Scheduled hearing times are Central Standard Time

WATER MANAGEMENT BOARD
March 6, 2014
Floyd Matthew Training Center
523 E Capitol Avenue
Pierre SD

AGENDA

Scheduled times are estimates only. Agenda items may be delayed due to prior scheduled items. Breaks will be at the discretion of the chair.

Thursday, March 6th

8:30 AM Call to Order

October 28 - November 1, 2013, Board Minutes
December 5, 2013, Board Minutes (teleconference meeting)
May 7 - 8, 2014 Meeting Location (Pierre suggested)
Status and Review of Water Rights Litigation – Jeff Hallem
Administer Oath to Department of Environment and Natural Resources Staff

Legislative Update

Rapid Valley Water Master – Mark Rath

9:00 AM Violations for Failure to Report on Irrigation Questionnaire – Genny McMath

Amendment to Qualification on Water Right No. 1467-1, Harvey Keene – Genny McMath

Cancellation Considerations – Eric Gronlund

Seven Year Review of Future Use Permits – Eric Gronlund

Consideration of Water Permit Application No. 7555-3, Craig Bass – Eric Gronlund

9:30 AM Consideration of Water Permit Application No. 7921-3, Owen and Lamont Peterson – Bracken Capen

10:30 AM Consideration of Deferred Applications from Upper Vermillion:Missouri aquifer – Ken Buhler

ADJOURN

WATER MANAGEMENT BOARD MEETING
March 6, 2014

Qualifications:
wi - well interference
wcr - well construction rules
iq - irrigation questionnaire
lf - low flow

Water Permit Applications to be Considered as Scheduled

No.	Name	Address	County	Amount	Use	Source	Qualifications
7921-3	Owen & Lamont Peterson	Wendell MN	HM	2.44 cfs	316.48 acres	1 well-Prairie Coteau Aquifer	deferral
7555-3	Craig Bass	Castlewood	HM	1.78 cfs	235 acres	1 well-undetermined	denial

Deferred Applications from Upper Vermillion:Missouri Aquifer

7441-3	Gary or Julie Peterson	Centerville	CL	1.78 cfs	140 acres	1 well-South Management Unit	approval
7442-3	Gary or Julie Peterson	Centerville	CL	no add'l	40 acres	1 well-South Management Unit	approval
7452-3	Jerome Hult	Davis	TU	1.78 cfs	110 acres	1 well-North Management Unit	deferral
7466-3	Bethel Hagen Trust	Sioux Falls	LN	1.78 cfs	152 acres	1 well-South Management Unit	approval
7467-3	Cleland Hagen Trust	Sioux Falls	TU	1.78 cfs	152 acres	1 well-South Management Unit	approval
7468-3	Cleland Hagen Trust	Sioux Falls	TU	1.78 cfs	152 acres	1 well-North Management Unit	deferral
7535-3	Donald D Benson	Hurley	TU	1.78 cfs	65 acres	1 well-West Management Unit	approval
7558-3	Cleland Trust	Palm Desert CA	TU	1.78 cfs	120 acres	1 well-North Management Unit	deferral
7587-3	Paul Petersen	Hurley	TU	1.78 cfs	160 acres	1 well-North Management Unit	deferral
7588-3	Paul Petersen	Hurley	TU	1.78 cfs	160 acres	1 well-West Management Unit	approval
7600-3	Michael D Stevens	Viborg	TU	3.56 cfs	180 acres	2 wells-South Management Unit	approval
7601-3	Michael D Stevens	Viborg	TU	1.89 cfs	132 acres	1 well-South Management Unit	approval
7602-3	Michael D Stevens	Viborg	TU	1.89 cfs	132 acres	1 well-West Management Unit	approval
7603-3	Michael D Stevens	Viborg	TU	1.78 cfs	120 acres	1 well-South Management Unit	approval
7623-3	Darrell Osborn	Centerville	TU	1.89 cfs	140 acres	1 well-South Management Unit	approval
7633-3	Brad Farrar	Viborg	TU	1.78 cfs	152 acres	1 well-West Management Unit	approval
7653-3	Jeremiah Welsh	Centerville	TU	1.67 cfs	85 acres	1 well-South Management Unit	approval
7690-3	Tim or David Ostrem	Wakonda	TU	1.78 cfs	160 acres	1 well-South Management Unit	approval
7715-3	Allen Vannorsdel	Viborg	TU	2.22 cfs	156 acres	1 well-West Management Unit	approval
7900-3	Leon Thompson	Beresford	CL	1.89 cfs	136 acres	1 well-South Management Unit	approval
7919-3	Larry & Marlene Erickson	Centerville	CL	1.83 cfs	83.83 acres	1 well-South Management Unit	approval

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

No.	Name	Address	County	Amount	Use	Source	Qualifications
1940-1	Slim Buttes Lodge LLC	Reva	HR	0.05 cfs	commercial	1 well-Upper Hell Cr & Lower Ludlow Aquifer	wi
1941-1	McGuigan Inc.	Spearfish	LA	1.33 cfs	210 acres	1 well-Minnelusa	wi, iq
1942-1	James Chambliss	Box Elder	MD	5.56 cfs	416 acres	2 dugouts-alluvium groundwater	iq
2718-2	Daniel & Paulette Fanning	Martin	BT	2.22 cfs	160 acres	1 well-Ogallala	wi, wcr, iq
2719-2	Prairie Berry LLC	Hill City	PE	0.06 cfs	commercial	1 well-Precambrian Aged Rock	wi, wcr
2720-2	Lance Christensen	Kennebec	LY	0.67 cfs	53 acres	48 AF storage dam	lf, iq, 1 special
2721-2	Neil & Lupita Fanning	Simi Valley CA	BT	4.44 cfs	320 acres	2 wells-Ogallala	wi, wcr, iq
7320-3	Bret Fliehs	Groton	FA	4.0 cfs	320 acres	1 well-Grand Aquifer	wi, wcr, iq
7321-2	Bret Fliehs	Groton	FA	4.0 cfs	320 acres	1 well-Grand Aquifer	wi, wcr, iq
7904-3	Craig McInerney	Elk Point	UN	1.78 cfs	160 acres	1 well-Missouri Elk Point	wi, wcr, iq
7907-3	Ronald Jongeling	Castlewood	HM	0.45 cfs	77 acres	1 well-Big Sioux:Brookings	wi, iq
7909-3	Scott Wagner	Elk Point	UN	1.89 cfs	169 acres	1 well-LowerVermillion:Missouri	wi, wcr, iq
7910-3	Burnette Sawyer	Hurley	TU	1.78 cfs	128 acres	1well-Parker Centerville	wi, wcr, iq
7912-3	Zochert Farms Inc.	Webster	DA	0.45 cfs	32.3 acres	4 wells-Coteau Lakes Aquifer	wi, iq
7913-3	Lance Mennenga	Castlewood	HM	1.34 cfs	119 acres	2 wells-Big Sioux:Brookings	wi, wcr, iq
7914-3	John Zomer Jr.	Valley Springs	MY	1.56 cfs	160 acres	2 wells-Big Sioux:Brookings	wi, iq
7915-3	Tom Park	Colton	LK	1.33 cfs	80 acres	1 well-Big Sioux:Northern Skunk Cr	wi, wcr, iq, 2 special
7916-3	John H Thompson	Beresford	UN	0.56 cfs	150 acres	1 well-Dakota Aquifer	wi, wcr, iq
7917-3	Steven M Maag	Watertown	CD	1.9 cfs	133 acres	2 wells-Big Sioux:North	wi, wcr, iq
7918-3	Orin Abild	Wakonda	CL	2.11 cfs	132 acres	1 well-Lower Vermillion Miss	wi, wcr, iq
7922-3	Steve Johnson	Tyndall	BH	1.78 cfs	150 acres	1 well-Choteau:Tyndall	wi, wcr, iq
7923-3	Ed & Debra Aderhold	Castlewood	HM	1.78 cfs	72 acres	1 well-Prairie Coteau Aquifer	wi, wcr, iq, 1 special
7924-3	Brandon Ritter	Mound City	CA	2.0 cfs	270 acres	1 well-Grand Aquifer	wi, iq
7925-3	Byron Hendrickson	Estelline	HM	2.22 cfs	180 acres	2 wells-Big Sioux:Brookings	wi, wcr, iq
7926-3	Randy Kienow	Aberdeen	BN	2.22 cfs	480 acres	2 wells-Middle James:Aberdeen	wi, wcr, iq
7928-3	Kevin Kannas	Hayti	HM	1.78 cfs	160 acres	1 well-Big Sioux:Brookings	wi, wcr, iq
7929-3	Brad Bierema	Tyndall	BH	2.0 cfs	140 acres	1 well-Niobrara Aquifer	wi, wcr, iq
7931-3	GCC Ready Mix	Bellingham MN	GT	0.11 cfs	commercial	1 well-Veblen Aquifer	wi, 2 special
7932-3	Munkvold Land & Cattle	Menno	YA	3.33 cfs	155 acres	1 well-Lower James:Missouri	wi, wcr, iq, 1 special
7933-3	Doug Bye	Vermillion	CL	0.89 cfs	80 acres	1 well-Missouri:Elk Point	wi, wcr, iq
7935-3	City of Aberdeen	Aberdeen	BN	no add'l	municipal	Elm River-oxbow cutoff	none

Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
1872-1	City of Spearfish		LA	2,730 AF	municipal	Madison Aquifer	none
2580-2	Southern Black Hills Water System	Hot Springs	FR	1,474 AF	rural water	Madison Aquifer	none
4002-3	City of Brandon		MA	685 AF	municipal	Big Sioux:South Aquifer	none
4838A-3	Minnehaha Community Water Corporation (CWC)	Dell Rapids	MA	33 AF	rural water	Sioux Falls Management Unit (SFNU):Big Sioux Aquifer	none
5063A-3	Minnehaha CWC	Dell Rapids	MA	717 AF	rural water	wells less than 70 feet deep	none
5716-3	Minnehaha CWC	Dell Rapids	MA	750 AF	rural water	SFNU:Big Sioux Aquifer	none
5862-3	City of Watertown		CD	760 AF	municipal	Big Sioux:North Aquifer	none

CANCELLATIONS – March 6, 2014

Number	Original Owner	Present Owner(s) & Other Persons Notified	County	Amount C.F.S.	Use	Reason	Source	Date Notified	Letters
DIVISION I WATER PERMITS									
PE 1513-1	Pine Hills Mobile Park	Same	MD	0.033	SHD	A/F	Ground water – one well Minnelusa formation	1-16-14	
PE 1865-1	BSC Real Estate Holdings	Same	MD	0.19	COM	NC	Ground water – one well Inyan Kara Aquifer	1-30-14	
PE 1865A-1	BSC Real Estate Holdings	Same	MD	No Add'l	COM	NC	Ground water – one well Inyan Kara Aquifer	1-30-14	
PE 1895-1	Perkins County RWS	Same	PK	0.222	RWS	NC	Ground water – one well Fox Hills Aquifer	1-15-14	
DIVISION II WATER PERMITS									
PE 1517-2	Paul Harvey	Same	JA	0.45	IRR	A/F	White River	1-15-14	
PE 1876-2	Pine Hills Mobile Park	Same	MD	0.06	SHD	A/F	Ground water – two wells Minnelusa formation	1-16-14	
DIVISION III WATER PERMITS, WATER RIGHTS AND VESTED RIGHT CLAIM									
RT 668-3	Nick & Matt Kranz Inc	Same	CD	2.00	IRR	A/F	Ground water – two wells Big Sioux North Aquifer	1-16-14	
RT 2813-3	Loren Bittner	Same	HS	1.11	IRR	A/F	Ground water – one well Plum Creek Aquifer	1-15-14	
RT 4079-3	SDSU – Ag Experiment Station	Same	BG	1.78	IRR	A	Ground water – one well Big Sioux Six Mile Creek aquifer	1-16-14	
RT 4774-3	Marshall Brothers	Same	SP/BD	0.49	RWS MUN	A	Ground water – one well Tulare Western Spink Hitchcock Aquifer	1-16-14	
VR 4832-3	SD Dept. Game, Fish & Parks	Same	HD	105 AF	REC	F	Rose Hill Dam	1-16-14	
PE 6407-3	Marshall Brothers	Same	BD	0.28 (T:WSH) 0.11 (DKOT)	COM	A/F	Ground water – one well Tulare Western Spink Hitchcock and one well Dakota Formation	1-16-14	

ABBREVIATIONS

N/C = NON-CONSTRUCTION	A/F = ABANDONMENT OR FORFEITURE	A = ABANDONMENT	F = FORFEITURE
V/R = VESTED WATER RIGHT	FL = WATER RIGHT FILING	PE = WATER PERMIT	RT = WATER RIGHT
IRR = IRRIGATION	GEO=GEOTHERMAL HEATING	COM = COMMERCIAL	MUN = MUNICIPAL
INS = INSTITUTIONAL	SHD = SUBURBAN HOUSING DEVELOPMENT	RWS = RURAL WATER SYSTEM	IND = INDUSTRIAL

CANCELLATIONS – March 6, 2014

Number	Original Owner	Present Owner(s) & Other Persons Notified	County	Amount C.F.S.	Use	Reason	Source	Date Notified	Letters
PE 7004-3	Brian Brockel	Same	WL	4.04	IRR	NC	Ground water – one well Grand Aquifer	1-16-14	
PE 7007-3	Gordon Little	Same	HM	1.78	IRR	A	Ground water – one well Big Sioux North Aquifer	1-15-14	

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MINUTES OF THE 185TH MEETING OF THE
WATER MANAGEMENT BOARD
BEST WESTERN RAMKOTA
2111 N LACROSSE STREET
RAPID CITY, SD

October 28 – November 1, 2013

CALL TO ORDER: Chairman Rodney Freeman called the meeting to order at 8:35 a.m, October 28, 2013. A quorum was present.

The following were present at the meeting:

BOARD MEMBERS: Jim Hutmacher, Tim Bjork, Rodney Freeman, Peggy Dixon, Everett Hoyt, and Leo Holzbauer. Chad Comes was absent.

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR): Jeanne Goodman, Ken Buhler, Aaron Tieman, Eric Gronlund – Water Rights Program; Bill Markley, Matt Hicks – Ground Water Quality Program; Derric Iles – Geological Survey; Jenny Haag – Waste Management Program.

ATTORNEY GENERALS OFFICE: Diane Best and Roxanne Giedd, Assistant Attorneys General, representing DENR; Jeff Hallem, Assistant Attorney General, appearing as counsel for the Water Management Board.

SECRETARY'S OFFICE: Steve Pirner.

LEGISLATIVE OVERSIGHT COMMITTEE: Representative Mary Duvall.

NEXT MEETING: December 5, 2013, in Pierre, SD.

OTHERS PRESENT:

Powertech (USA), Inc.
Max Main and Dwight Gubbrud, Belle Fourche, attorney from Belle Fourche, representing Powertech (USA), Inc; John Mays, Testifying on behalf of Powertech. Other representatives or witnesses for Powertech were in attendance throughout the hearing.

"B" Status Interveners signing in to present sworn testimony: Mark Tubbs, Tom Barnes, Ed Harney, Sarah Peterson, Juli Ames-Curtis, Donald Ackerman, Sr., Gardner Gray, Mary Ellen Uptain, Virginia Heinzen, Carla Marshall, Kim Kelley, Mark (Belitz, Jennifer Belitz, Mary Goulet , Robert Lee, Georgia Holmes, Barbara Cromwell, Jerri Baker, Jim Peterson, Martin Meyer, Peggy Detmer, Linsey McLean, and Adam McLean.

"A" Status Interveners: Jullian Anawaty, Mark Boddicker, Rick Draeger, Brenda Gamache, Gary Heckenlaible, Susan Henderson, Lilias Jarding, Marvin Kammerer, Sabrina King, Rodney Knudson, Rebecca Leas, Dahl McLean, Gena Parkhurst, Rick Summerville, Douglas Uptain.

Wild Horse Sanctuary (Dayton Hyde and Susan Watt) – "A" Status Intervener represented by:
Michael Hickey, attorney from Rapid City, representing Dayton Hyde and the Wild Horse Sanctuary, Hot Springs, SD.

Clean Water Alliance – "A" Status Intervener represented by:
Bruce Ellison, attorney from Rapid City.

Hearing Chairman Freeman called the meeting to order and introduced the Water Management Board members and Board Counsel Jeff Hallem. Mr. Freeman stated since this is a contested case hearing the board will not talk to parties including DENR staff at breaks since doing so could be perceived as them discussing this case. Parties should not be offended when a Board member declines to talk with them.

Mr. Freeman took a roll call which included the applicant, "A" status interveners, and the Department of Environment and Natural Resources (DENR). At the beginning of each day of hearing, Mr. Freeman took a roll call vote of "A" status interveners and stated that if they come in later in the day to please let him know. See attached table for "A" status intervener's attendance.

Procedural Matters

At the reception table there was a sign-in for "B" status interveners who wanted to give sworn testimony. A Ms. Elaine Noyes and Ms. Barbara Cromwell signed in to give sworn testimony. They are petitioners who submitted election of participation forms as "C" status interveners wishing to rely on the petition they submitted. Mr.Freeman granted a change in their status for "C" to "B" status interveners. In addition, Mr. Joe Allen signed in to present sworn testimony. However, he was not a petitioner and therefore is not allowed to participate in the hearing.

Mr. Freeman stated that the hearing will proceed with "B" status interveners giving sworn statements regarding their position on the proposed project in the order they signed in at the reception table.

Mark Tubbs was administered the oath. Mr. Tubbs testified he has 10 domestic wells completed into the Inyan Kara formation on his 17,000 acre ranch. The wells are used primarily for livestock water. Five of the wells flow 5 – 8 gallons per minute. Water quality and quantity are both issues to him, and he wants this water board involved. He is currently in negotiations with Powertech to reach agreement for non-diminishment of his water supply. He is concerned with the cost of pumping wells that historically flowed. He recognized his wells may not meet the definition of adequate well.

Mr. Tubbs was cross examined by Mr. Hickey and Mr. Ellison primarily regarding his negotiation with Powertech representatives on an agreement if his well flow is impacted.

Tom Barnes was administered the oath. Mr. Barnes used to be an environmental technician for a Wyoming-based company. He shared his experience regarding a study of pivot irrigation use of water from the cooling towers at Jim Bridger Power Plant in western Wyoming. He presented his written testimony to the court reporter which is part of the record.

Ed Harvey was administered the oath. Mr. Harvey stated with the restoration of water there is no reason Powertech needs a permit from the Madison aquifer. They should be able to treat and re-use water as well as purchase domestic water from the local water associations to supply the requested appropriation of the Madison aquifer. A written copy of Mr. Harvey's testimony was provided to the court reporter and is part the record. Mr. Harvey was cross-examined by Mr. Rodney Knutson regarding if this would reduce the need for deep well injection. Ms. Susan Henderson cross examined Mr. Harvey whether cost is a factor in Powertech's decision regarding proposed water use.

Sarah Peterson was administered the oath. Ms. Peterson stated she was a drug and alcohol counselor. She stated the current mineral concentration in Hot Springs water fed by the Madison aquifer provides precious healing power. She is concerned that area springs will dry up. When working in Edgemont, residents offered her store bought water because they felt the city water was not safe to drink due to previous uranium mining not being cleaned up. Ms. Peterson testified that South Dakota should not give its water away for the purpose of others making money. A written copy of Ms. Peterson's testimony was provided to the court reporter and is part the record. In response to a question from Ms. Parkhurst, Ms. Peterson said she would tell family and clients to move away from the Hot Springs area.

Sylvia Lambert was administered the oath. Ms. Lambert testified regarding the hydraulic connection of the Madison and Minnelusa aquifers. Ms. Lambert testified regarding contradictory information regarding water usage and treatment in various parts of the application submitted for this project. Ms. Lambert's testimony focused on public interest including the level of treatment, contaminants in the brine solution and the order permits are obtained. Ms. Lambert testified it is contrary to the public interest to allow the mining company, instead of a third party, choose the laboratory that will be used to conduct water quality analysis. A written copy of Ms. Lambert's testimony was provided to the court reporter and is part the record. Ms. Lambert was cross examined by Mr. Main, Ms Delauren and Mr. Ellison.

Denise DeLauren, attorney for Oglala Sioux Tribe was present in place of W. Cindy Gillis. Bruce Ellison, attorney for Clean Water Alliance stated he would be local counsel allowing Ms. DeLauren "pro hac vice". The Board admitted her to act as counsel for tribe.

Mr. Mike Hickey, attorney for Black Hills Wild Horse Sanctuary, stated he was asked by members of the public who were not petitioners to be able to speak. The Board acknowledged receipt of the petition.

Julie Ames-Curtis was administered the oath. Ms. Ames-Curtis stated she had a biology degree and currently works for the National Park Service. Ms. Ames-Curtis indicated she

participated in efforts to end uranium mining and nuclear energy back in 1977. Ms. Ames-Curtis' testimony focused on the selenium toxicity in vegetation, wildlife, livestock and humans and bioaccumulation of selenium in the food chain. The project will negatively impact the area in that the disturbed areas may become areas for noxious weeds, wildlife will be impacted, grazing of livestock affected and the Black Hills tourism industry will be harmed. A written copy of Ms. Ames-Curtis' testimony was provided to the court reporter and is part of the record. Mr. Main asked if she was aware of application rate and ponding issues discussed in the 2001 Wyoming Selenium study regarding Highland Ranch required post closure monitoring for 30 years. Mr. Hickey inquired if she knew who monitors those that monitor the site. Ms. Delauren asked if Ms. Ames-Curtis was aware of preventative monitoring. Mr. Ellison asked if she knew of signage that would be posted for hunters or if beef coming from this area would be labeled as such at the store. Ms. Ames-Curtis did not know the answer to these questions. In response to a question from Mr. Ellison she said if this project moves forward she will move away from the area. Ms. Susan Henderson asked about the distance elk range in the Black Hills area. Ms. Ames-Curtis stated that elk move great distances. Mr. Marvin Kammerer inquired about impacts that moly and selenium have on livestock.

Donald Ackerman was administered the oath. Mr. Ackerman served the government primarily for the Army at Ft. McClellan, Alabama. He testified that he worked in security and intelligence. What we are dealing with is a toxic soup. He is not aware of security measures that will be in place to prevent terrorism, whether it be stealing yellow cake for making a "dirty" bomb or spills due to accidents in transportation. In response to a question from Mr. Hickey, Mr. Ackerman stated he did not believe the project was in the public interest. Documents used in making his presentation were provided to the court reporter and is part of the record. Mr. Ackerman was cross examined by Ms. DeLauren, Mr. Ellison, Mr. Kammerer and Ms. Parkhurst.

Gardner Gray was administered the oath. Mr. Gray stated that his wife and he have lived on a small ranch south of Pringle for 23 years. He provided the Board a list of questions for the Board in hope that is will spur them to get answers. His written testimony was provided to the court reporter and is part of the record. Mr. Gray asked the Board to deny these water permit applications and the variance.

Mary Ellen Upton was administered the oath. Ms. Upton testified that she has been a resident of Rapid City since 1994 and is here on behalf of herself and family. She strongly opposes the proposed ISL uranium mining operation proposed because of the risk to the water in the Black Hills. She feels that uranium mining is not necessary because we don't have to use nuclear power. She asked the Board to protect our water from uranium mining which is not in the public interest of South Dakota's citizens. Ms. Upton's written testimony was provided to the court reporter and is part of the record.

Virginia Heinzen was administered the oath. Ms. Heinzen has lived in Hot Springs since 1997. She spoke about the book entitled "Island on the Plains, a Black Hills Natural History" and how the hills has a beating heart. To explain the island that is the Black Hills, Ms. Heinzen had a USGS satellite photo showing the entire Black Hills. This photo was admitted as Heinzen No. 1.

Carla Rae Marshall was administered the oath. Ms. Marshall stated she was a member of the Cheyenne River Sioux Tribe. She currently resides in Rapid City. She expressed concern with contamination from proposed project as there is already contamination from the Igloo area when the Black Hills Ordnance Depot operated. Ms. Marshall stated that water is life and should be treated as being sacred. In answer to a question from Lilias Jarding, Ms. Marshall responded that this project is not in the public interest of South Dakota

Don DeVries signed in to provide sworn testimony but was no longer present.

Kim Kelley was administered the oath. Ms. Kelley stated she does not believe the ISL uranium mining is a beneficial use of our groundwater or that disposal of the wastewater is in the public interest. Ms. Kelley lives in Nemo. She explained their experience with contamination of their water source due to past actions of the US Forest Service. She presented Kelley Exhibit No. 1 which is a map of the groundwater excursion at Nemo. The contamination traveled along a fault to the town's well. She stated this project is not worth the risk of degrading large quantities of water for the private gain of a few and is not in the public interest. Ms. Kelley's written testimony was provided to the court reporter and is part of the record.

Mark Belitz was administered the oath. Mr. Belitz stated he is from Hot Springs and ranches 20 miles downstream of the proposed Powertech mine. He flood irrigates from Cascade Springs with a 1881 priority date water right. He provided examples from other mines of what South Dakota might expect if Powertech gets their water permit. He believes that the hazard to the public is greater than the public interest and therefore asks the Board to deny Powertech's applications for a water permit. Mr. Belitz's written testimony was provided to the court reporter and is part of the record.

Jennifer Belitz was administered the oath. Ms. Belitz stated her husband, children and herself live and play along the banks of the Cheyenne River. They also have a 200 foot deep artesian well that flows which would not be protected. She listed why Powertech's applications fail to pass the criteria for issuance of the permits and urged the board to deny the permits for Powertech's uranium mine. Ms. Belitz testified that if approved there should be state inspections. Ms. Belitz's written testimony was provided to the court reporter and is part of the record.

Mary Goulet was administered the oath. Ms. Goulet stated she is a retired educator that retired to the southern hills. Prior to retiring she, along with her husband, were tourists who spent almost every year in the Black Hills. She reminded the Board that tourists and new retirees keep adding to economic development. In the past she encouraged family and friends to relocate to the hills. For the first time she is telling them to wait until we see what will happen to our water. Ms. Goulet testified about declining water levels as evidenced by the spring cited in Tim Hayes Cascade Springs report. She does not believe it is in the public interest to introduce a temporary industry from a foreign company that has a possibility of contaminating the water. Ms. Goulet's written testimony was provided to the court reporter and is part of the record.

Robert Lee was administered the oath. He stated he is Mary Goulet's husband. His concerns focused on oversight at the project site, the ability to safely get rid of the water and the drilling fluid. He stated that in Keystone drilling fluid got into the creek. He does not believe the project is in the public interest or a beneficial use of water.

Georgia Holmes was administered the oath. Ms. Holmes has lived in Hot Springs for almost 30 years and Custer for 18 years. Her family has mined in the Black Hills for over 70 years. Her grandfather was a geologist and well known miner who taught that our water is more precious than any mineral. A serious problem that has been ignored is the two fault lines in the Dewey Burdock area that is a caldron waiting to erupt. Eventually this type of project will contaminate our water. She asked the Board to vote not to issue these permits. Ms. Holmes' written testimony was provided to the court reporter and is part of the record.

Recess at 5:20 PM on October 28, 2013.

Reconvene, October 29, 2013 (approximately 8:55 am).

Chairman Freeman called the meeting back to order.

Procedural Matters

Ms. Delauren was admitted as counsel for Oglala Sioux Tribe. However, there is a strict requirement for an attorney not licensed in South Dakota to be approved by the circuit court. She was advised of that and therefore excused herself from the hearing.

Adam McLean stated he is not listed as a "B" status intervener but stated he did file a petition in this matter. Chairman Freeman stated the Board will add him to list and allow him to participate as a "B" status intervener.

Resume sworn testimony by "B" statue interveners

Jim Peterson was administered the oath. Mr. Peterson lives in Rapid City and previously lived for 25 years in Yankton. Mr. Peterson brought up a number of concerns including whether insitu mining is a beneficial use as we can not get back the 8 to 20 years of water to be used for other uses. There would need to be bonds to make the permit holder do what they need to do. This is also a public interest matter given the known violations at other mines. As he understands the law, without permission from Powertech, DENR would be trespassing if they entered on to the property. He was also concerned with a "gag" order that apparently has been put on DENR employees so they can not talk about the project.

Martin Meyer was administered the oath. Mr. Meyer is a railroad conductor and performing singer/songwriter that lives with his family in Hot Springs. He is concerned that the risk of flooding at the site has not been addressed and provided an example of a railroad train derailment due to flood waters in the Dewey Burdock area. Residents, including himself, are extremely concerned with the threat of uranium mining in the beautiful and sacred Black Hills. Our water is a precious resource, and uranium is not. No percentage of risk is acceptable.

Powertech has no track record pertaining to its ability to conduct a ISL mining operation. Mr. Meyer's written testimony was provided to the court reporter and is part of the record.

Peggy Detmer was administered the oath. She is a wildlife and fisheries biologist, and an artist who owns a business in Hill City. Ms. Detmer has worked at Custer State Park, for the National Park Service at Mt. Rushmore, and in the past at the city of Sioux Falls water reclamation office. Her statement included that there is no safe level of radiation. When with the Sioux Falls Reclamation office she was responsible for taking samples and reporting to EPA. She explained that there are six other corporations planning uranium mining in South Dakota and has fear of the effects that mining will have on tourism. She addressed the issue of bio-accumulation with deer and elk eating the vegetation and the predators also being in the food chain. Ms. Detmer stated that the pond will attract mosquitos. Currently, Custer and Fall River Counties have had no cases of the West Nile virus. She has had the West Nile virus and explained its ill effects including temporary paralyzing her legs, and her long road to recovery. She indicated that nets over the ponds would not limit mosquito breeding. The only real solution was maintaining a type of oil film on the surface of the ponds. Finally, she stated if wildlife is harmed there are a number of organizations such as the Environmental Defense Fund or Defenders of Wildlife that will file suit in court.

Jeri Baker was administered the oath. Ms. Baker said she has been a business owner in Hot Springs for the past year. In her prior career she was a monitor in a uranium mill tailing clean up in Colorado. This was a Uranium Mill Tailings Remedial Action (UMTRA) site where she was a radiological worker. Ms. Baker explained what her job duties were and the problems associated with uranium mining. To protect her children, they will sell their business and move from Hot Springs the day Powertech gets its permits. Ms. Baker's written testimony was provided to the court reporter and is part of the record.

Linsey McLean was administered the oath. Ms. McLean stated she moved to South Dakota from Michigan four years ago. She explained in her many travels she has taken many soil samples and found South Dakota to have the least amount of pollutants in the soil. Ms. McLean explained her background as a biochemist. Ms. McLean testified regarding heavy metals and the potential impacts to the animals. She also explained the process of bioaccumulation which is the increase in concentration of a substance in living organisms as they take in contaminated air, water or food. Ms. McLean provided her written presentation to the court reporter, and is part of the record along with McLean No. 1 – Curriculum Vitae and McLean No. 2 – PowerPoint presentation. This PowerPoint presentation illustrated selenium effects on fish, bioaccumulation, pictures showing deformed brown trout due to toxic water, toxicity deformation to a horse, cow and lambs, deformed ducks and arsenic poisoning to a human's hands and arm.

Adam McLean was administered the oath. Mr. McLean stated he is Chief Financial Officer and Marketing Director for Vita Royal Products. He stated he has experience with the financial aspects of operating a business. Powertech has exaggerated and fabricated information presented to the public regarding the feasibility of the project. The current price of uranium does not provide the necessary profit to operate.

At 5:15 PM, Mr. Freeman stated that tomorrow morning the Board will hear sworn testimony from Barbara Cromwell and Elaine Noyes, if they are present, and then move on to opening statements. Gena Parkhurst stated she will attempt to contact each of them this evening to let them know.

Recess at 5:15 PM on October 29, 2013.

Reconvene, October 30, 2013 (approximately 8:45 am).

Mr. Freeman called the meeting back to order.

Ms. Parkhurst stated that Ms. Cromwell does not wish to testify, and Ms. Noyes did not respond to her email.

Chairman Freeman closed the portion of the hearing for "B" status interveners to present sworn testimony except for Ms. Noyes if she appears.

Opening Statements
Max Main, representing Powertech USA
Diane Best, representing Water Rights Program of DENR
Roxanne Giedd, representing Groundwater Quality Program of DENR
Michael Hickey, representing Black Hills Wild Horse Sanctuary, Dayton Hyde and Susan Watt
Bruce Ellison – representing Clean Water Alliance
Lilias Jarding
Douglas Upton
Cheryl Rowe
Susan Henderson
Gardner Gray speaking on behalf of Brenda Gamache
Mark Boddicker
Rebecca Leas
Jillian Anawaty
Rodney Knudson
Gena Parkhurst
Richard Draeger
Dahl McLean

Board Member Everett Hoyt requested parties to address jurisdiction. Mr. Hoyt stated that he wanted questions regarding Water Management Board's jurisdiction answered.

Max Main responded that ARSD 74:55:01 and 74:29:11 were tolled by the legislature by SB 158.

Roxanne Giedd stated that the groundwater discharge plan is for the land application of wastewater. The rules for insitu deep injection wells were tolled and are solely under the jurisdiction of the EPA.

Bruce Ellison motioned for dismissal or deferral because of the rules that were tolled.

Chairman Freeman denied the motion.

The Board directed parties to submit briefs prior to the December 9, 2013, meeting regarding subject matter jurisdiction, financial assurance, and limitations of the public interest component given tolling of SDCL 34A-2-126.

Mr. Main summarized the Board's request as a brief on the Board's authority to consider the water permit applications and groundwater quality plan, set financial assurance, procedural completeness and the interrelationship of public interest and the pre-exemption by SB 158.

Board set November 20th as the date for simultaneous briefs by parties and response briefs are to be filed by December 4th. Jeff Hallem indicated that tonight he will draft issues the brief should address.

Diane Best offered the agency file of Water Rights since it may be referred to during witness testimony. Also, DENR moved admission of Exhibits 1 – 33 (water rights) and 100 – 152 (groundwater quality). Chairman Freeman admitted those exhibits.

Bruce Ellison has a standing objection to any document contained in the exhibits referring to the NRC or EPA.

A disk & index of each agency record were handed out to Board members.

On 2:50 PM Thursday October 31st, Mr. Main called, John Mays, Vice President of Engineering, as the first witness for Powertech USA. Mr. Mays was administered the oath.

Mr. Mays stated he has been employed by Powertech for five years.

Mr. Main introduced Powertech Exhibit 104 which is an insitu recovery (ISR) animation to be used for illustrative purposes. The exhibit was played and offered and received into the record.

Mr. Main introduced Powertech Exhibit No. 115 which is a PowerPoint presentation that Mr. Mays will reference in his testimony. The exhibit was offered for illustrative purposes. Mr. Mays presented testimony using the PowerPoint presentation as he walked through each slide and explained its contents. Exhibit No. 115 was offered and received into the record for illustrative purposes. Other issues Mr. Mays testified in regard to include:

- The Class III deep injection wells will be approximately 550 feet deep.
- The maximum consumptive use from the Inyan Kara aquifer will be 170 gpm while the average use will be 70 – 90 gpm. The maximum consumptive use will be less than or equal to two percent of the maximum diversion rate of 8,500 gpm.
- The Madison aquifer average diversion will be 50 – 240 gpm. The 551 gpm requested diversion rate converts to 881 acre feet of water annually. This greater use is requested and intended to reflect maximum water use if deep well injection is not allowed and land application is the only disposal method.

Cross examination of John Mays by Diane Best, counsel for Water Rights Program.

Ms. Best inquired if there are NRC requirements regarding to whom Powertech can sell uranium. Mr. Mays indicated there are requirements and for instance, North Korea is a country to whom they can not sell uranium.

Ms. Best inquired regarding the Inyan Kara application. Mr. Mays testified that the consumptive use is 170 gpm. The 8,500 gpm will be recirculated and reinjected into the formation.

Mr. Mays was asked to look at DENR Exhibit 13. Mr. Mays testified regarding the boundaries of the project area including aquifer exemption boundaries (green dashed line). The purple line represents the two kilometer boundary beyond the project perimeter. The tan color shows the well field and a one quarter mile distance outside the well fields. Project acreage of well fields is approximately 145 acres for the entire project. Mr. Mays testified Powertech will need to apply if they sought to appropriate water outside the project boundary.

In response to a question of Ms. Best, Mr. Mays testified as to DENR Exhibit 3, page 57 regarding the mitigation plan. Mr. Mays indicated parts of plan changed in their NRC license. NRC conditioned that monitoring requirements were to be within two kilometers of the well field. Mr. Mays testified there are less than ten domestic wells within the two kilometer boundary. Water use except livestock watering will temporarily suspended from wells within the project boundary and monitor wells outside the boundary but not within two kilometers of the project boundary.

Mr. Mays testified that abandoned wells must be plugged; and Powertech is not opposed to such a condition. Powertech will provide drinking and stock water within those areas they suspend the owner's use. That is one of the proposed uses from the Madison aquifer permit that is requested.

There are two water right holders within two kilometers of the project area. They are Hollenbeck and Putnam & Putnam. The Hollenbeck well is not in use at this time. Powertech has an agreement with Putnam as part of their lease.

Mr. Mays stated the nearest Madison well, known as the Lamb well, is approximately nine miles away.

The Madison aquifer request is for a maximum of 551 gpm. Average use is between 50 – 240 gpm. This equates to about 387 acre feet per year. Powertech understands that the use is for a water distribution system only in Custer and Fall River County and if over 15 connections or 25 users over 60 days a year would need to comply with safe drinking water standards. The Madison permit would be limited to a 20 year period and another hearing would be needed to extend that period.

Ms. Best referred to DENR Exhibit 35 which is the Buhler well casing construction note. Mr. Mays testified Powertech must comply with well construction standards regarding grout

weight. After wells are no longer needed, Mr. Mays testified the wells will be plugged in accordance with South Dakota well construction standards. Mr. Mays testified Powertech understands that an inspection will be conducted; and the license issued for the amount of water developed. Mr. Mays testified that Powertech understands the water permits are for specific purposes, and they must allow for DENR inspections. If there are violations, the permits may be suspended or revoked. Finally, Mr. Mays testified that Powertech understands the permits, with the conditions, are enforceable on successors in interest.

Cross examination of John Mays by Roxanne Giedd, counsel for Ground Water Quality Program. Mr. Mays testified he was involved in the preparation of the application for a ground water discharge plan. Ms. Giedd referred to DENR Exhibit No. 103 and asked the witness if officers have changed since the applications were filed. Mr. Mays testified that two of the members have changed. Ms. Giedd referred to Exhibit No. 137 regarding the ground water discharge plan recommendation and asked the witness if he was familiar with the document. Mr. Mays stated that Powertech does not object to any of the conditions including condition No. 2 which is the need to comply with other state and federal regulations. Mr. Mays stated his understanding of Condition No. 3 is that if Powertech does not get the EPA deep injection permit they would land apply wastewater. Mr. Mays testified they expect to get the EPA permit, but the capacity of the deep injection wells will dictate how much land application will occur. Powertech's preferred option is the deep well injection. Wastewater will be treated through ion exchange to remove radionuclides. Mr. Mays testified that the NRC permit will include financial assurance.

Cross examination of John Mays by Michael Hickey, counsel for Black Hills Wild Horse Sanctuary. Mr. Hickey referred the witness to Powertech Exhibit No. 114 which is his resume. Mr. Mays testified he is not a hydrologist or geologist. Mr. Mays worked at the Smith site which later combined with Smith Ranch – Highlands mine. He worked there for about a year initially as a groundwater restoration engineer where he designed a restoration plan but in his time there it was not implemented. He was also a well field engineer and then superintendent of well fields at Smith Ranch – Highlands mine. Mr. Hickey asked if the Powertech application is the first time he was involved in an NRC application? Mr. Mays testified that he had worked on an NRC application at the Reno site. Mr. Mays testified regarding his responsibilities regarding other uranium projects where he has been employed. Mr. Mays is currently vice president of engineering for Powertech USA. Mr. Hickey inquired about the corporate structure of Powertech USA and who are the shareholders. Mr. Mays did not know if the corporation was share based. Mr. Mays did not know the board of directors, but there are officers. Under further inquiries and reference to interrogatories, Mr. Mays identified the board of directors for Powertech USA is the same as Powertech Uranium Corporation. The change in directors is a result of the Azarga purchase of shares. Mr. Hickey asked about the country of origin of Azarga. Mr. Mays stated they have an office in Hong Kong but does not know the country of origin. Based on the interrogatories, Mr. Mays testified regarding the officers and the shares held. They include Richard Clement, Thomas Doyle, Douglas Ekred, 'not audible', Greg Burnett, Malcom Clay and John Dustin. Mr. Hickey asked if any are South Dakota residents. Mr. May said they are not residents of South Dakota.

Mr. Hickey asked about property Powertech owns. Mr. Mays stated they owned a office building in Edgemont. Mr. Mays testified that Powertech USA has about nine employees. Mr. Mays testified that Colorado is an agreement state where the state takes the regulatory role of the NRC. Mr. Hickey inquired regarding the status of the Centennial project in Colorado. Mr. Mays stated that due to the work involved, Powertech has focused on the Dewey-Burdock site instead of the Centennial project. Mr. Mays testified Powertech did not abandon the Centennial project. At the Centennial site Powertech continues to keep up their leases and maintains some monitoring wells.

Mr. Mays testified regarding Synatom and K2 Principal Fund holding shares. The K2 Principal Fund was sold to Azarga. Mr. Mays stated that shares are currently valued at about six cents per share. Mr. Mays stated that he does not know the net worth of Powertech USA nor whether Powertech has a bank account in the state.

Mr. Hickey inquired about the NRC application being for 4,000 gpm from the Inyan Kara. Mr. Mays explained 4,000 gpm is for production and 500 gpm is for restoration purposes. Mr. Hickey inquired about the inconsistency with the amount of water needed from the Inyan Kara in the NRC application and the state water permit application. Mr. Mays testified that Powertech intends to amend its NRC application. It has not been amended at this time.

Mr. Mays testified regarding the consultants used. As far as the state applications, WWC Engineering was the primary consultant. ReSpec helped early in the process to gather baseline information. Knight Pesal also provided consulting service. Powertech hired PetroTek, BKS and Thunderbird for various work and studies on the project. Powertech has not put out contracts regarding who the consultants will be. That will occur once the project moves forward. SRK consulting did a preliminary environmental assessment. Robert Smith did economic analysis back in 2006. Socio economic analysis was done by Doyle Fritz with WWC. An economic analysis and socio economic analysis were different analyses.

Mr. Hickey inquired about the various uranium deposit resources at the site that were listed in the Smith, SRK and WWC reports.

In response to a question, Mr. Mays testified regarding the recommendation of the Atomic Safety and Licensing Board (ALSB). This does not impact the issuance of the license and the ASLB contingencies. There will be a hearing at some time before the ASLB, but that does not impact issuance of the NRC permit. The NRC staff issues the NRC permit on behalf of the commission.

Mr. Hickey offered Wild Horse Sanctuary Exhibit No. 12; and it was accepted. This exhibit is the memorandum and Order regarding contentions of ALSB. On Page 94, VI) those contentions of the ALSB are listed. The ALSB found nine contentions that had merit in the draft environmental impact statement. Mr. Hickey went through the nine contentions with the witness. Mr. Mays testified that Powertech is not aware when the hearing before the ASLB will be set.

Mr. Hickey inquired about lease agreements with landowners in the project area. Are they exhibits to this proceeding? Mr. Mays said not to his knowledge. Mr. Hickey asked about the

monetary amount of the various leases. Mr. Main objected that this is proprietary information and privileged information and furthermore is not relevant. Mr. Hickey said it goes to the interest and bias of some that may testify. After discussion, it was determined that the percentage of royalties can be discussed. The royalty is around 3 to 4 or maybe even 5 percent.

Mr. Hickey inquired of the witness the amount of water within the aquifer exemption boundary. Mr. Mays stated he did not know the amount of water in that area.

Mr. Hickey asked if Powertech expected to receive the EPA permits. Mr. Mays stated he knew of no reason they would not be issued. Mr. Hickey asked if Powertech expected to receive the NRC permits. Mr. Mays stated Powertech received a favorable staff recommendation and sees no reason it would not be issued. There are also permits with the Corps of Engineers and Bureau of Land Management that Mr. Mays testified he'd expect to Powertech to receive the permits. However, Powertech has not received the permits at this time.

Mr. Mays testified that deep well injection is the preferred alternative, and they expect to have capacity, but the land application is a backup plan for waste disposal. The deep well injection of wastewater will go to the Minnelusa and Deadwood formations.

In response to a question, Mr. Mays testified Powertech currently does not intend to operate a regional processing plant.

Cross examination of John Mays by Bruce Ellison, counsel for Clean Water Alliance.

In response to a question from Mr. Ellison, Mr. Mays stated once Powertech obtains its NRC license and other state and federal permits construction can start. Mr. Ellison asked if the aquifer exemption boundary is a vertical boundary. Mr. Mays stated the boundary is the Chilson and Fall River formation of the Inyan Kara.

Mr. Mays stated Powertech filed for appropriation of water as though the Chilson and Fall River formation are the same. Mr. Ellison asked if the supply was not a source of drinking water would they have to apply for an aquifer exemption. Mr. Mays stated he did not know for certain. Powertech has not claimed it does not need an aquifer exemption under the Clean Drinking Water Act.

Mr. Mays stated he is not a lobbyist and has not been to Pierre to meet with legislators. Chairman Freeman ruled that Mr. Mays does not have to provide his salary. The fact Mr. Mays testified and that he is here today as part of his job is sufficient.

Mr. Ellison asked if the detailed geo-hydrology will be conducted after the permit is in place. Hydrology has been analyzed and more detailed geo-hydrology for target restoration water quality will be done after permitting is in place. Pump tests will be conducted after the permit is issued. Mr. Ellison asked if it is Powertech's intent to mine in the Fall River and Lakota and if they are hydraulically isolated from each other. Mr. Mays said it is Powertech's intent to mine in the Inyan Kara, which includes these two members. Two pump tests have been

conducted. One of the tests shows a connection between the Fall River and Lakota. Mr. Mays stated that pump tests and review of over 4,000 test holes show confinement of the aquifer.

Mr. Mays testified that target restoration goals still needs to be conducted. Mr. Ellison asked whether baseline characterization of mineral in the water is known, such as percentage of uranium, selenium, etc. Mr. Mays stated that over the life of the project about 3,000 injection wells will be completed. Also 600 monitoring wells will be drilled. The applications currently reflect about 14 well fields. Detailed baseline data of water quality for restoration goals can not be completed until NRC license is obtained. Powertech did what background was needed and sufficient to analyze the applications at a state and federal level.

In addition to uranium, Mr. Mays stated that vanadium may be dissolved. Mr. Mays does not know if selenium or arsenic will be dissolved in the process. Mr. Ellison asked if Powertech is committed to returning water back to pre-mining quality. Mr. Mays stated the water quality will be returned to the same level as a primary goal, and it is not a commitment. Mr. Mays will commit to returning to the same beneficial use designation. Mr. Mays reiterated it is Powertech's goal to return to baseline. Mr. Mays said it is not a requirement in NRC rules to return to baseline.

Mr. Ellison moved to admit CWA Exhibit No. 969. Mr. Main stated this is a partial document of the USGS report. Mr. Ellison stated the full report is CWA Exhibit No. 986. CWA Exhibit No. 986 was offered and received into the record regarding a USGS/NRC report "Consideration of geochemical issues in groundwater restoration at uranium in-situ leach mining facilities".

Mr. Ellison asked that in the area of the mine, what minerals besides uranium will be dissolved. Mr. Mays stated those are included in the mine application, but he does not know specifically without review of that application. Mr. Mays recited from a table from the groundwater discharge plan application (DENR Exhibit No. 104) that uranium, arsenic, selenium, cadmium, radium 226 and thorium could be dissolved.

Mr. Mays testified Powertech will restore on a well field by well field basis in a fairly uniform manner to the extent possible.

Mr. Ellison referred to CWA Exhibit No. 979 which is a notice of violation from the state of Wyoming dated March 5, 2013, for the Highland uranium project. Mr. Ellison moved for admission. Chairman Freeman received the exhibit into the record over the objection of Mr. Main on the grounds of review of completeness.

Break in examination by Mr. Ellison to allow Dr. Jarding to cross examine Mr. Mays since she will not able to be present on Friday.

<u>Cross Examination of John Mays by Lilias Jarding</u>. Dr. Jarding inquired about Mr. Mays presentation. She inquired about the Crow Butte Mine and his testimony that the mine has operated successfully. She asked about 61 violations at this mine. Mr. Mays testified that this number does not sound correct and is not his understanding of the operation.

In response to a question, Mr. Mays said the mine life would be 8 to 20 years.

Dr. Jarding asked about leases on federal lands. Mr. Mays testified that Powertech has leases on some of the federal lands in the area. However, at this time it will take test drilling to know the extent of uranium deposits.

Mr. Mays said the 170 gpm from the Inyan Kara application includes the groundwater sweep. However, he believes the use of water will be less. The groundwater sweep is not the primary method of restoration.

Dr. Jarding inquired if reverse osmosis is used what percent is wastewater product. Mr. Mays indicated that about 30% is reject "brine" water. The brine water would be treated and go to the deep injection wells. The removed materials will be settled out in ponds. If Powertech is not allowed to deep inject, the waste will be treated and go to the land application system.

Dr. Jarding inquired about a previous statement by the witness about uranium not being sold for weapons and mentioned being prohibited selling uranium to North Korea. Mr. Mays stated that Iran and Iraq may also be on the list. There are eight countries, but he can not recall all those countries on the embargo list prohibiting sale of uranium.

Dr. Jarding inquired about the well fields disturbing 145 acres, but Mr. Main stated 240 acres. Mr. Mays testified Mr. Main's statement included the processing plant and roads. The well field footprint is currently 145 acres. ISR mining disturbs a very small surface area.

In response to Dr. Jarding's question, Mr. Mays stated they do not intend to plug the 4,000 test holes. Most, if not all, these test holes were plugged so Powertech would not need to plug those that already were plugged. Extensive testing prior to mining will insure there is not leakage from boreholes in these old test holes.

Dr. Jarding asked the witness his affiliation with Wallace Mays. He responded that Wallace Mays is his father who was at one time CEO of Powertech and a board officer.

In response to another question from Dr. Jarding, Mr. Mays stated the proposed Centennial project in Colorado is about ten miles from Fort Collins. Dr. Jarding inquired of the witness whether it was Colorado's law that caused Powertech to not pursue the Centennial project. Mr. Mays indicated at one time there were two employees dedicated to the Centennial project and 4 or 5 employees who split their time between other projects.

Dr. Jarding asked Mr. Mays to read a portion of the interrogatory regarding use of the processing plant for other facilities. Mr. Mays stated that Powertech has discussed internally the possibility of using the processing plant for other facilities but there are no definite plans.

Mr. Ellison resumes cross examination of Mr. Mays.

Mr. Ellison referred the witness to the large scale mine permit application section 5 – 14. Mr. Ellison directed him to the section regarding the plant as a regional processing plant from other Powertech facilities or other ISR facilities.

In response to a question, Mr. Mays stated that selenium may be present in the land application process. Also chloride may be present as it is involved in the ion exchange process. When uranium is loaded to the resin, the chloride is displaced and comes off the resin. It is an ion exchange process. When they regenerate the resin, a more concentrated salt solution is used to remove the uranium from the column. The chloride used in the process is recycled and remaining chlorides not captured for recycling goes to the wastewater disposal system including radium settling ponds, then treated and diverted to ponds for deep well injection or land application. There are limits to the amount that can be land applied. The treatment process focuses on radionuclides. As far as selenium, there are baseline quantities that can be applied.

In response to Mr. Ellison's question on the type of chloride used, Mr. Mays said it is simply sodium chloride.

Mr. Ellison asked if Powertech had a buyer for the uranium they intend to mine. Mr. Mays said they did not have contracts for sale. Mr. Ellison asked if there were guarantees the uranium can be sold in the United States. Mr. Mays said the uranium could be sold to acceptable countries.

Mr. Ellison asked if Powertech would have the ability to post a financial bond with the state or NRC for amounts of up to 200 million dollars. Mr. Mays stated that amount is much higher than Powertech's estimate of financial assurance needed for the project.

Mr. Ellison asked what was the price of uranium needed to be in order to meet all its financial obligations to operate the project and still make a profit. The spot price of uranium does not reflect what is needed to operate. Long term contracts are the general practice in determining viability.

Regarding if the ponds have liners, Mr. Mays stated Powertech design specifications are for liners to last 20 years. Mr. Mays says they have not purchased liners, so he does not have the specific warrantee in a contract.

Regarding what the price of uranium uses in projections stated in the applications, Mr. Mays stated it was $65 per pound, which is commonly use in economic analysis. Mr. Mays said there are times uranium has been over $100 per pound so there are fluctuations in price. Price depends on supply and demand.

Mr. Mays testified that the pump tests were sufficient with NRC that provided characteristics of the ore body, so there was no need to do additional pump testing as part of the application. Actual well field development prior to mining will require further pump tests, but that is not allowed until the permit is in place.

Mr. Mays stated the aquifer exemption is being requested due to the presence of the ore body that can be mined.

Mr. Ellison inquired about the actual applications that were filed. Mr. Ellison started with the Inyan Kara application, which is Water Rights Exhibit No. 1. Mr. Ellison instructed the witness to look at Item 2 on the application for amount of water claimed. He asked why those items were left blank. Mr. Mays stated the paragraph below identifies the amounts. The witness explained that the 274.2 acre feet is the net withdrawal. Mr. Ellison asked why the supplemental information form did not include information on the ponds, pipes, etc. including information on impoundments. Mr. Mays testified these are wastewater components, and Powertech consulted with DENR who instructed them the information was not required.

Mr. Ellison referred to page 11 in the report that is Water Rights Exhibit No. 3. Table 2-1 indicates during aquifer restoration Powertech proposes to pump up to 500 gpm from the Inyan Kara. Mr. Ellison asked if that was a typo. Mr. Mays stated that is from the Inyan Kara. The variance in diversion rate of bleed is to account for the groundwater sweep in order to pull more water for restoration. Mr. Ellison directed the witness to page 37 and to read the last paragraph. He inquired whether this is to show there is a confining layer between the Fall River and Lakota Formation or to show whether there is leakage. Page 51 references Table 1 that lists the number of domestic wells. Mr. Mays stated the well inventory in this table is within two kilometers of the project boundary. Mr. Mays stated that the table represents 18 domestic wells and 42 stock wells. Mr. Ellison directed the witness to the second full paragraph on Page 58. This references to diversion of water which Mr. Mays understanding this are the well locations.

Mr. Ellison referred to SDCL 46-5-13.1 regarding a change of location or use. Mr. Ellison asked how the public will have an input in the process for an amendment dealing with public interest. Mr. Main objected, and Chairman Freeman sustained the objection.

Mr. Ellison now referred witness Mays to the Madison aquifer application which is Water Rights Exhibit No. 18. In this case, the amount of water claimed on the application is filled in. Mr. Mays concurred. Mr. Ellison inquired regarding the dam information on Form 2A being blank. Again, Mr. Mays concurred. Mr. Ellison referred to the staff report which is Water Rights Exhibit 20 and asked the witness questions regarding the report. Mr. Ellison asked if Powertech would be okay if the Board deferred the application until the other permits were obtained. Mr. Mays stated that is not the case.

Mr. Ellison inquired about Powertech's not fully determining the disposal method, whether deep well injection or land application. Mr. Mays state this is to be determined based on EPA's permit and then testing to determine capacity for deep well injection.

Mr. Mays confirmed that Powertech's goal after mining is to restore to baseline or a maximum contaminant level, whichever is higher. This is the drinking water standard.

Mr. Ellison asked if the Minnelusa, Madison, Deadwood and Inyan Kara are the four principal aquifers used for drinking water in the hills area. Mr. Mays confirmed they are. Mr. Ellison

asked if any of those are where Powertech intends to dispose of wastewater. Mr. Mays stated yes through deep well injection.

Mr. Ellison directed questions to the witness regarding aquifer flow. He asked if the general flow was to the southeast. Mr. Main objected as being beyond the scope of direct and their hydrologist will testify regarding this issue. Mr. Ellison stated it is discussed in the application. Chairman Freeman allowed the line of questioning. Did Powertech consult with Edgemont regarding taking pressure readings on their wells? Mr. Mays stated that was discussed, but the city declined the request due to the age of their wells and potential of damage due to shutting in the well.

Mr. Ellison inquired regarding the cross connection of the four principal aquifer. Mr. Mays testified that regionally that is what studies indicated but are not reflective of the project area. There are strong indications and demonstrations of separation, but testing will occur within the well fields prior to mining.

Mr. Ellison asked if Powertech has provided either the Water Management Board or Board of Minerals and Environment the cost estimates to reclaim this area. Mr. Mays testified financial assurance estimates reflect the first year of the project and are updated annually. For the life of the project Powertech estimated at $27 million. Mr. Ellison further inquired whether it was usually the restoration costs exceed estimates. Mr. Ellison asked at the end of the project if the bond is inadequate who pays the balance. Mr. Mays stated he could not answer that question.

Cross examination of John Mays by Mark Boddicker from Hermosa. Mr. Boddicker referred to previous discussions about other water uses plans. Mr. Mays said the Madison aquifer is for restoration, the processing plant and livestock and domestic uses. Mr. Mays state Powertech does not intend to operate a rural water system.

Cross examination of John Mays by Susan Henderson. Ms. Henderson asked if Mr. Mays will design the well fields. Mr. Mays said he will supervise and design the well fields. She asked the witness if he was familiar with the leases for the area. She referred him to her Exhibit 4, which is Appendix 2.2A from the mine permit application. It represents the Dewey Burdock Surface and Mineral Ownership Chart. Ms. Henderson offered Exhibit 4, and it was received into the record. She referred to the BLM mineral interests in that document. Ms. Henderson inquired how does Powertech pay mineral leases fairly? The total BLM mineral ownership acres on the exhibit is 2,660 acres in Custer County and 720 acres in Fall River County for a total of 3,380 acres. Ms. Henderson asked if the witness concurred? Mr. Mays agreed that is what the exhibit reflected. She asked if there are 10,580 acres in the project area, what is the percentage of BLM leases? Mr. Mays stated BLM leases are 32 percent. Ms. Henderson made the point a large percentage of the royalty will go to the BLM and not the county. Ms. Henderson inquired about how Powertech will differentiate the leases between BLM and private landowner leases? Powertech will allocate based on property boundaries.

Mr. Hickey stated for the record the document Ms. Henderson used in the Madison application (Water Rights Exhibit 20).

Cross examination of John Mays by Marvin Kammerer from Meade County. Mr. Kammerer inquired about pipes used in the project and if they become radioactive. Mr. Mays stated there is that possibility. Mr. Mays further testified that the pipelines are removed during reclamation. The trenches are back filled. If the question is about wells, the wells are plugged with cement. The removed pipe is used in other wells or pipelines.

Mr. Kammerer asked that once you oxidize these minerals in the ore body, isn't it a guessing game what is going to become mobile? Mr. Main's objected; the objection was sustained as repetitive testimony.

Mr. Kammerer asked the witness if he was aware that Rapid City came out against the project. Mr. Mays was aware of the resolution of concern.

Cross examination of John Mays by Gena Parkhurst.

Ms. Parkhurst asked the witness what capacity his father, Wallace Mays played in Powertech? Mr. Mays answered his father was CEO and a board member but is no longer in that capacity. Mr. Mays is not aware if his father owns stock in the company. Mr. Mays stated he once owned stock but currently owns no stock in the company.

Ms. Parkhurst asked if the witness had a sense of how South Dakota's regulations compared to other states or jurisdictions. Mr. Mays stated they are very similar.

Ms. Parkhurst asked if the facility at Smith Highlands Ranch is a good example of a well operated mine. Mr. Mays stated overall it is a good representation, but they could probably do better given the recent bond increase. They have a good compliance record with very few instances of violation over numerous years. There is always room for improvement.

Ms. Parkhurst asked the definition of excursion and how it is detected. Mr. Mays read from a portion of Powertech Exhibit 138 regarding the definition of an excursion. Alkalinity and conductivity are commonly used as indicators of an excursion. Sampling occurs twice a month. Flow rates in the well field are balanced daily to maintain a cone of depression to keep excursions from occurring.

Cross examination of John Mays by Cheryl Rowe. Ms. Rowe asked about the number of bore holes in the area. Mr. Mays said there are over 4,000 holes that are not necessarily cased, put in over the years to monitor and assess the ore body. There is one leaky bore hole in the Alkali area that Powertech is aware of. The wells in the well field will be cased and cemented in place outside the casing.

Ms. Rowe asked what percentage of uranium is not recovered. Mr. Mays testified that approximately 25 percent remains in the ore body. Of the solution, about 100% is recovered at the processing plant. The uranium remaining in the ore body will stay because the oxygenation of the ore body ceases.

Mr. Mays testified the resins are transported by truck. Ms. Rowe asked why not just pipe product from the satellite to the processing plant. Mr. Mays stated there is not a need to have the satellite plant do more than the ion exchange; and the trucking is the best alternative to transport from satellite to the central plant instead of doubling up processing components.

Ms. Rowe inquired what happens to the other elements that come out of the process solution. Mr. Mays stated they are treated. There is solid waste and liquid waste generated in the process. The solid waste is very minimal such as the barium that settles in the pond, and it is recovered and sent to a proper facility at the end of the project.

Ms. Rowe asked about monitoring that will occur after the project is complete such as 75 years from now. Mr. Mays responded that they will properly restored the site and get releases from NRC and DENR. Powertech will need to prove that uranium is not migrating prior to getting those releases.

Deep injection wells are the preferred disposal method. Ms. Rowe asked if the deep injection wells be monitored? Mr. Mays stated they have to proof prior to getting the EPA permit for deep well injection and monitoring may be required by EPA.

In response to a question, Mr. Mays said the deep injection well are plugged with cement. When asked when the cement will breakdown, Mr. Mays stated basically never since no reaction is occurring to degrade it, and the cement will be hundreds of feet thick.

Cross examination of John Mays by Dr. Rebecca Leas.

Mr. Mays indicated he is familiar with the engineer's report and recommendation on the application. Dr. Leas asked why it includes a statement that an extension of time will be necessary. Mr. Mays stated that the construction of a well field is eight years, which is greater than the five year construction period.

Dr. Leas inquired about the quantification of recharge to the Inyan Kara and the ability to evaluate the statutory requirement regarding water availability. Mr. Mays stated the requirement is not to quantify recharge but quantify that recharge exceeds withdrawals.

Dr. Leas stated on page two of the Madison application there is reference to the Theis equation. After 20 years of withdrawal, the drawdown to the aquifer at the well bore will be 35 feet. Mr. Mays stated this would be a question for a hydrologist.

Dr. Leas inquired about the pH and possibility of mobilization of heavy metals. Mr. Mays testified the pH will be pretty close to neutral. Is it possible for the metals to migrate to other water supplies? Mr. Mays testified that is not possible.

Mr. Mays stated there are two options of restoration, either treatment using reverse osmosis or groundwater sweep. Powertech's request included the amount of water necessary for the groundwater sweep that is more water intensive. However, the groundwater treatment is the preferred alternative.

Dr. Lease questioned if Powertech has identified the type/brand of membrane to be used in the reverse osmosis process? Mr. Mays stated there are a range of products, and Powertech has not determined the type. The membrane used will need to meet standards. Membranes generally last around two years. Once their performance decreases, the membranes will need to be replaced.

Dr. Leas asked about potential flooding of the project area and what type of model was run to determine the type of event that would cause flooding. Mr. Mays stated structures are out of the flood plan. They have looked at the 6-hour PMP (probably maximum precipitation) event and have taken that into account.

Dr. Leas inquired about operators of ponds at the facility and what type of person does that type of job. Mays responded they are trained technical positions and qualified individuals could be readily found in the area. Mr. Mays would be a supervisor, but there would be a facility manager who would report to Powertech's CEO.

Dr. Leas asked if the witness has examined water use and scarcity on a national level. Mr. Mays responded he is a chemical engineer and not a hydrologist.

Dr. Leas asked as citizens, if they found a problem at the facility who would they contact?. Mr. Mays stated to call the facility manager to have their concern addressed.

Dr. Leas spoke about the need to file an amendment with the NRC on water quantity. Mr. Mays stated he did not know of an amendment being filed and amendments to NRC are not uncommon on other facilities.

Dr. Leas asked the witness if the Inyan Kara is a lower level aquifer based on quality. Mr. Mays stated the Inyan Kara aquifer in the area of the project is not drinking water quality.

Dr. Leas asked the witness if he had been involved in all the permitting processes. Mr. Mays stated the process began before his employment with Powertech. For the draft environmental impact statement, NRC uses Powertech information and their own work to draft the document.

In answer to a question, Mr. Mays stated there are wetlands in the area. He does not believe there are jurisdictional waters that will be affected in the project area. Mr. Mays testified he is not aware of concerns by the US Forest Service or US Geologic Survey regarding the project.

Dr. Leas asked since this is semi-arid area, has Powertech considered evaporation as a component of water loss. Mr. Mays stated it is considered with the ponds and land application component.

Dr. Leas asked if the irrigation pivot is to dispose of hazardous waste. Mr. Mays said no since there will be no hazardous materials in the land application. Concentrations of heavy metals will have to be below accepted limits. Selenium is not considered a hazardous material, and the land applied amount would be below standards.

Chairman Freeman indicated that it was time to adjourn this meeting and resume at 8:30 AM (MST) on December 9, 2013.

Everett Hoyt indicated that areas in which he would request testimony from Powertech is an estimate of financial assurance and a Powertech representative, likely an officer, to testify regarding how the parent company intends to capitalize and fund Powertech USA for this project.

ADJOURN: Chairman Freeman declared the meeting adjourned at approximately 12:40 PM on November 1, 2013.

A court reporter was present for the meeting and a transcript of the proceedings for the proceedings may be obtained by contacting Carla Bachand, PO Box 903, Pierre SD 57501-0903, telephone number (605) 224-7611.

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

Approved this 6th day of March, 2014.

_____
Chairman, Water Management Board

_____
Secretary, Water Management Board

"A" FULL PARTY PARTICIPANTS IN THE MATTER OF POWERTECH USA WATER PERMIT AND GROUNDWATER DISCHARGE PLAN APPLICATIONS HEARING BEFORE THE WATER MANAGEMENT BOARD HELD OCTOBER 28, 2013 THROUGH NOVEMBER 1, 2013

	Last Name	First Name	Oct.28	Oct. 29	Oct. 30	Oct.31	Nov. 1
1	Anawaty	Jillian		X	X	X	X
2	Baldwin	Angelia					
3	Boddicker	Mark	X	X	X		X
4	Brunson	Cindy					
5	Cing	William					
6	Draeger	Rick	X	X	X	X	X
7	Ellison	Bruce	X	X	X	X	X
8	Gamache	Brenda	X	X	X	X	X
9	Gillis	W Cindy					
10	Heckenlaible	Gary	X				
11	Henderson	Susan	X	X	X	X	X
12	Hickey	Michael	X	X	X	X	X
13	Jarding	Lilias C	X	X	X	X	
14	Johnson	Andy					
15	Kammerer	Marvin	X	X	X	X	X
16	Kaneshiro	Gwen E					
17	King	Sabrina	X	X		X	
18	Kloucek	Frank J					
19	Knudson	Rodney	X	X	X	X	X
20	Leas	Rebecca R	X	X	X	X	X
21	Lord	Rebecca Michele					
22	McLean	Dahl H	X	X	X	X	X
23	Parkhurst	Gena	X	X	X	X	X
24	Rowe	Cheryl A		X	X		
25	Rowe	Roger					
26	Summerville	Rick V	X	X	X	X	X
27	Uptain	Douglas Clay	X	X		X	

MINUTES OF THE 186TH MEETING OF THE
WATER MANAGEMENT BOARD
VIA TELECONFERENCE at the
FLOYD MATTHEW TRAINING CENTER
523 EAST CAPITAL AVE
PIERRE, SD

December 5, 2013

CALL TO ORDER: Chairman Chad Comes called to order at 10:33 a.m. A quorum was present.

The following were present via teleconference at the meeting:

Board Members: Tim Bjork, Rodney Freeman, Chad Comes, Everett Hoyt, Peggy Dixon, and Leo Holzbauer. Jim Hutmacher was absent.

Attorney General's Office: Jeff Hallem and Diane Best.

Legislative Oversight Committee: Senator Jim White.

Other parties: Ray Rylance and Wendell Falk.

The following were present at the Training Center for the meeting:

Department of Environment and Natural Resources (DENR): Jeanne Goodman, Eric Gronlund, Joe Stonesifer, Ken Buhler, Ron Duvall, and Adam Mathiowetz, Water Rights Program; Bill Markley, Ground Water Quality Program.

Legislative Oversight Committee: Representative Mary Duvall.

APPROVE AMENDED JULY 10-11, 2013, MINUTES: Motion to approve amended minutes by Hoyt, seconded by Freeman. Motion carried by roll call vote.

APPROVE OCTOBER 3, 2013, MINUTES: Mr. Gronlund pointed out that on page three the reference to 'Mr. Best' should be 'Ms. Best'. Also, on page four, the roll call vote in the matter of renewal of licenses No. 740, Brechtel and Sons Drilling, was in error and should be Bjork, Hutmacher, Freeman, and Dixon voted for the motion to deny the application. Hoyt, Comes and Holzbauer voted against the motion. Motion to approve minutes with corrections by Freeman, seconded by Dixon. Motion carried by roll call vote.

APPROVE OCTOBER 7, 2013, MINUTES: Mr. Hoyt stated the word 'swan' on page 1 should be 'sworn'. Motion to approve minutes with changes by Freeman, seconded by Bjork. Motion carried by roll call vote.

DECEMBER 9-13, 2013, CONTINUATION OF POWERTECH HEARING IN RAPID CITY: Mr. Hallem stated Chairman Freeman signed and sent out a Motion to Continue. The hearing will be continued indefinitely until Nuclear Regulatory Commission (NRC) and Environmental Protection Agency (EPA) have made their final decisions.

NEXT MEETING: March 5-6, 2014, in Pierre.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: Mr. Hallem stated the Administrative Appeal from Mr. Peterson on the board's deferral of Application No. 7441-3 proposing to divert water from the Upper Vermillion Missouri Aquifer was voluntarily dismissed after the submission of briefs.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION ON RENEWAL OF WELL DRILLER LICENSE NO. 740, BRECHTEL & SONS DRILLING:

Board Counsel Jeff Hallem presented proposed Water Management Board Ruling and Findings of Fact, Conclusions of Law and Final Decision.

Motion to approve the Water Management Board rulings as drafted by Freeman, seconded by Bjork. Motion carried by roll call vote with all members voting in favor of the motion.

Motion to adopt the Findings of Facts, Conclusions of Law, and Final Decision by Freeman, seconded by Dixon. Motion carried by roll call vote with all members voting in favor of the motion.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION ON APPLICATION NO. 7680-3, WENDELL FALK:

Mr. Falk was present on the phone and participated in the issue.

Board Counsel Jeff Hallem presented proposed Water Management Board Ruling and Findings of Fact, Conclusions of Law and Final Decision. Mr. Hallem stated on the proposed findings that Find of Fact number 40 is not a Finding of Fact and Conclusion of Law number 26 is not a Conclusion of Law.

Motion to adopt the rulings by Freeman, seconded by Hoyt. Motion carried by roll call vote with all members voting in favor of the motion.

Motion to approve Findings of Facts, Conclusions of Law and Final Decision as amended by the earlier ruling by Freeman, seconded by Bjork. Motion carried by roll call vote with all members voting in favor of the motion.

APPLICATIONS FOR TULARE: WESTERN SPINK HITCHCOCK AQUIFER:

Appearances (via telephone):

Diane Best, representing the Department of Environment and Natural Resources, Water Rights Program.

Ray Rylance, attorney for Lenny Peterson, Oscar Incorporated, and Van Buskirk Farms.

Mr. Freeman recused himself from the matter.

Board Counsel Jeff Hallem presented proposed Water Management Board Ruling and Findings of Fact, Conclusions of Law and Final Decision.

Mr. Rylance reiterated his client's position and therefore objects to the decision of the board and the Findings as presented by Mr. Hallem.

Ms. Best stated that DENR asks that board adopt the ruling as outlined by board counsel.

Motion to approve and adopt the rulings on the following applications as prepared by board council on Application No's. 7725-3 (deferred portion), 7752-3, 7755-3, 7756-3, and 7757-3 for Lenny Peterson; Application No. 7726-3, 7727-3, 7753-3, 7754-3, and 7759-3 for Oscar Inc; Application No. 7733-3, 7734-3, 7735-3, and 7736-3 for Van Buskirk Farms by Hoyt, seconded by Dixon. Motion carried by roll call vote with all members voting in favor of the motion.

Motion to approve the Findings of Facts, Conclusions of Law and Final Decision, and Order as prepared by board counsel, and the board to authorize the Chairman to sign the Decision and Order in Application No's. 7725-3 (deferred portion), 7752-3, 7755-3, 7756-3, and 7757-3 for Lenny Peterson; Applications No. 7726-3, 7727-3, 7753-3, 7754-3, and 7759-3 for Oscar Inc; Applications No. 7733-3, 7734-3, 7735-3, and 7736-3 for Van Buskirk Farms by Hoyt, seconded by Bjork. Motion carried by roll call vote with all members voting in favor of the motion.

WATER PERMIT APPLICATION NO. 7900-3, LEON THOMPSON:

Appearances (via telephone):

Diane Best, representing the Department of Environment and Natural Resources, Water Rights Program.

Ms. Best advised that DENR will be asking for a deferral in this matter. The application is for a water permit for irrigation from the Upper Vermillion Missouri Aquifer. There are several applications currently pending for this aquifer, and they have been deferred pending a comprehensive study being conducted by the South Dakota Geological Survey. The study is currently underway and has been the subject of extensive field work this summer. The Geological Survey is currently in an evaluation stage. The intent is to present the study to the board at the March 2014 hearing, when the entire group of deferred applications will be brought before the Board.

Mr. Hallem stated that the board received the report to the Chief Engineer regarding Water Permit Application No. 7900-3.

Mr. Hallem stated what the board received in the packet prior to the meeting in regards to this matter.

Mr. Hallem advised the board of their prior decision made regarding Application No. 7441-3 and 7442-3, Gary and Julie Peterson. The appeal was voluntarily dismissed by Mr. Peterson. All of that should be taken into consideration when making the decision on this matter.

Ms. Best stated that Mr. Thompson has been in contact with DENR; Mr. Thompson is not objecting to the application being deferred. Also, the newspaper publication included in the packet was the publication for the nearest daily newspaper, which is the Yankton Press and Dakotan. The packet did not include the publication for the Vermillion Plain Talk of the application, that publication was made, but it was not received in time for it to be put in the board packet.

Motion to adopt the Recommendation of Chief Engineer by Freeman, seconded by Holzbauer. Motion carried by roll call vote with all members voting in favor of the motion.

DISCUSSION ON POTENTIAL LEGISLATION: Ms. Goodman stated there are two issues for potential legislation during the 2014 Legislative Session.

Ms. Goodman advised the first issue is a follow-up to the board's October meeting. The board requested a discussion by staff relative to the process for handling new permit applications to appropriate water from fully appropriated aquifers. As indicated at the October meeting, the Water Rights staff have been reviewing current law and discussing what options are available to DENR. Since then, DENR has drafted a piece of potential legislation for the 2014 Legislative Session. DENR has been advised to not discuss specifics, as it might be perceived as biasing or prejudicing the board on matters that are pending before them. Therefore, DENR chose to not provide a copy of the draft legislation to the board at this time. The draft legislation is currently under review by the Governor's legislative advisors and, if they give the go-ahead, it will need to be put into the proper form and style by the legislative research council. It is not yet in an approved form or available for general distribution. Upon approval, DENR will ensure that each board member is sent a copy of the proposed bill as soon as it is printed, so the board is aware of what will be considered by the legislature.

Ms. Goodman advised the second issue under potential legislation is addressing non meandered lakes and the public access issue. This matter has been before the legislature in past years and most recently in 2013. South Dakota Game, Fish, and Parks (GF&P) was directed by the 2013 legislature to work with land owners and sportsmen's groups to reach a consensus for a potential bill. That process is on-going, and it is not a DENR lead effort nor will it be DENR sponsored legislation. Any potential legislation from a state agency will be coming from GF&P. However, there are individuals working on the issue that suggest the Water Management Board would be a decision making entity on that issue. There is not draft legislation available. However, when it is available, DENR will make sure the board members are sent copies.

Mr. Hoyt expressed his disappointment that issues affecting the fully appropriated aquifers which have been a concern to this board is being discussed and perhaps legislation developed, in advance of sharing that information with the board. The board is an interested party and has asked for proposals.

Ms. Goodman replied DENR understands the Board's disappointment. But as stated earlier, because of pending matters in front of the board, DENR is in a position where they need to be cautious with what is presented to the board. DENR is waiting for approval on a final draft of the legislation and will get that to the board as soon as it is printed.

Mr. Hoyt stated he knows that the legislative oversight committee has observed the recent meetings and are aware of the issue and the board's concerns about avoiding the rush to file applications.

Mr. Bjork requested the Board be kept fully apprised regarding the public access issue and that DENR should have a seat at the table as a compromise is discussed by stakeholders.

Ms. Best stated the legislative issue on non-meandered lakes is whether citizens have access to public waters and the extent to which they have access. That has not been a subject brought before the board in the past. The board has dealt closely with related matters like ordinary high water marks, determining outlet elevations, and it has rules regarding gates on streams, which are directly related to public access.

Ms. Goodman advised that GF&P can bring DENR into discussions among stakeholders through Secretary Pirner or through Diane Best as counsel.

Senator White explained at the legislative session last year the bill regarding public access passed the House and came to the Senate, where there were numerous complaints about the way it was drafted. The Senate committee tabled it, but interested parties were challenged to come back to the 2014 Legislature with a solution. There has been a group working on a resolution. In most cases, it is about public water versus private property and who controls it. There was a meeting last week, to formulate direction towards legislation. Representative Duvall was at the meeting and agrees there was some direction determined but they are a long ways from having a final bill. There was discussion about an exemption in the bill, where private owners should have some rights on public water. It was suggested by a sportsmen's group to have the Water Management Board be the decision maker because of the way water can be interpreted at different levels. That is how this board got brought into consideration. As the discussion goes forward, it may be a good idea to have a representative from DENR present.

Mr. Bjork asked that the board be fully updated on the issue on a regular basis, and it is very important that the board's name is not put in without them knowing what is going on.

ADJOURN: Chairman Comes declared the meeting adjourned at 11:40 a.m.

A court reporter was present for the meeting, and a transcript of the proceedings for the proceedings from October 3, 2013, may be obtained by contacting Carla Bachand, PO Box 903, Pierre, SD 57501-0903, telephone number (605) 224-7611.

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

Approved this 6th day of March.

_____
Chairman, Water Management Board

_____
Secretary, Water Management Board

REPORT ON
IRRIGATION QUESTIONNAIRE QUALIFICATION
FOR WATER RIGHT NO. 1467-1, HARVEY KEENE & CATHY NOTT
March 6, 2014

DISCUSSION

Water Right No. 1467-1 authorizes diversion of water from the Redwater River via the Lower Power Canal for irrigation purposes in Butte County, SD. The water right was originally issued with the following qualification:

- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Mr. Keene has submitted irrigation questionnaires on an annual basis. Although the forms were filled out, he did not include a rate at which water was applied and typically checked the box indicating use of a "flood" type system.

A review of Water Right No. 1467-1, including the inspection report completed in 1997 reflects water is diverted via the Lower Power Canal to an 8 inch buried pipe and is applied to beneficial use by gravity through gated pipe.

Upon submission of the irrigation questionnaire for 2013, Mr. Keene was contacted to find out if he had a rate at which water was applied. He confirmed he did not have a pump nor other mechanism to measure the amount of water diverted.

RECOMMENDATION

Water Management Board Rule 74:02:01:14.02 states all irrigation permit owners except water spreading permit owners shall report water use annually on the forms mailed to them each year by the chief engineer.

Based on Water Management Board Rule 74:02:01:14.02; a review of the water right; past irrigation questionnaires and conversations with Mr. Keene, staff recommends the irrigation questionnaire qualification be removed from Water Right No. 1467-1.

Removal of the qualification from the water right does not alter the remaining portions of the water right; it only removes the requirement to report annual water use.

Genny McMath

Genny McMath
Water Rights Program

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

February 11, 2014

NOTICE

TO: Harvey Keene and Cathy Nott, 10983 Redwater Rd, Belle Fourche SD 57717

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program,
523 E Capitol, Pierre SD 57501

SUBJECT: Removal of Irrigation Questionnaire Qualification from Water Right No. 1467-1

Water Right No. 1467-1 authorizes diversion of water from the Redwater River via the Lower Power Canal for irrigation purposes. The water right was originally issued with the following qualification:

- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Water Management Board Rule 74:02:01:14.02 states all irrigation permit owners except water spreading permit owners shall report water use annually on the forms mailed to them each year by the chief engineer. It is our understanding your water use system is strictly a gravity flow water spreading type system. Since the qualification was originally placed on the permit by the Water Management Board, removal of the qualification must also be considered by the Board.

A hearing has been scheduled for **9:00 am, March 6, 2014** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD. The Chief Engineer's recommendation is removal of the qualification to report annual water use since this is a water spreading system. This action will not alter the remaining portions of the water right.

If you have any questions or intend to participate in the hearing, please contact Genny McMath with the Water Rights Program at 605 773-3352.

REPORT ON
IRRIGATION QUESTIONNAIRE VIOLATIONS
March 6, 2014

On October 18, 2013, 3,690 irrigation questionnaires were mailed by first class mail to irrigators for reporting water use for 2013. The permit holders were given until December 2, 2013 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**
	http://denr.sd.gov/iq.aspx	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: genny.mcmath@state.sd.us			

On January 24, 2014, 142 notices (involving 207 permits) were mailed to those irrigators who had not returned their irrigation questionnaires. Additional questionnaires were included with the mailing. All of the notices were sent by "certified mail."

The January 24th 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 that the Board take the following action for those permits with irrigation questionnaires not received by March 6, 2014:

- Suspend the permits/rights (listed on attachment) as follows:
  1. First Violation - one year suspension – effective April 6, 2014;
  2. Second Violation - three year suspension – effective April 6, 2014;

If the irrigator sends in the questionnaire prior to April 6th no suspension will occur. Following the March 6th hearing, all permit holders are sent a notice informing them of the Board action with the opportunity to submit the questionnaire by April 6th 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 should be effective immediately.

Genny McMath

Genny McMath
Water Rights Program

Permits/Rights Subject to Amendment, Suspension or Cancellation

2013 Irrigation Questionnaire Report Violations
March 6, 2014

Permit Nos.	Name	County	Irr Ques Violation
Violation: 1			
7102-3	MARY & DAN CWACH	YA	1
7103-3	MARY & DAN CWACH	YA	1
2547-3	GENE DE VRIES	BD	1
2548-3	GENE DE VRIES	BD	1
3085-3	GENE DE VRIES	BD	1
6381-3	DE VRIES INC	BD	1
6440-3	DE VRIES INC	BD	1
881-2	RYAN EDWARDS	MT	1
2681-2	JUSTIN EDWARDS	MT	1
6220-3	FT RANDALL RECREATION	CM	1
953-1	HELEN C GASKINS	BU	1
2704A-3	HILLTOP IRRIGATION DISTRICT	BL	1
3127-3	GEORGIA HONOMICHL	UN	1
4955-3	DAVID HUBER, OPERATOR	CK	1
7621-3	KYLE JENSEN	CL	1
7622-3	KYLE JENSEN	CL	1
7114-3	MICHAEL A KOSLOWSKI	DA	1
7336-3	MICHAEL A KOSLOWSKI	DA	1
3628-3	KELVIN KRONAIZL	CL	1
6502-3	GAIL V MILLER	SU	1
310A-1	MOONEY RANCH	MD	1
311A-1	MOONEY RANCH	MD	1
5777-3	GERALD A PERSON	ML	1
7005-3	RANDALL ENTERPRISE LLC	MY	1
2130-2	ED RISSE	BT	1
720-2	MARY LOUISE STANLEY	MT	1
7788-3	JON SWENSON	BN	1
2954-3	LANE TEKRONY	DU	1
7236-3	DAVID ULVESTAD	BG	1
7237-3	DAVID ULVESTAD	BG	1
7706-3	JEROME VAN DE STROET	LN	1
3960-3	WALLUM FARMS INC	KG	1
6051-3	JERRY & DAVID WIEBER	RB	1

Violations:
1 = First violation, one year suspension
2 = Second violation, three year suspension
3 or more violations = cancellation
A = Amendment to add IQ qualification

Permit Nos.	Name	County	Irr Ques Violation
Violation: 2			
1530-2	VIOLA KESZLER	TR	2
Violation: A			
1623-2	DAYS LIMIT RANCH LLC	CU	A
1671-2	WAYNE FORTUNE	JA	A
304-2	WAYNE FORTUNE	JA	A
766-2	GENE FORTUNE	JA	A
2648-3	ARLINGH GRETSCHMANN	CM	A
2851-3	DAVID HUBER	CK	A
1306-2	GAIL V MILLER	HK	A
3349-3	GAIL V MILLER	SU	A
3012-3	MARVIN MORLOCK	MP	A
420-1	DANIEL J & MAXINE M OEHLER	BU	A
842-1	ROBERT PHELPS	MD	A
484-1	RED ROCK FARMS LLC	BU	A
1349-2	LLOYD SCHUTTERLE	ST	A
2072-3	DAVID ULVESTAD	BG	A
2126-3	DAVID ULVESTAD, OPERATOR	BG	A
3204-3	DAVID ULVESTAD, OPERATOR	BG	A
2457-3	SAM WEDEL	BD	A

Violations:
1 = First violation, one year suspension
2 = Second violation, three year suspension
3 or more violations = cancellation
A = Amendment to add IQ qualification

CANCELLATION CONSIDERATIONS
MARCH 5-6, 2014 WMB MEETING

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
http://denr.sd.gov

January 16, 2014

NOTICE OF CANCELLATION

TO: Craig Price, Pine Hills Mobile Park, 6892 Polk St., Black Hawk SD 57718

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit Nos. 1513-1 & 1876-2

Water Permit Nos. 1513-1 and 1876-2 authorized diversion of ground water for suburban housing development purposes. On December 11, 2013, Mike DeFea with our program spoke with your about the permits. You indicated the wells were no longer used and the park had been on the Black Hawk Water System for many years. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 1513-1 & 1876-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit Nos. 1513-1 & 1876-2 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit Nos. 1513-1 & 1876-2 based upon facts presented at the public hearing. Our records show Pine Hills Mobile Park to be the owner of property covered by these water permits. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NOS. 1513-1 & 1876-2, PINE HILLS MOBILE PARK

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Nos. 1513-1 & 1876-2.

The Chief Engineer is recommending cancellation of the above water permits due to abandonment and/or forfeiture. In a December 11, 2013, phone conversation with Mike DeFea with the program, Craig Price with Pine Hills Mobile Park indicated the wells were no longer used. The Park has been on the Black Hawk Water System for many years.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 16, 2014

Note:

Cancellation of the water permits does not prohibit new applications for this project in the future.

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 30, 2014

NOTICE OF CANCELLATION

TO: Joe Murphy, Target Logistics, 500 Lincoln St., Boston MA 02134

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit Nos. 1865-1 & 1865A-1, BSC Real Estate Holdings

Water Permit No. 1865-1 authorized diversion of ground water from an Inyan Kara well to be used for commercial purposes at the Broken Spoke Campground in Sturgis SD. Water Permit No. 1865A-1 amended No. 1865-1 by changing the location of the diversion point. On January 29, 2014, Mike DeFea, a staff engineer with our program visited with you about the extent of development. It is our understanding the well was never constructed. The time limit for completion of works, as specified in the permit, lapsed November 29, 2011. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 1865-1 and 1865A-1 due to non-construction.

The Water Management Board will consider cancellation of Water Permit Nos. 1865-1 and 1865-1 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit Nos. 1865-1 and 1865-1 based upon facts presented at the public hearing. Our records show BSC Real Estate Holdings LLC to be the owner of property covered by these water permits. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by February 10, 2014.

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER
FOR WATER PERMIT NOS. 1865-1 & 1865A-1
BSC REAL ESTATE HOLDINGS LLC

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Nos. 1865-1 and 1865A-1.

The Chief Engineer is recommending cancellation of the above water permits due to non-construction. On January 29, 2014, Mike DeFea visited with Joe Murphy, the company president who indicated the project was never developed. All construction necessary to put water to beneficial use was to have been completed by November 29, 2011.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 30, 2014

Note:

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

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 15, 2014

NOTICE OF CANCELLATION

TO: Brandi Baysinger, Perkins County Rural Water System Inc.,
PO Box 160, Bison SD 57620-0160

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 1895-1

Water Permit No. 1895-1 authorizes diversion of ground water from the Fox Hills Aquifer in the SE ¼ NW ¼ Section 5, T22N, R12E to be used for rural water system purposes. On October 31, 2013, Adam Mathiowetz with our staff spoke with Doyle Udager with the rural water system. Mr. Udager indicated no construction had taken place. The time limit for completion of works as specified in the permit expired on April 21, 2013. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1895-1due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 1895-1 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 1895-1 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT
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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 1895-1, PERKINS COUNTY RURAL WATER SYSTEM INC.

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 1895-1.

The Chief Engineer is recommending cancellation of the above water permit due to non-construction. On October 31, 2013, Doyle Udager spoke with Adam Mathiowetz in our program concerning the permit. Mr. Udager confirmed no construction had taken place.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 15, 2014

Note:

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

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 15, 2014

NOTICE OF CANCELLATION

TO: Paul Harvey, 21030 Craven Rd, Interior SD 57750

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 1517-2

Water Permit No. 1517-2 authorizes diversion of water from the White River to irrigate 31.5 acres in Section 20, T43N, R38W. On October 15, 2013, a staff engineer from our program spoke with Mrs. Harvey concerning the permit. She indicated the diversion point had not been used in many years and the pump had been removed. It is our understanding there is no longer an intent to irrigate the land described in the water right. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1517-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 1517-2 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 1517-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 1517-2, PAUL HARVEY

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 1517-2.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment and/or forfeiture. On October 15, 2013, in preparation for an inspection of the water use system for licensing purposes, Bracken Capen with the program spoke with Mrs. Paul Harvey. Mrs. Harvey indicated the diversion point had not been used in many years and the pump had been removed. They no longer intend to irrigate the acreage described in the water right.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 15, 2014

Note:

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

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 16, 2014

NOTICE OF CANCELLATION

TO: Nick & Matt Kranz Inc., 2137 20th Ave SE, Watertown SD 57201

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Right No. 668-3

Water Right No. 668-3 authorizes irrigation of land in SW ¼ Section 4 and the SW ¼ Section 10, T116N, R52W. On October 31, 2013, during a phone conversation with Genny McMath in our program, you indicated the land in Section 4 was no longer irrigated. The land in Section 10 is covered under Water Permit No. 7334-3. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 668-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 668-3 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 668-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT
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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 668-3, NICK & MATT KRANZ INC.

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 668-3.

The Chief Engineer is recommending cancellation of the above water right due to abandonment and/or forfeiture. On October 31, 2013 during a phone conversation with Genny McMath with the Water Rights Program, Matt Kranz indicated that part of the land was no longer irrigated and the remainder was reapplied for and is now covered under Water Permit No. 7334-3.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 16, 2014

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 15, 2014

NOTICE OF CANCELLATION

TO: Loren Bittner, 6701 S Witzke, Sioux Falls SD 57108-5944

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Right No. 2813-3

Water Right No. 2813-3 authorizes diversion of ground water to irrigate 133 acres in the NW ¼ & N ½ SW ¼ Section 32, T101N, R57W in Hanson County. On October 22, 2013, during a phone conversation with Genny McMath in our program you confirmed you did not irrigate the land and did not foresee putting up another irrigation system. Based on your desire to relinquish the water right, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 2813-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 2813-3 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 2813-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT
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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 2813-3, LOREN BITTNER

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 2813-3.

The Chief Engineer is recommending cancellation of the above water right due to abandonment and/or forfeiture. On October 22, 2013, the water right holder indicated the land was not being irrigated and he did not foresee putting up another irrigation system.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 15, 2014

Note:

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

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 16, 2014

NOTICE OF CANCELLATION

TO: Cody Moret, SDSU Farm Department, Ag Hall, Box 2207, Brookings SD 57007

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Right No. 4079-3

Water Right No. 4079-3 authorizes diversion of ground water to irrigate 395 acres in the SW ¼ Section 11 and N ½ Section 14, T110N, R50W in Brookings County. The 2013 irrigation questionnaire submitted by SDSU indicates the use has been abandoned. A request was also submitted on behalf of SDSU by Angela Ritter confirming the Ag Experiment Stations' desire to relinquish the water right. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 4079-3 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 4079-3 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 4079-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
http://denr.sd.gov

RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 4079-3, SDSU AG EXPERIMENT STATION

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 4079-3.

The Chief Engineer is recommending cancellation of the above water right due to abandonment. The college has provided written verification they wish to relinquish the water right and have requested the water right be cancelled.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 16, 2014

Note:

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

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 16, 2014

NOTICE OF CANCELLATION

TO: Gary Marshall, Marshall Brothers, 19032 388th Ave, Hitchcock SD 57348

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Right No. 4774-3 and Water Permit No. 6407-3

Water Right No. 4774-3 (formerly held by the Southern Spink-Northern Beadle Municipal Water Council) authorizes diversion of water for municipal and rural water system use. Water Permit No. 6407-3 authorizes diversion of water for use in a cattle feedlot. Water Permit Application No. 7390-3 was filed to change the use authorized under Nos. 4774-3 and 6407-3 to irrigation use. In August 2013, Application No. 7390-3 was withdrawn and you agreed to cancellation of Nos. 4774-3 and 6407-3. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 4774-3 and Water Permit No. 6407-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 4774-3 and Water Permit No. 6407-3 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 4774-3 and Water Permit No. 6407-3 based upon facts presented at the public hearing. Our records show you to be the owner of property. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER
FOR WATER RIGHT NO. 4774-3 AND WATER PERMIT NO. 6407-3
MARSHALL BROTHERS

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Right No. 4774-3 and Water Permit No. 6407-3.

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

Water Right No. 4774-3 was originally issued to Southern Spink-Northern Beadle Municipal Water Council and later transferred to Marshall Brothers. The water right is for municipal and rural water system purposes.

Water Permit No. 6407-3 authorized use of water from two wells for commercial purposes in a cattle feedlot.

Water Permit Application No. 7390-3 was filed to change the use authorized under Nos. 4774-3 and 6407-3 to irrigation use. In August 2013, Application No. 7390-3 was withdrawn. Nos. 4774-3 and 6407-3 are subject to cancellation consideration since the use of water originally authorized under each is no longer being done and the request to change the use to irrigation has been withdrawn.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 16, 2014

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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PIERRE SOUTH DAKOTA 57501-3182
http://denr.sd.gov

January 16, 2014

NOTICE OF CANCELLATION

TO: Leslie Murphy, SD Dept. of Game, Fish & Parks, 523 E Capitol, Pierre SD 57501
John Lott, SD Dept. of Game, Fish & Parks, 523 E Capitol, Pierre SD 57501

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Vested Water Right Claim No. 4832-3

Vested Water Right Claim No. 4832-3 was recognized for storage of water in Rose Hill Dam for recreational purposes. With the dam being breached on July 31, 2010, the department has filed Water Permit Application No. 7911-3 to obtain a new permit to cover storage of water in the dam. The Chief Engineer of the Water Rights Program is recommending cancellation of Vested Water Right Claim No. 4832-3 due to forfeiture.

The Water Management Board will consider cancellation of Vested Water Right Claim No. 4832-3 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Vested Water Right Claim No. 4832-3 based upon facts presented at the public hearing. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER
FOR VESTED WATER RIGHT CLAIM NO. 4832-3
SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Vested Water Right Claim No. 4832-3.

The Chief Engineer is recommending cancellation of the above vested water right claim due to forfeiture. Rose Hill Dam breached in July, 2010. The Department of Game, Fish & Parks has filed Water Permit Application No. 7911-3 for storage of water in Rose Hill Dam once it is rebuilt.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 16, 2014

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 16, 2014

NOTICE OF CANCELLATION

TO: Brian Brockel, 12448 US Hwy 83, Selby, SD 57472

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 7004-3

Water Permit No. 7004-3 authorizes diversion of ground water to irrigate 283 acres in portions of Sections 5 & 6, T124N, R76W. On your 2013 irrigation questionnaire you stated the water sample taken while test pumping was very high in salinity and you had made a decision not to develop the project. In a follow up email communication with Genny McMath in our program you confirmed your intent not to proceed with development of the project. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7004-3 due to abandonment.

The Water Management Board will consider cancellation of Water Permit No. 7004-3 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 7004-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 7004-3, BRIAN BROCKEL

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 7004-3.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment. The permit holder has confirmed that due to high salinity in the water, he does not intend to construct the project.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 16, 2014

Note:

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

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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January 15, 2014

NOTICE OF CANCELLATION

TO: Gordon Little, 45676 176th St, Watertown SD 57201

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 7007-3

Water Permit No. 7007-3 authorizes diversion of ground water to irrigate 140 acres in the NE ¼ Section 11, T115N, R52W. In November, 2013, Genny McMath with our program spoke with you about the extent of development under Water Permit No. 7007-3. During the conversation you confirmed the irrigation system has not been constructed. The time limit for completion of works as specified in the permit expired June 2, 2013. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7007-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 7007-3 at 9:00 a.m., March 6, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 7007-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by February 24, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by February 24, 2014.

Prior to February 24, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds $2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 27, 2014.

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 7007-3, GORDON LITTLE

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 7007-3.

The Chief Engineer is recommending cancellation of the above water permit due to non-construction. The time limit for completion of works as described in the permit expired on June 2, 2013. The permit holder has confirmed the system has not been constructed.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
January 15, 2014

Note:

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

CERTIFICATION

I hereby certify that on January 15, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated January 15, 2014 regarding Notice of Cancellations addressed as stated below:

Brandy Baysinger, Perkins Co. RWS, PO Box 160, Bison SD 57620-0160 **# 1895-1**

Loren Bittner, 6701 S Witzke, Sioux Falls SD 57108-5944 **# 2813-3**

Paul Harvey, 21030 Craven Rd, Interior SD 57750 **# 1517-2**

Gordon Little, 45676 176th St, Watertown SD 57201 **# 7007-3**

Gail Jacobson

Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 15th day of January, 2014.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2019

SEAL KAREN SCHLAAK NOTARY PUBLIC State of South Dakota SEAL

CERTIFICATION

I hereby certify that on January 16, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated January 16, 2014 regarding cancellation notices addressed as stated below:

Leslie Murphy & John Lott, Game Fish & Parks, Interoffice – Foss Bldg. **#4832-3**

Craig Price, Pine Hills Mobile Park, 6892 Polk St, Black Hawk SD 57718 **#'s 1513 & 1876-2**

Nick & Matt Kranz Inc, 2137 20th Ave SE, Watertown SD 57201 **# 668-3**

Cody Moret, SDSU Farm Dept., Ag Hall, Box 2207, Brookings SD 57007 **# 4079-3**

Brian Brockel, 12448 Us Hwy 83, Selby SD 57472 **# 7004-3**

Gary Marshall, Marshall Bros, 19032 388th Ave, Hitchcock SD 57348 **#'s 4774-3 & 6407-3**

Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of January, 2014.

Karen Schlaak
Notary Public
My Commission expires April 1, 2019

SEAL KAREN SCHLAAK NOTARY PUBLIC State of South Dakota SEAL

CERTIFICATION

I hereby certify that on January 30, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated January 30, 2014 regarding cancellations addressed as stated below:

Joe Murphy, Target Logistics, 500 Lincoln St, Boston MA 02134 **#'s 1865-1 & 1865A-1**

Gail Jacobson

Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 30th day of January, 2014.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2019

SEAL KAREN SCHLAAK NOTARY PUBLIC State of South Dakota SEAL

SEVEN YEAR REVIEW - FUTURE USE PERMITS
MARCH 5-6, 2014 WMB MEETING

CITY OF SPEARFISH

625 FIFTH STREET, SPEARFISH, SOUTH DAKOTA 57783

RECEIVED
JAN - 2 2014
WATER RIGHTS PROGRAM

December 27, 2013

SD DENR, Water Rights Program
Attn: Eric Gronlund
523 East Capitol Ave.
Pierre, South Dakota 57501

Re: Future Use Permit 1872-1

Dear Eric:

The City of Spearfish wishes to renew Future-Use Permit 1872-1 based on the following:

1. Our 5 year running average water usage is equal to 2259 acre feet annually; an increase of 14% since 2007. With the current demand increase of 2% per year we could expect a 5 year running average to equal 2600 acre feet annually with a peak year of 2912 acre feet by the year 2020.
2. In 2010 the city experienced its fourth consecutive decade of growth of 20% or more.
3. In the last 5 years the city has issued an average of 67 single family housing permits per year.
4. New subdivisions since 2007 such as the Reserve on Higgins Creek subdivision, McGuigan Ranch, additions to Elkhorn Ridge and newly annexed areas have future projections of over 800+ single family units, several multifamily and commercial units as well.
5. Growth in area schools has increased 10% since 2008.

Our city has seen significant growth over the past several decades and this trend is expected to continue due to several factors. Tourism continues to expose many people to this area as it has in the past and we have seen the same with the coal and natural gas production to our west. In addition, today we are experiencing a limited amount of growth due to the oil field activity to our north as well.

The city has established master plans for its water, wastewater and transportation needs to assist in managing its growth. We see this Future -Use permit as part of the planning process for our days ahead. Our projected needs are listed in item 1 above and if you have any further questions feel free to contact me.

Thank you for your consideration.

Sincerely,

Tom W. Callaway
Environmental Services Manager
City of Spearfish
605-642-1333

Cc: Karen Schlaak

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

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

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, 525 N 5th St, Spearfish SD 57783.

The Chief Engineer is recommending that Future Use Permit No. 1872-1 REMAIN in EFFECT for 2,730 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.

Jeanne Goodman

Jeanne Goodman, Chief Engineer
January 13, 2014

RECEIVED

JAN 27 2014

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 22nd day of Jan, 2014, and the last publication on the _____ day of _____, _____, that the ful amount of fees charged for publishing same, to-wit: The sum of $38.89, 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 22nd day of Jan, 2014

Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2016

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 Tom Callaway, Environmental Services Manager, 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 in 2007 and currently reserves 2,730 acre feet from the Madison Aquifer. The area reserved for future water use is Sections 10,15, 22, 26-29, 31-35 and 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 2,730 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 9:00 am, March 6, 2014 at 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 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 with both the permit owner and the Chief Engineer by February 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 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.

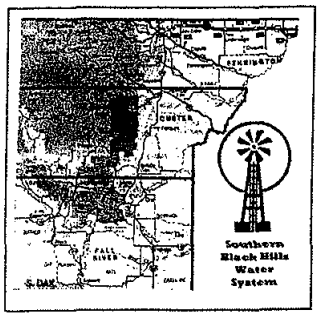
This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and 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 Eric Gronlund, Water Rights Program, (605 773-3352) by February 24, 2014. 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 24, 2014.

Steven M. Pirner,
Secretary,
Department of
Environment and
Natural Resources

Published once at the total approximate cost of $39.79.

#286
Jan. 22



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- *Ken Royse*
  Engineer
  Bartlett & West, Inc.
  701-258-1110
- *Don Peterson*
  Manager
  605-745-4669

SOUTHERN BLACK HILLS WATER SYSTEM
26858 Highway 385
Hot Springs, South Dakota 57747
Phone 605-745-4669

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DEC 2 7 2013
WATER RIGHTS
PROGRAM

December 13, 2013

Karen Schlaak
DENR-Water Rights Program
523 E. Capitol Ave.
Pierre, SD 57501-3182

Dear Ms. Schlaak:

This letter is in response to your letter of November 15, 2013, wherein you requested a summary of Southern Black Hills Water System, Inc.'s (Southern Black Hills) intentions for the Future Use Water Permit #2580-2 and whether it was still needed by Southern Black Hills.

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 had been 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 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 area, following along U.S. Highway 385. A treatment facility and reservoir system were established. The current well sits on the extreme eastern edge of the water system. The fact that the well is the only current water supply, it is Southern Black Hills' desire to establish additional wells, then move this third party well into a

backup mode. In looking for this future well, the sites identified in the FUP will be considered.

Additionally, the current well authorized and appropriated withdrawal rate is only 109 gallons per minute. While this is sufficient to serve Southern Black Hills' first two phases, it will not be sufficient in the long term or for any additional expansions. This also necessitates the addition of wells on the system.

Southern Black Hills' Phase Two is currently being constructed. 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.

Moreover, 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.

Southern Black Hills is currently having conversations with various homeowners regarding the construction of an extension along State Highway 71, making the site in that area a necessary location. Expansion into the Hermosa area is further off but remains as a projected future project.

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 respectively requests that the Water Management Board allow the permit to remain in effect and schedule it for review in seven (7) years. 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,

John Beard

John Beard
Chairman of the Board

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 Systems 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 Future Use Water Permit No. 2580-2, Southern Black Hills Water Systems Inc., c/o Don Peterson, Manager, 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 water 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 $185.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the water system after the Board hearing.

Jeanne Goodman

Jeanne Goodman, Chief Engineer
January 13, 2014

Jan. 22
L20841382

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 Southern Black Hills Water System, c/o Don Peterson, Manager, 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 currently reserves 1,474 acre feet from the Madison Aquifer. The area reserved for future use is the approximate center of 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 9:00 am on March 6, 2014 at 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 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 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 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 Eric Gronlund, Water Rights Program, (605 773-3352), by February 24, 2014. 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 24, 2014. Steven M. Pirner, Secretary, Department of Environment and Nat-

Affidavit of Publication

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FEB 14 2014
WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA

County of Pennington SS:

Brandyn Crawford 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 _____ for _____ successive _____, the first publication there of being on the _____ day of _____ that the fees charged for the publication there of are _____ dollars and _____ cents.

_____

Subscribed and sworn to before me this _____ day of _____, _____.

LORRAINE K. CUMMINGS NOTARY PUBLIC SEAL SOUTH DAKOTA MY COMMISSION EXPIRES 12-18-2016

Lorraine K. Cummings
Notary public

Dec. 18, 2016
My commission expires

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FEB - 4 2014

WATER RIGHTS PROGRAM

Affidavit of Publication

State of South Dakota)
)ss.
County of Custer)

Charles W. Najacht of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer 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 two hundred copies weekly, and has been published within said County for fifty-two successive 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

Dept - OF Enviroment & Natural Resources
Notice Of Hearing

a printed copy of which, taken from the paper 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 each week for 1 successive week(s), on which said newspaper was regularly published, to wit:

Jan 22, 2014; _____, _____;
_____, _____; _____, _____;
_____, _____; _____, _____;
_____, _____; _____, _____;
_____, _____; _____, _____;

the full amount of the fees for the publication of the annexed notice is $ 35.95.

Charles W. Najacht

Subscribed and sworn to me before this 22
of January, 2014;

Norma Najacht
NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5. 2018

NOTICE OF HEARING

TO REVIEW FUTURE USE WATER PERMIT NO. 2580-2

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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.

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Published once at an approximate cost of $35.95..

1/22

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JAN 24 2014

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Fall River)

I, Brett Nachtigall

certify that the attached printed Notice was taken

from the Hot Springs Star

printed and published in Hot Springs, S.D.

County of Fall River and

state of South Dakota. The notice was published

in the newspaper on the following date:

Tuesday, January 21, 2014

Cost of Printing $38.92

(Signature)

Publisher

(Title)

1-21-14

(Date Signed)

380

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 Southern Black Hills Water System, c/o Don Peterson, Manager, 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 currently reserves 1,474 acre feet from the Madison Aquifer. The area reserved for future use is the approximate center of 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.

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Steven M. Pirner, Secretary,
Department of Environment and Natural Resources.

Published once at the total approximate cost of $38.92.

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WATER RIGHTS
PROGRAM

February 13, 2014

Water Rights Program
Joe Foss Bldg
523 E Capitol Bldg
Pierre, SD 57501

Chief Engineer,

In regards to the Future Use Permit 2580-2, held by Southern Hills Water for 1474 acre feet from the Madison, we are 100% against a well in S1/2NW1/4, Sec 24 T6S R5E....have no opinion of the other 2 locations. As a water right holder on Beaver creek, I feel a well at this listed location will impact Beaver Creek, Wind Cave Nat'l Park, & monitor well CU91A.
CU91A has shown a downward curve since Southern Hills has started pumping, even with the added moisture of the previous year. I've monitored Beaver Creek for over 50 years & since they have been pumping, the main spring has lost it's hydraulic head pressure & is coming up 6 feet lower in elevation down the creek.

Southern Hills Water has not followed what was required of them as far as doing a Pump test when they received permit 2634-2, for the Streeter well. Again, we feel that a Future Use Permit in Section 24 should be denied.

Sincerely,

Frank Schroth, 7-11 Ranch
PO Box 97
Buffalo Gap, SD 57722

Randy Schroth, 7-11 Ranch
PO Box 1
Buffalo Gap, SD 57722

USDA United States Department of Agriculture | Forest Service | Black Hills National Forest Supervisor's Office | 1019 N. 5th Street
Custer SD 57730-8214
Tel. 605/673-9200
FAX 605/673-9350
www.fs.usda.gov/blackhills

File Code: 2540
Date: February 21, 2014

CHIEF ENGINEER
WATER RIGHTS PROGRAM
SOUTH DAKOTA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE.
PIERRE, SD 57501

The Black Hills National Forest is concerned with the Future Water Use Permit No. 2580-2. The primary concern is with one of the potential future wells at; W 1/2 NW 1/4 Section 21-T8S-R5E (Fall River County). This well location is approximately one mile northeast of Cascade Springs. If this well is developed, it could affect the flow levels from the warm water springs at Cascade Springs, as well as the stream water levels along the entire length of Cascade Creek to where it drains into the Cheyenne River. The flow levels at Cascade Springs and along Cascade Creek support a rare warm water groundwater dependent ecosystem. Currently, there are four rare plant species documented to occur at Cascade Springs and along Cascade Creek that do not occur anywhere else in South Dakota and that we are required to protect.

These plant species include tulip gentian (*Eustoma exaltatum* ssp. *russellianum*), beaked spikerush (*Eleocharis rostellata*), southern maidenhair fern (*Adiantum capillus-veneris*), and stream orchid (*Epipactis gigantea*). They occur here due to the availability of year-round open water. Our concern is if the flows are reduced at Cascade Springs, the reduced availability of water could be expected to affect the survival and viability of these rare plant species. The United States Geological Survey (USGS) had operated a water gaging station located immediately below Cascade Springs (upstream of Alabaugh Canyon). The operation of the gaging station had been discontinued by USGS but had remained in place in case funding had become available again. Through an agreement developed with USGS, the Forest has been providing funding to support the operation of the USGS Gaging Station since 2008. This was based on national, regional and local Forest direction for conservation and management of rare groundwater dependent ecosystems, such as what occurs in this location, as well as for the rare species that occur here.

The Black Hills National Forest hereby requests that this proposed well in Fall River County be removed from Future Water Use Permit No. 2580-2.

Sincerely,

/s/ Dennis L. Jaeger (for):
CRAIG BOBZIEN
Forest Supervisor

cc:
Leslie Gonyer, Andrea E Rogers,

Southern Black Hills Water System
c/o Don Peterson
26858 Hwy 385
Hot Springs, SD 57747

STOCKWELL
ENGINEERS

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JAN - 2 2014
WATER RIGHTS PROGRAM

December 27, 2013

Karen Schlaak
SD DENR
Joe Foss Building
523 E Capitol
Pierre, SD 57501

Re: *Big Sioux Future Water Use Permit*
Brandon, SD

Dear Ms. Schlaak:

This letter is in response to the seven year review of the Future Water Use Permit No. 4002-3 from the Big Sioux: South Aquifer. Permit No. 4002-3 is for 685 acre-feet.

In recent years, the City of Brandon and the surrounding area has experienced rapid residential, commercial and industrial growth. We recently completed a Comprehensive Water System Plan for the City of Brandon. This plan recommended that new wells be constructed to provide adequate well capacity for current and future water demands. Two new wells are planned to be constructed in the summer of 2014 in the Big Sioux:South Aquifer. Historic pumping records from the Big Sioux:South Aquifer and future needs for the City of Brandon are shown in the following tables.

Big Sioux Historic Usage

Year	Annual Usage (gal)
2010	27,091,000
2011	29,547,000
2012	36,267,000

Projected City Usage

Year	Population Projection	Annual Usage (gal)
2017	10,734	407,462,640
2022	12,217	463,757,320
2027	13,700	520,052,000

The City of Brandon plans to retain this permit. Please call, if you have any questions or need additional information.

Sincerely,

STOCKWELL ENGINEERS, INC.

Gabriel Laber, P.E.
Project Engineer
glaber@stockwellengineers.com

cc: SEI Project File: 01_3613 / Correspondence

SIOUX FALLS
600 N. Main Ave. #100
Sioux Falls, SD 57104
(605) 338-6668

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 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. 4002-3, City of Brandon, c/o Bryan Read, City of Administrator, 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.

Jeanne Goodman, Chief Engineer
January 13, 2014

CUSTOMER NUMBER:	127014	Argus Leader	
AD ORDER NUMBER:	1433917	P.O. Box 677349, Dallas, TX 75267-7349	
	1/22, 2014		$94.87

City of Brandon
% Bryan H Read
PO Box 95
Brandon, SD 57005

RECEIVED
JAN 24 2014
WATER RIGHTS PROGRAM

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

AFFIDAVIT OF PUBLICATION-
Customer Number: 127014
Invoice Number: 1433917

Argus Leader
AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF MINNEHAHA } ss

Linda Schulte 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

Wednesday the 22 day of January 2014,
____ the ____ day of ____ 2014,
____,the ____ day of ____ 2014
____,the ____ day of ____ 2014,
____,the ____ day of ____ 2014,
____,the ____ day of ____ 2014,
____,the ____ day of ____ 2014,

and that $94.87 was charged for publishing the same

Linda Schulte

Subscribed and sworn to before me 1/22/2014.

J. Zimmerman

Notary Public, South Dakota

My Commission expires December 22, 2015

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 Bryan H Read, City Administrator, 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 in 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 9:00 am on March 6, 2014 at 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 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 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 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 Eric Gronlund, Water Rights Program, (605 773-3352) by February 24, 2014. 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 24, 2014. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of $94.87.

1433917 Jan. 22, 2014

JACQUELINE ZIMMERMAN
NOTARY PUBLIC
SOUTH DAKOTA
SEAL

MINNEHAHA COMMUNITY WATER CORP.

47381 248TH STREET
DELL RAPIDS, SD 57022-5305
TELEPHONE (605) 428-3374
FAX (605) 428-3395

RECEIVED
DEC - 5 2013
WATER RIGHTS PROGRAM

December 3, 2013

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. New livestock operations are investigating sites within the county. MCWC has added between 50 and 90 new users in each of the last five years.

- Eight of ten all-time record months for water pumping volume have occurred in the past two years.

- Bulk water delivered to the towns within Minnehaha County increases yearly. Hartford and Dell Rapids continue to add residential housing, and both towns have aggressive plans for industrial development.

- MCWC is a member of the Lewis & Clark Regional Water System and has reserved capacity of 2 MGD. Only one of three connections to L&C has been completed. The other connections are held up by the slow pace of Federal funding for the project.

- MCWC has received inquiries into supplying water to help with distribution issues on neighboring rural water systems. MCWC has also been approached by other L&C members to investigate short term supply arrangements.

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

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES
PMB 2020
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 Corporation

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 248th St, Dell Rapid 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 water 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 water corporation after the Board hearing.

Jeanne Goodman, Chief Engineer
January 13, 2014

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 Corporation

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 248th St, Dell Rapid 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 water 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 water corporation after the Board hearing.

Jeanne Goodman, Chief Engineer
January 13, 2014

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. 5716-3, Minnehaha Community Water Corporation

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 248th St, Dell Rapid 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 water 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 water corporation after the Board hearing.

Jeanne Goodman, Chief Engineer
January 13, 2014

CUSTOMER NUMBER:	078200	Argus Leader		
AD ORDER NUMBER:	1433912	P.O. Box 677349, Dallas, TX 75267-7349		
	1/22, 2014			$116.97

RECEIVED
JAN 24 2014
WATER RIGHTS PROGRAM

Minnehaha Community Water Corp
% Scott J Buss, Director
47381 248th St
Dell Rapids, SD 57022

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

AFFIDAVIT OF PUBLICATION-
Customer Number: 078200
Invoice Number: 1433912

Argus Leader
AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF MINNEHAHA } ss

Linda Schulte 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

Wednesday the 22 day of January 2014,
_____ the ____ day of _____ 2014,
_____, the ____ day of _____ 2014
_____, the ____ day of _____ 2014,
_____, the ____ day of _____ 2014,
_____, the ____ day of _____ 2014,
_____, the ____ day of _____ 2014,

and that $116.97 was charged for publishing the same

Linda Schulte

Subscribed and sworn to before me 1/22/2014.

J. Zimmerman
Notary Public, South Dakota

My Commission expires December 22, 2015

JACQUELINE ZIMMERMAN
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

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 Minnehaha Community Water Corporation, 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, Moody, Lake, Turner and McCook Counties.

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 the S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the water permits/rights indicates that 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 water permits/rights indicates that 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 water permits/rights 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, 5063A-3 remain in effect for 717 acre-feet annually and 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 Future Use Permit Nos. 4838A-3, 5063A-3 and *5716-3 at 9:00 am, March 6,* 2014 at 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 permits 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 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe "Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders *mailing address is given* above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use 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 Eric Gronlund, Water Rights Program, (605 *773-3352)* by February 24, 2014. 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 de*lay must be filed with the Chief* Engineer by February 24, 2014. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of $116.97.

1433912 Jan. 22, 2014

RECEIVED

JAN 24 2014

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Moody)

I, Angela Dibbelink

certify that the attached printed Notice was taken

from the Moody County Enterprise

printed and published in Flandreau

County of Moody and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 22, 2014

Cost of Printing $47.61

Angela Dibbelink
(Signature)

Office Manager
(Title)

Jan. 22, 2014
(Date Signed)

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 Minnehaha Community Water Corporation, 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, Moody, Lake, Turner and McCook Counties.

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 the S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the water permits/rights indicates that 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 water permits/rights indicates that 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 water permits/rights 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, 5063A-3 remain in effect for 717 acre-feet annually and 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 Future Use Permit Nos. 4838A-3, 5063A-3 and 5716-3 at 9:00 am, March 6, 2014 at 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 permits 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 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use 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 Eric Gronlund, Water Rights Program, (605 773-3352) by February 24, 2014. 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 24, 2014.

Steven M. Pirner, Secretary,
Department of Environment
and Natural Resources.

Published once at the total approximate cost of $50

RECEIVED
JAN 27 2014
WATER RIGHTS
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of McCook)

I, Troy Schwans

certify that the attached printed Notice was taken

from the Salem Special

printed and published in Salem

County of McCook and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 23, 2014

Cost of Printing $50.78

(Signature)

Owner
(Title)

1/23/14
(Date Signed)

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 Minnehaha Community Water Corporation, 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, Moody, Lake, Turner and McCook Counties.

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 the S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the water permits/rights indicates that 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 water permits/rights indicates that 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 water permits/rights 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, 5063A-3 remain in effect for 717 acre-feet annually and 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 Future Use Permit Nos. 4838A-3, 5063A-3 and 5716-3 at 9:00 am, March 6, 2014 at 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 permits 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 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use 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.

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Published once at the total approximate cost of $50.78.

1-23

AFFIDAVIT OF PUBLICATION

RECEIVED
JAN 27 2014
WATER RIGHTS PROGRAM

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

Sue Anne Artko 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

Minnehaha Community Water Corp.

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 Wednesday, the 22nd day of January, 20 14;
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 $ 48.79 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.

Sue Anne Artko

Subscribed and sworn to before me this 23rd day of January, 20 14

ANN L. KOCH
NOTARY PUBLIC
SOUTH DAKOTA

Ann L. Koch
Notary Public, Lake County, South Dakota

Wednesday, Jan. 22

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 Minnehaha Community Water Corporation, 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, Moody, Lake, Turner and McCook Counties.

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 the S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the water permits/rights indicates that 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 water permits/rights indicates that 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 water permits/rights 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, 5063A-3 remain in effect for 717 acre-feet annually and 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 Future Use Permit Nos. 4838A-3, 5063A-3 and 5716-3 at 9:00 am, March 6, 2014 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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In ..... Court

County of .....

AFFIDAVIT OF PUBLICATION

Filed in the office of .....

..... on the

..... day of .....

20 .....

Attorneys for .....

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 permits 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 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use 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 Eric Gronlund, Water Rights Program, (605 773-3352) by February 24, 2014. 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 24, 2014.

STEVEN M. PIRNER
Secretary, Department of
Environment and
Natural Resources

Published once at the total approximate cost of $48.79

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF LINCOLN

ANDY WILCOX

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

Notice of Hearing to Review Future Use Water Permits

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

January 23, 2014

that the full amount of the fees charged for publishing the same to-wit: the sum of **$48.37** inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.

Andy Wilcox

Ascribed and sworn to before me this 23rd day of **January, 2014.**

Teresa J. Wilcox

Notary Public, South Dakota

(Seal)

TERESA J. WILCOX NOTARY Seal PUBLIC STATE OF SOUTH DAKOTA

My Commission Expires
12/9/2014

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 Minnehaha Community Water Corporation, 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, Moody, Lake, Turner and McCook Counties.

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 the S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the water permits/rights indicates that 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 water permits/rights indicates that 717 acre-feet of water remains in reserves 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 water permits/rights 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, 5063A-3 remain in effect for 717 acre-feet annually and 5716-3 remain in effect for 750 acre-feet annually because 1) the reserved water ay 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 Nos. 4838A-3, 5063A-3 and 5716-3 at 9:00 a.m., March 6, 2014 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 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 permits 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 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E. Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use 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.

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Published in the Sioux Valley News on January 23, 2014 at the total approximate cost of $48.37.

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FEB 10 2014
WATER RIGHTS PROGRAM

RECEIVED
FEB 2 4 2014
WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF TURNER

I, Robin Schneider of the City of Parker, County of Turner, State of South Dakota being first duly sworn on oath, deposes and says: The New Era is a weekly legal newspaper of general circulation, printed and published in the City of Parker, in said County of Turner, by The New Era, New Century Press, publishers, and has been such legal newspaper during the times hereinafter mentioned; that the said newspaper 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 publication of the notice hereunto attached, and has during all of said time had, and now has, more than 200 bona fide subscribers; that the undersigned, The affiant, is the Office Manager of the said newspaper, in charge of the advertisement department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed:

#5749 Notice of Hearing to Review Future Water Permits

_____ printed copy of hereto attached, is printed and published in the said newspaper one successive weeks, one each week and on the same day of the week, on the following dates, to wit:

On Thursday, the 23rd day of Jan. , 2013

See attached

That $47.99 being the full amount of the fees for publication of the attached notices insures solely for the benefits of the publishers 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.

Robin Schneider

Subscribed and sworn to before me this 19th

Day of February 2014

Paul R Harms

Notary Public, Turner County, South Dakota

My Commission Expires: March 20, 2018

Publication Fee .... $
Notary Fees ..... $
Total $47.99

PAUL R. HARMS
SEAL NOTARY PUBLIC SOUTH DAKOTA SEAL

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 Minnehaha Community Water Corporation, 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, Moody, Lake, Turner and McCook Counties.

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 the S 1/2 SE 1/4 Section 29; all in T104N-R49W. A review of the water permits/rights indicates that 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 water permits/rights indicates that 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 water permits/rights 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, 5063A-3 remain in effect for 717 acre-feet annually and 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 Future Use Permit Nos. 4838A-3, 5063A-3 and 5716-3 at 9 am, March 6, 2014 at 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 permits 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 Feb. 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use 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.

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Published once at the total approximate cost of $47.99.

(#5749, 01/23/14, The New Era)

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FEB 24 2014
WATER RIGHTS PROGRAM

MUNICIPAL UTILITIES DEPARTMENT

901 Fourth Avenue Southwest
WATERTOWN, SOUTH DAKOTA 57201-4107
PHONE (605) 882-6233 • FAX (605) 882-6238

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DEC 2 7 2013
WATER RIGHTS PROGRAM

December 23, 2013

Karen Schlaak
Department of Environment and Natural Resources
Joe Foss Building 523 East Capitol
Pierre S.D. 57501-3182

RE: Future Water Use Permit No.5862-3

Dear Ms Schlaak:

The Watertown Municipal Utilities Department petitions to retain future water use permit No.5862-3 for future growth of the city.

The city has had growth with 973 new connections between 2003 and 2013. The city has not seen an increase in water production between 2003 and 2013. During this time the whole country went through an economic down turn and during this time we lost commercial customers with one being as large a 5% of our production.

In 2006 we stopped using water from our Lake Kampeska plant Permit No. 347-3 and we built a new treatment plant in 2010 to replace the lost production from the Kampeska lake plant and so we could comply with new regulations. We converted part of future use No. 5862-3 to appropriated permit No.7055-3 in 2008 to supply water for the new treatment plant.

We have purchased additional land adjacent to the new well field where we developed the 9 wells under permit No.7055-3. This land will be used to place additional wells that will use the remaining water under future use No. 5862-3.

Thank you and please call if you have any questions.

Sincerely,

Jeff DeVille
Water Superintendent
Watertown Municipal Utilities Dept.

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT NO. 5862-3, City of Watertown 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. 5862-3, Watertown Municipal Utilities Department, c/o Jeff DeVille, Water Superintendent, 901 4th Ave SW, Watertown SD 57201.

The Chief Engineer is recommending that Future Use Permit No. 5862-3 REMAIN in EFFECT for 760 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 5862-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 5862-3, 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. 5862-3 is subject to payment of the $125.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman

Jeanne Goodman, Chief Engineer
January 13, 2014

RECEIVED

JAN 27 2014

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Codington)

I, Monica K. Saathoff

certify that the attached printed Notice was taken

from the Watertown Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 22nd, 2014

Cost of Printing 84.74

Monica K Saathoff
(Signature)

Bookkeeper
(Title)

January 22nd, 2014
(Date Signed)

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 5862-3 HELD BY WATERTOWN MUNICIPAL UTLITIES DEPARTMENT MARCH 6, 2014 AT 9:00 A.M. FLOYD MATHEW TRAINING CENTER, JOE FOSS BUILDING, 523 E CAPITOL, PIERRE, SD

Notice is given that the Water Management Board will review Future Use Permit No. 5862-3 held by Watertown Municipal Utilities Department, c/o Jeff DeVille, Water Superintendent, 901 4th Ave SW, Watertown SD 57201 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. 5862-3. This permit approved in 1996 currently reserves 760 acre feet from the Big Sioux:North Aquifer located in Sections 29, 30 and 31; all in T118N-R52W. The water is reserved for municipal use by the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 5862-3 REMAIN in EFFECT for 760 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. 5862-3 at 9:00 am on March 6, 2014 at 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 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 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 5862-3 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.

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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 Eric Gronlund, Water Rights Program, (605 773-3352) by February 24, 2014. 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 24, 2014.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of $93.00.

(January 22, 2014)

All legal notices in the Public Opinion and other South Dakota newspapers can be found at www.sdpublicnotices.com

REPORT TO THE CHIEF ENGINEER

WATER PERMIT APPLICATION NO. 7555-3
CRAIG BASS
JANUARY 28, 2013

Water Permit Application No. 7555-3 proposes to appropriate 470 acre-feet per year (ac-ft/yr) at a maximum diversion rate of 1.78 cubic feet of water per second (cfs) from one well. The well depth is proposed to be approximately 88 feet and is to be located in the SW¼ SE¼ of Section 11 to irrigate 235 acres located in the E½ SE¼, SW¼ SE¼ of Section 11 and the NE¼ Section 14, all in T115N-R52W in Hamlin County.

GEOLOGY AND AQUIFER CHARACTERISTICS:
The test hole log information submitted with this application is shown in Table 1. It is assumed that the "55" in row three of the 'From' column is an error and should instead be "5." The supplemental information sheet submitted with this application stated that the depth to water bearing material and depth to water was 55 feet below ground surface. No pumping information of this test hole was submitted.

In Hamlin and Deuel Counties there are many outwash deposits, which are often grouped together. To portray this extensive system, Figure 1 shows a west to east geologic section C-C', which spans most of these counties, as shown in Figure 3 (Kume, 1985). The proposed well site is located approximately three and a half miles north of this geologic section.

The Altamont is a mostly continuous basal outwash that often lies directly on the bedrock and is generally encountered 150 feet below ground surface in Hamlin and Deuel Counties (Kume, 1985). Therefore, the water bearing aquifer materials found at the proposed well site is not the Altamont aquifer.

Kume (1985) grouped together the other surface and buried outwashes that are not included in the Big Sioux or Prairie Coteau aquifer systems. The proposed well site is not located within the mapped area of these outwashes, as shown in Figure 2, and therefore, the water bearing aquifer materials found is not included in this grouping (Kume, 1985).

Table 1: Test hole log information submitted with this application

Formation			Depth	
			From	To
Top Soil	Blk	M	0	1
Clay	Tan	M	1	5
Sand	Tan	M	55	11
Clay	Blu	M	11	44
Sand	Tan	M-Coarse	44	48
Clay	Blu	M	45	55
Sand	Tan	M	55	88
Clay			88	100

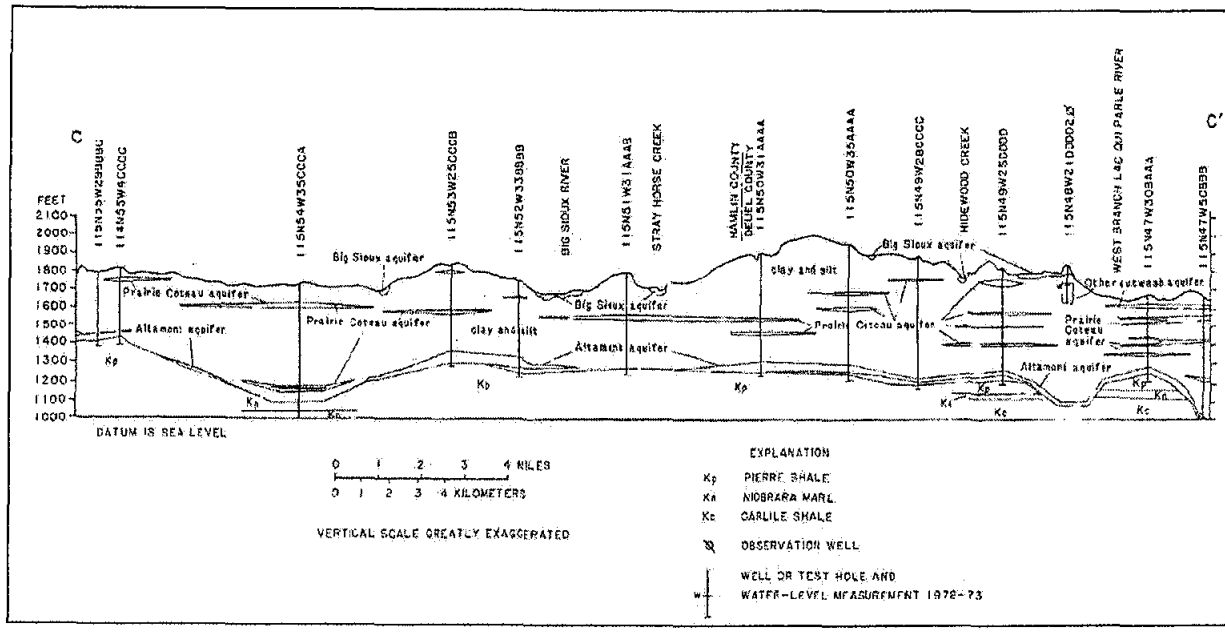

Figure 1: Geologic section C-C' of Hamlin and Deuel Counties (modified from Kume, 1985)

The Big Sioux is a surficial outwash that is generally under water table conditions and is underlain by till and often overlain by silt and clay. The top of the Big Sioux aquifer is encountered from ground surface to 40 feet below ground surface, with an average of five feet, in Hamlin and Deuel Counties. The proposed well site is located within, but near the edge of the mapped boundary of the North management unit of the Big Sioux aquifer, as shown in Figure 2. At the proposed well site, the aquifer is expected to be surficial, less than 20 feet thick, and have a static water level of 20 feet below ground surface (Kume, 1985). Due to the expected depth of this aquifer, the water bearing aquifer materials found is probably not the Big Sioux: North aquifer, but could still be hydraulically connected.

The Prairie Coteau aquifer consists of numerous buried lenticular glacial outwashes that are generally found below more than 30 feet of till, and are not otherwise included in the surficial Big Sioux aquifer system, Kume's (1985) outwash grouping, or the basal Altamont aquifer. These beds of outwashes are not all hydraulically connected, but are collectively known as an aquifer due to their similarities. The top of the Prairie Coteau aquifer is encountered from three to 364 feet below ground surface, with an average of 94 feet, in Hamlin and Deuel Counties (Kume, 1985).

While the outwash found at the proposed well site is buried and is located at a depth where aquifer materials are generally considered Prairie Coteau, the proposed well site appears to be located within but on the edge of the areal extent of this aquifer defined by Kume (1985), as shown in Figure 3. Because the lithologic logs used by Kume (1985) do not adequately document the lithology of the specific area of the proposed well site, these aquifer materials found could indeed be part of the Prairie Coteau aquifer system, or at least be hydraulically connected. Other lithologic logs available do not adequately describe the lithology of the area either ("Lithologic Logs Database;" Water Rights, 2013b; Water Rights, 2013c).

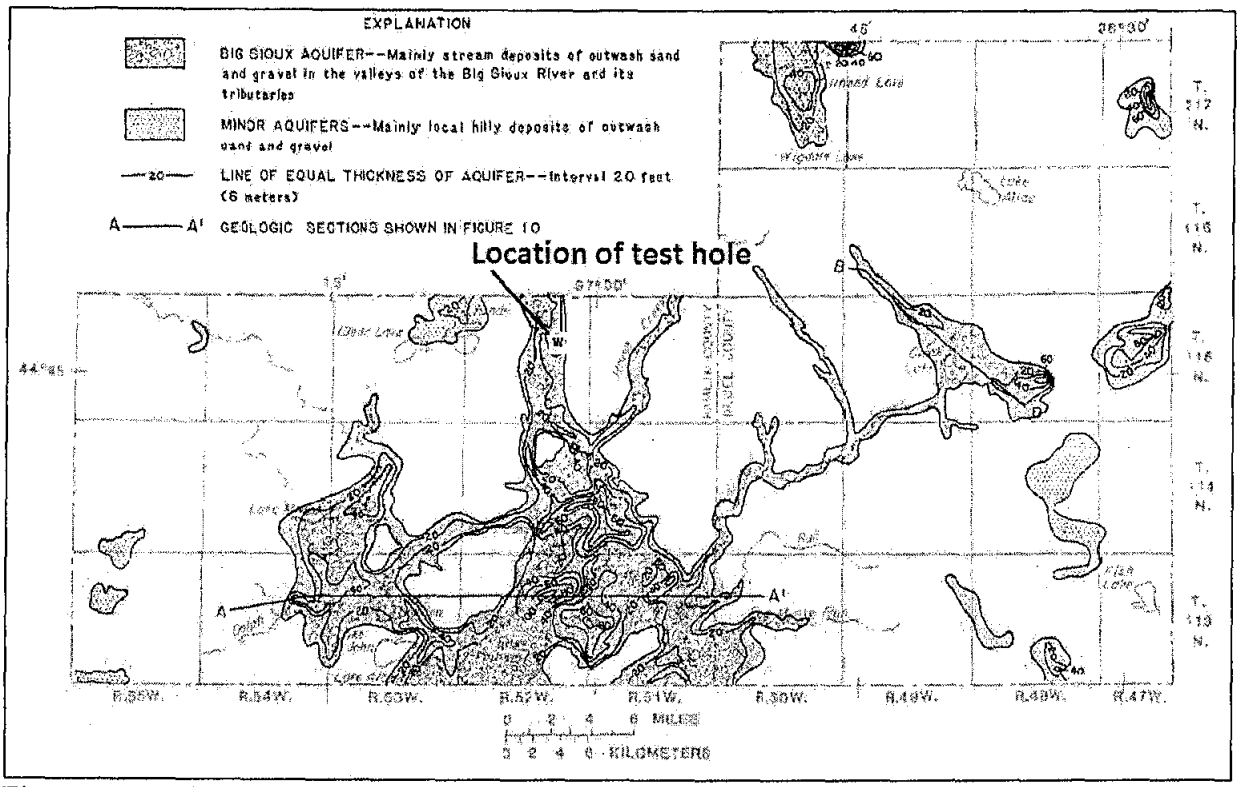

Figure 2: Areal extent and thickness of the Big Sioux aquifer and minor aquifers in Hamlin and Deuel Counties (modified from Kume, 1985)

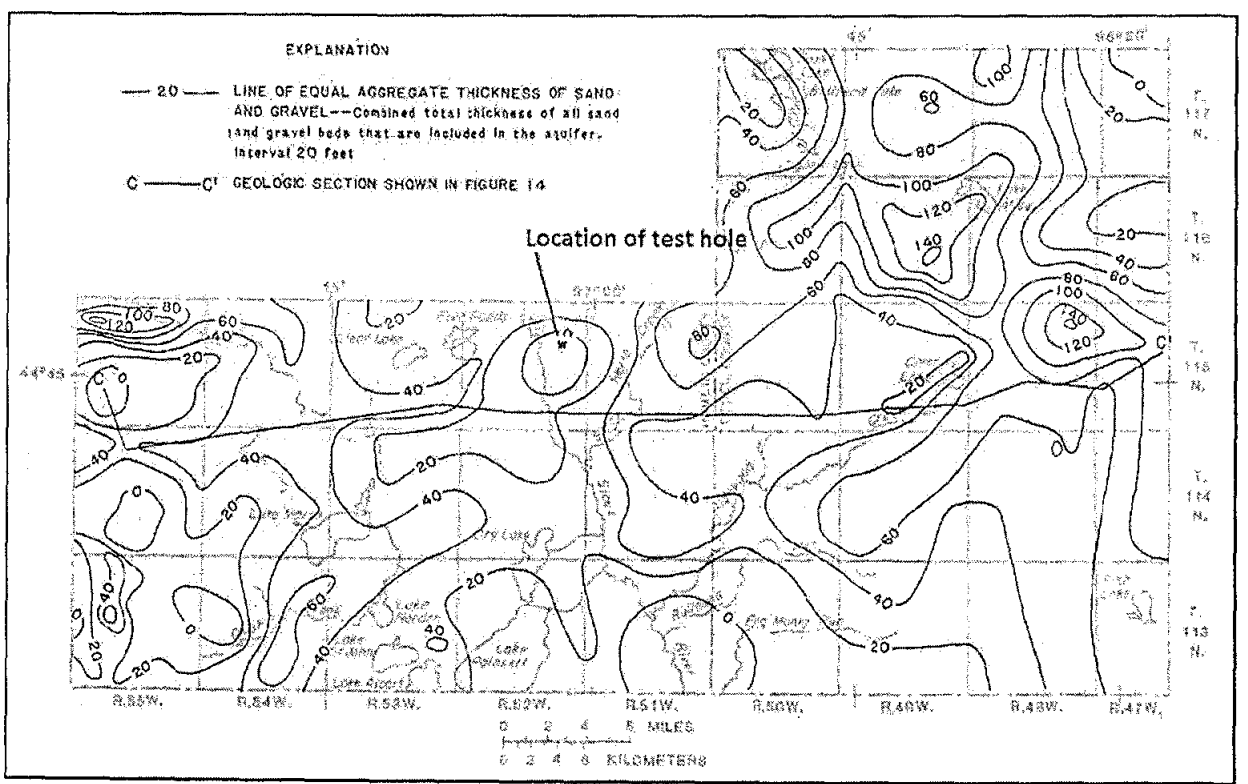

Figure 3: Thickness of Prairie Coteau aquifer materials in Hamlin and Deuel Counties (modified from Kume, 1985)

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a 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 existing rights from the aquifer that are pertinent to this application.

WATER AVAILABILITY:

This application proposes to appropriate 470 ac-ft/yr from an outwash that could be part of the Prairie Coteau aquifer system. If this application is approved, the actual water use will likely be less than the appropriation. The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable 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."

Hydrologic Budget:

Natural recharge to and discharge from this outwash has not been quantified. The outwash could be part of or hydraulically connected to one or more local aquifers.

The only well that appears to be completed into and withdrawing from this outwash is authorized to Water Permit No. 7007-3 Gordon Little. The buried layer of aquifer materials documented in the test hole log submitted with this application, shown in Table 2, could be the same outwash found in the test hole log submitted with this application, or at least be hydraulically connected (Water Rights, 2013b). Goodman (2008) labeled the outwash found in the test hole log for Water Permit No. 7007-3 the Big Sioux: North aquifer. However, when discussing irrigation potential, he stated, "If this buried sand and gravel is hydraulically connected to the surficial Big Sioux aquifer (probably the first 18 feet of sand and gravel in the log) then there is a good potential for irrigation development." (Goodman, 2008). While little to no information about this outwash was available, this water permit was eventually approved. In interpreting 46-6-3.1, the First Judicial Circuit Court ruled in *Hanson County Dairy v. Bender* that evidence needs to show that water is available for proposed appropriations (i.e. data must be presented to show that the average annual recharge exceeds the average annual discharge by at least the amount requested by the water permit application being considered) (Memorandum Decision, April 11, 2012). Water Permit No. 7007-3 pumped 100.76 ac-ft of groundwater, all in 2008 (Water Rights, 2013b).

Because sufficient information of recharge and discharge is not currently available, the probability of unappropriated water available from this outwash cannot be evaluated.

Table 1: Test hole log information submitted with the application for Water Permit No. 7007-3 (Water Rights, 2013b)

Formation	Depth	
	From	To
Top Soil	0	1
yellow gravel	1	18
yellow clay	18	24
Blue clay	24	68
yellow mixed W/L 4 links	68	78
Blue clay	78	90
Static water level (3/08) = 8' below ground surface		

Observation Well Data:
Administrative Rule of South Dakota Section 74:02:05:07 requires that "the Water Management Board shall rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer."

The SD DENR-Water Rights Program does not monitor any observation wells completed into this outwash (Water Rights, 2013b). Therefore, the probability of unappropriated water available from this outwash cannot be evaluated.

EXISTING WATER RIGHTS:
Water Permit No. 7007-3, the only water right/permit that appears to be completed into this outwash, is located approximately 2,000 feet north of the proposed well site (Water Rights, 2013b). There are no domestic wells currently on record with the SD DENR-Water Rights Program that appear to be completed into this outwash (Water Rights, 2013c). If domestic wells are currently, or in the future, completed into this outwash, these domestic wells would have precedence over water rights/permits completed into the same outwash.

This outwash could be under confined conditions, and so, some drawdown due to pumping is possible. The Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. SDCL 46-6-6.1 does not require protection of artesian head pressure as a means of groundwater delivery. However, reasonable domestic use must be assured before irrigation use is allowed. Therefore, when considering irrigation projects, the Water Management Board must give consideration to maintaining artesian head pressure as a method of delivery for domestic wells.

To balance interests between irrigation use and delivery of groundwater by artesian pressure, ARSD 74:02:04:20(7) defines an adversely impacted domestic well as:

> "a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs"

Depending on the specific characteristics of this at the proposed well site, well owners, if any, may need to lower or install their pumps to accommodate for reduction of head pressure.

The potential for adverse or unlawful impairment of existing users due to the development of the proposed diversion cannot be determined because sufficient information is not currently available to accurately appraise the characteristics of this outwash.

An aquifer pump test, including monitoring wells, should be conducted to aid in the evaluation of this aquifer to allow for the consideration of the availability of unappropriated water from the aquifer and potential impacts to existing users as required by SDCL 46-2A-9.

CONCLUSIONS:

1. The application proposes to appropriate 470 ac-ft/yr for irrigation from an outwash deposit that could be part of or hydraulically connected to one or more local aquifers.
2. Because recharge and discharge and observation well data is not available, the probability of unappropriated water available from this outwash for the proposed appropriation cannot be evaluated.
3. Sufficient information on the outwash characteristics is not currently available to determine the potential for adverse or unlawful impairment of existing users due to the development of the proposed diversion.
4. An aquifer pump test including monitoring wells should be conducted to aid in the evaluation of this aquifer.

Joseph R Stonesifer
SD DENR-Water Rights Program

Approved by

Ken Buhler
SD DENR-Water Rights Program

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES
PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT APPLICATION NO. 7555-3, Craig Bass

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. 7555-3, Craig Bass, 17949 459th Avenue, Castlewood SD 57223.

The Chief Engineer is recommending DEFERRAL of Application No. 7555-3 until an aquifer pump test is completed by the applicant to allow evaluation of the aquifer potential including the availability of unappropriated water and potential impacts to existing users from the aquifer which are criteria set forth in SDCL 46-2A-9 for when a water right permit may be issued.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 4, 2013

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT APPLICATION NO. 7555-3, Craig Bass

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 7555-3, Craig Bass, 17949 459th Avenue, Castlewood SD 57223.

The Chief Engineer is recommending DENIAL of Application No. 7555-3 since it is not in the public interest to issue a water permit when the applicant is no longer interested in obtaining a permit from this water source. Denial of the application will allow seventy five percent of the application fee to be returned to the applicant.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
December 18, 2013

NOTE: This application was deferred March 7, 2013, pending an aquifer pump test to allow evaluation of the potential aquifer based on the proposed depth listed on the application. Since that time, you have secured Water Permit No. 7844-3 to appropriate water from the Big Sioux:North Aquifer for irrigation of the same acreage. You indicated in a letter dated November 25, 2013, that you are no longer interested in acquiring a permit from the well proposed by Application No. 7555-3.

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

March 12, 2013

NOTICE

TO: Craig Bass
17949 459th Avenue
Castlewood SD 57223

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Deferral of Water Permit Application No. 7555-3, Craig Bass

On March 7, 2013, the Water Management Board deferred consideration of Water Permit Application No. 7555-3 to appropriate groundwater from one well for irrigation in the SE ¼ Section 11 and NE ¼ Section 14, T115N, R52W. The deferral is based upon the need for an aquifer pump test to allow evaluation of the potential aquifer including the availability of unappropriated water and potential impacts to existing users from the aquifer. These are criteria set forth in SDCL 46-2A-9 for when a water right permit may be issued. The aquifer pump test shall include an analysis of the test by a qualified engineer or hydrologist.

Please contact Ken Buhler regarding the aquifer pump test requirements or Eric Gronlund if you have questions about the deferral of the application. They can be contacted at (605) 773-3352.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on March 12, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 12, 2013, regarding deferral of Water Permit Application No. 7555-3, Craig Bass, as set forth below:

Craig Bass
17949 459th Avenue
Castlewood SD 57223

Diane Best, Assistant Attorney General
317 N Main Avenue
Sioux Falls SD 57104

Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of March, 2013

Karen Schlaak
Notary Public
My Commission expires April 1, 2013

SEAL KAREN SCHLAAK NOTARY PUBLIC State of South Dakota SEAL

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES
PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

April 5, 2013

Craig Bass
17949 459th Avenue
Castlewood SD 57223

Dear Mr. Bass:

Water Permit Application No. 7555-3 to appropriate water from one well for irrigation in the SE ¼ Section 11 and NE ¼ Section 14, T115N, R52W was deferred by the Water Management Board on March 7, 2013.

DENR received an amendment to your application from Dave Gullickson with Farmers Implement. The amendment was for a reduction in the diversion rate from 800 gallons per minute (gpm) to 400 gpm and a decrease in the proposed irrigated acres from 235 to 75 acres.

The original application was deferred pending an aquifer pump test to allow evaluation of the potential aquifer. South Dakota water law requires there be a reasonable probability that unappropriated water is available from the aquifer and that the proposed withdrawals will not adversely impact any existing users. Since data for this potential aquifer is scarce it may be possible to facilitate review of the application using data collected from an aquifer pump test. From the Water Rights Program's perspective, the amendment to reduce the diversion rate and irrigated acres does not negate the need for an aquifer pump test.

DENR encourages you to contact a qualified consultant and have them coordinate with DENR's Water Rights Program staff regarding the aquifer pump test and analysis needed to enable evaluation of the aquifer required by law.

The Board's next meetings are May 2nd and then July 10th and 11th. To review an aquifer pump test for the purpose of making a recommendation, the Water Rights Program will need to have a report with the analysis at least one week prior to the Board meeting.

Please contact Ken Buhler at (605) 773-3352 if you have questions regarding the aquifer pump test requirements.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

C: Dave Gullickson, Farmers Implement

STEFFL DRILLING & PUMP INC.

7-Day 24-Hour Service

att
Karen

ner: Craig Bass

Tested by: Joshua Baker

Well # : Prod Well #1
GPS: 44 46' 48.5"N 97 02' 07.3"W
Date: March 8, 2013

Well Information:

Length of Casing: 62'
Length of Screen: 25'
Total Well Depth: 87'
Static Water Level: 6'6"

Diameter of Pump:
Number of Bowls:
Serial Number:
Imp. Diameter:

Pump Capacity: GPM Foot of Head
Well: GPM @ PWL

TIME	GPM	PWL	COMMENTS	TIME	GPM	PWL	COMMENTS
10:45 am	300	59'	March 8	8:02	60' 1"		
11:56		59' 6"		9:05	61' 3"		Still at 400
12:59		58' 10"		6:30 am	37'		March 11
2:02		59' 4"					
3:03		60' 2"					
4:05		61'					
5:00		61' 5"					
6:20		62' 5"	Shut off pump				
11:00		39'					
7:00 am		32'	March 9				
1:45		28'					
6:00		26'					
7:00 pm		22'	March 10				
8:40 am	400	22'	Started pumping				
9:20		34'					
10:00		41'					
11:00		44'					
11:59		46'					
1:01		48' 6"					
2:02		50' 2"					
3:03		52' 5"					
4:08		54' 7"					
5:03		56' 1"					
6:05		57' 5"					
6:53		58' 5"					

The data stated above is representative of the time spent pumping at the capacities stated. Deviation from either time spent pumping or capacity or both could change the outcome of these results.

2295 - 66TH Ave N.E. * Willmar, MN 56201-9183
(320) 235-8484 * FAX: (320) 235-4848
Email: steffl@waterwelldrilling.com
www.waterwelldrilling.com

CRAIG OR ROXANNE BASS
FARM ACCOUNT
17949 459TH AVE PH 605-793-2169
CASTLEWOOD, SD 57223

76-69/914 4088

DATE Dec 5 12

PAY TO THE ORDER OF Water Ri[illegible] $ 1250.00

One thousand two hundred fifty dollars 1 no/100 DOLLARS

Castlewood Branch
Citizens State Bank
108 East Main
Castlewood, SD 57223
Phone (605) 793-2186 · Fax 793-2186

MEMO Craig Bass

⑆091400693⑆ 400⑈044⑈4⑈ 4088

500
250
100
200
1050

att
Karen

[illegible]or Irrigation

[illegible] to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
Craig Bass would like to amendment to 400 gals and 75A the well is in and it pumps 400 gals no well are used within 1½ from Irr. well

1. Name to Appear on Irrigation Permit Craig Bass
(check one) ☑ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent _____ (name and complete address if different than above name)

Mailing Address 17949 459th Ave (Address) Castlewood (City) SD (State) 57223 (Zip Code)

Home Phone 605-793-2169 Cell _____ Email _____

2. Amount of water claimed _____ *CFS or 400 **GPM _____ ***AF Total Acreage 75
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Well SW¼

4. Location of point of diversion 1 Well in ~~NW¼~~ of SE¼ Section 11 T104N R53W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
County Hamlin

5. County or counties where water will be used Hamlin

6. Annual period during which water is to be used Apr — Oct

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SE¼ of SE¼ Sec 11 115N 52W	40		
NE¼ of SE¼ Sec 11 115N 52W	10		
SW¼ of SE¼ Sec 11 115N 52W	25		

8. Give a description of the project. (Attach sheet if more space is needed)

I, Craig Bass, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

2012-09

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES
PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

November 21, 2013

Craig Bass
17949 459th Ave
Castlewood SD 57223

Dear Mr. Bass:

Water Permit Application No. 7555-3 to appropriate water from one well for irrigation in portions of the SE 1/4 Section 11 and NE 1/4 Section 14; all in T115N-R52W was deferred by the Water Management Board on March 7, 2013. The application was deferred pending an aquifer pump test.

Since that time, Water Permit No. 7844-3 has been approved for irrigation of the same lands from two wells to be completed into the Big Sioux:North Aquifer.

Is it your intent to proceed with pursuing deferred Application No. 7555-3? Once we know your intent regarding this application, we can determine how to proceed.

If you have any questions, please contact Eric Gronlund or me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
Phone: (605) 773-3352
karen.schlaak@state.sd.us

enclosure

November 25, 2013

RECEIVED
NOV 2 7 2013
WATER RIGHTS
PROGRAM

Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Dear Mr. Gronlund:

As of today, November 25, 2013, we are no longer interested in pursuing water permit #7555-3.

The original application for permit was deferred pending an aquifer pump test.

At this time we are no longer interested in acquiring a permit from this well.

Thank you,

Craig Bass

Craig Bass
17949 459th Ave
Castlewood, SD 57223
cbass@itctel.com

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES
PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

December 18, 2013

NOTICE

TO: Craig Bass
17949 459th Avenue
Castlewood SD 57223

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing on Deferred Water Permit Application No. 7555-3, Craig Bass

On March 7, 2013, the Water Management Board deferred consideration of Water Permit Application No. 7555-3 to appropriate groundwater from one well for irrigation in the SE ¼ Section 11 and NE ¼ Section 14, T115N, R52W. The deferral is based upon the need for an aquifer pump test to allow evaluation of the potential aquifer including the availability of unappropriated water and potential impacts to existing users from the aquifer. Since that time, Water Permit No. 7844-3 has been obtained to irrigate these same acres from the Big Sioux:North Aquifer.

On November 25, 2013, you sent a letter stating that it is no longer your intent to obtain a permit from the well proposed under Application No. 7555-3. Attached is a revised recommendation to deny the application. Once denied, seventy five percent of the application filing fee will be refunded.

The Water Management Board will conduct a hearing to consider deferred Application No. 7555-3 at 10:00 AM (Central Time) on Thursday, March 6, 2014, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Future notice will be provided if there is a change to the hearing date or time.

If you do not contest denial of the application, you do not need to attend the hearing. Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on December 19, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated December 18, 2013 regarding scheduling of the hearing for deferred Water Right Permit Application No. 7555-3 addressed as stated below:

Craig Bass
17949 459th Ave
Castlewood SD 57223

Diane Best, Assistant Attorney General
317 N Main Ave
Sioux Falls SD 57104

Gail Jacobson

Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 20th day of December, 2013.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2019

SEAL KAREN SCHLAAK NOTARY PUBLIC State of South Dakota SEAL

RECEIVED
FEB 15 2013
WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Hamlin)

I, LeeAnne Dufek

certify that the attached printed Notice was taken

from the Hamlin County Republican

printed and published in Pl Castlewood

County of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

Feb. 13, 2013

Cost of Printing $55.77

LeeAnne Dufek
(Signature)

Publisher
(Title)

2-14-13
(Date Signed)

NOTICE OF HEARING ON APPLICATION NO. 7555-3 TO APPROPRIATE WATER

Notice is given that Craig Bass, 17949 459th Ave, Castlewood SD 57223 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed to a depth of 88 feet deep located in the SW 1/4 SE 1/4 Section 11 for irrigation of 235 acres located in the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 11 and NE 1/4 Section 14; all in T115N-R52W.

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 DEFERRAL of Application No. 7555-3 until an aquifer pump test is completed by the applicant to allow evaluation of the aquifer potential including the availability of unappropriated water and potential impacts to existing users from the aquifer which are criteria set forth in SDCL 46-2A-9 for when a water right permit may be issued.

The Water Management Board will consider this application at 8:30 a.m. on March 7, 2013 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 February 25, 2013. 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 March 7, 2013 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 February 25, 2013. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 25, 2013 at the above Chief Engineer's address to request copies of the staff report, recommendation, application or other information. 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 February 25, 2013. 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.

Steven M. Pirner, Secretary
Department of Environment and Natural Resources.

Published Feb. 13, 2013, at total cost of $55.77.

Form 8

RECEIVED
FEB 21 2013
WATER RIGHTS PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Codington)

I, Monica K. Saathoff

certify that the attached printed Notice was taken

from the Watertown Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

February 13th, 2013

Cost of Printing 132.82

Monica K Saathoff
(Signature)

Bookkeeper
(Title)

February 13th, 2013
(Date Signed)

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF HEARING ON APPLICATION NO. 7555-3 to Appropriate Water

Notice is given that Craig Bass, 17949 459 Ave. Castlewood SD 57223 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed to a depth of 88 feet deep located in the SW 1/4 SE 1/4 Section 11 for irrigation of 235 acres located in the E 1/2 SE 1/4 SW 1/4 SE 1/4 Section 11 and NE 1/4 Section 14, all in T115N-R52W.

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 DEFERRAL of Application No. 7555-3 until an aquifer pump test is completed by the applicant to allow evaluation of the aquifer potential including the availability of unappropriated water and potential impacts to existing users from the aquifer which are criteria set forth in SDCL 46-2A-9 for when a water right permit may be issued.

The Water Management Board will consider this application at 8:30 a.m. on March 7, 2013 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 February 25, 2013. 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 March 7, 2013 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 February 25, 2013. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 25, 2013 at the above Chief Engineer's address to request copies of the staff report, recommendation, application or other information. 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 February 25, 2013. 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 74:02:01:35:01 thru 74:02:01:35:01.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of $127.75 (February 13, 2013).

All legal notices in the Public Opinion and other South Dakota newspapers can be found at www.sdpublicnotices.com

REPORT TO THE CHIEF ENGINEER

WATER PERMIT APPLICATION NO. 7921-3
OWEN AND LAMONT PETERSON
December 9, 2013

Water Permit Application No. 7921-3 proposes to divert groundwater at a maximum rate of 2.44 cubic feet per second (cfs) from a single well to be completed into the Prairie Coteau aquifer. The well is expected to reach a depth of approximately 226 feet and will be located in the SW ¼ SE ¼ of Sec 8, T114N-R51W approximately 250 feet north and 2,500 feet west of the southeast corner of Section 8. The water will be used to irrigate 316.5 acres in the E ½ of Section 8, T114N-R51W in Hamlin County.

AQUIFER: Prairie Coteau aquifer (PCO)

GEOLOGY AND AQUIFER CHARACTERISTICS

The Prairie Coteau aquifer consists of pockets of outwash buried in a thick layer of glacial drift. The Prairie Coteau aquifer includes the pockets of outwash that are too deep to be connected to the surface/near surface waters of the Big Sioux aquifer but are not so deep as to connect to the Altamont aquifer at the base of the glacial drift (Kume, 1985). The Prairie Coteau aquifer is largely non-continuous, and much of its area consists of small disconnected aquifers separated by layers of clayey till and enclosed within a thick section of till.

The Prairie Coteau aquifer varies in thickness between 4 and 144 feet with an average of about 47 feet and usually consists of several beds on top of one another rather than a continuous section of gravel and sand. The well log submitted with this application identifies sand and gravel from 199-226 feet below the ground surface. This portion of the Prairie Coteau aquifer is under confined conditions.

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a 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 beneficial and in the public interest. This report will address the availability of unappropriated water and the effect on pertinent existing rights which appropriate water from this aquifer.

WATER AVAILABILITY

This application proposes to divert 2.44 cfs from the Prairie Coteau aquifer. The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which 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." If the source of the water is older or lower than the greenhorn formation and a public water system has applied for a permit, the Board need not consider the recharge/withdrawal issue. Here, a public water system is not involved and the

aquifer is not older or lower than the greenhorn formation therefore withdrawal/recharge issue must be considered.

In interpreting 46-6-3.1, the First Judicial Circuit Court ruled in *Hanson County Dairy v. Bender* that evidence must show the average annual recharge exceeds the average annual discharge by at least the amount requested by the water permit application being considered (Memorandum Decision, April 11, 2012). This necessitates the identification and quantification of recharge and discharge of the individual outwash deposits of the Prairie Coteau aquifer from which the applicant proposes to withdraw water.

Since the Prairie Coteau aquifer consists of many small and often hydraulically disconnected aquifers, generalizations about the recharge characteristics or size of specific "pockets" of the aquifer are not useful in describing recharge characteristics of the portion associated with this application. Specific information regarding thickness and areal extent of this portion of the Prairie Coteau aquifer is required to make a technically defensible decision as to whether to recommend approval or deferral of this application.

Using a recharge rate of 0.15-0.60 inches per year (Hedges et al., 1985), and assuming an application rate of 10 inches per year, the areal extend of the aquifer would need to be between 8.2 (at 0.6 inches per year of recharge) and 33.0 (at 0.15 inches per year of recharge) square miles.

The Water Rights Program does not have any observation wells completed into this portion of the Prairie Coteau aquifer to evaluate recharge/discharge. The test hole drilled for this application was not cased and will not be available for use as an observation well. Lithological records in the area are extremely limited and most do not extend to the depth of interest (1,484 feet). Although two records, located approximately three miles to the east and three miles to the north do show water bearing material at the same depth as the test hole information submitted with this application, this data is insufficient to determine the areal extent of the formation in question. Other lithological records in the area, specifically those to the south and west (at a distance of approximately five miles in both instances) show uninterrupted clay at the depth of interest. Two records in close proximity to each other and approximately 2.5 miles to the northeast of the proposed diversion site show an interval of gravel extending down to 1,520 and 1,527 feet above sea level, but the records do not extend past 1,520 and 1,527 feet (respectively) to the depth of interest. Continuing north past the record which does indicate water bearing material at the depth of interest, the next record of sufficient depth is approximately six miles from the proposed diversion site and shows clay at the depth of interest. Similarly, continuing east, records also indicate clay at the depth of interest in a record located approximately seven miles from the proposed diversion site. The lithological records in the area show that any continuation of the deposit addressed in this application ceases within approximately a five to seven mile radius of the proposed diversion site. It is not clear how far the deposit extends within those five to seven miles.

No other applications have been submitted proposing to divert water from this formation. Consequently, no irrigation logs are available to show current or past use of water from this formation. Information is not available to delineate the areal extent of the outwash from which this application proposes to divert water. Consequently, it is not possible to evaluate recharge and withdrawal from this portion of the Prairie Coteau aquifer at this time.

EXISTING WATER RIGHTS

There is one existing water permit in Hamlin Country which is diverting water from a sand and gravel deposit identified as the Prairie Coteau aquifer, although Water Permit No. 7673-3 (located in Clark County) diverts water from a portion of the Prairie Coteau aquifer that extends into Hamlin County (Water Rights, 2014b). As stated above, insufficient data is available to delineate the areal extent or the interconnectedness of that portion of the aquifer to the deposit in this application and other deposits in the area within the Prairie Coteau aquifer. Therefore, it is unknown as to whether this existing diversion is accessing the same deposit as this application. Consequently, the effects of pumping on existing water rights/permits cannot be determined.

Previous applications for water rights permits have been approved on the basis of known areal extents of the portions of the Prairie Coteau being applied for (primarily from lithological records) or from sufficient observation well data to observe recharge characteristics. In this case, further information to delineate the areal extent of the aquifer such as additional drilling (providing lithological records) or an aquifer test is required for an informed evaluation as to whether sufficient water is available for the proposed diversion.

CONCLUSIONS

1) The application proposes to appropriate 2.44 cfs for irrigation.
2) From the best information reasonably available, the probability of unappropriated water available from the Prairie Coteau aquifer for the proposed appropriation cannot be determined.
3) Because a record of observation well measurements is not available, the probability of unappropriated water available from the Prairie Coteau aquifer from the proposed appropriation cannot be evaluated.
4) Since there are no other water rights/permits completed into this formation, adverse effects on existing diversions are not an issue when evaluating this application.
5) An aquifer pump test including monitoring wells should be conducted to aid in the evaluation of this portion of this aquifer.

Bracken Capen
SD DENR-Water Rights Program

Approved by:

Ken Buhler
SD DENR-Water Rights Program

REFERENCES

Hedges, L.S., Allen, J., and Holly, D.E. 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 7: Ground Water Recharge. South Dakota DENR-Geological Survey, Vermillion, SD.

Kume, J. 1985. Water Resources of Deuel and Hamlin Counties, South Dakota. Water-Resources Investigations Report 84-4069. USGS, Huron SD.

Geological Survey. 2014. Lithologic Logs Database, South Dakota Department of Environment & Natural Resources Geological Survey, Vermillion, South Dakota.

Water Rights. 2014a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2014b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, 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. 7921-3, Owen and Lamont Peterson

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. 7921-3, Owen and Lamont Peterson, PO Box 97, Wendell MN 56595.

The Chief Engineer is recommending DEFERRAL of Application No. 7921-3 for one year to allow an aquifer pump test to be completed by the applicant to allow evaluation of the potential aquifer including the availability of unappropriated water and potential impacts to existing users from the aquifer which are criteria set forth in SDCL 46-2A-9 for when a water right permit may be issued.

See report on application for additional information.

Jeanne Goodman

Jeanne Goodman, Chief Engineer
January 21, 2014

RECEIVED

JAN 3 1 2014

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Hamlin)

I, LeeAnne Dufek

certify that the attached printed Notice was taken

from the Hamlin County Herald Enterprise

printed and published in Hayti

County of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

Jan. 29, 2014

Cost of Printing $56.10

LeeAnne Dufek
(Signature)

Published
(Title)

1-29-2014
(Date Signed)

NOTICE OF HEARING ON APPLICATION NO. 7921-3 TO APPROPRIATE WATER

Notice is given that Owen & Lamont Peterson, PO Box 97, Wendell MN 56590 have filed an application for a water permit to appropriate 2.44 cubic feet of water per second from one well to be completed into the Prairie Coteau Aquifer (228 feet deep) located in the SW 1/4 SE 1/4 Section 8 for irrigation of 316.48 acres located in the E 1/2 Section 8; all in T114N-R51W.

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 DEFERRAL of Application No. 7921-3 for one year to allow an aquifer pump test to be completed by the applicant to allow evaluation of the potential aquifer including the availability of unappropriated water and potential impacts to existing users from the aquifer which are criteria set forth in SDCL 46-2A-9 for when a water right permit may be issued.

The Water Management Board will consider this application at 9:30 a.m. on March 6, 2014 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 February 24, 2014. 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 March 6, 2014 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 February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendation, application or other information. 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 February 10, 2014. 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.

Steven M. Pirner,
Secretary
Department of Environment and Natural Resources

Published Jan. 29, 2014, at total cost of $56.10.

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Codington)

I, Monica K. Saathoff

certify that the attached printed Notice was taken

from the Watertown Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

January 29th, 2014

Cost of Printing 118.73

Monica K. Saathoff
(Signature)

Bookkeeper
(Title)

January 29th. 2014
(Date Signed)

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF HEARING ON APPLICATION NO. 7921-3

TO APPROPRIATE WATER

Notice is given that Owen & Lamont Peterson, PO Box 97, Wendell, MN 56590, have filed an application for a water permit to appropriate 2.44 cubic feet of water per second from one well to be completed into the Prairie Coteau Aquifer (228 feet deep) located in the SW 1/4 SE 1/4 Section 8, for irrigation of 316.48 acres located in the E 1/2 Section 8, all in T114N R51W.

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends "DEFERRAL" of Application No. 7921-3 for one year, to allow an aquifer pump test to be completed by the applicant to allow evaluation of the potential aquifer including the availability of unappropriated water and potential impacts to existing users from the aquifer, which are criteria set forth in SDCL 46-2A-9 for when a water right permit may be issued.

The Water Management Board will consider this application at 9:30 a.m. on March 6, 2014, 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 a third-party interested person or the applicant must be filed by February 24, for opposing or supporting the application and the name 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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All legal notices in the Public Opinion and other South Dakota newspapers can be found at: www.sdpublicnotices.com

2014:02:01:35:01 Steven M. Pirner, Secretary, Department of Environment and Natural Resources

Published once at the approximate cost of $130.75 (January 29, 2014)

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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

February 10, 2014

NOTICE

TO: A. Jason Rumpca, 103 N 3rd Street, Beresford SD 57004
Donald McCarty, PO Box 78, Brookings SD 57006
Gary or Julie Peterson, 45913 299th Street, Centerville SD 57014
Jerome Hult, 45958 Hwy 18, Davis SD 57021
Donald Benson, 45067 284th Street, Hurley SD 57036
Jeremiah Welsh, 29217 460th Avenue, Centerville SD 57014
Brad Farrar, 28795 452nd Avenue, Viborg SD 57070
Darrell Osborn, 28838 463rd Avenue, Centerville SD 57014
Michael D Stevens, 28916 458th Avenue, Viborg SD 57070
Paul Peterson, 45610 282nd Street, Hurley SD 57036
Dr Bruce Hagen, 1300 W Murphy Drive, Sioux Falls SD 57108
Dr Bruce Hagen, 38736 Nasturtium Way, Palm Desert, CA 92211
Allen Vannorsdel, 45515 288th Street, Viborg SD 57070
Leon Thompson, 401 S 11th Street, Beresford SD 57004
Tim or David Ostrem, 45924 300 St, Wakonda SD 57073
Larry and Marlene Erickson, 29859 461st Avenue, Centerville SD 57014

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Scheduling Hearing before Water Management Board on Deferred Applications for Irrigation from the Upper Vermillion Missouri Aquifer

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed between the fall of 2012 through 2013. The Chief Engineer recommended deferral of the applications because at the time it was not possible to conclude that unappropriated water is available from the aquifer. Nineteen of the applications have been formally deferred by the Water Management Board until study of the UVM aquifer is completed. Two other applications (Nos.7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 and early 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries which if implemented, establish three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West Management Units of the UVM aquifer. Each management unit was analyzed to determine the availability of unappropriated water. Enclosed is the staff report to the

Chief Engineer that provides 1) the basis for designation of the three management units, and 2) an evaluation of water availability for each unit.

The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and West Management Unit. Attached is a table that provides a listing of the proposed applications, the applicant and the management location where each application is located. Revised recommendations are enclosed to each applicant specific to the applications they have pending. For those applicants in the North Management Unit, the original recommendation for deferral remains in place. Those desiring to view all the revised recommendations may find them on-line at http://denr.sd.gov/des/wr/pubnotice.aspx.

This notice schedules a hearing before the Water Management Board on these applications beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior agenda items.

A notice of hearing on the applications setting forth the management unit boundaries, the Chief Engineer's revised recommendations, and scheduling a March 6th hearing before the Water Management Board will be published the week of February 10, 2014, in accordance with SDCL 46-2A-4. Enclosed is the public notice.

If you have any questions regarding the report, revised recommendation, public notice or the water permitting process, please contact Eric Gronlund or Ken Buhler at (605) 773-3352.

Enclosures

c: Diane Best, Assistant Attorney General
Ann Mines, Assistant Attorney General

Pending Applications from the Upper Vermillion Missouri Aquifer Designated by Management Units

West Management Unit – recommend for approval

North Management Unit – recommend continued deferral

South Management Unit – recommend for approval

Permit No.	Applicant	Management Unit of UVM Aquifer	CFS	Well Location	Acres	Acre Location
7535-3	Donald Benson	West	1.78	SW¼ NW¼ Sec. 30, T98N-R53W	65	NW¼ Sec. 30, T98N-R53W
7588-3	Paul Peterson	West	1.78	SW¼ Sec. 19, T98N-R53W	160	SW¼ Sec. 19, T98N-R53W
7602-3	Michael Stevens	West	1.89	Between NW¼ & NE¼ Sec. 34, T97N-R53W	132	E½NW¼, W½NE¼ Sec. 34, T97N-R53W
7633-3	Brad Farrar	West	1.78	SW¼ Sec. 32, T98N-R53W	152	SW¼ Sec. 32, T98N-R53W
7715-3	Allen Vannorsdel	West	2.22	SW ¼ Section 16, T97N- R53W	156	SW ¼ Sec. 16, T97N-R53W
7452-3	Jerome Hult	North	1.78	SW¼NE¼ Sec. 32, T98N-R52W	110	W½NE¼,SE¼NE¼ Sec. 32, T98N-R52W
7468-3	Cleland Hagen Trust	North	1.78	NE¼ Sec. 26, T98N-R52W	152	NE¼ Sec. 26, T98N-R52W
7558-3	Cleland Hagen Trust	North	1.78	Between NW¼ & SW¼ Sec. 1, T98N-R52W	120	N½SW¼, S½NW¼ Sec. 1, T98N-R52W
7587-3	Paul Peterson	North	1.78	SE¼ Sec. 10, T98N-R53W	160	SW¼ Sec. 10, T98N-R53W
7441-3	Gary/Julie Peterson	South	1.79	SE¼ Sec. 8, T95N-R52W	140	SE¼ Sec. 8, T95N-R52W
7442-3	Gary/Julie Peterson	South	no add'l	NW¼ Sec. 17, T95N-R52W	40	W½ NE¼ Sec. 17, T95N-R52W
7466-3	Bethel Hagen Trust	South	1.78	NE¼ Sec. 5, T96N-R51W	152	NE¼ Sec. 5, T96N-R51W
7467-3	Cleland Hagen Trust	South	1.78	NW¼ Sec. 13, T97N-R52W	152	NW¼ Sec. 13, T97N-R52W
7600-3	Michael Stevens	South	3.56	NE¼NW¼ & SW¼ Sec. 12, T96N-R52W (2 wells)	180	NW¼, N½SW¼ Sec. 12, T96N-R52W
7601-3	Michael Stevens	South	1.89	NE¼ Sec. 25, T-97N-R53W	132	NE¼ Sec. 25, T97N-R53W
7603-3	Michael Stevens	South	1.78	NE¼ Sec. 33, T97N-R52W	120	NE¼ Sec. 33, T97N-R52W
7623-3	Darrel Osborn	South	1.89	SE¼NW¼ Sec. 24, T97N-R52W	140	NW¼, W½NE¼ Sec 24, T97N-R52W
7653-3	Jeremiah Welsh	South	1.67	SW¼ Sec. 8, T96N-R52W	85	W½SW¼, NE¼SW¼ Sec. 8, T96N-R52W
7690-3	Tim/David Ostrem	South	1.78	NE¼ Sec. 29, T96N-R52W	160	NE¼ Sec. 29, T95N-R52W
7900-3	Leon Thompson	South	1.89	NW¼NE¼ Sec.6, T95N-R51W	136	NE¼ Sec. 6, T95N-R51W
7919-3	Larry/Marlene Erickson	South	1.83	NE¼ Sec. 9, T95N-R52W	83.83	NE¼ Sec. 9, T95N-R52W

REPORT TO THE CHIEF ENGINEER ON
21 WATER PERMIT APPLICATIONS
FROM THE UPPER VERMILLION MISSOURI AQUIFER
FEBRUARY 1, 2014

HISTORY

Twenty one water permit applications proposing to appropriate water from the Upper Vermillion Missouri (UVM) aquifer were filed with the DENR-Water Rights Program since the fall of 2012. The Chief Engineer recommended deferral of 18 of the applications because at the time it was not possible to conclude that unappropriated water was available from the aquifer to satisfy the appropriations. The Water Management Board considered the permit applications along with the Chief Engineer's recommendation and concluded that "In light of the evidence presented, it is not possible to conclude that unappropriated water is available from the UVM to satisfy the proposed appropriations. Significant portions of the aquifer have experienced long-term downward trending water levels. New appropriations from the aquifer should be deferred until it can be determined if water levels in these areas will stabilize under steady withdrawals" (Water Permit Application Nos. 7441-3, et al, Conclusion of Law 15). Three additional applications were filed after February 25, 2013 and were recommended for deferral.

UPPER VERMILLION MISSOURI AQUIFER (UVM)

The Upper Vermillion Missouri aquifer is located in portions of Lincoln, Turner and Clay Counties. An index map for the area is shown in Figure 1.

Previous Investigations

The Upper Vermillion Missouri aquifer consists of a glacial outwash deposit that generally occurs in bedrock low areas. As delineated by Hedges and others (1982), the aquifer extends over an area of approximately 132,900 acres in Clay, Lincoln and Turner Counties. Subsequent investigations for Lincoln, Turner, and Hutchinson Counties (Lindgren and Hansen, 1990; and Niehus, 1994) interpreted the area hydrogeology in a manner that resulted in the configuration of the Upper Vermillion Missouri aquifer encompassing over 204,800 acres (see Figure 2).

2014

A study of the Upper Vermillion Missouri aquifer conducted by the DENR-Geological Survey in 2013-2014 established new boundaries for the main body of the aquifer in Turner County (see Figure 3). Although the southern boundary has not been delineated at this time, data shows that it extends south several miles from the original border as it merges with or transitions into the Lower Vermillion Missouri aquifer. The areal extent of the main body of the Upper Vermillion Missouri aquifer defined by these new boundaries is at least 117,000 acres. A channel deposit extending to the northwest from the main body of the Upper Vermillion Missouri aquifer may be hydrologically connected to the aquifer.

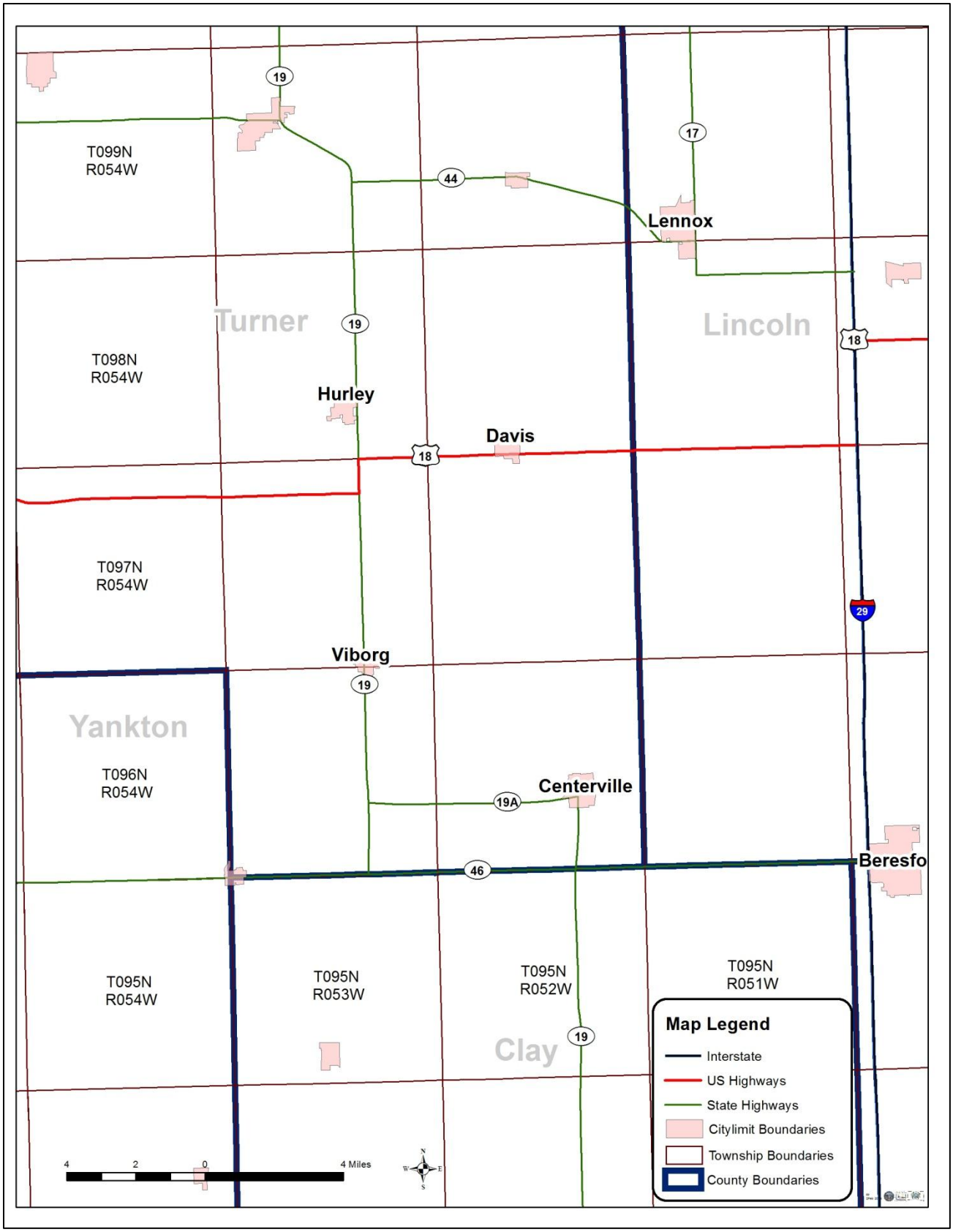

Figure 1. Index map for the area

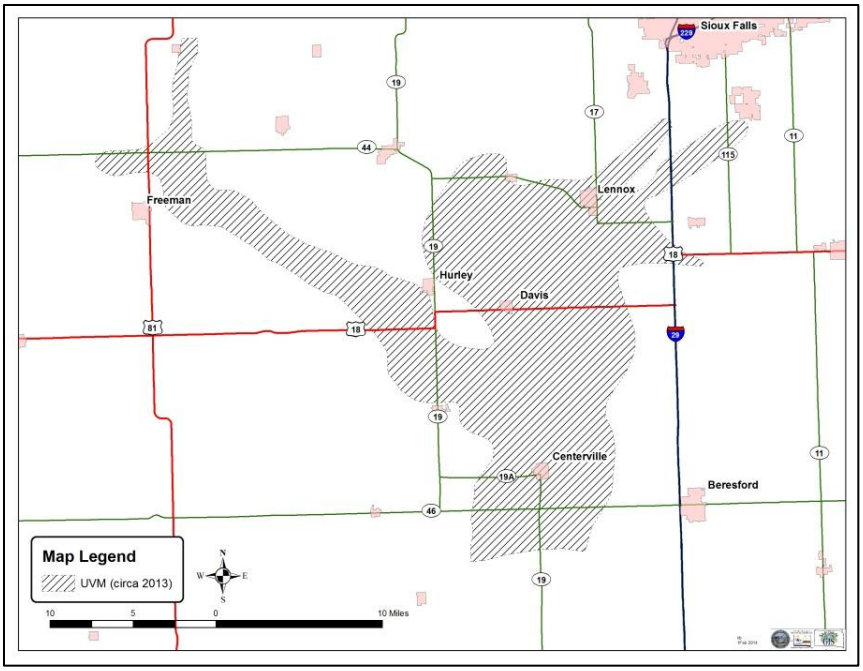

Figure 2. Areal extent of the Upper Vermillion Missouri aquifer considered in 2013 (Buhler, 2012)

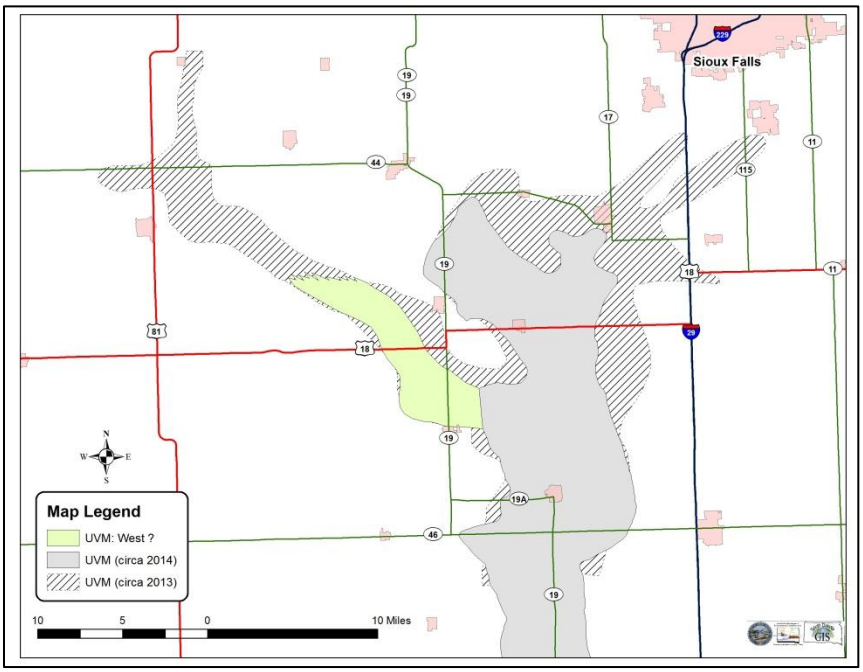

Figure 3. 2014 delineation of the Upper Vermillion Missouri aquifer with areal extent of the Upper Vermillion Missouri aquifer considered in 2013 (Buhler, 2012; modified from DENR-Geological Survey, in progress)

The Upper Vermillion Missouri aquifer occupies portions of a bedrock channel that generally trends north-south. The elevation of the aquifer varies along the length of the channel, but it is primarily below 1,200 feet mean sea level elevation (msl) and above 975 feet msl. The aquifer is

primarily buried by glacial drift, and the top of the aquifer can be over 150 feet below grade. The aquifer is predominantly under confined conditions, and the static water levels of wells in the aquifer typically range from 10-90 feet below grade. The potentiometric surface of the main body of the aquifer (see Figure 4) indicates a north to south groundwater flow direction.

Limited data is available to determine the aquifer characteristics (hydraulic conductivity and storativity) for the Upper Vermillion Missouri aquifer. As part of the ongoing Geological Survey study, sand/gravel samples were collected and analyzed for grain size. Results of the sieve analyses were used to estimate hydraulic conductivity values for the sieved samples. Reported hydraulic conductivity estimates range from 592 to 2,657 ft/day (SD-Geological Survey, in progress).

The hydraulic conductivity for the aquifer was also estimated based on aquifer thickness and the transmissivity calculated from the specific capacities of irrigation wells and two rural water system wells completed into the aquifer where sufficient data was available (Buhler, 2012; Water Rights, 2014b; and Water Rights, 2014c). These hydraulic conductivity values are shown in Table 1, Figure 5 and Figure 6.

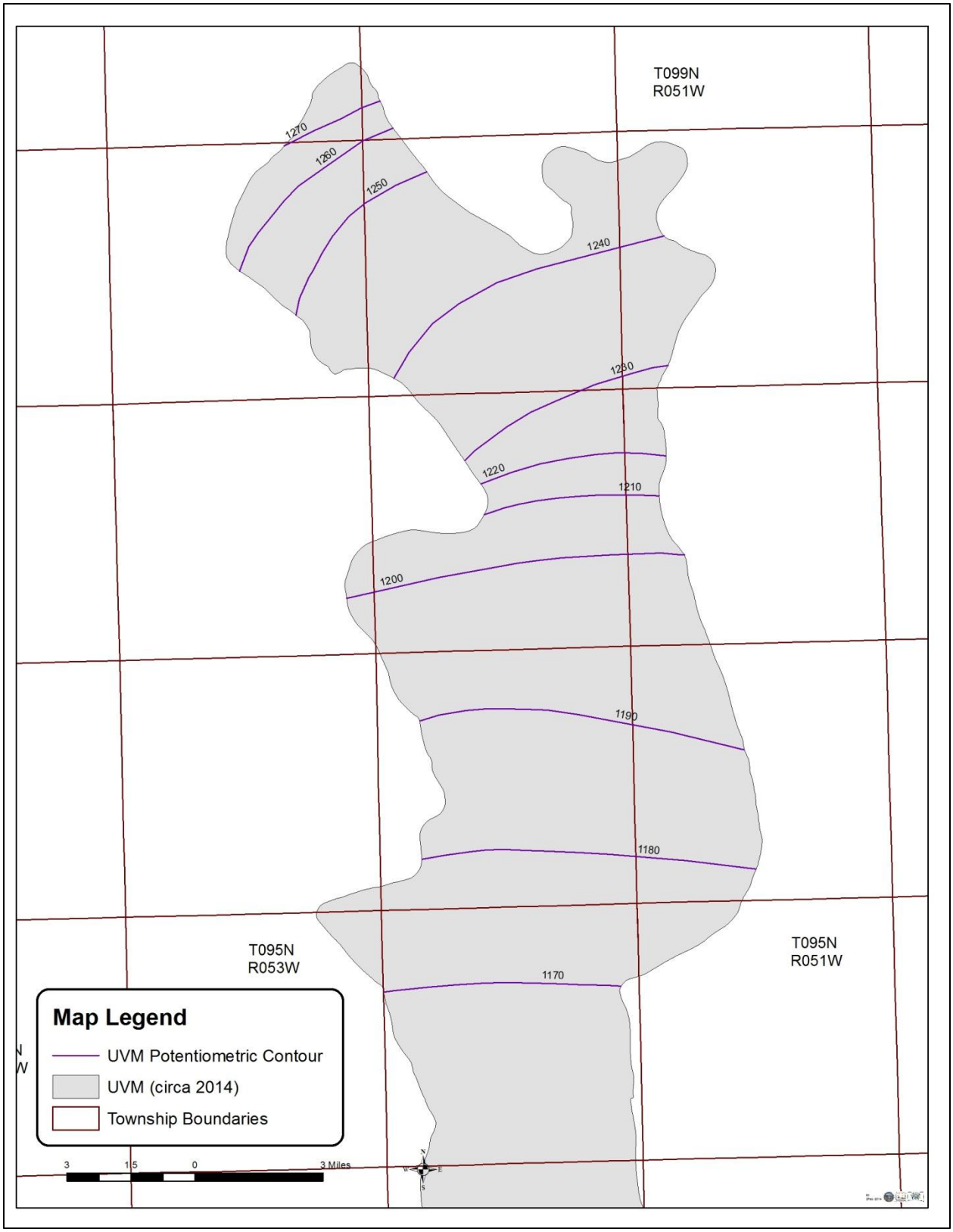

Figure 4. January 21, 2014, potentiometric surface of the main body of Upper Vermillion Missouri aquifer in feet above mean sea level (SD-Geological Survey, in progress)

Permit/Right No.	Drawdown (ft)	Yield (gpm)	Specific Capacity SpC (gpm/ft)	Transmissivity T (gpd/ft	Thickness b (ft)	Hydraulic Conductivity k (gpd/ft2)	Hydraulic Conductivity k (ft/d)
1930-3	15	1200	80	160000	65	2462	329
3784-3	92	900	10	19600	45	436	58
3901-3	9	1000	111	222200	70	3174	424
4265-3	25	900	36	72000	40	1800	241
4560-3	83	800	10	19200	50	384	51
5259-3	6	1400	233	466600	116	4022	538
5352-3	20	2100	105	157500	178	885	118
5371-3	45	860	19	38200	28	1364	182
5425-3	22	1100	50	100000	48	2083	279
5632-3	24	800	33	66600	48	1388	185
5886-3	9	800	89	177800	55	3233	432
5899-3	25	800	32	106600	63	1692	226
5982-3	27	800	30	92400	73	1266	169
6054-3	25	900	36	72000	40	1800	241
6301-3	16	1100	69	137600	70	1966	263
6727-3	13	1100	85	170000	74	2297	307
6727-3	15	1100	73	146667	74	1982	265
6810-3	6	750	125	250000	66	3788	506
6868-3	10	900	90	180000	36	5000	668
6922-3	11	810	74	147200	87	1692	226
6968-3	11	840	76	152800	88	1736	232
6984-3	7	1200	171	342800	101	3394	454
7002-3	11	720	69	102900	115	895	120
7128-3	15	750	50	100000	94	1064	142
Min	*6*	*720*	*10*	*19200*	*28*	*384*	*51*
Max	*92*	*2100*	*233*	*466600*	*178*	*5000*	*668*
Average	*23*	*985*	*73*	*145861*	*72*	*2075*	*277*
Std Dev	*22*	*289*	*50*	*98483*	*32*	*1143*	*153*
Std Dev/Average	*98.4%*	*29.4%*	*69.0%*	*67.5%*	*44.9%*	*55.1%*	*55.1%*

Table 1. Production well data from the Upper Vermillion Missouri aquifer (Water Rights, 2014b; and Water Rights 2014c)

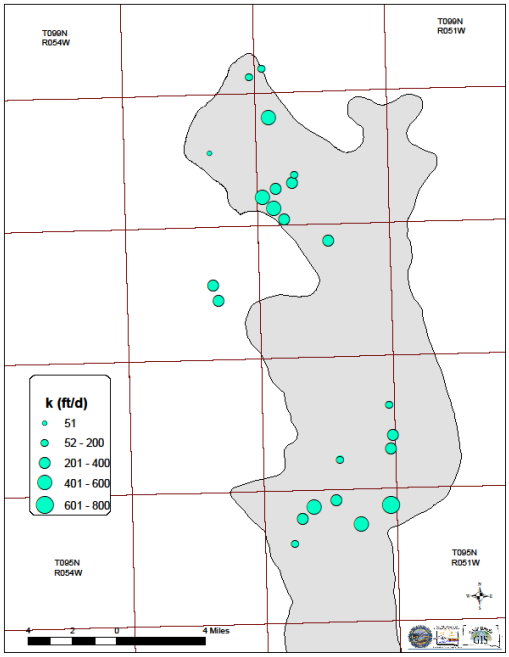

Figure 5. Location of production wells used to calculate hydraulic conductivity

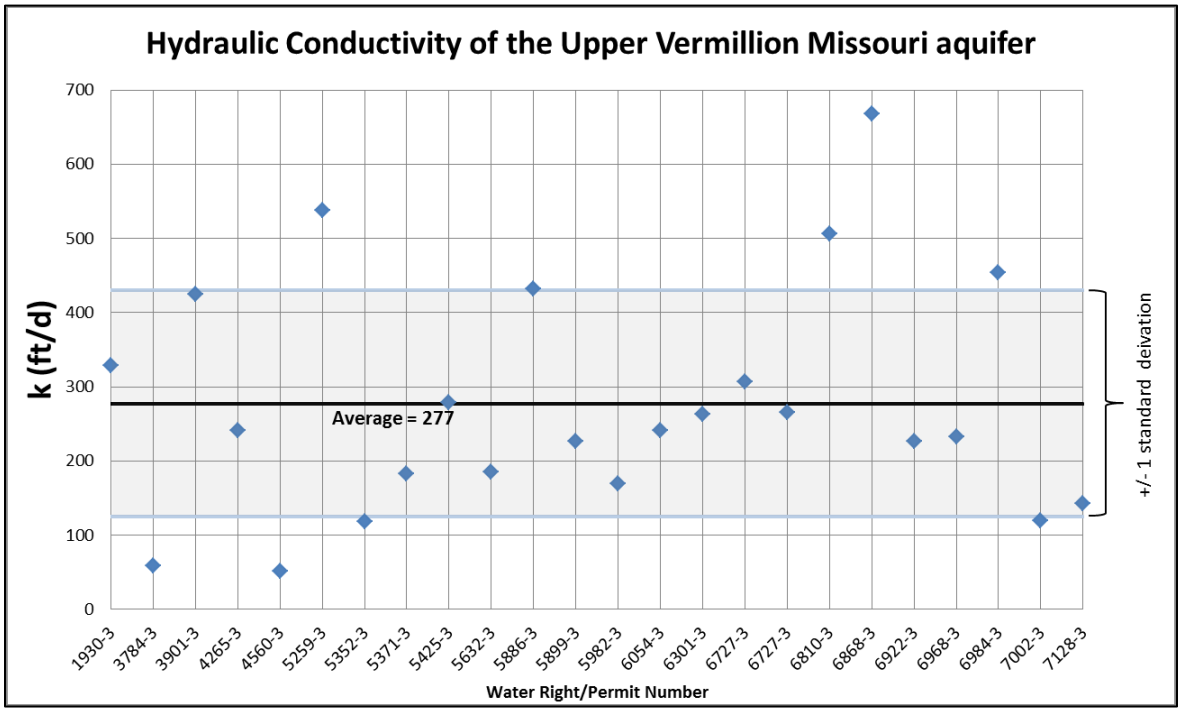

Figure 6. Chart showing the hydraulic conductivities, average hydraulic conductivity and one standard deviation of the Upper Vermillion Missouri aquifer at production wells where data is available (Water Rights, 2014b; and Water Rights 2014c).

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Recharge:
Recharge to the Upper Vermillion Missouri aquifer has not been quantified. Lindgren and Hansen (1990) postulated that recharge to the Upper Vermillion Missouri aquifer occurs through: 1) direct infiltration of precipitation in areas where the aquifer is at or near ground surface; 2) inflow from fractures in the Sioux Quartzite; and 3) inflow from the Niobrara aquifer.

Although the Upper Vermillion Missouri aquifer appears to be in contact with the quartzite and Niobrara aquifer, these areas appear to be limited. The likely source of recharge to the Upper Vermillion Missouri aquifer is leakage from the overlying Parker Centerville aquifer (PAC) where the two aquifers are hydrologically connected. Areas of potential interconnection between the two aquifers are shown in Figure 7.

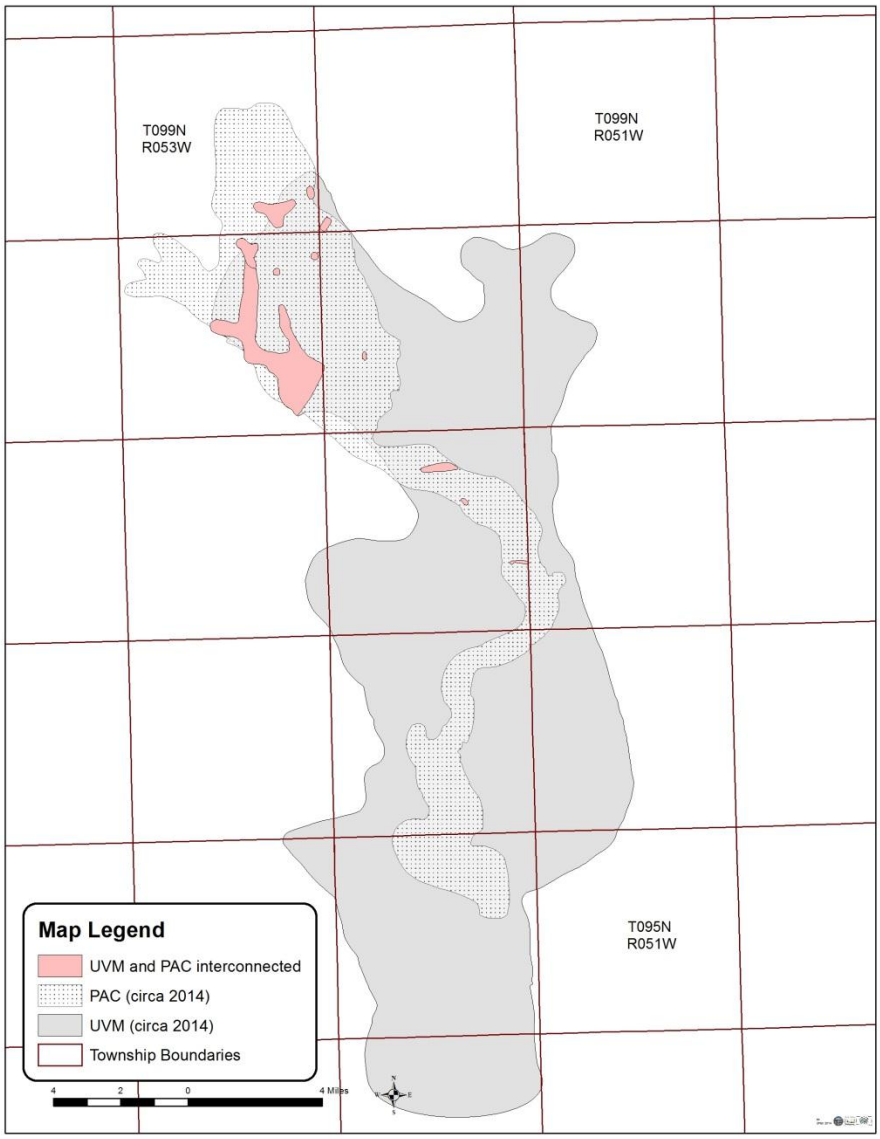

Figure 7. Areal extent of the Upper Vermillion Missouri (UVM) aquifer, the Parker Centerville (PAC) aquifer, and areas where the two aquifers are potentially interconnected (SD-Geological Survey, in progress).

MANAGEMENT UNITS

A system of aquifer and management unit designations for South Dakota was designed to establish a bookkeeping framework of hydrologic data (Hedges and others, 1982). The aquifer and management unit boundaries were chosen to coincide with hydrogeologic boundaries that are "identifiable and which can be documented." Actual boundaries between units were based on one or more of the following criteria:

1. Thinning and/or constriction of the aquifer or management unit.
2. Facies change from high to low permeability of aquifer material.
3. Change from water-table to artesian conditions and vice versa.
4. Ground-water divide.
5. Ground-water discharge point such as stream or lake.
6. Presence of streamflow gaging station.

Although previous aquifer delineations (Hedges and others, 1982; and Lindgren and Hansen, 1990) both identified areas with anomalous gradients of the potentiometric surfaces, they considered the Upper Vermillion Missouri aquifer a single unit.

As the result of work done by the DENR- Geological Survey in 2013-2014, identifiable geologic and hydrologic data suggests two boundaries establishing three management units within the Upper Vermillion Missouri aquifer. Proposed management units are shown in Figure 8.

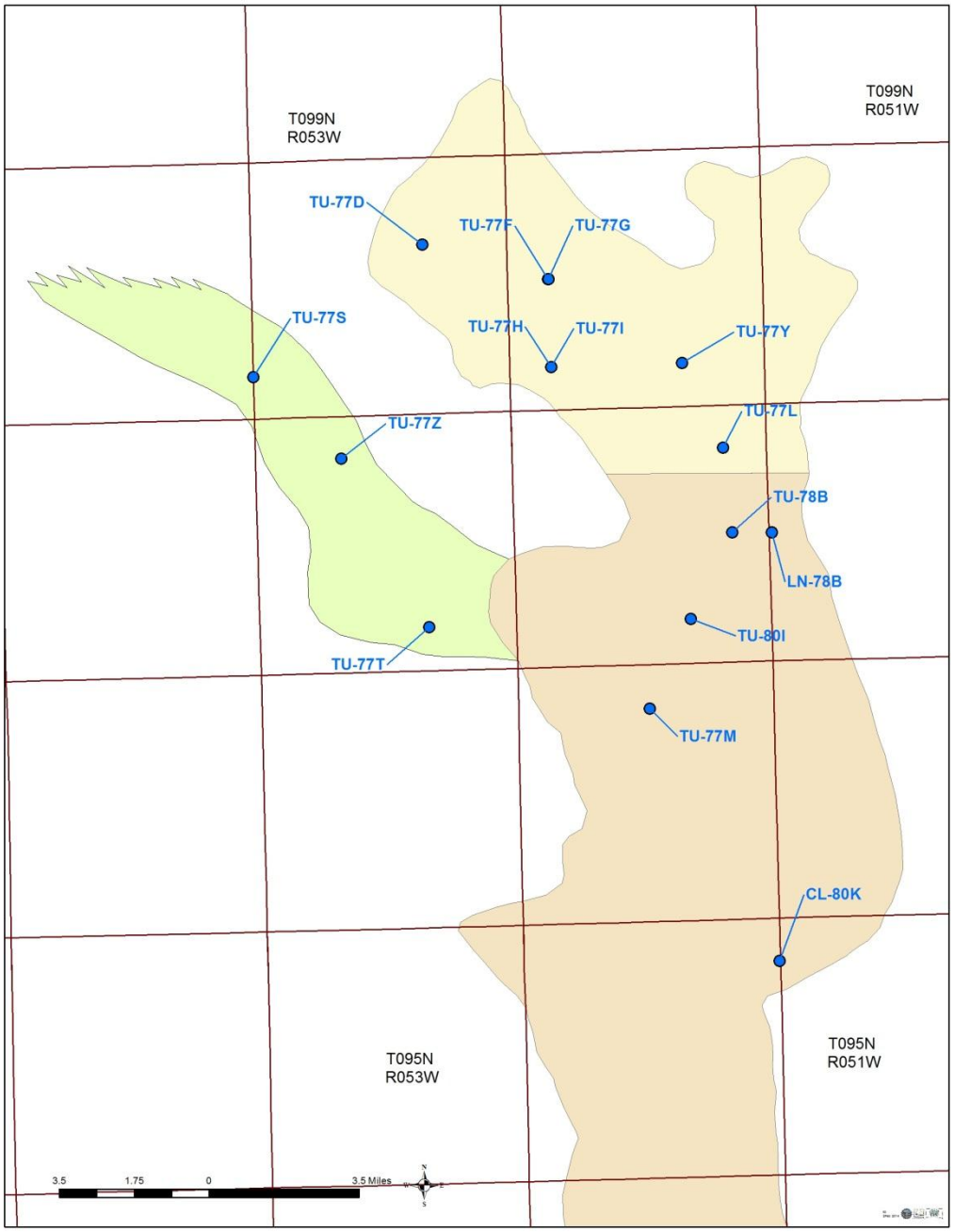

Figure 8. Proposed management units for the Upper Vermillion Missouri aquifer

South Management Unit/West Management Unit Boundary:

In the southeastern portion of T097N-R053W or the southwestern portion of T097N-R052W, three sets of data (i.e. bedrock topography, outwash lithology and aquifer potentiometric surface) identify a boundary between the West management unit and the South management unit of the aquifer.

Bedrock Topography:

Near the confluence of the bedrock channel that enters from the west with the channel that contains the main body of the Upper Vermillion Missouri aquifer, the western channel below 1,100 feet msl constricts by over 20% within three miles (see Figures 9, 10 and 11).

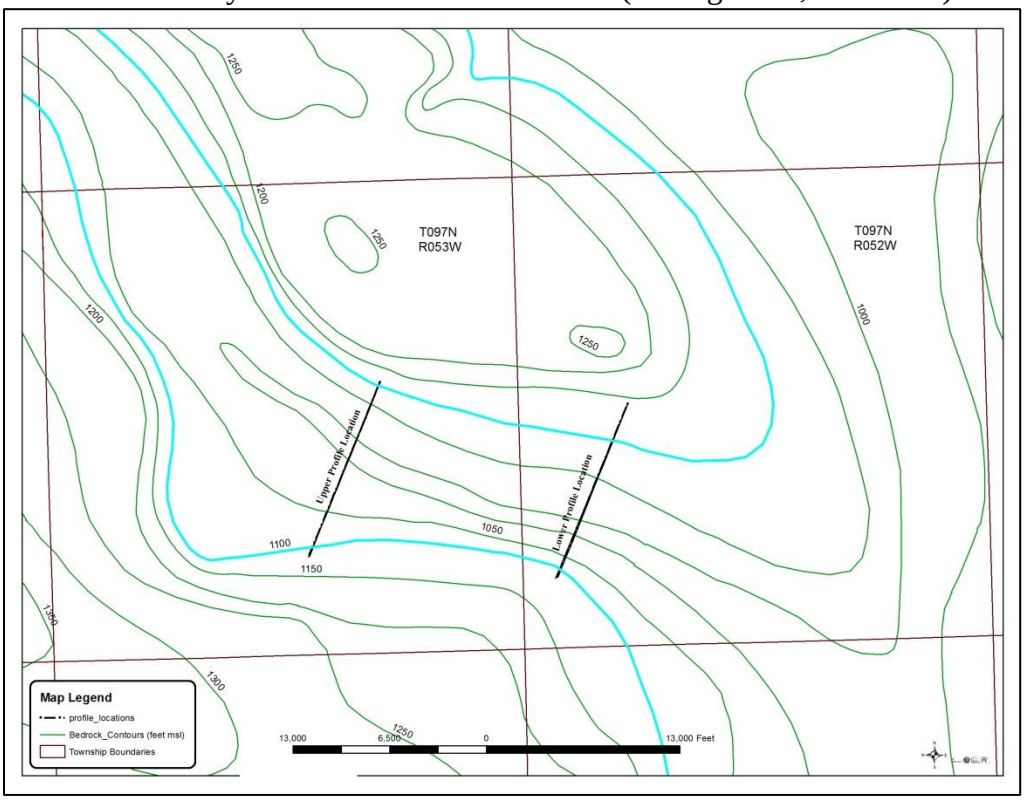

Figure 9. Location of bedrock channel profiles (modified from SD-Geological Survey, in progress)

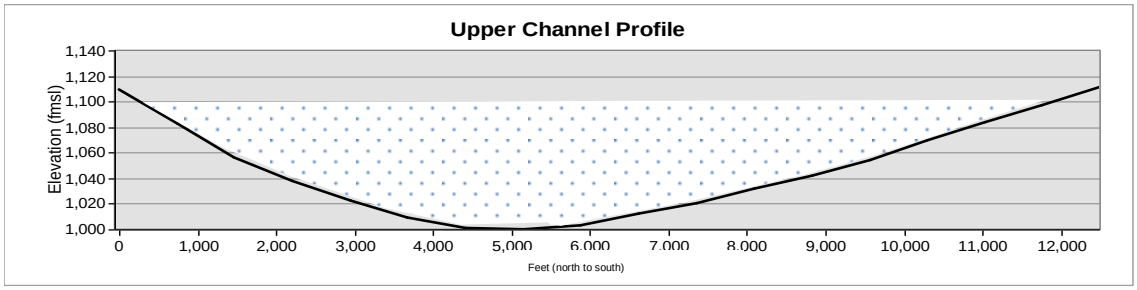

Figure 10. Upper Channel Profile

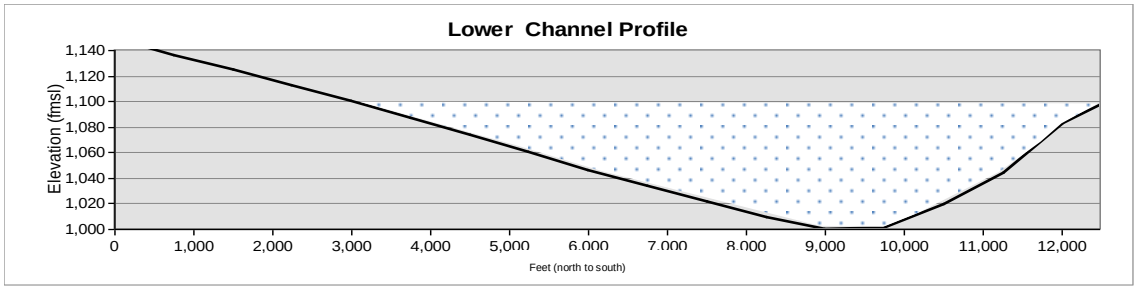

Figure 11. Lower Channel Profile

Lithology:
A west to east cross section through this area indicates the outwash in the western channel thins from approximately 100 feet thick to approximately 50 feet thick across this confluence area. In addition, geologists' logs identify the outwash as "very clayey" in the vicinity of a test hole drilled in the SE¼ of Section 24, T97N-R53W (see Figures 12 and 13).

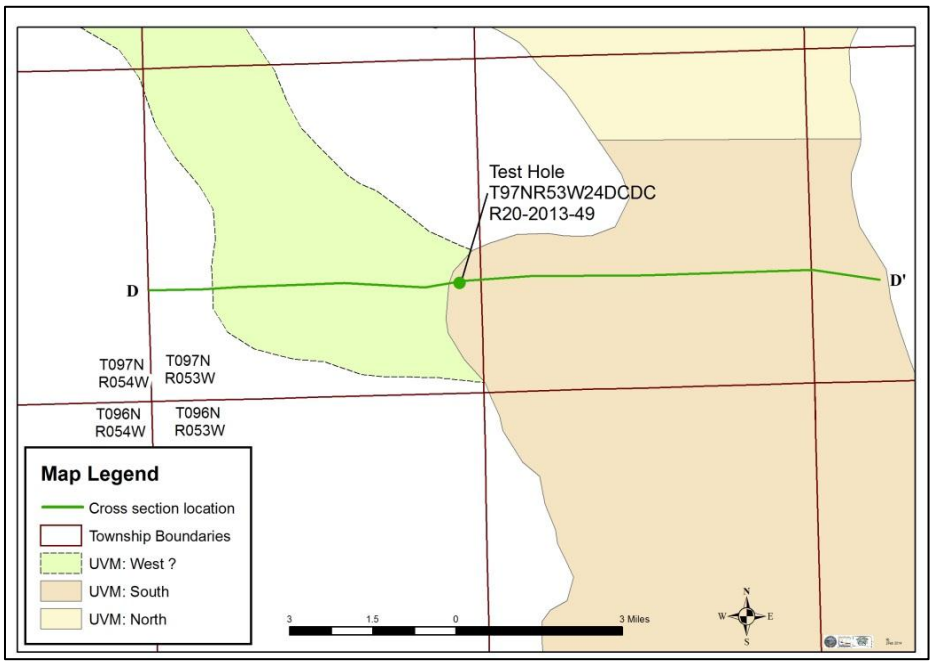

Figure 12. Location of cross Section D-D' and test hole R20-2013-49

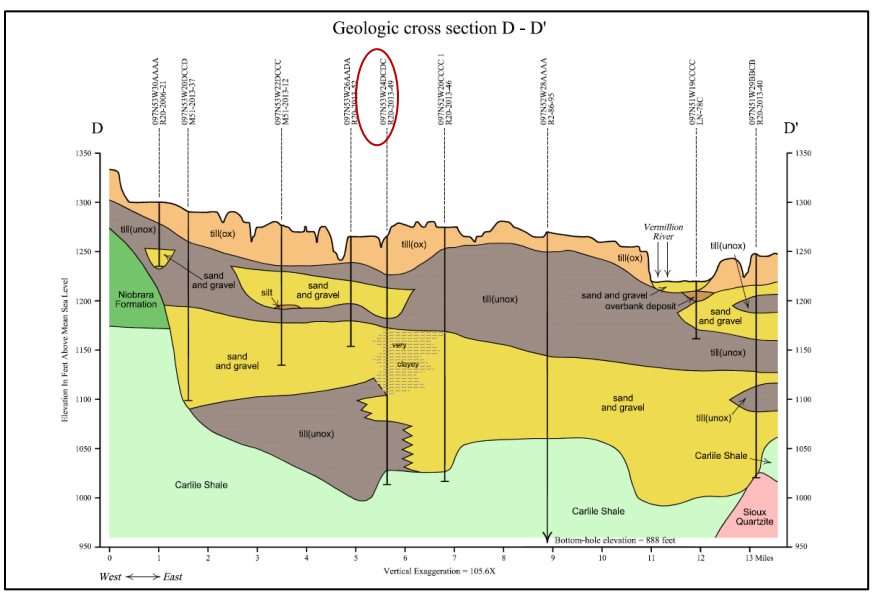

Figure 13. Cross section D-D' (modified from SD-Geological Survey, in progress)

Potentiometric Surface:
A profile of the potentiometric surface near the confluence of the west bedrock channel with the main bedrock channel containing the Upper Vermillion Missouri aquifer identifies a change in the gradient in the area (see Figures 14 and 15). This suggests a lower permeability area that would create a boundary condition.

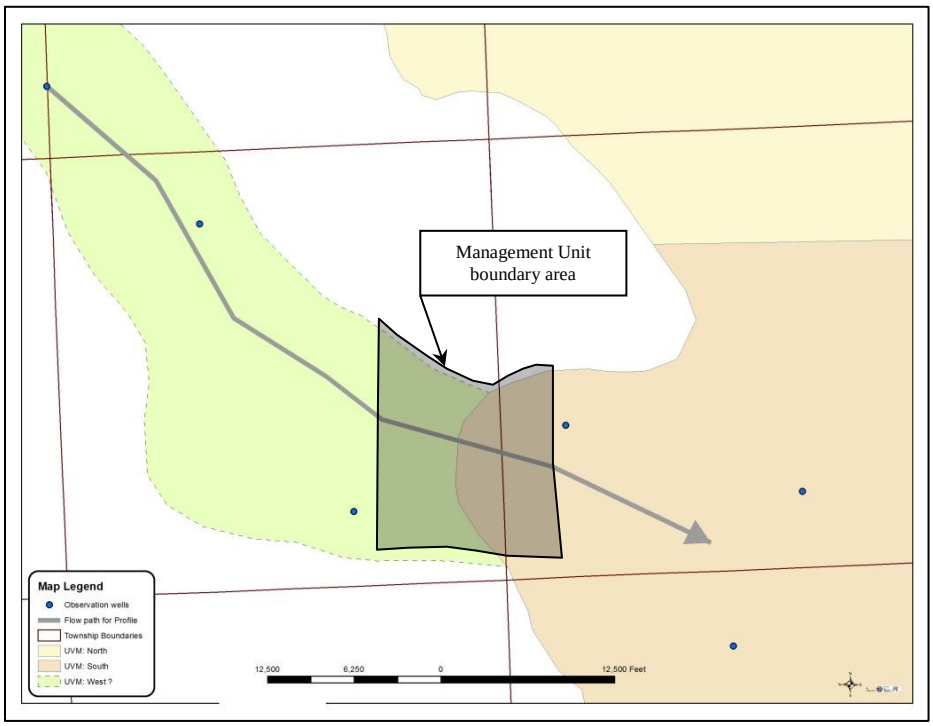

Figure 14. Location of Flow path for Potentiometric Surface Profile

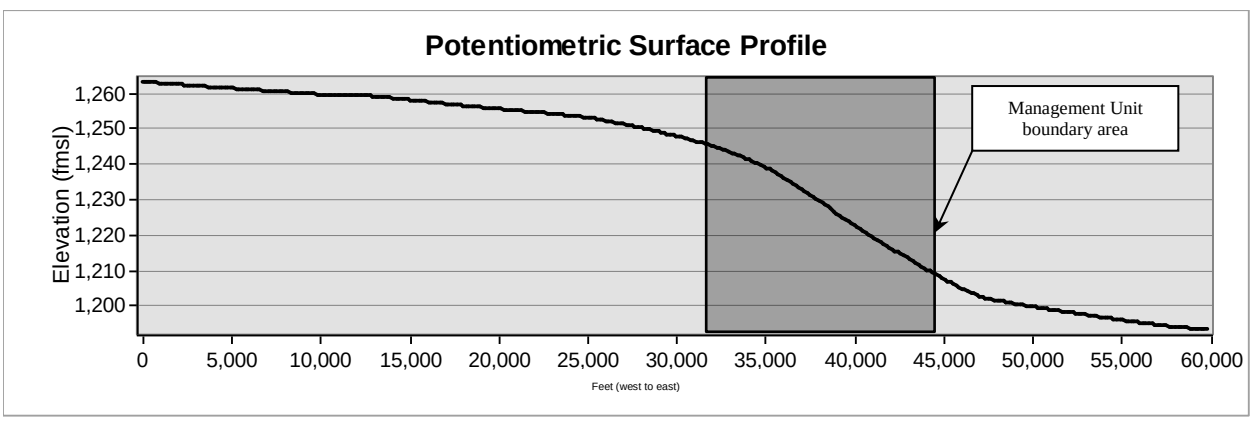

Figure 15. Potentiometric surface profile showing the boundary between the west and south management units of the Upper Vermillion Missouri aquifer

West Management Unit/Northwest Management Unit Boundary:
The West management unit of the Upper Vermillion Missouri aquifer appears to extend northwest beyond the limit used for this report. Data is not available to determine the areal extent of this management unit.

A basal outwash deposit occupies a southeast trending bedrock channel that originates approximately 30 miles northwest of the minimal northwest limit of the proposed West management unit (Tomhave and Schulz, 2004). Past delineations of the Upper Vermillion Missouri aquifer included this outwash deposit as part of the aquifer beginning approximately 18 miles beyond the known northwest limit of the proposed West management unit (see Figures 2 and 8). Water levels of observation wells completed into this basal outwash approximately 15 miles northwest of the West management unit appear to approximately correspond to UVM: West water levels. Observation wells completed into the basal outwash deposit approximately 15 miles northwest of have identified an area of downward trending water levels. The area and chronology of the downward trending water levels appear to correspond with development of the aquifer by TM Rural Water District.

A significant constriction of this bedrock channel exists near the center of T100N-R55W (Tomhave and Schulz, 2004). The narrowing of the channel appears to be located in an area where the bedrock incised by the channel changes. In addition, profiles of the pre-development (circa 1990, 1995, 2000) potentiometric surface all identify a groundwater flow gradient decrease from (e.g. 3.7 -1.5 feet/mile in 2000) across this same area. Based on this available data, the northern tip of the bedrock channel containing the TM Rural Water District wells should be considered hydrologically distinct from the Upper Vermillion Missouri: West aquifer.

South Management Unit/North Management Unit Boundary:
Geologic and hydrologic data suggests a north/south boundary in the main body of the Upper Vermillion Missouri aquifer near the middle of T97N-R52W.

Geologic evidence of a North/South Boundary:
The bedrock topography identifies a narrowing of the channel containing the Upper Vermillion Missouri aquifer near the middle of T97N-R052W. Geologic cross sections constructed near this area and their location are shown in Figures 16, 17, and 18. The cross sectional area of the Upper Vermillion Missouri aquifer has been outlined in blue in Figures 17 and 18, and the area reported by the DENR-Geological Survey (in progress) is labeled for each cross section. The data indicates the area of the Upper Vermillion Missouri aquifer contracts from approximately 3.3 million square feet to approximately 2.8 million square feet or approximately 15% between cross section B-B' and cross section C-C'. Based on the bedrock channel topography, the channel appears to narrow (i.e. even smaller aquifer area) one to two miles south of the C-C' cross section.

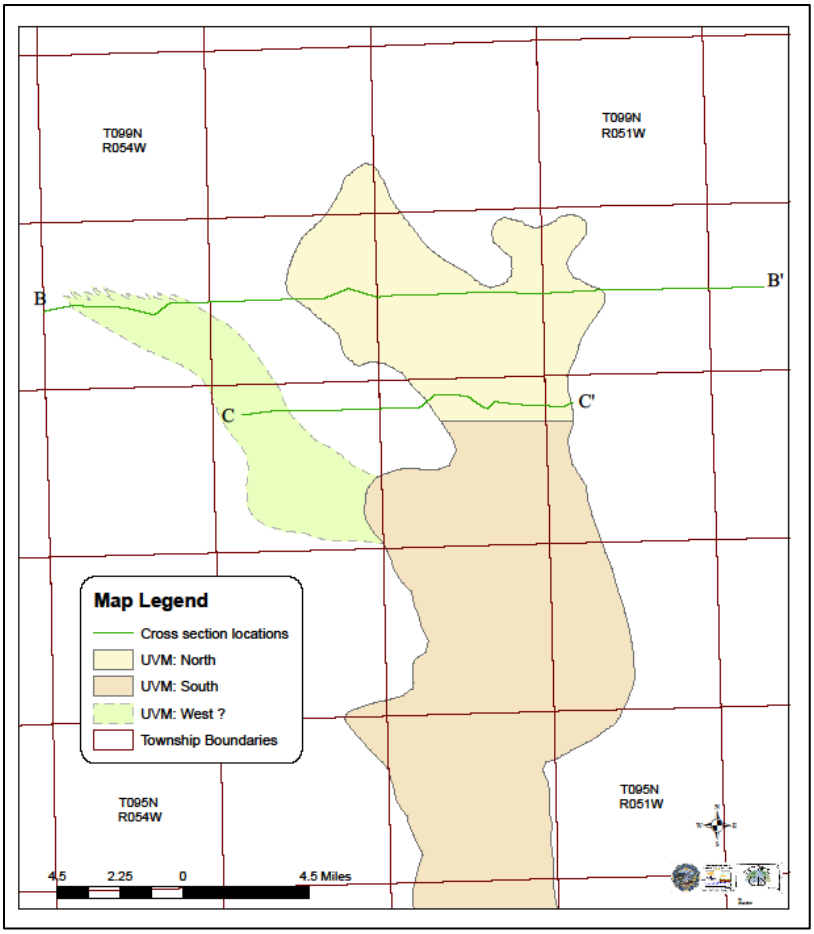

Figure 16. Cross section locations for Figures 17 and 18.

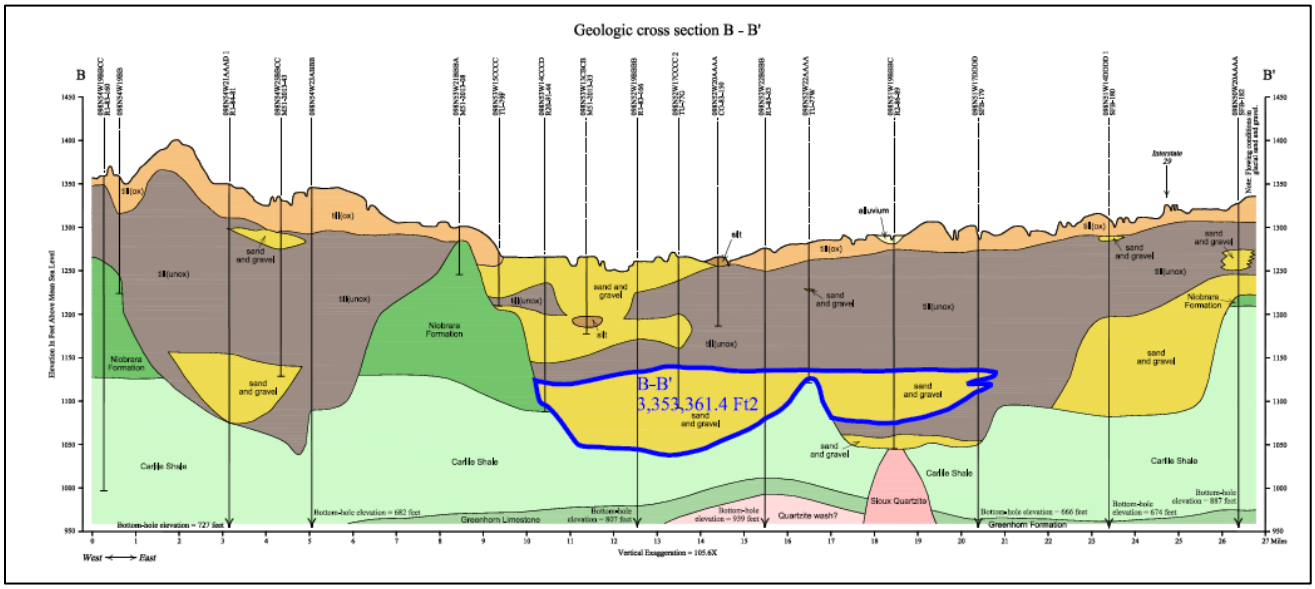

Figure 17. Cross section B-B' through Upper Vermillion Missouri aquifer (SD-Geological Survey, in progress)

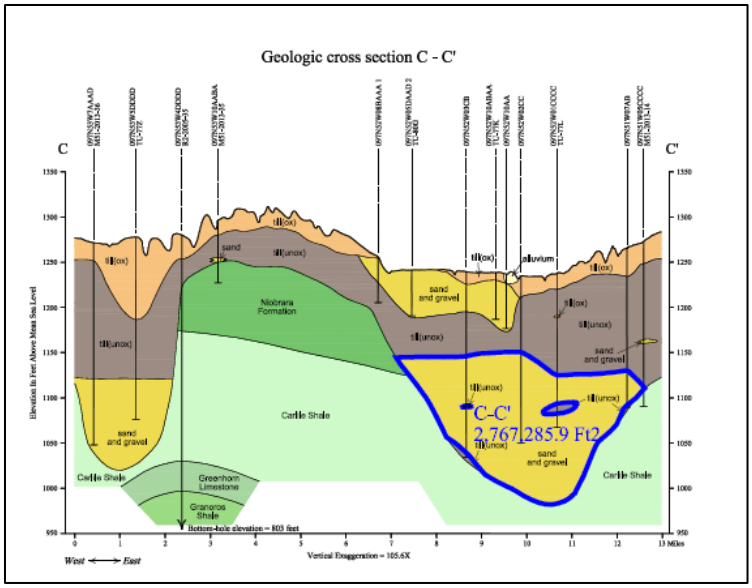

Figure 18. Cross Section C-C' through Upper Vermillion Missouri aquifer (SD-Geological Survey, in progress)

Hydrologic evidence of a North/South Boundary:

The gradient of the potentiometric surface changes from an average of approximately 4.2 feet per mile north of the T97N-T98N line to an average gradient of 9.1 feet per mile in T97N to an average of approximately 3.0 feet per mile south of the T97N-T98N line. This suggests a hydrologic boundary between the northern portion of the aquifer and the southern portion of the aquifer (see Figure 19 and Figure 20).

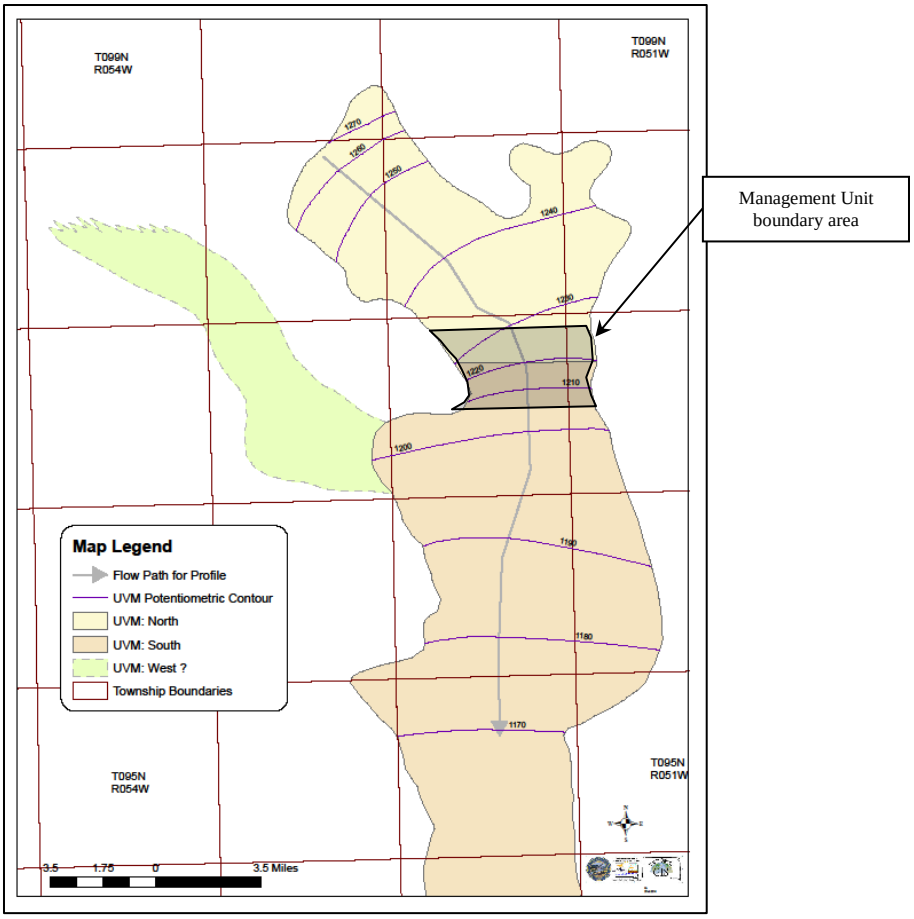

Figure 19. Location of Flow path for potentiometric surface profile

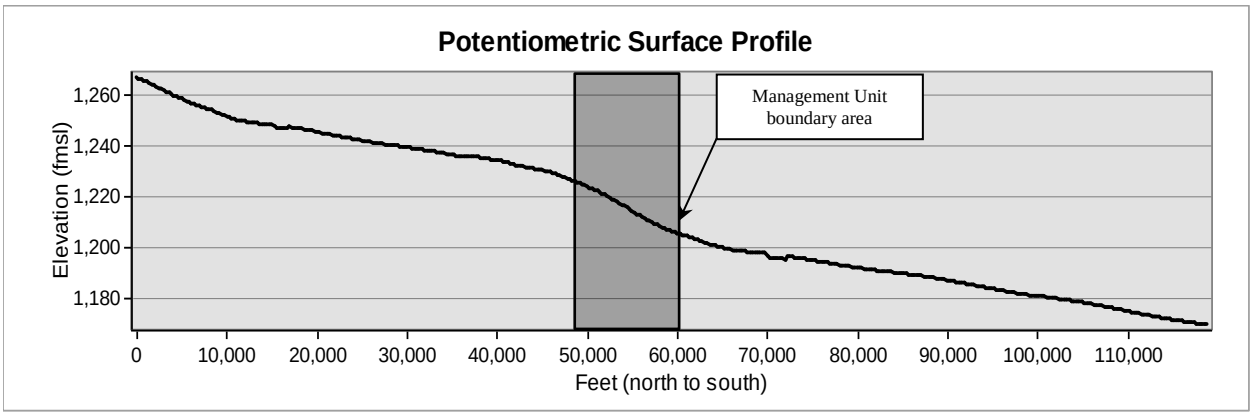

Figure 20. Potentiometric surface profile showing boundary between the north and south management units of the Upper Vermillion Missouri aquifer

The gradient change appears to exist regardless of the climatic conditions or variations in recharge and withdrawal from the aquifer (see Figure 21).

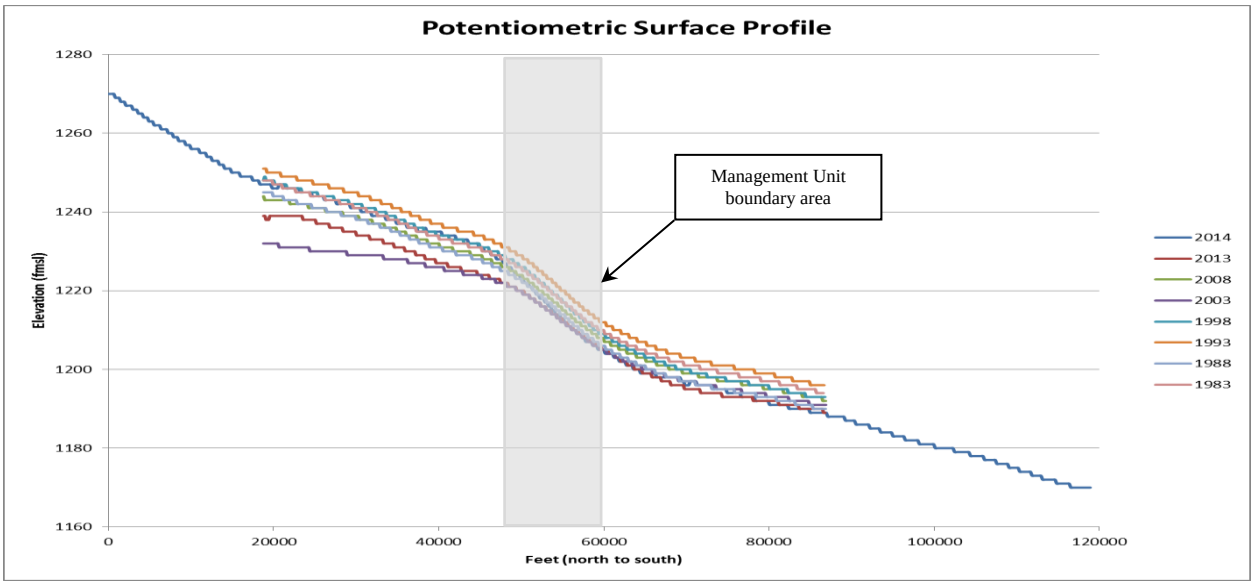

Figure 21. Profile of the potentiometric surface showing a consistent gradient change at the boundary between the North and South Management Units.

DEFERRED PERMIT APPLICATIONS

The water permit applications from the Upper Vermillion Missouri aquifer that are currently in deferred status are shown in Table 2 and Figure 22.

Permit No.	CFS	Well Location	Acres	Acre Location
7535-3	1.78	SW¼ NW¼ Sec. 30, T98N-R53W	65	NW¼ Sec. 30, T98N-R53W
7588-3	1.78	SW¼ Sec. 19, T98N-R53W	160	SW¼ Sec. 19, T98N-R53W
7602-3	1.89	Between NW¼ & NE¼ Sec. 34, T97N-R53W	132	E½NW¼, W½NE¼ Sec. 34, T97N-R53W
7633-3	1.78	SW¼ Sec. 32, T98N-R53W	152	SW¼ of Sec. 32, T98N-R53W
7715-3	2.22	SW¼ Sec. 16, T97N-R53W	156	SW¼ Sec. 16, T97N-R53W
7452-3	1.78	SW¼NE¼ Sec. 32, T98N-R52W	110	W½NE¼,SE¼NE¼ Sec. 32, T98N-R52W
7468-3	1.78	NE¼ Sec. 26, T96N-R51W	152	NE¼ Sec. 26, T96N-R51W
7558-3	1.78	Between NW¼ & SW¼ Sec. 1, T98N-R52W	120	N½SW¼, S½NW¼ Sec. 1, T98N-R52W
7587-3	1.78	SE¼ Sec. 10, T98N-R53W	160	SW¼ Sec. 10, T98N-R53W
7441-3	1.79	SE¼ Sec. 8, T95N-R52W	140	SE¼ Sec. 8, T95N-R52W
7442-3	No add'l	NW¼ Sec. 17, T95N-R52W	40	W½ NE¼ Sec. 17, T95N-R52W
7466-3	1.78	NE¼ Sec. 5, T96N-R51W	152	NE¼ Sec. 5, T96N-R51W
7467-3	1.78	NW¼ Sec. 13, T97N-R52W	152	NW¼ Sec. 13, T97N-R52W
7600-3	3.56	NE¼NW¼ & SW¼ Sec. 12, T96N-R52W (2 wells)	180	NW¼, N½SW¼ Sec. 12, T96N-R52W
7601-3	1.89	NE¼ Sec. 25, T-97N-R53W	132	NE¼ Sec. 25, T97N-R53W
7603-3	1.78	NE¼ Sec. 33, T97N-R52W	120	NE¼ Sec. 33, T97N-R52W
7623-3	1.89	SE¼NW¼ Sec. 24, T97N-R52W	140	NW¼, W½NE¼ Sec 24, T97N-R52W
7653-3	1.67	SW¼ Sec. 8, T96N-R52W	85	W½SW¼, NE¼SW¼ Sec. 8, T96N-R52W
7690-3	1.78	NE¼ Sec. 29, T96N-R52W	160	NE¼ Sec. 29, T95N-R52W
7900-3	1.89	NW¼NE¼ Sec.6, T95N-R51W	136	NE¼ Sec. 6, T95N-R51W
7919-3	1.83	NE¼ Sec. 9, T95N-R52W	83.83	NE¼ Sec. 9, T95N-R52W

Table 2. Deferred Water Permit Applications from the Upper Vermillion Missouri aquifer

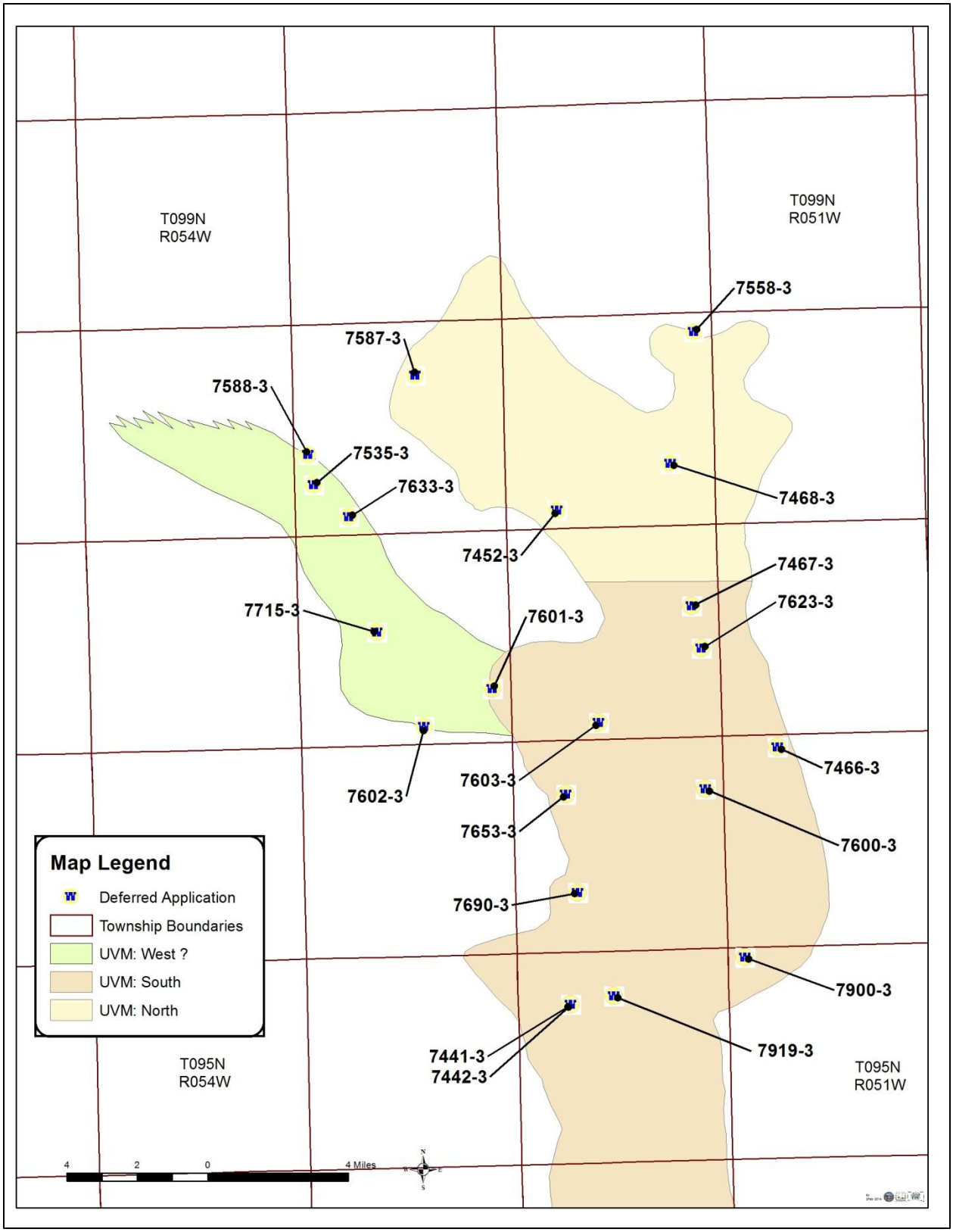

Figure 22. Location of deferred water permit applications and suggested management units of the Upper Vermillion Missouri aquifer

SDCL 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.

The probability of unappropriated water available from the aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "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."

In applying SDCL 46-6-3.1, the Sixth Judicial Circuit Court ruled in 2005 that if the Water Management Board uses average annual recharge, then it should also use average annual withdrawals to determine if unappropriated water is available from the aquifer (*Hines v. South Dakota Dept. of Environ. and Nat'l. Resources, Hughes County 04-37* (Memorandum Decision, April 29, 2005).

The 2012 First Judicial Circuit Court's rulings basically stated that data must be presented to show it is probable the average annual recharge exceeds the average annual discharge by at least the amount requested by the water permit application being considered (Memorandum Decision, April 11, 2012).

Administrative Rule of South Dakota Section 74:02:05:07 requires the Water Management Board to rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer.

This report proposes the Upper Vermillion Missouri aquifer can be separated into three management units. Therefore, each management unit will be addressed independently.

SOUTH MANAGEMENT UNIT:

The South management unit of the Upper Vermillion extends south of T97N-R52W into Clay County and encompasses approximately 78,820 acres of the main body of the aquifer. Ten deferred water permit applications (Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, and 7900-3) and two new permit applications (Nos. 7690-3, and 7919-3) propose to irrigate a total of 1,520.83 acres from the South management unit (See Figure 22). The average annual withdrawal that is expected to be associated with these proposed appropriations was estimated based on the *average application rate* ***per permitted acreage*** for the Upper Vermillion Missouri aquifer (from Table 3) to be 760.4 acre-feet per year. The availability of unappropriated water from this unit was assessed in terms of SDCL 46-6-3.1 through evaluating observation well data and a flow net analysis.

Year	Permitted Acres	Pumpage (ac-ft)	Rate (in/ac)
1979	10350.3	3247	3.764529
1980	9550.3	5082	6.385559
1981	9954.3	4159	5.013713
1982	9878.2	3778.57	4.590193
1983	9815.2	2983.12	3.647143
1984	9815.2	2791	3.412259
1985	9935.2	2479	2.994202
1986	9935.2	3544	4.280538
1987	9848.2	3781	4.607136
1988	9854.2	6753.1	8.22362
1989	10157.2	5758.6	6.803371
1990	10828.7	6626.2	7.342931
1991	10725.7	6220	6.958986
1992	10807.9	1793.2	1.990988
1993	9677.9	534.5	0.662747
1994	9284.9	4313.79	5.575233
1995	9704.9	4484.34	5.544836
1996	9820.2	4672.19	5.709281
1997	9755.2	5408	6.652452
1998	9855.2	5343.85	6.506839
1999	9863.2	5056.06	6.151423
2000	9863.2	6181.55	7.520744
2001	9863.2	6195.66	7.537911
2002	10143.2	7169.69	8.482163
2003	10143.2	5930.9	7.016602
2004	9823.2	7414.06	9.057
2005	9981.2	6856.39	8.243165
2006	10139.2	7906.32	9.35733
2007	10482.5	6983.2	7.994124
2008	11224.5	7467.98	7.983942
2009	11319.6	3878.92	4.112075
2010	11399.3	150.49	0.15842
2011	11399.3	5615.12	5.911016
2012	11458.3	13229.64	13.85508
Min	**9284.9**	**150.49**	**0.15842**
Max	**11458.3**	**13229.64**	**13.85508**
Avg	**10195.8**	**5111.4**	**6.0**

Table 3. Irrigation application rate **per permitted acre** for the Upper Vermillion Missouri aquifer (Water Rights, 1980-2013)

Observation well Data:

The DENR-Water Rights Program monitors five observation wells completed into the South management unit of the Upper Vermillion Missouri aquifer (see Figure 8 for locations). Hydrographs for the observation wells (Figures 23-27) all show upward trending water levels over their periods of record. Hydrographs for the observation wells document changes in climatic conditions along with temporal impacts of pumping. Since climatic conditions mask temporal impacts, well withdrawals from this management unit are not stressing the system to the extent where natural discharge is impacted. Therefore, groundwater outflow is available for "capture." The observation wells in this management unit document unappropriated water is available for appropriation.

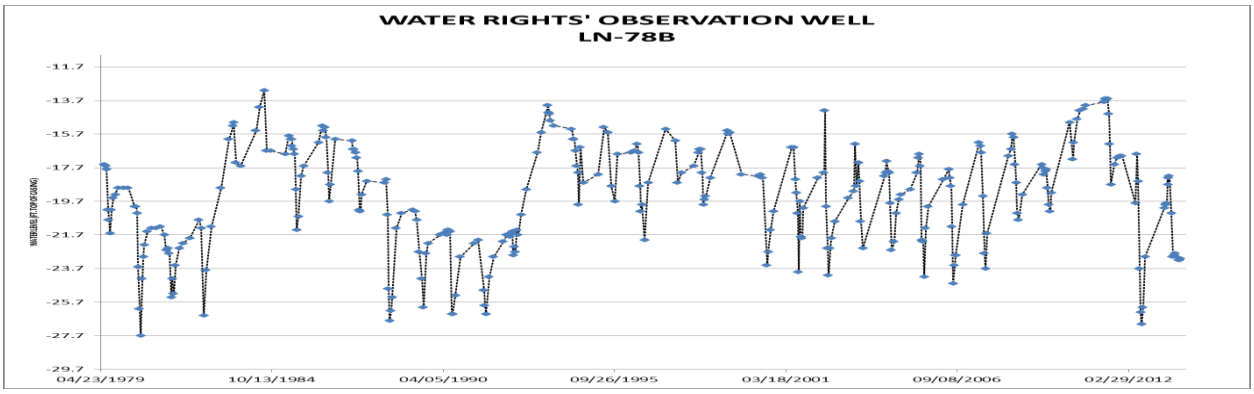

Figure 23. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

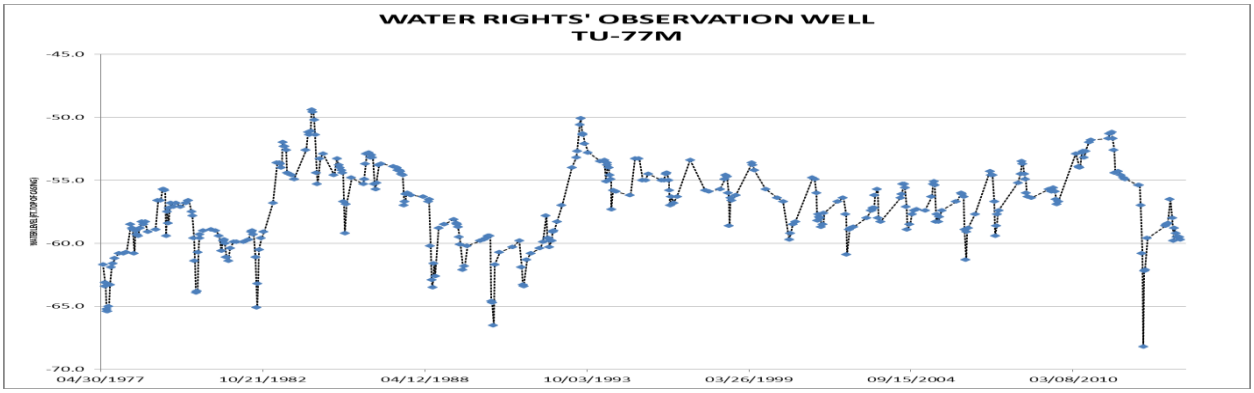

Figure 24. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

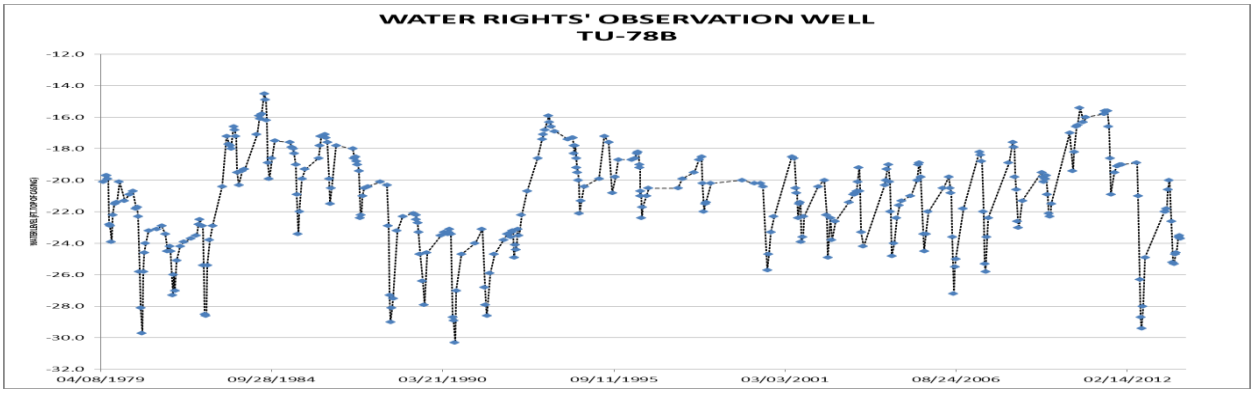

Figure 25. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

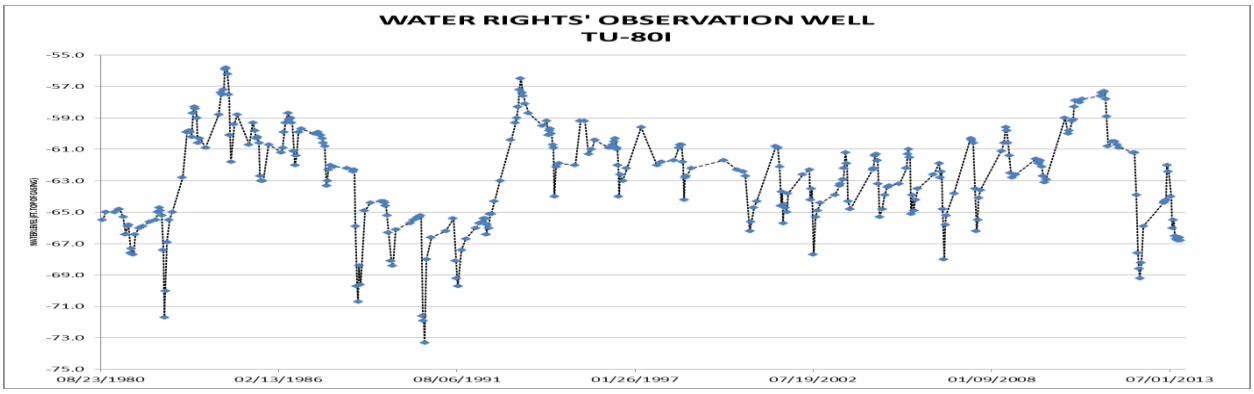

Figure 26. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

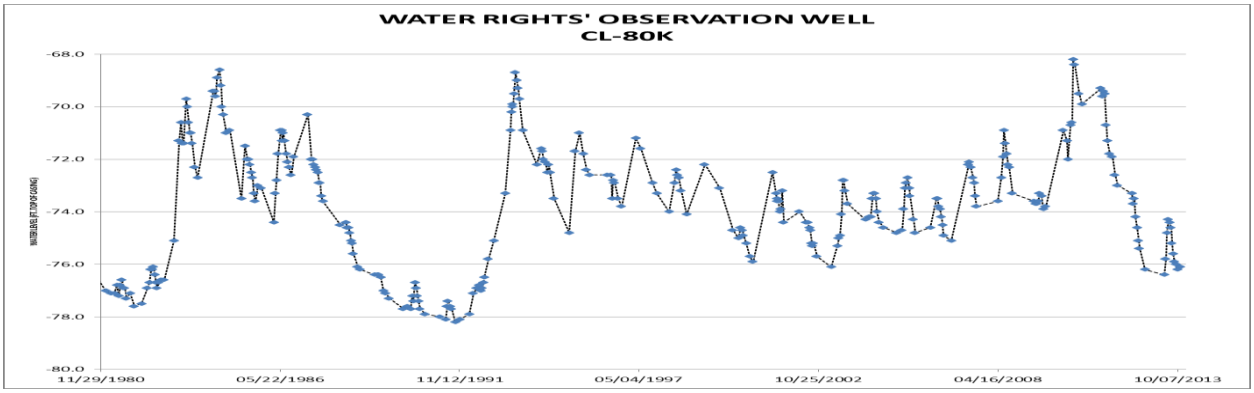

Figure 27. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

2014 Flow Net Analysis:

Inflows to and outflows from the South management unit of the Upper Vermillion Missouri aquifer were evaluated by interpreting a regional flow net analysis based on the January 21, 2014, water level data from the aquifer. A flow net analysis is a calculation of the amount of water flowing through the aquifer according to the equation:

$$Q = kAI*.0084$$

Where:

Q= flow (ac-ft/yr)
k= Hydraulic Conductivity (ft/d)
A= Area (ft^2)
I= Hydraulic gradient (ft/ft)
.0084= conversion constant

The average hydraulic conductivity from Table 1 (277 ft/d) was applied over the entire aquifer. The cross sectional area reported by the DENR-Geological Survey (in progress) for each cross section (see values in blue on the cross sections) was used in the calculations. The gradient of the potentiometric surface on January 21, 2014, at each cross section was used for the hydraulic gradient. The amount of groundwater outflow from a management unit represents the volume of

water recharging the unit that exceeds discharges from the unit. Groundwater flow was calculated at two locations near the southern extent of the South management unit at cross sections F-F' and G-G' (see Figures 28, 29, 30). The flow calculation data is shown in Table 4. The flow net analysis indicates that there is at least 5,673 acre-feet of water leaving this management unit through groundwater outflow. Therefore, there is a reasonable probability that unappropriated water is available to supply the 760.4 acre-feet per year expected to be used by these twelve applications.

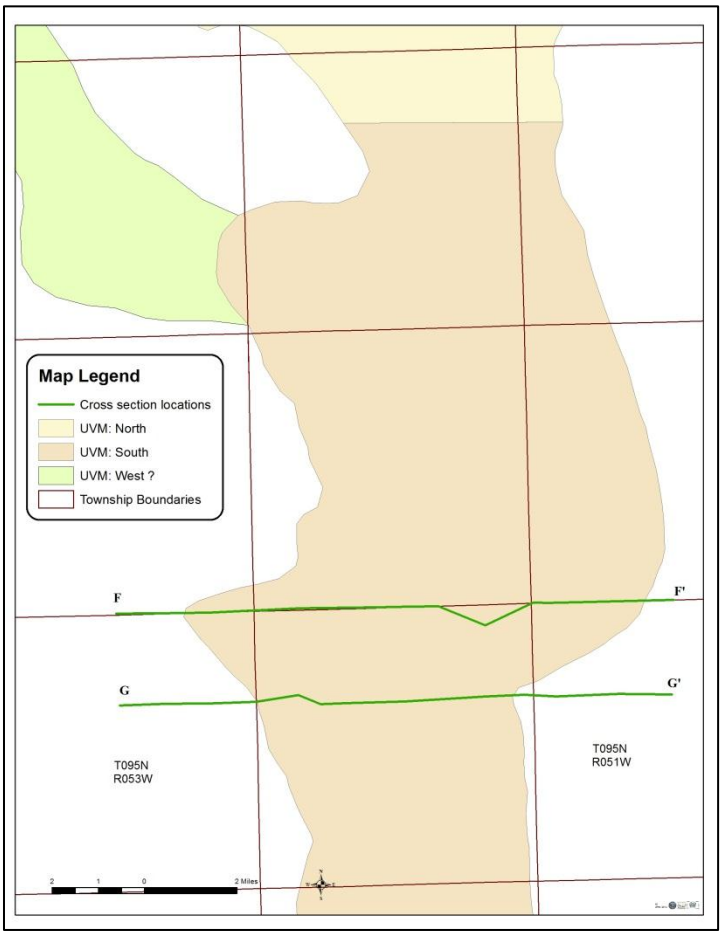

Figure 28. Map showing the location of cross Sections F-F' and G-G'

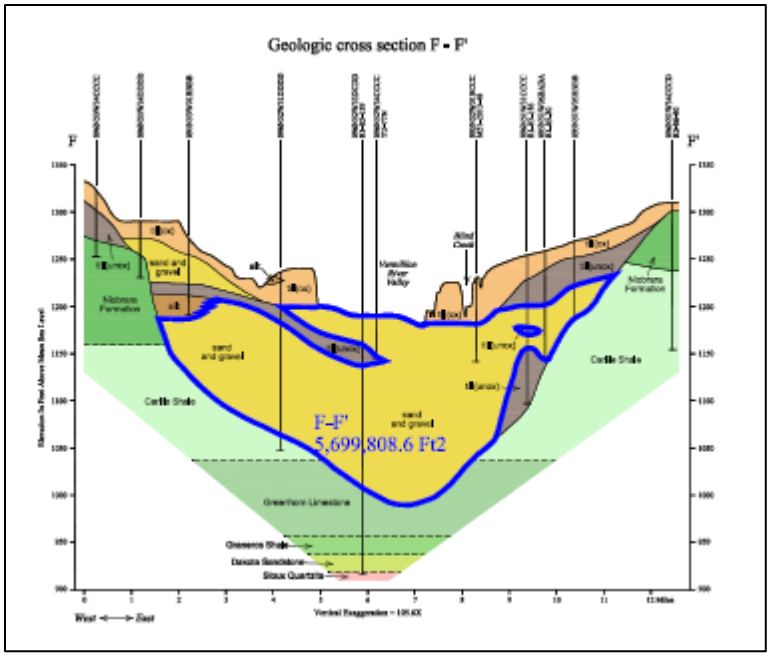

Figure 29. Geologic cross section at F-F' (SD-Geological Survey, in progress)

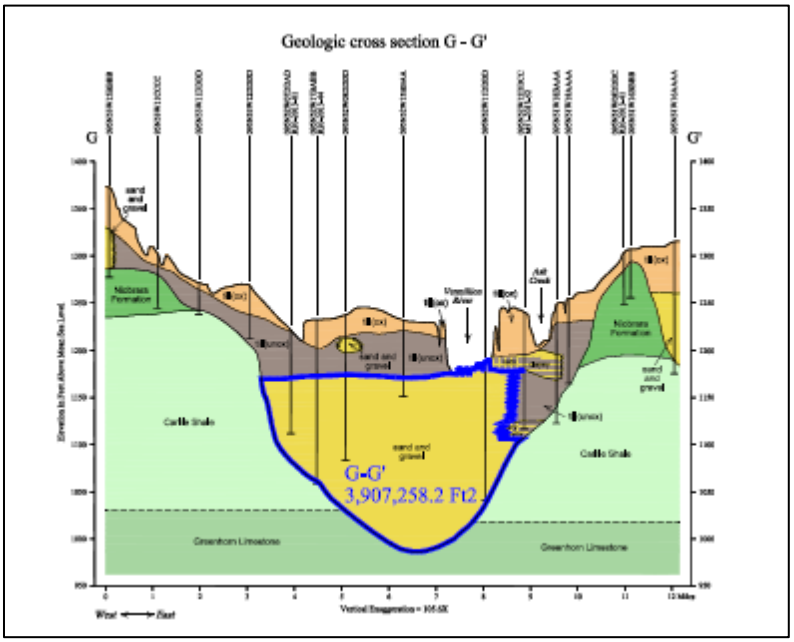

Figure 30. Geologic cross section at G-G'(SD-Geological Survey, in progress)

Cross Section	Area (ft2)	Hydraulic Gradient (ft/ft)	K (ft/day)	Q (ft3/day)	Q (ac-ft/yr)
F-F'	5,699,809	0.00062	277	978,885	***8,223***
G-G'	3907258	0.00062	277	671,033	***5,637***

Table 4. Groundwater flow at southern portion of the South management unit

WEST MANAGEMENT UNIT:

The West management unit of the Upper Vermillion Missouri aquifer extends west from T97N-R53W to at least T98N-R54W and encompasses an estimated 22,750 acres. Five deferred water permit applications (Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7433-3) propose to irrigate a total of 665 acres from the West management unit (see Figure 22). The expected withdrawal associated with these proposed appropriations was estimated based on the *average application rate* ***per permitted acreage*** for the Upper Vermillion Missouri aquifer (from Table 3) to be 332.5 acre-feet per year. The availability of unappropriated water from this unit was assessed in terms of SDCL 46-6-3.1 through evaluating observation well data and a flow net analysis.

Observation well data

The DENR-Water Rights Program monitors three observation wells completed into the West management unit of the Upper Vermillion Missouri aquifer. Hydrographs for the observation wells (Figures 31-33) all show upward trending water levels over the period of record. The observation wells clearly show changes in climatic conditions along with temporal impacts of pumping. Since climatic conditions mask temporal impacts, well withdrawals from this management unit are not stressing the system to the extent where natural discharge is impacted. Therefore groundwater outflow is available for "capture". The observation wells in this management unit document that unappropriated water is available for appropriation.

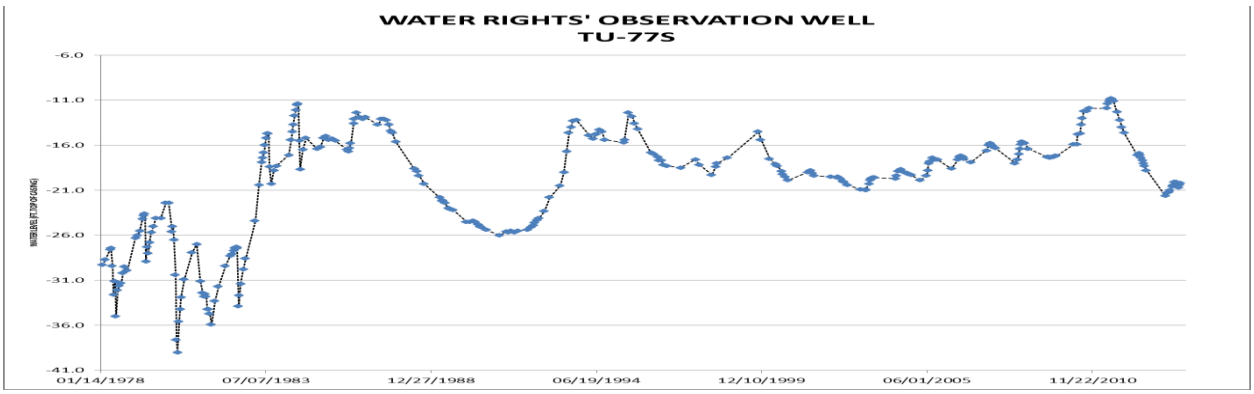

Figure 31. Hydrograph for an observation well completed into the UVM: West (Water Rights, 2014a)

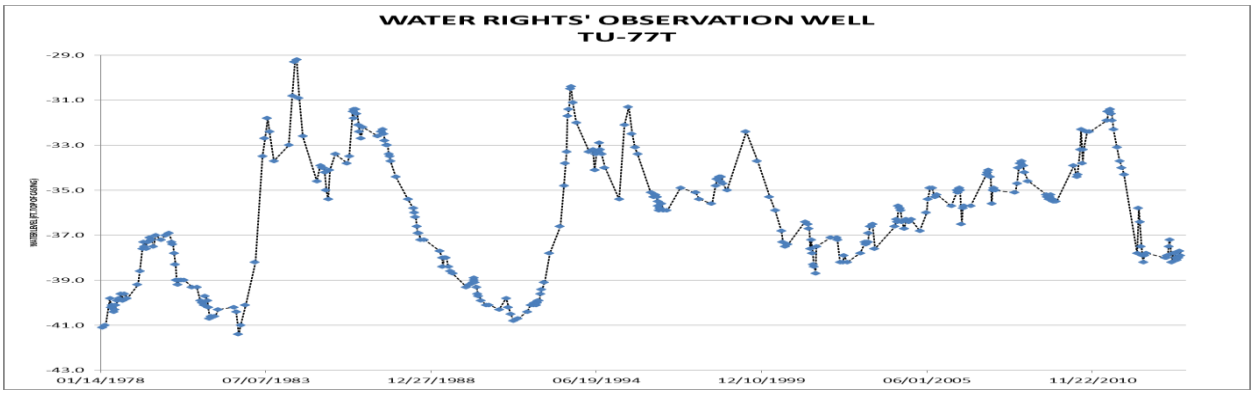

Figure 32. Hydrograph for an observation well completed into the UVM: West (Water Rights, 2014a)

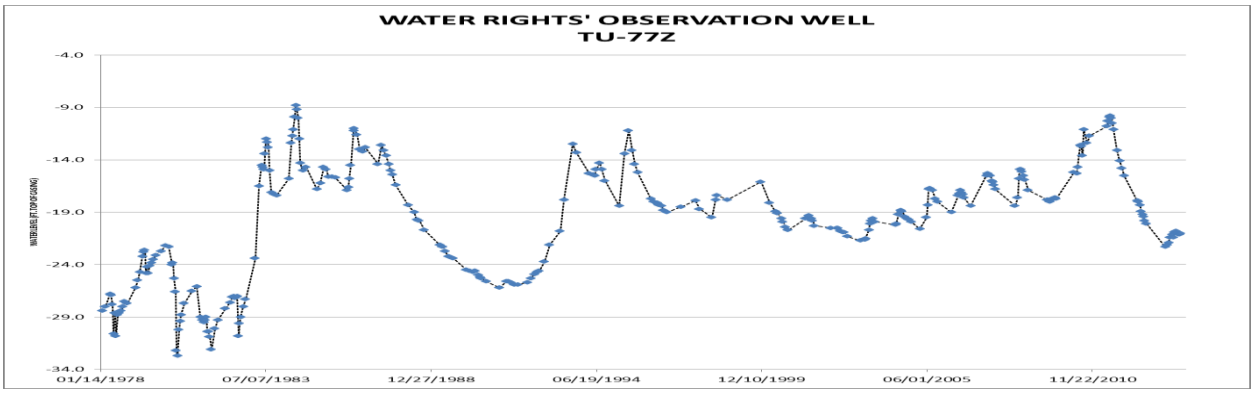

Figure 33. Hydrograph for an observation well completed into the UVM: West (Water Rights, 2014a)

2014 Flow Net Analysis:

The amount of groundwater outflow from the management unit represents the volume of recharge water exceeding withdrawals. Flow was calculated at the location where cross section AA-AA' bisects outwash (See Figures 34 and 35). The calculated flow, using the same equation discussed earlier for the South management unit, is shown in Table 5. The flow net analysis indicates that there is at least 2,681 acre-feet of water leaving this management unit through groundwater outflow. Therefore, there is a reasonable probability that unappropriated water is available to supply the 332.5 acre-feet per year expected to be used by these five applications.

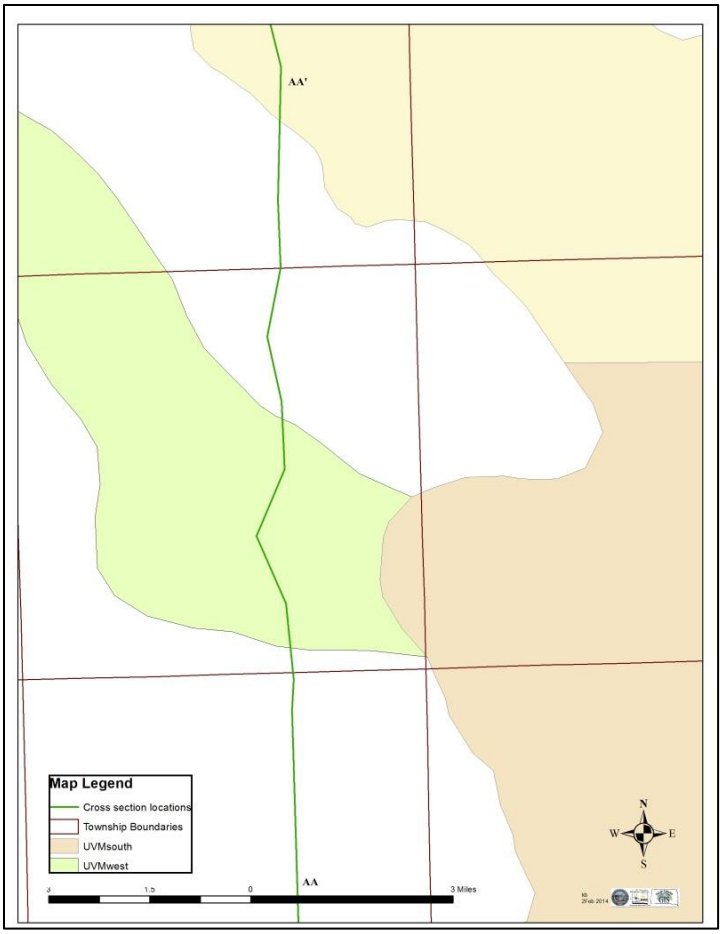

Figure 34. Map showing the location of cross section AA-AA'

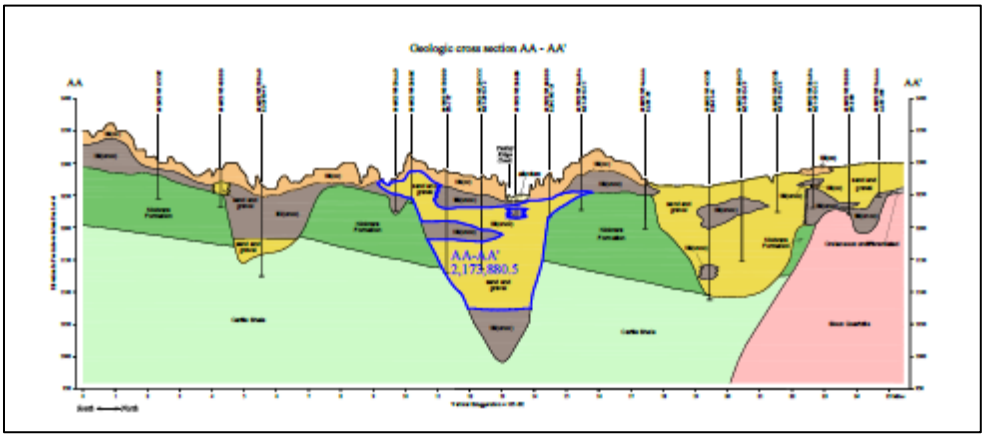

Figure 35. Geologic Cross Section at AA-AA' (SD-Geological Survey, in progress)

Cross Section	Area (ft2)	Hydraulic Gradient (ft/ft)	K (ft/day)	Q (ft3/day)	Q (ac-ft/yr)
AA-AA'	2,173,880	0.00053	277	319,147	2,681

Table 5. Groundwater flow at eastern portion of the West management unit

NORTH MANAGEMENT UNIT:

The North management unit of the Upper Vermillion Missouri aquifer extends north of T97N-R52W and encompasses an estimated 38,110 acres. Four deferred water permit applications (Nos. 7452-3, 7468-3, 7558-3, 7587-3) propose to irrigate a total of 542 acres from the West management unit (See Figure 22). The expected withdrawal associated with these proposed appropriations was estimated based on the *average application rate* ***per permitted acreage*** for the Upper Vermillion Missouri aquifer (from Table 3) to be 271 acre-feet per year. The availability of unappropriated water from this unit was assessed in terms of SDCL 46-6-3.1 through evaluating observation well data.

Observation well Data:

The DENR-Water Rights Program monitors seven observation wells completed into the North management unit of the Upper Vermillion Missouri aquifer (see Figure 8 for locations). Hydrographs for the observation wells (see Figures 36-42) all show downward trending water levels (blue trend line on hydrographs) over the period of record. Trend lines for the minimum annual water levels (green trend lines on hydrographs) are also all trending downward. Except for observation well TU-77F, the maximum annual water level trend (red line on hydrographs) has shown an upward trend.

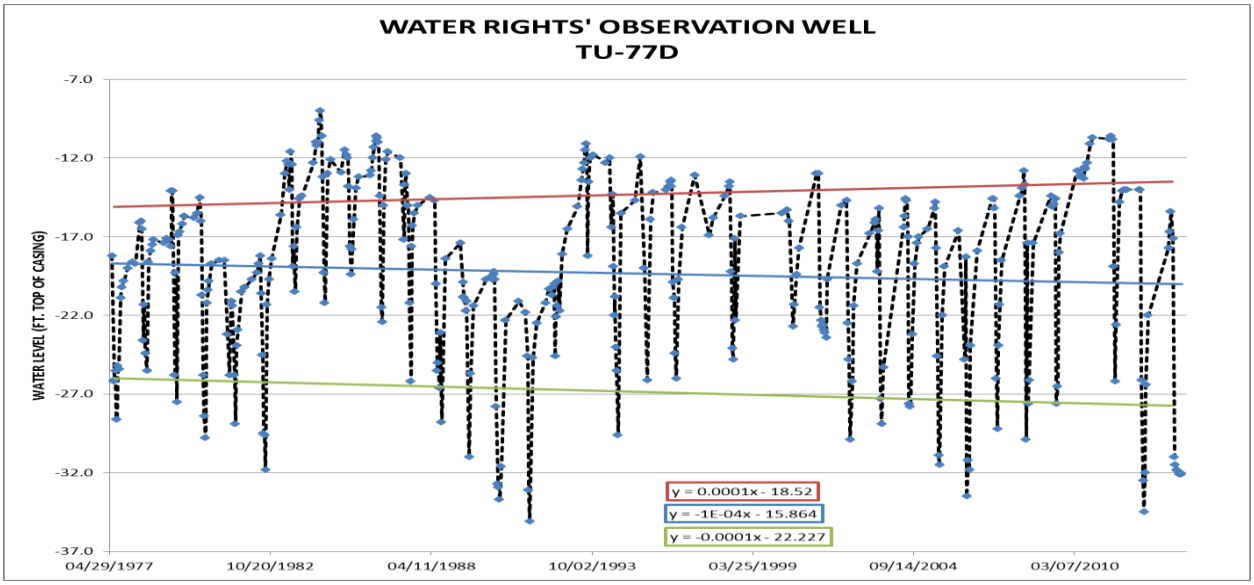

Figure 36. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual overall water level trend line (red) (Water Rights, 2014a).

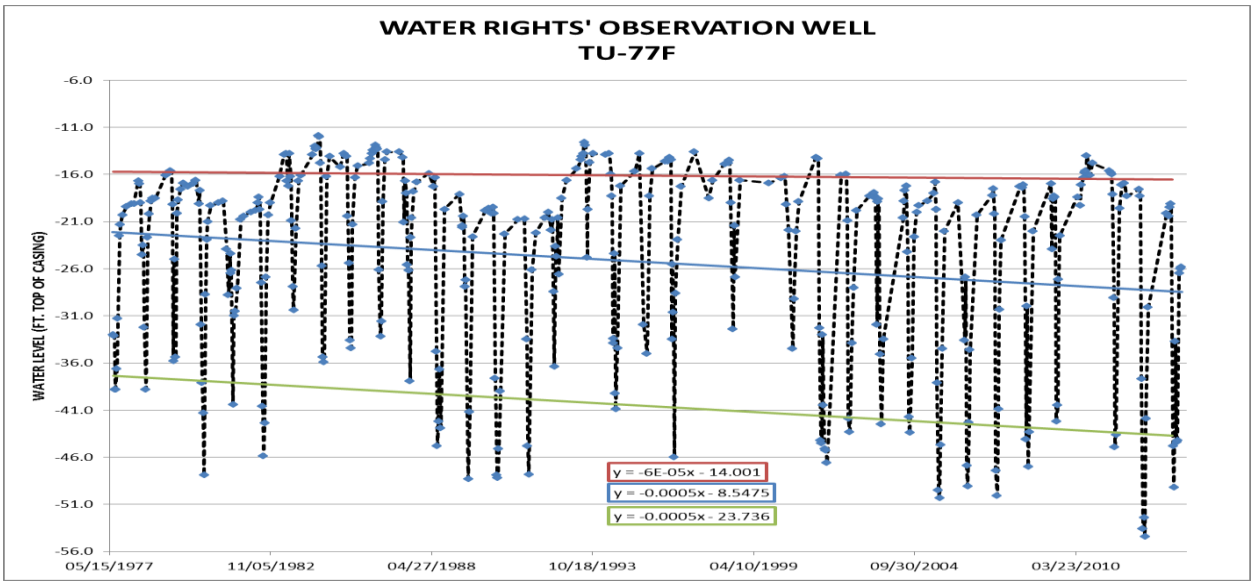

Figure 37. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual overall water level trend line (red) (Water Rights, 2014a).

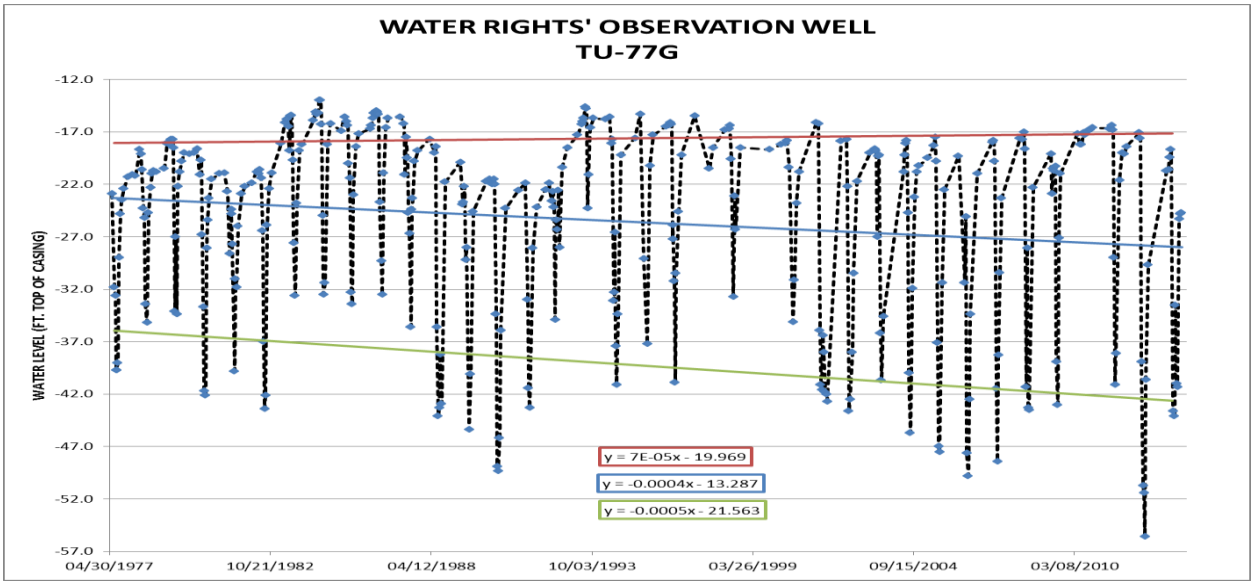

Figure 38. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual overall water level trend line (red) (Water Rights, 2014a).

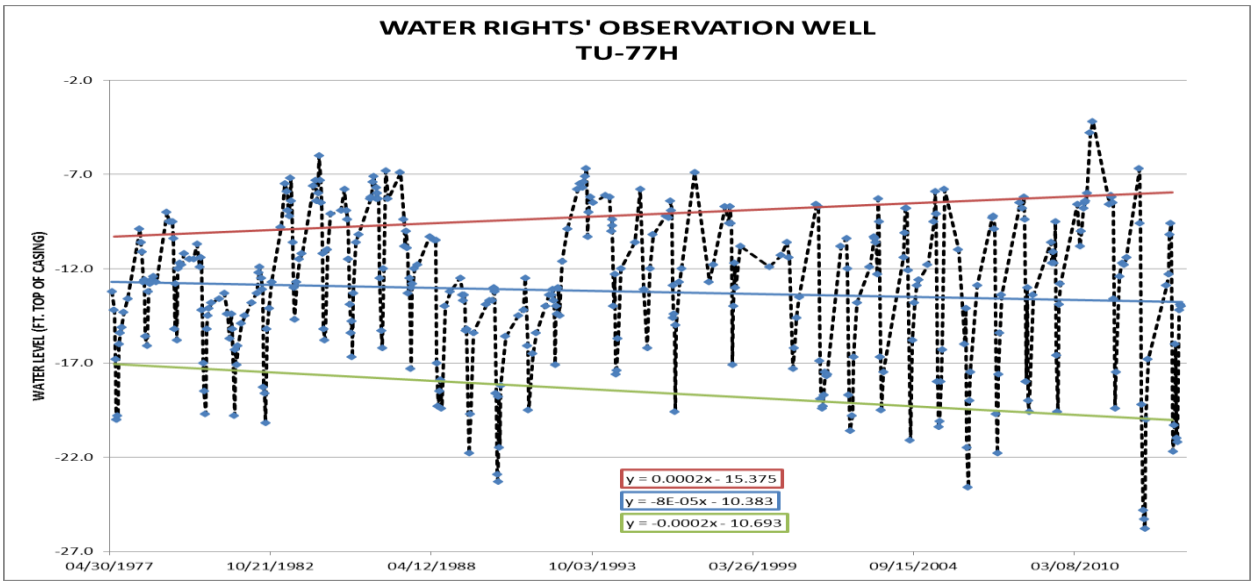

Figure 39. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual water level trend line (red) (Water Rights, 2014a).

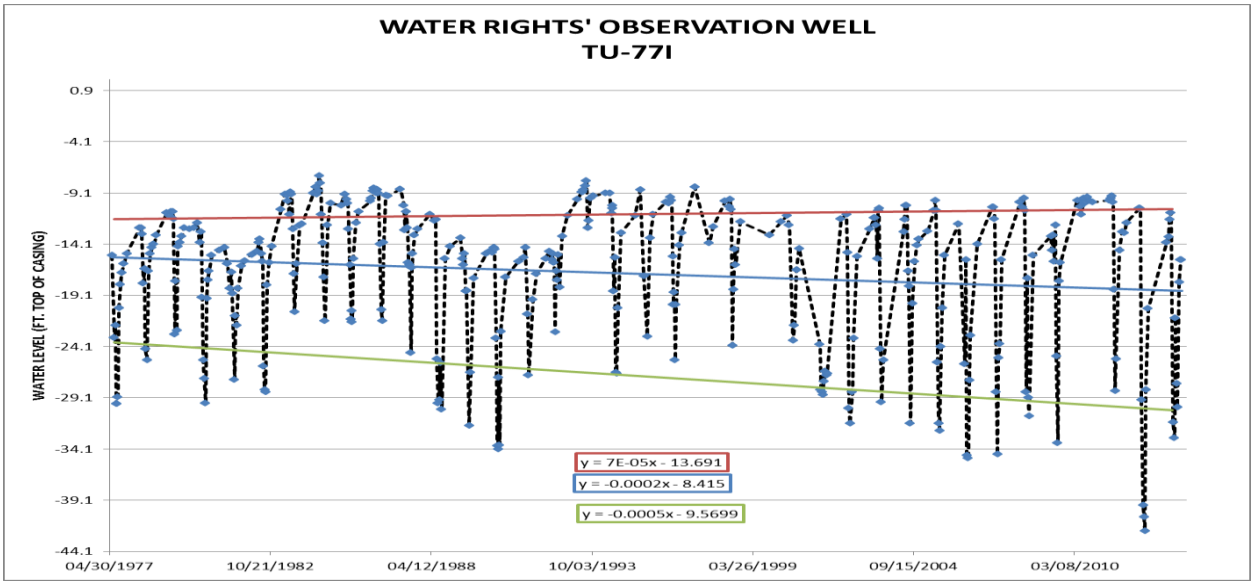

Figure 40. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual water level trend line (red) (Water Rights, 2014a).

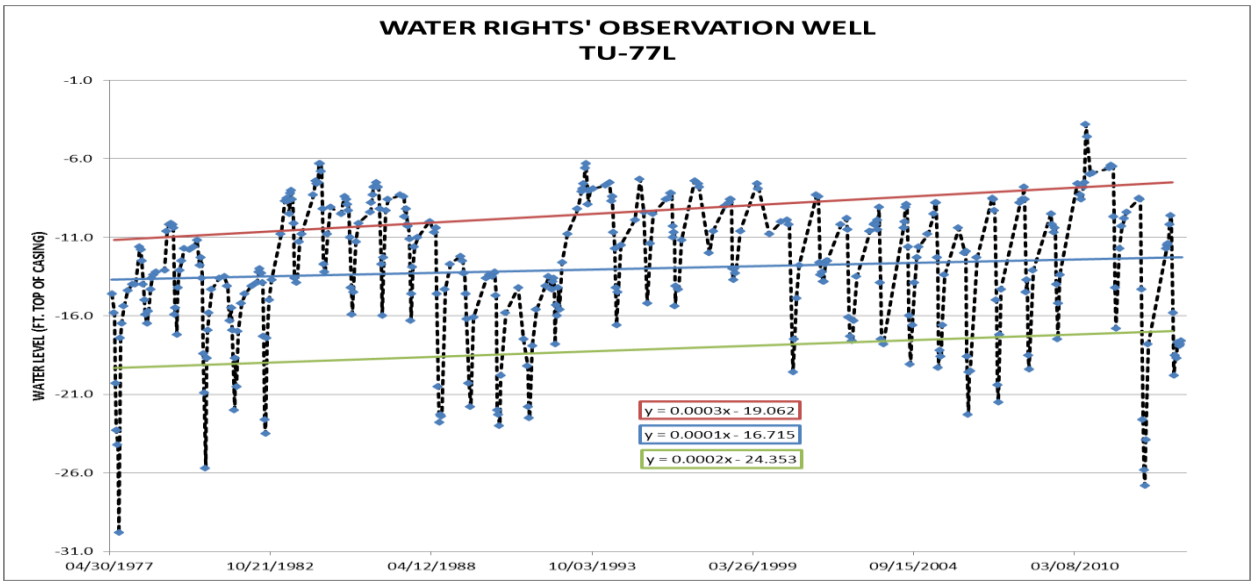

Figure 41. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual water level trend line (red) (Water Rights, 2014a).

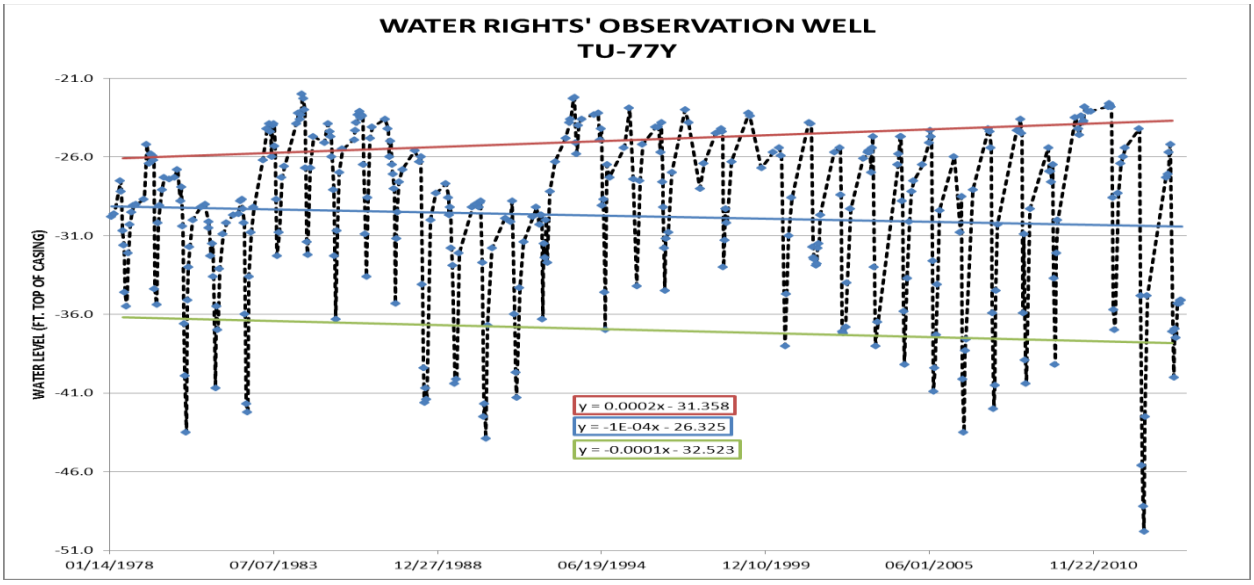

Figure 42. Hydrograph of observation well completed into the North Management Unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and Maximum annual water level trend line (red) (Water Rights, 2014a).

Profiles of the potentiometric surface along a flow path crossing the southern boundary of the North management unit of the Upper Vermillion Missouri aquifer (see Figures 43 and 44) documents that the gradient of the potentiometric surface decreases from 0.000459 ft/ft (2.42 ft/mile) to 0.000228 ft/ft (1.20 ft/mile) when pumping is at a maximum.

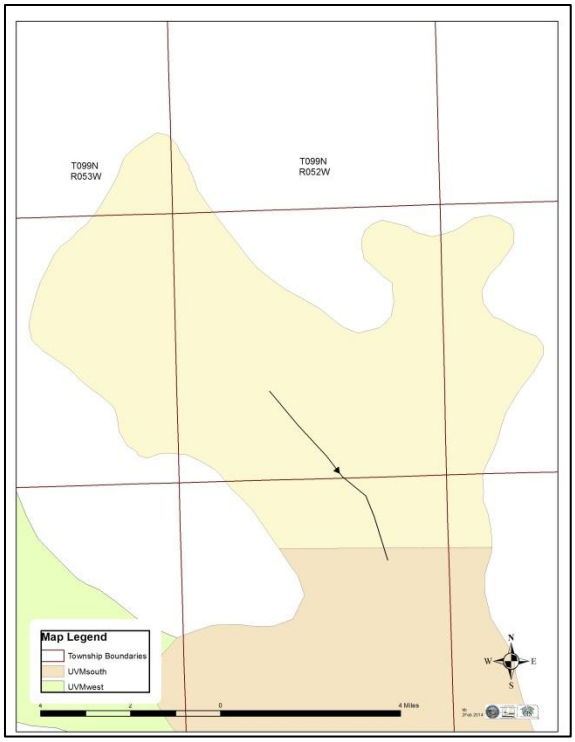

Figure 43. Map showing location of potentiometric surface profile.

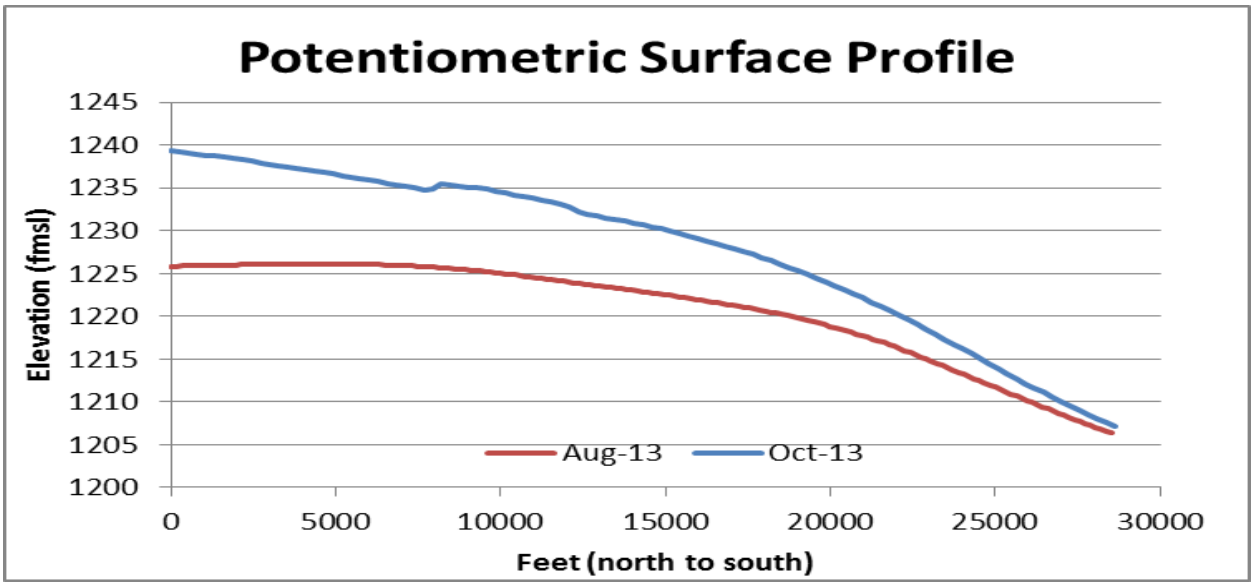

Figure 44. Profile of the potentiometric surface showing stress in North management unit.

The change in slope demonstrates that this portion of the aquifer is being stressed by well withdrawals to the extent that temporal effects are no longer masked by climatic conditions. Unlike the other management units of the Upper Vermillion Missouri aquifer, it is not possible to conclude that unappropriated water is available from this area based on observation well data.

Reported well withdrawals from this management unit have steadily increased in recent years (see Figure 45). The reported pumping from this unit has increased at an average of 80 ac-ft/yr since 2000.

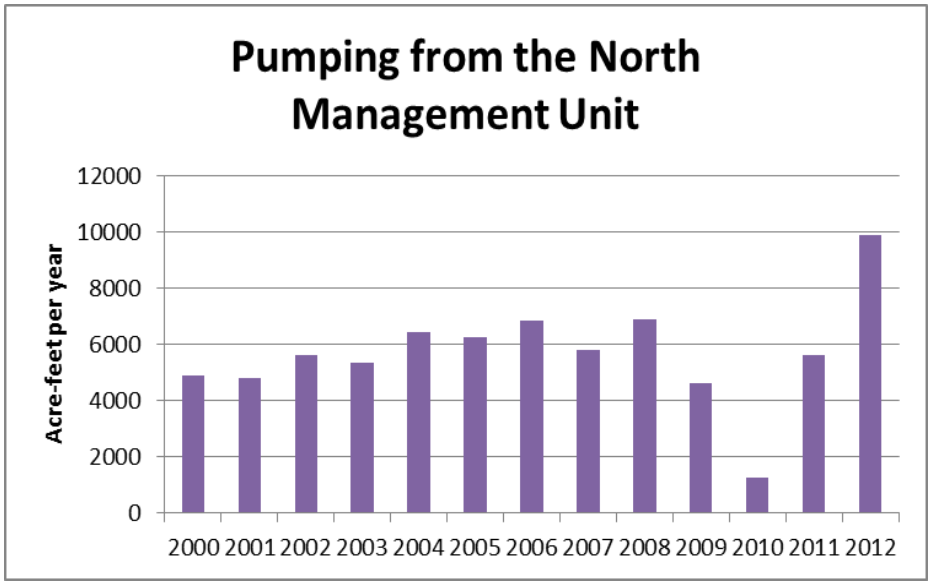

Figure 45. Pumping from the North management unit of the Upper Vermillion Missouri aquifer (Water Rights 1980-2013; Water Rights 2000-2013).

There appears to be an inverse relationship between the increased pumping from the north unit and the decreasing water level trend lines (see Figure 46). At this time data is not available to determine if water levels will stabilize under consistent withdrawals. Therefore, it is not possible to conclude that unappropriated water is available.

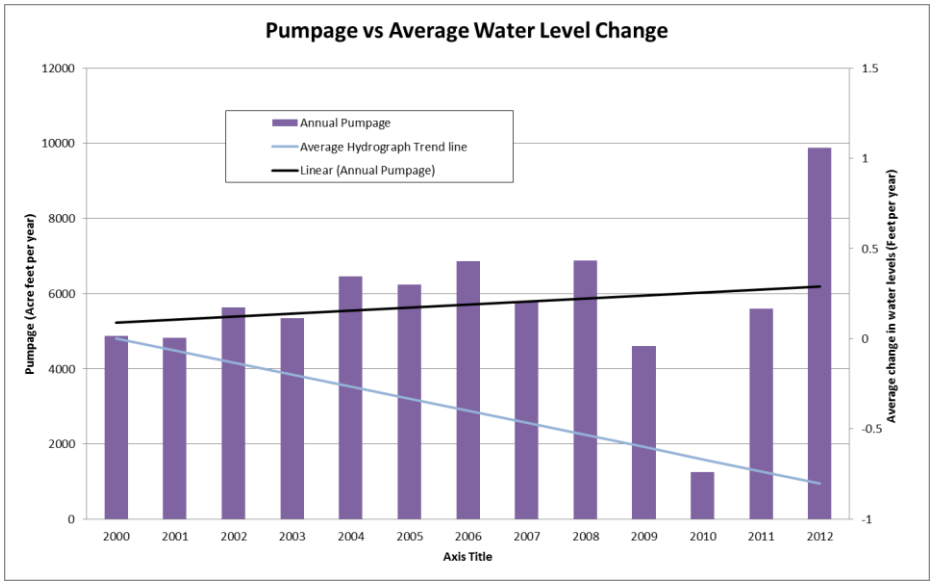

Figure 46. Pumping from the North management unit of the Upper Vermillion Missouri aquifer with trend line plotted with observation well water level trend line data. (Water Rights 1980-2013; Water Rights 2000-2013 and Water Rights 2014a)

Since the observation well data does not support "that the quantity of water withdrawn annually from the aquifer does not exceed average annual recharge to the aquifer" as required by ARSD 74:02:05:07 further evaluation of water availability from North management unit, including a flow net analysis was not performed.

IMPAIRMENT OF EXISTING RIGHTS

Since the Upper Vermillion Missouri aquifer is primarily under artesian conditions, drawdown due to pumping may be fairly large near an individual production well. Drawdown measured in pumping tests of irrigation wells (see Table 1) ranged from 6-92 feet. Well interference has historically not been a problem from the aquifer. Figures 47 and 48 show the location of selected DENR-Water Rights observation wells in relation to concentrations of irrigation wells. Hydrographs for the observation wells (Figures 37, 38, 39, 40 and 24) document drawdown of 5-25 feet. Considering the artesian pressure of the aquifer and natural water level fluctuations, drawdown of that magnitude should not be considered significant.

The Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. SDCL 46-6-6.1 does not require protection of artesian head pressure as a means of groundwater delivery. However, reasonable domestic use must be assured before irrigation use is allowed. Therefore, when considering irrigation projects, the Water Management Board must give consideration to maintaining artesian head pressure as a method of delivery for domestic wells. To balance interests between irrigation use and delivery of groundwater by artesian pressure, ARSD 74:02:04:20(7) defines an adversely impacted domestic well as:

> "a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs."

Depending on the specific characteristics of the Upper Vermillion Missouri aquifer at the proposed well sites, some existing well owners may need to lower their pumps to accommodate possible reduction of head pressure. Therefore, there is a reasonable probability that any well interference from the proposed appropriation will not adversely or unlawfully impair existing nearby wells.

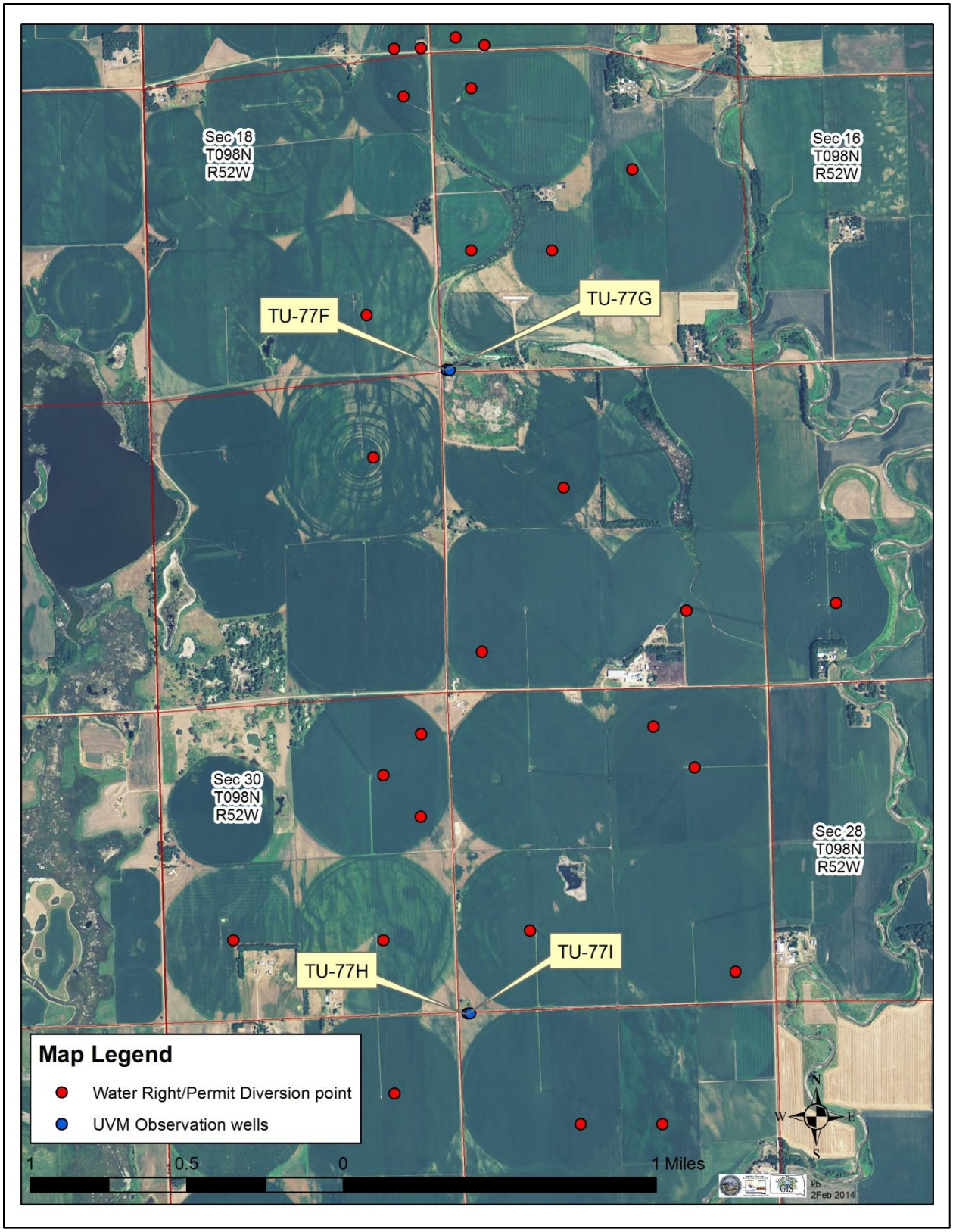

Figure 47. Location of DENR-Water Rights' observation wells TU-77F, G, H, I in relation to irrigation diversion points.

Figure 48. Location of DENR-Water Rights' observation well TU-77M in relation to irrigation diversion points.

CONCLUSIONS:

1. The Water Management Board deferred 18 water permit applications from the Upper Vermillion Missouri aquifer in 2013, because portions of the aquifer have experienced long-term downward trending water levels.
2. Since the Board's initial action to defer the original applications for further study, one additional application has been deferred and two applications are public noticed for deferral.
3. At the time the Board considered the applications, information was not available to distinguish management units within the aquifer.
4. Data is now available to consider three management units of the Upper Vermillion Missouri aquifer.
5. There is a reasonable probability that unappropriated water is available to accommodate the appropriations proposed from the South and West management units of the Upper Vermillion Missouri aquifer (Water Permit Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7609-3, 7623-3, 7653-3,7690-3, 7900-3 and 7919-3; and Water Permit Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3.)
6. There is a reasonable probability that the proposed appropriations from the South and West management units can be made without adversely impacting existing water rights.
7. Data is not available at this time to conclude that unappropriated water is available from the North management unit of the Upper Vermillion Missouri aquifer.

Ken Buhler
DENR-Water Rights Program

REFERENCES

Buhler, K.A., 2012, Report to the Chief Engineer on Water Permit Application No. 7441-3 & 7442-3, Gary or Julie Peterson; Water Permit Application No. 7452-3, Jerome Hult; Water Permit Application No. 7466-3, Bethel Hagen Trust; Water Permit Application No. 7467-3 & 7468-3, Cleland Hagen Trust; and Water Permit Application No. 7535-3 Donald D Benson, December 11, 2012: SD DENR- Water Rights Program

Circuit Court of South Dakota, Sixth Judicial Circuit, 2005, April 29, 2005 Memorandum Decision re: HU04-37 Hines v. SD Department of Environment and Natural Resources

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CUSTOMER NUMBER:	078340	Argus Leader	
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Department of Environment and Natural Resources
Attn: Karen Schlaak
Water Rights Program
523 E Capitol Ave., Joe Foss Building
Pierre, SD 57501

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STATE OF SOUTH DAKOTA
COUNTY OF MINNEHAHA } ss

Linda Schulte 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 ,the 13 day of February 2014 ,

_____ ,the _____ day of _____ 2014 ,

_____ ,the _____ day of _____ 2014 ,

_____ ,the _____ day of _____ 2014 ,

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_____ ,the _____ day of _____ 2014 ,

_____ ,the _____ day of _____ 2014 ,

and that $392.57 was charged for publishing the same

Linda Schulte

Subscribed and sworn to before me 2/13/2014 .

Notary Public, South Dakota

My Commission expires ~~December 22, 2015~~
4/21/20

RHONDA ROBB
SEAL NOTARY PUBLIC SOUTH DAKOTA SEAL

ICE OF HEAING ON
APPLICATIONS TO
PROPRIATEWATER
MANAGEMENT UNITS
E UPPER VERMILLION
ISSOURI AQUIFER

ty one applications pro- to appropriate water for on from the Upper tion Missouri (UVM) were filed in 2012 and The Chief Engineer rec- nded deferral because at ne it was not possible to de that unappropriated was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos. 7690-3 and 7919-3) are currently public noticed for a March 6, 2014 hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 - 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at http://denr.sd.gov/des/wr/pubnot/ceraspx or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr, Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr, Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shubeck authorizes irrigation of the S 1/2 SW 1/4 Section 12-T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of the SW 1/4 Section 8 for irrigation of 85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4, E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approximate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr, Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7535-3 filed by Donald D Benson, 45067 284th St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30 for irrigation of 65 acres located in the NW 1/4 Section 30; all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19; all in T98N-R53W.

Application No. 7602-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34; all in T97N-R53W.

Application No. 7633-3 filed by Brad Farrar, 28795 452nd Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32; all in T98N-R53W.

Application No. 7715-3 filed by Allen Vannorsdel, 45515 288th St, Viborg SD 57070 proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16; all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer 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.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 AM on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E Capitol Ave, Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervener retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications or other information. 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 February 24, 2014. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources

Published once at an approximate cost of $392.57.

1435497 Feb. 13, 2014

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WATER RIGHTS PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

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

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT HE IS THE **MANAGING EDITOR** OF, YANKTON MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED **Notice of Hearing on Applications**

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE **13th** DAY OF **February** 2014 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID **NOTICE** TO WIT **$190.99** ENSURES TO THE BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: **2/13/2014**

FILED ON: **2/13/2014**

SUBSCRIBED AND SWORN TO BEFORE ME THIS **13th** DAY OF **February** 2014

NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES **6/11/2019**

2+13

NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos.7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

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Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aqui-

fer (Approval Recommendation)

Application No. 7535-3 filed by Donald D Benson, 45067 284th St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30 for irrigation of 65 acres located in the NW 1/4 Section 30; all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19; all in T98N-R53W.

Application No. 7602-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34; all in T97N-R53W.

Application No. 7633-3 filed by Brad Farrar, 28795 452nd Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32; all in T98N-R53W.

Application No. 7715-3 filed by Allen Vannorsdel, 45515 288th St, Viborg SD 57070 proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16; all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer 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.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 AM on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervener retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications or other information. 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 February 24, 2014. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of $190.99.

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FEB 21 2014

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Lincoln)

I, Debbie Schmidt

certify that the attached printed Notice was taken

from the Lennox Independent

printed and published in Lennox

County of Lincoln and

state of South Dakota. The notice was published

in the newspaper on the following date:

2-13-14

Cost of Printing $159.25

Debbie Schmidt
(Signature)

Publisher
(Title)

2-18-14
(Date Signed)

NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos.7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at http://denr.sd.gov/des/wr/pubnotice.aspx or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shubeck authorizes irrigation of the S 1/2 SW 1/4 Section 12-T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of

85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4, E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approximate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

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The Water Management Board will consider these applications beginning at 10:30 AM. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

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Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of $159.25.

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FEB 2 1 2014

WATER RIGHTS PROGRAM

AFFIDAVIT OF PUBLICATION

PLAIN TALK

DENR
Joe Foss Building
523 East Capitol
Pierre, SD 57501

Plain Talk
201 W Cherry St
Vermillion 57069

STATE OF SOUTH DAKOTA
COUNTY OF CLAY

TERA SCHMIDT BEING FIRST DULY SWORN ON OATH DEPOSES AND SAYS THAT SHE IS THE CLASSIFIED MANAGER OF YANKTON MEDIA INC., A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Applications to Appropriate Water

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 14 DAY OF February 2014 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID NOTICE TO WIT $190.99 ENSURES TO THE BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 2/14/14

FILED ON: 2/13/14

Tera A Schmidt

SUBSCRIBED AND SWORN TO BEFORE ME THIS 18th DAY OF February 2014

NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 8/19/2015

NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

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Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of the SW 1/4 Section 8 for irrigation of 85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4, E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approximate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7535-3 filed by Donald D Benson, 45067 284th St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30 for irrigation of 65 acres located in the NW 1/4 Section 30; all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19; all in T98N-R53W.

Application No. 7602-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34; all in T97N-R53W.

Application No. 7633-3 filed by Brad Farrar, 28795 452nd Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32; all in T98N-R53W.

Application No. 7715-3 filed by Allen Vannorsdel, 45515 288th St, Viborg SD 57070 proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16; all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer 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.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 AM. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervener retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications or other information. 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 February 24, 2014. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of $190.99.

Published February 14, 2014.

RECEIVED

FEB 2 4 2014

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF TURNER

I, Robin Schneider of the City of Parker, County of Turner, State of South Dakota being first duly sworn on oath, deposes and says: The New Era is a weekly legal newspaper of general circulation, printed and published in the City of Parker, in said County of Turner, by The New Era, New Century Press, publishers, and has been such legal newspaper during the times hereinafter mentioned; that the said newspaper 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 publication of the notice hereunto attached, and has during all of said time had, and now has, more than 200 bona fide subscribers; that the undersigned, The affiant, is the Office Manager of the said newspaper, in charge of the advertisement department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed:

#5760 Notice of Hearing on Applications to Appropriate Water From Management Units of the Upper Vermillion Missouri Aquifer

_____ printed copy of hereto attached, is printed and published in the said newspaper for one successive weeks, one each week and on the same day of the week, on the following dates, to wit:

On Thursday, the 13th day of Feb. , 2013

See attached

That $160.53 being the full amount of the fees for publication of the attached notices insures solely for the benefits of the publishers 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.

Robin Schneider

Subscribed and sworn to before me this 19th

Day of February 2014

Paul R. Harms

Notary Public, Turner County, South Dakota

My Commission Expires: March 20, 2018

Publication Fee .... $
Notary Fees ..... $
Total $160.53

PAUL R. HARMS
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos.7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 - 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at http://denr.sd.gov/des/wr/pubnotice.aspx or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 a.m., on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville, SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville, SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls, SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg, SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shubeck authorizes irrigation of the S 1/2 SW 1/4 Section 12-T96N-R52W.

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer

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.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 a.m. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre, SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

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Contact Eric Gronlund by Feb. 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications or other information. 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 Feb. 24, 2014. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of $160.53.

(#5760,02/13/14, The New Era)

NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos.7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 - 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at http://denr.sd.gov/des/wr/pubnotice.aspx or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

<u>South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)</u>

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shubeck authorizes irrigation of the S 1/2 SW 1/4 Section 12-T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of the SW 1/4 Section 8 for irrigation of 85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4, E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approximate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7535-3 filed by Donald D Benson, 45067 284th St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30 for irrigation of 65 acres located in the NW 1/4 Section 30; all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19; all in T98N-R53W.

Application No. 7602-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34; all in T97N-R53W.

Application No. 7633-3 filed by Brad Farrar, 28795 452nd Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32; all in T98N-R53W.

Application No. 7715-3 filed by Allen Vannorsdel, 45515 288th St, Viborg SD 57070 proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16; all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer 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.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 AM. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervenor retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications or other information. 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 February 24, 2014. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of_____.

CERTIFICATION

I hereby certify that on February 11, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated February 11, 2014 regarding scheduling a hearing in the matter of Water Right Permit Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7535-3, 7467-3, 7468-3, 7558-3, 7587-3, 7588-3, 7600-3, 7601-3, 7602-3, 7603-3, 7623-3, 7633-3, 7653-3, 7690-3, 7715-3, 7900-3, and 7919-3 as set forth below:

A. Jason Rumpca, 103 N 3rd Street, Beresford SD 57004
Donald McCarty, PO Box 78, Brookings SD 57006
Gary or Julie Peterson, 45913 299th Street, Centerville SD 57014
Jerome Hult, 45958 Hwy 18, Davis SD 57021
Donald Benson, 45067 284th Street, Hurley SD 57036
Jeremiah Welsh, 29217 460th Avenue, Centerville SD 57014
Brad Farrar, 28795 452nd Avenue, Viborg SD 57070
Darrell Osborn, 28838 463rd Avenue, Centerville SD 57014
Michael D Stevens, 28916 458th Avenue, Viborg SD 57070
Paul Peterson, 45610 282nd Street, Hurley SD 57036
Dr Bruce Hagen, 1300 W Murphy Drive, Sioux Falls SD 57108
Dr Bruce Hagen, 38736 Nasturtium Way, Palm Desert, CA 92211
Allen Vannorsdel, 45515 288th Street, Viborg SD 57070
Leon Thompson, 401 S 11th Street, Beresford SD 57004
Tim or David Ostrem, 45924 300 St, Wakonda SD 57073
Larry and Marlene Erickson, 29859 461st Avenue, Centerville SD 57014
Diane Best, Assistant Attorney General, 317 N Main Ave, Sioux Falls SD 57104

Sent Interoffice to:
Ann Mines, Assistant Attorney General, 1302 E Hwy 14, Suite 1, Pierre SD 57501

Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of February, 2014.

Karen Schlaak
Notary Public
My Commission expires April 1, 2019

SEAL KAREN SCHLAAK NOTARY PUBLIC State of South Dakota SEAL