application by MMR.

I am concerned about this application because our way of life here in western South Dakota, both our agricultural and tourist based economies, depend on preserving the quality of water resources, land use, wildlife, etc. These things would be threatened by additional large scale exploration and mining of gold in the central Black Hills.

Existing Superfund and other former and present large-scale gold mine sites north of the proposed project show that ecosystems downstream from them are polluted with heavy metals and other contaminants.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- This project is not in the public interest and it is not a beneficial use of water.
- The presence of unappropriated water is unknown here because most of the geology and hydrology of the area is unstudied and unknown.
- Irreparable damage from the proposed drilling could occur because the route(s) of underground pathways have not been mapped from the project area.
- Therefore, existing rights may be unlawfully impaired.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Waters in the project area flow into Lake Pactola, which is a major component of the domestic water supply of Rapid City -- this is the water I use.



- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations down flow of the proposed project area.
- Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to nearby public lands and Pe'Sia threatens indigenous cultural resources.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling that they want to do in South Dakota is grossly inadequate.
- MMR have not proven themselves to be financially stable, so I believe that a high likelihood exists that they will be unable to complete a mine – this leaves open the possibility that this project could end up in the hands of another unknown company.

I oppose and contest the proposed project. I ask that this permit application be denied. I also ask for a hearing to be held on this matter, and request that the hearing be automatically delayed for at least 20 days. The hearing should be delayed until after December 2, 2020. I further request that the hearing be held in Rapid City since it substantially impacts the people and environment of Pennington County. In addition, DENR should provide citizens the ability to attend this hearing on-line due to COVID-19.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

*Richard A. Bell*

Richard Bell, PE  
1206 Clark St.  
Rapid City, SD

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

via  
email

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

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NOV 23 2020

WATER RIGHTS  
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a concerned resident of the Black Hills and someone with a degree in Resource Management, I am deeply interested in the outcome of the proposed project area. I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. I recreate in the Lake Pactola/Rapid Creek watershed as do thousands of locals and tourists.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.

- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- This is a boom and bust proposal. It has the capacity to destroy the multimillion-dollar tourist and agriculture industries in the Black Hills.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020. The hearing would be best for all interested if moved to after the holidays.

*I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.*

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Juli Ames-Curtis  
11936 Hay Creek Rd  
Custer SD 57730  
[mtsagemassage@yahoo.com](mailto:mtsagemassage@yahoo.com)  
970-391-9921

**Duvall, Ron**

---

**From:** emmafrostcam@live.com  
**Sent:** Friday, November 20, 2020 9:37 PM  
**To:** DENR-INTERNET INFORMATION  
**Subject:** [EXT] Mineral Mountain Resources Water Application

**RECEIVED**

**NOV 23 2020**

**WATER RIGHTS  
PROGRAM**

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Emma

**Duvall, Ron**

---

**From:** dowhatyouwantalways@protonmail.com  
**Sent:** Friday, November 20, 2020 9:31 PM  
**To:** DENR-INTERNET INFORMATION  
**Subject:** [EXT] Mineral Mountain Resources Water Application

**RECEIVED**

**NOV 23 2020**

**WATER RIGHTS  
PROGRAM**

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.

- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Max P.

Sent with ProtonMail Secure Email.

**Duvall, Ron**

---

**From:** Jerry Wilson <wilson57069@gmail.com>  
**Sent:** Sunday, November 22, 2020 10:44 AM  
**To:** DENR-INTERNET INFORMATION  
**Subject:** [EXT] Atten: Eric Gronlund

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

**RECEIVED**

**NOV 23 2020**

**WATER RIGHTS  
PROGRAM**

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

**RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources**

Dear Mr. Gronlund:

As the retired managing editor of *South Dakota Magazine*, I know how important the protection of the Black Hills is to the economy of South Dakota, where tourism is our second greatest industry. But beyond economic concerns, the Black Hills and all of our state's resources are the most precious things we have, and no generation of people have the right to destroy or harm those critical resources for future generations. Therefore, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.



- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City, and that interveners who live in other parts of the state be allowed to participate remotely.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Jerry Wilson  
30959 Frog Creek Road  
Vermillion, SD 57059

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

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NOV 25 2020

WATER RIGHTS  
PROGRAM



Black Hills Group  
Sierra Club  
P.O. Box 1624  
Rapid City, SD 57709

21 November 2020

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain  
Resources

Dear Mr. Gronlund:

The purpose of the Sierra Club and its Black Hills Group is to explore, enjoy, and protect the earth's wild places. Our members use the outdoors and the wild country of the Black Hills and Northern Great Plains for recreation and renewal. We rely on the watershed of Rapid Creek for our drinking water, agricultural uses, and recreational activities. The knowledge that healthy environments and intact wild country exist, sustains us. Our members want to practice and promote the responsible use of Earth's ecosystems and resources. And to that end we work to educate and use grassroots activism to protect and restore the quality of the natural and human environment.

We have consistently opposed gold mining in the Rapid Creek Watershed.

As a downstream residents of the proposed project area, we oppose and contest the proposed project and want the permit application to be denied.

We ask for a hearing to be held on this matter, and that the hearing be delayed until after December 2, 2020.

We also request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Our members oppose this application because additional large scale exploration and mining of gold in the central Black Hills threaten the quality of the Rapid Creek Watershed, including the aquifers upon which our water supply depends. The agricultural economy and the outdoor recreation industry depend on water resources. Granting this permit would affect land use, including Pe'Sla, lands sacred to the Oceti Sakowin, and threatens wildlife habitat, quality of life in the region.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

The Sierra Club, on behalf of its more than 1,200 members in South Dakota, opposes this application because the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. Our concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water we use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. This is one of the places where we recreate.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

Please keep us informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Suzanne Iudicello Martley

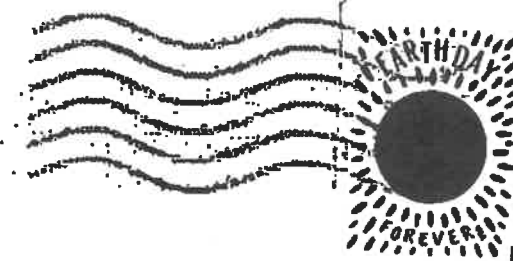
On behalf of Black Hills Group Sierra Club Executive Committee

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

SIM  
Black Hills Group Sierra Club  
P.O. Box 1624  
Rapid City, SD 57709

RAPID CITY SD 577

23 NOV 2020 FRI 11



Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

5750133182





# Oglala Lakota

## Cultural Affairs & Historic Preservation

P.O. Box 320 Pine Ridge, SD 57770 (mailing)

E. Hwy 18, Pine Ridge, SD 57770 (physical)

(605) 867-5624 business; (605) 867-2818 fax

Email: t.brings@oglala.com

### Advisory Council:

Garvard Good Plume, Jr. -- Founding Member

Robert Two Crow - Member

Doug Blasonette-Member

Leola One Feather-Member

Dr. Hannan LaGarry -- Ex-Officio Member

### In Honor

(In Spirit) Elaine Quiver -- Founding Member

(In Spirit) Warner Mesterh -- Founding Member

### Personnel:

Thomas Brings-THPO

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NOV 25 2020

WATER RIGHTS  
PROGRAM

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
  - Existing rights may be unlawfully impaired.
  - This is not a beneficial use of water.

"Preserving our Identity in the Land."

- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
  - The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
  - This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Thomas Brings  
Tribal Historic Preservation Officer  
Cultural Affairs and Historic Preservation Office  
Oglala Sioux Tribe

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 5771

Bx 320  
Pie Ridge, SD 57770

RAPID CITY SD 577

23 NOV 2020 PM 1 L

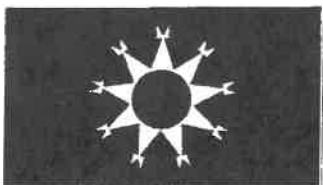


Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

5750133162







**Oglala Sioux Tribe**  
**Natural Resources Regulatory Agency**  
Water Resources Department  
P.O. Box 320  
Pine Ridge, SD 57770  
Phone: (605) 867-5624  
Fax: (605) 867-2818



Water Resources Department  
Reno L. Red Cloud Sr.  
ostnrrawrd@gwtrc.net

November 23, 2020

**RECEIVED**

**NOV 25 2020**

**WATER RIGHTS  
PROGRAM**

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.



**Oglala Sioux Tribe**  
**Natural Resources Regulatory Agency**  
Water Resources Department  
P.O. Box 320  
Pine Ridge, SD 57770  
Phone: (605) 867-5624  
Fax: (605) 867-2818



Water Resources Department  
Reno L. Red Cloud Sr.  
ostnrrawrd@gwtc.net

(Page Two)

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

*Reno L. Red Cloud Sr.*  
Reno L. Red Cloud Sr  
Oglala Sioux Water Resources Department / Administrator  
P.O. Box 320  
Pine Ridge, SD 57770  
Phone:

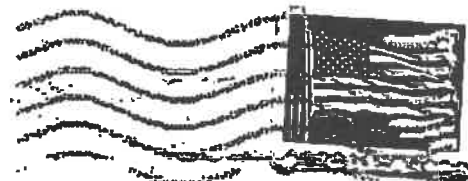
cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

---

Reno L. Red Cloud Sr.  
OST Water Resources Dept.  
P.O. Box 4052  
Pine Ridge, SD 57770

RAPID CITY, SD 577

23 NOV 2020 PM 1 T



Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD, 57501

5750133182



**LAW OFFICE OF BRUCE ELLISON**  
**P.O. Box 2508**  
**Rapid City, SD 57709**  
**(605) 348-1117**  
**Belli4law@aol.com**

**RECEIVED**

**NOV 25 2020**

**WATER RIGHTS  
PROGRAM**

November 23, 2020

Eric Gronlund, Chief Engineer  
Water Rights Program  
Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills including threats to our water resources generally and my specific domestic water resources in the Rapid Creek Watershed.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting. The State has so far been unable or unwilling to regulate this industry in a manner which actually protects our water resources, warranting denial of any pending and future exploration, water, or mining permits which potentially will impact them.

**LAW OFFICE OF BRUCE ELLISON**

**P.O. Box 2508**

**Rapid City, SD 57709**

**(605) 348-1117**

**Belli4law@aol.com**

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other heavy metal mineral mine would harm public health, the economy, and the environment. My concerns include:

- The Chief Engineer's Recommendations to the Water Management Board for approval of the water appropriation permit under SDCL 46-2A-9 are not based upon substantial evidence.
- The Report to the Chief Engineer as to the four factors to be determined by the Board under SDCL 46-2A-9 devoid current and substantial supporting evidence.
- Most of the geology and hydrology of the immediate area remains substantially unstudied and unknown, so the presence of unappropriated water is unknown. This includes the particular fracture created water reservoir from which applicant wants to withdraw water
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- The actual recharge rate of the fracture created reservoir remains substantially unstudied and unknown.
- Existing rights may be unlawfully impaired. These existing rights include Treaty Rights, existing well water rights, water rights of nature.
- The project will significantly interfere with wildlife propagation through part of each year,
- The project will interfere with public's use of this multiple use forest service area,
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the Rapid Creek Watershed, and includes the domestic water supply of Rapid City and along Rapid Creek.
- From the limited hydrology studies of the project area, it appears that there are water pathways from area to Cleghorn Springs and other flowing and alluvial water resources in the eastern central part of the Black Hills.

**LAW OFFICE OF BRUCE ELLISON**

**P.O. Box 2508**

**Rapid City, SD 57709**

**(605) 348-1117**

**Belli4law@aol.com**

- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola or further downstream creeks.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's, the general Rapid Creek Watershed's, and Ellsworth Air Force Base's water. I get my well water from the Minnelusa formation and alluvial water from Rapid Creek.
- The proximity of proposed drilling pads to Pe 'Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- Granting this permit application would be contrary to the DENR's significant responsibilities to protect the Public Trust responsibilities to protect the waters within South Dakota's borders for current and future generations
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- I respectfully request that since the issues in this this permit application involve water resources in Pennington County, that when a hearing is held in this matter, that pursuant to Resolution of the Pennington County Board of Commissions, that the hearing be held in Rapid City, SD.
- That any hearing be either conducted remotely via ZOOM or other communication methods the Water Management Board has used within the past six months for hearings.

**LAW OFFICE OF BRUCE ELLISON**

**P.O. Box 2508**

**Rapid City, SD 57709**

**(605) 348-1117**

**Belli4law@aol.com**

- That should any hearings be held in person, that federal Center for Disease Control (CDC) guidelines, and not any less restrictive guidelines issued by the Governor or State of South Dakota, be strictly adhered to.
- That any scheduled hearing date be postponed for at least 90 days to permit requests for and compliance with discovery needed in this matter.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Bruce Ellison and on behalf of  
Nakca Bagn-Ellison, Aaron Ellison, Samuel Ellison, and Abbey Ellison

cc: Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State Street  
Belle Fourche, SD 57717

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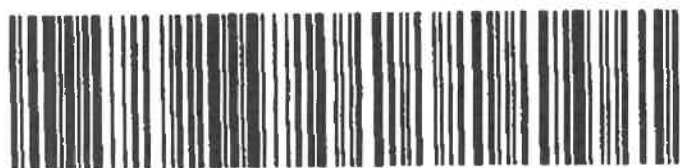
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EXPECTED DELIVERY DAY: 11/30/20

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NOV 16 2020

WATER RIGHTS  
PROGRAM

# Affidavit of Publication

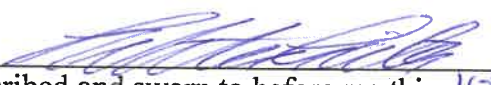
STATE OF SOUTH DAKOTA:


COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice OF Application  
No 2813-2

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 4<sup>th</sup> day of Nov, 2020, and the last publication on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 59.14, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

  
Subscribed and sworn to before me this 10<sup>th</sup> day of Nov, 2020

  
Notary Public, Butte County, South Dakota  
My commission expires: 3-21-2023

**NOTICE OF  
APPLICATION  
NO. 2813-2 to  
Appropriate Water**

Notice is given that Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717 has filed an application for a water permit to appropriate 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one well completed into the Crystal-line Rock aquifer (700 feet deep) located in the NW 1/4 SW 1/4 Section 24-T2N-R3E about one-half of a mile southeast of Rochford SD. The application identifies the water use as commercial and industrial uses for exploratory drilling. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2813-2 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.

The Water Management Board will consider this application at 2:00 pm on December 2, 2020 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. 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 this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 November 23, 2020.

The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are

not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

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.

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.

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 publication, and the applicable date to give notice to the Chief Engineer is November 16, 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.

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; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published once at the total approximate cost of \$61.45.

#584  
Nov 4

# Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington

SS:

November 4 L20006

## NOTICE OF APPLICATION

### NO. 2813-2 to Appropriate Water

Notice is given that Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717 has filed an application for a water permit to appropriate 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW 1/4 SW 1/4 Section 24-T2N-R3E about one-half of a mile southeast of Rochford SD. The application identifies the water use as commercial and industrial uses for exploratory drilling. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application,

Sheri Sponder being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each day for one successive day, the first publication there of being on the 4th day of Nov 2020 that the fees charged for the publication there of are 115 dollars and 95 cents.

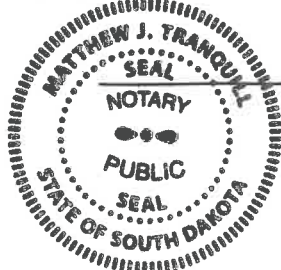
Sheri Sponder

Subscribed and sworn to before me this 19th day of November, 2020.

RECEIVED

NOV 23 2020

WATER RIGHTS PROGRAM



Matthew J. Tranquill

Notary public

December 5, 2025

My commission expires

even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2813-2 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.

The Water Management Board will consider this application at 2:00 pm on December 2, 2020 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. 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 this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 November 23, 2020.

The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

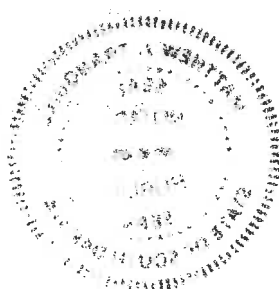
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Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice 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 publication, and the applicable date to give notice to the Chief Engineer is November 16, 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.

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(Published once at an approximate cost of \$115.95)



Instruction to Newspaper – Publish the Notice on November 4, 2020. Mineral Mountain Resources is responsible for payment.

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Published once at an approximate cost of \_\_\_\_\_.



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

February 5, 2021

**NOTICE OF HEARING**

**TO:** Mineral Mountain Resources (SD) Inc.      Matthew E. Naaz, Counsel  
c/o Bennett, Main & Gubbrud      Gunderson, Palmer, Nelson &  
618 State St.      Ashmore, LLP  
Belle Fourche SD 57717      P.O. Box 8045  
      Rapid City SD 57709

Interested Persons (see attached list)

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

**SUBJECT:** Scheduling of Hearing on Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

The Water Management Board will conduct a hearing to consider Application No. 2813-2 at 10:15 AM (Central Time), on Wednesday, March 3, 2021, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda. The location of the hearing may be subject to change depending on the outcome of a ruling on a pending motion regarding the hearing location. Notice of the outcome of any ruling on the location of the hearing will be provided to all interested persons.

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 public notices published in the Rapid City Journal and Black Hills Pioneer on November 4, 2020, still apply.

Notices, orders and other pleadings filed in the matter of Water Permit Application No. 2813-2 are posted on DENR's contested case page at <https://denr.sd.gov/contested.aspx>.

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, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 5, 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 February 5, 2021, regarding the scheduling of a hearing in the matter of Water Permit Application No. 2813-2, as addressed below and on the attached interested person list for persons with a mailing address. Otherwise, service was provided by email at the address provided:

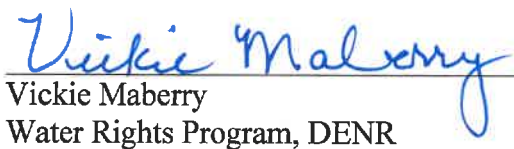
Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State St.  
Belle Fourche SD 57717

Matthew E. Naaz, Counsel  
Gunderson, Palmer, Nelson & Ashmore, LLP  
P.O. Box 8045  
Rapid City SD 57709

Interested Persons (see attached list)

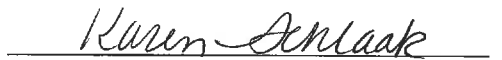
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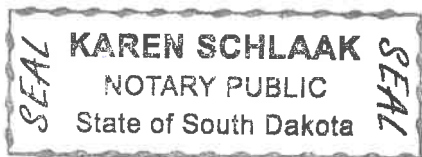
Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
Vickie Maberry  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 5<sup>th</sup> day of February, 2021.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025





List of Interested Persons regarding Water Permit Application No. 2813-2,  
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.  
418 N. 44<sup>th</sup> St.  
Rapid City SD 57702

Julie Santella  
422 Columbus St, Apt 1  
Rapid City SD 57701

Jeremiah J. Davis  
710 N. LaCrosse St. #1  
Rapid City SD 57701

Mark LaCompte  
P.O. Box 175  
Timber Lake SD 57656

Julie Benedict  
1115 McGuigan Rd.  
Spearfish SD 57783

Rajni Lerman  
2244 Minnekahta Ave.  
Hot Springs SD 57747

Juli Ames-Curtis  
11936 Hay Creek Rd.  
Custer SD 57730

Black Hills Group, Sierra Club  
c/o Suzanne Iudicello Martley  
P.O. Box 1624  
Rapid City SD 57709

Emma  
[emmafrostcam@live.com](mailto:emmafrostcam@live.com)

Max P.  
[dowhatyouwantalways@protonmail.com](mailto:dowhatyouwantalways@protonmail.com)

Jerry Wilson  
30959 Frog Creek Road  
Vermillion SD 57059

Bruce Ellison  
Law Office of Bruce Ellison  
P.O. Box 2508  
Rapid City SD 57709

Reno L. Red Cloud Sr  
Oglala Sioux Water Resources  
Department/Administrator  
P.O. Box 320  
Pine Ridge SD 57770

Thomas Brings  
Tribal Historic Preservation Officer  
Cultural Affairs & Historic Preservation Office  
P.O. Box 320  
Pine Ridge SD 57770

Richard Bell, PE  
1206 Clark St.  
Rapid City, SD 57701



**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 ENTRY OF ORDER**

TO: Mineral Mountain Resources (SD) Inc. Matthew E. Naaz, Counsel  
c/o Bennett, Main & Gubbrud Gunderson, Palmer, Nelson &  
618 State St. Ashmore, LLP  
Belle Fourche SD 57717 P.O. Box 8045  
Rapid City SD 57709

Interested Persons (see attached list)

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

SUBJECT: Pre-hearing Officer's Procedural and Scheduling Order in the matter of Water Permit  
Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Enclosed is Pre-Hearing Officer Freeman's procedural and scheduling order in the matter of Water Permit  
Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Notices, orders and other pleadings filed in the matter of Water Permit Application No. 2813-2 are posted  
on DENR's contested case page at <https://denr.sd.gov/contested.aspx>.

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, Assistant Attorney General  
David McVey, Assistant Attorney General

List of Interested Persons regarding Water Permit Application No. 2813-2,  
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.  
418 N. 44<sup>th</sup> St.  
Rapid City SD 57702

Julie Santella  
422 Columbus St, Apt 1  
Rapid City SD 57701

Jeremiah J. Davis  
710 N. LaCrosse St. #1  
Rapid City SD 57701

Mark LaCompte  
P.O. Box 175  
Timber Lake SD 57656

Julie Benedict  
1115 McGuigan Rd.  
Spearfish SD 57783

Rajni Lerman  
2244 Minnekahta Ave.  
Hot Springs SD 57747

Juli Ames-Curtis  
11936 Hay Creek Rd.  
Custer SD 57730

Black Hills Group, Sierra Club  
c/o Suzanne Iudicello Martley  
P.O. Box 1624  
Rapid City SD 57709

Emma  
[emmafrostcam@live.com](mailto:emmafrostcam@live.com)

Max P.  
[dowhatyouwantalways@protonmail.com](mailto:dowhatyouwantalways@protonmail.com)

Jerry Wilson  
30959 Frog Creek Road  
Vermillion SD 57059

Bruce Ellison  
Law Office of Bruce Ellison  
P.O. Box 2508  
Rapid City SD 57709

Reno L. Red Cloud Sr  
Oglala Sioux Water Resources  
Department/Administrator  
P.O. Box 320  
Pine Ridge SD 57770

Thomas Brings  
Tribal Historic Preservation Officer  
Cultural Affairs & Historic Preservation Office  
P.O. Box 320  
Pine Ridge SD 57770

Richard Bell, PE  
1206 Clark St.  
Rapid City, SD 57701

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 Entry of Order dated January 21, 2021, regarding a procedural and scheduling order in the matter of Water Permit Application No. 2813-2, as addressed below and on the attached interested person list for persons with a mailing address. Otherwise, service was provided by email at the address provided:

Mineral Mountain Resources (SD) Inc.  
c/o Bennett, Main & Gubbrud  
618 State St.  
Belle Fourche SD 57717


Matthew E. Naaz, Counsel  
Gunderson, Palmer, Nelson & Ashmore, LLP  
P.O. Box 8045  
Rapid City SD 57709

Interested Persons (see attached list)

Sent Inter-office to:

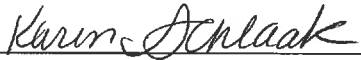
Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

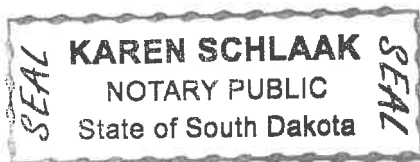
David McVey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
Vickie Maberry  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 21<sup>st</sup> day of January, 2021.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025



## Duvall, Ron

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**From:** Duvall, Ron  
**Sent:** Thursday, January 21, 2021 11:05 AM  
**To:** dowhatyouwantalways@protonmail.com  
**Subject:** Notice of Entry of Procedural and Scheduling Order regarding Application No. 2813-2, Mineral Mountain Resources (SD) Inc.  
**Attachments:** 2813-2\_ord.pdf

The attached document and others related to this matter are available at: <https://denr.sd.gov/ccdocs.aspx?CCID=CCID92>

Thank you,

Ron Duvall  
Water Rights Program  
605.773.3352  
[denr.sd.gov](https://denr.sd.gov)



**DENR**  
SOUTH DAKOTA

## Duvall, Ron

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**From:** Duvall, Ron  
**Sent:** Thursday, January 21, 2021 11:04 AM  
**To:** emmafrostcam@live.com  
**Subject:** Notice of Entry of Procedural and Scheduling Order regarding Application No. 2813-2, Mineral Mountain Resources (SD) Inc.  
**Attachments:** 2813-2\_ord.pdf

The attached document and others related to this matter are available at: <https://denr.sd.gov/ccdocs.aspx?CCID=CCID92>

Thank you,

Ron Duvall  
Water Rights Program  
605.773.3352  
[denr.sd.gov](https://denr.sd.gov)



STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

## WATER MANAGEMENT BOARD

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IN THE MATTER OF WATER	)	
PERMIT APPLICATION NO. 2813-2,	)	PROPOSED
MINERAL MOUNTAIN RESOURCES	)	PROCEDURAL AND
(SD), INC.	)	SCHEDULING ORDER

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Upon due consideration of the motions pending and in an effort to provide guidance and structure for the parties, the following Procedural Order shall be entered.

It is ORDERED:

1. That on or before **January 29, 2021**, each intervenor shall submit in writing to Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, whether they wish to fully participate in the contested case proceedings ( i.e., examine witnesses, admit evidence, etc.) or if they wish to participate in a limited capacity (i.e., make a statement during closing arguments).
2. All attorneys who will be representing any party at the formal contested case proceeding shall file a Notice of Appearance in this matter. Further, all non-resident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2. The Order granting *pro hac vice* shall be filed with the Water Management Board.

3. The following pre-hearing schedule and obligations apply to Applicant, Water Rights, and all other parties who elect to fully participate in the contested case proceedings:

a. Each party must disclose in writing the names of all expert witnesses it intends to call as a witness at the contested case hearing no later than **January 29, 2021**. Each party must include in this submission copies of any *curricula vitae* as well as copies of any expert report prepared by the expert witness. If the expert has not prepared a report, the party must disclose a summary of the anticipated testimony the expert will provide, including the methodology upon which the expert relied.

b. Each party must disclose in writing the names of each witness the party anticipates calling to testify during the hearing on or before **February 15, 2021**.

c. Any motions must be filed on or before **February 9, 2021**. Response brief may be filed within ten days after the motion but no later than **February 19, 2021**. If necessary, a hearing before the prehearing chairman may be scheduled prior to the March meeting.

d. Each party must provide to all other parties a list identifying all exhibits that party intends to offer as evidence in its case in chief at the hearing and copies of said exhibits, with the exception of the administrative file, on or before **February 19, 2021**. The exhibits shall be marked as set forth below prior to disclosure. The copies may be provided by electronic means; however, provision of a hyperlink or internet address is not sufficient to meet



the disclosure requirement. **A copy of exhibits must also be provided to Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, [Ron.Duvall@state.sd.us](mailto:Ron.Duvall@state.sd.us) on or before 5 p.m. central time on February 19, 2020.**

e. Prior to disclosure, each party must mark each exhibit the party intends to introduce at the hearing in its case in chief with the proposed exhibit identifiers as set forth below:<sup>1</sup>

Applicant – A through Z

Chief Engineer – 1-99

Dr. Lillas Jones Jarding – 100-199

Julie Santella – 200-299

Jeremiah J. Davis - 300-399

Mark LaCompte – 400-499

Julie Benedict – 500-599

Rajni Lerman – 600-699

Sierra Club, Black Hills Group 700-799

Thomas Brings – 800-899

Reno Red Cloud – 900-999

Bruce Ellison – 1000-1099

f. Each party to the contested case proceedings must prepare and provide a sufficient number of copies of exhibits, with the exception of the

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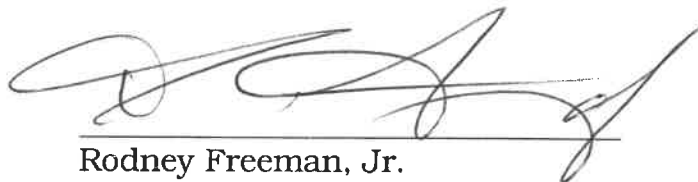
<sup>1</sup> Exhibit identifiers have not been assigned to Richard Bell, Juli Ames-Curtis, Emma, Max P. or Jerry Wilson as they are not proper parties to this action as set forth in the Motion for an Order of Clarification.

administrative file, for use at the hearing. The parties shall contact Ron Duvall after February 26, 2020, for the precise number of copies required as the number of copies required is dependent upon the number of Board members who will be personally present at the hearing.

g. All original pleadings are to be sent by regular first-class mail to Ron Duvall, DENR Water Rights Program, Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota 57501-3182. Parties shall also be required to serve copies of all pleadings on all other parties and upon the Board's Counsel, Assistant Attorney General David M. McVey.

4. All parties shall notify Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, [Ron.Duvall@state.sd.us](mailto:Ron.Duvall@state.sd.us) **on or before 5 p.m. central time on February 26, 2020**, as to the number of individuals who will be physically present for the hearing on that party's behalf.

Dated this 19 day of January 19, 2021.

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