South Dakota
Department of Environment & Natural Resources
Protecting SD's Tomorrow...Today

Scheduled hearing times are Central Standard Time

WATER MANAGEMENT BOARD
July 10, 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.

9:00 AM Call to Order

October, 2014, Meeting Date and Location
Set Hearing Date for Consideration of Water Permit Application No. 1942-1, James Chambliss

May 7, 2014, Board Minutes
Status and Review of Water Rights Litigation – Jeff Hallem
Administer Oath to Department of Environment and Natural Resources Staff

Board Discussion on Considering Proposing Rules regarding Conflict of Interest – Jeff Hallem / Ann Mines

10:00 AM Cancellation Considerations – Eric Gronlund

Seven Year Review of Future Use Permit for Big Sioux Community Water System – Eric Gronlund

Water Permit Application No. 7988-3, Owen and Lamont Peterson – Ken Buhler

Irrigation Questionnaire Violation for Water Right Nos. 5391A-3 and 6063A-3, Daniel Ulmer – Genny McMath

10:30AM Deferred Water Permit Application No. 4092-3, Floyd Peterson - Lynn Beck

Water Permit Application No. 7347-3, Michael Sentell – Lynn Beck

11:00 AM Request to Advertise a Public Hearing on Amendment to Surface Water Quality Standards, Administrative Rules Chapter 74:51:01 through 74:51:03 – Patrick Snyder

LUNCH

1:00 PM Water Permit Application No. 7983-3, Richard Beitelspacher – Bracken Capen

ADJOURN

WATER MANAGEMENT BOARD MEETING
July 10, 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
4092-3	Floyd Peterson	Huron	SP	5.3 AF	1.21 cfs	overflow from Lake Dudley	denial
7347-3	Michael Sentell	Hitchcock	SP	1.49 cfs	120 acres	Lake Dudley	iq, 1 special
7983-3	Richard Beitelspacher	Bowdle	ED	2.78 cfs	195 acres	3 wells-Bowdle:Edmunds	wi, wcr, iq
7988-3	Owen & Lamont Peterson	Wendell MN	HM	1.78 cfs	290 acres	1 well-Prairie Coteau	deferral

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

611A-1	Neil & Faith Shuck	Vale	BU	2.6 cfs	182 acres	Whitewood Creek	lf, iq
1945-1	Elkhorn Ridge	Lakewood CO	LA	1.11 cfs	265 acres	1 well-Madison Aquifer	wi, wcr, iq, 2 special
1946-1	Nellies Mercantile & Saloon	Enning	MD	0.04 cfs	commercial	1 well-Fox Hills Aquifer	wi
2724-2	Lloyd or K.E. Flock	Buffalo Gap	FR	0.56 cfs	40 acres	dugout	1 special, iq
2725-2	James William O'Neill	Tuthill	BT	1.78 cfs	130 acres	1 well-Ogallala	wi, wcr, iq
2726-2	JBH Dakota LLC	Naples FL	LY	44.9 AF	fwp, rec, liv	unnamed tributary to Bull Creek	lf, 1 special
6552A-3	GV LLC	Sioux Falls	LN	no add'l	shd	1 well-Sioux Quartzite	wi, 1 special
6811A-3	Hansen Properties	Centerville	CL	1.78 cfs	115 acres	1 well-SMU:Upper Vermillion Miss	wi, wcr, iq, 1 special
6880A-3	Pheasant Crest Lodge Inc.	Kimball	JE	4.00 cfs	280 acres	1 well-Crow Creek	wi, wcr, iq
7057A-3	Mill Valley LLC	Milbank	GT	0.11 cfs	commercial	2 wells-Greenhorn Formation	wi, 3 special
7718A-3	Terry Wieting	Huron	BD	no add'l	no add'l	1 well-Tulare Western Spink: Hitchcock (transfer acres & cfs)	wi, wcr, iq
7927-3	Terry Britzman	Watertown	CD	1.78 cfs	135.3 acres	1 well-Prairie Coteau	wi, wcr, iq, 1 special
7952-3	Fischer Farms	Wagner	CM	no add'l	135.12 acres	1 well-Choteau:West	wi, wcr, iq
7975-3	Dennis K Flemming	Florence	CD	1.89 cfs	148.8 acres	2 wells-Antelope Valley	wi, wcr, iq
7976-3	Vasgaard Properties	Centerville	LN	1.78 cfs	160 acres	1 well-Upper Vermillion	wi, wcr, iq
7977-3	Dahlerup Family Trust	Aberdeen	YA	2.89 cfs	284 acres	1 well-Lower James Missouri	wi, wcr, iq
7978-3	Rita or Chad Svatos	Lake Andes	CM	2.0 cfs	140 acres	1 well-Codell Aquifer	wi, wcr, iq
7980-3	Francis Heine	Vermillion	CL	no add'l	5 acres	1 well-Missouri:Elk Point	wi, wcr, iq, 1 special
7981-3	Farron Pratt	Vermillion	KG	0.58 cfs	24 acres	1 well-Vermillion East Fork	wi, iq

No.	Name	Address	County	Amount	Use	Source	Qualifications
7984-3	Owen & Lamont Peterson	Wendell MN	HM	1.78 cfs	147.02 acres	1 well-Big Sioux:Brookings	wi, wcr, iq
7985-3	William Chenoweth	Springfield	BH	3.11 cfs	233 acres	2 wells-Niobrara Aquifer	wi, wcr, iq, 1 special
7986-3	Brian R Meyer	South Shore	GT	1.93 cfs	135 acres	1 well-Antelope Valley	wi, wcr, iq
7987-3	Francis M Armstrong	Vermillion	CL	1.78 cfs	102 acres	1 well-Missouri:Elk Point	wi, wcr, iq 1 special
7989-3	Tetonka LLP	Hartford	MA	18 AF	fwp	outflow from Clear Lake	2 special
7990-3	Robert P Walsh	Elk Point	CL	2.44 cfs	240 acres	1 well-SMU:Upper Vermillion Miss	wi, wcr, iq
7992-3	Porter Farm Inc.	Brookings	BG	1.78 cfs	125 acres	1 well-Big Sioux:Brookings	wi, wcr, iq
7993-3	Hansen Properties	Centerville	CL	1.11 cfs	53 acres	1 well-SMU:Upper Vermillion Miss	wi, wcr, iq, 1 special
7994-3	Hansen Properties	Centerville	CL	no add'l	72 acres	1 well-SMU:Upper Vermillion Miss	wi, iq
7995-3	Hansen Properties	Centerville	CL	no add'l	25 acres	1 well-SMU:Upper Vermillion Miss	wi, iq
7996-3	Danish Farmland Holdings	Beresford	UN	1.78 cfs	160 acres	1 well-Brule Creek Aquifer	wi, wcr, iq
7997-3	Danish Farmland Holdings	Beresford	UN	1.78 cfs	80 acres	1 well-Brule Creek Aquifer	wi, wcr, iq, 1 special
7998-3	Danish Farmland Holdings	Beresford	UN	1.78 cfs	95 acres	1 well-Brule Creek Aquifer	wi, wcr, iq, 1 special
7999-3	Karl M Schenk	Mission Hill	YA	1.78 cfs	96 acres	1 well-Lower James:Missouri	wi, wcr, iq, 1 special
8000-3	Earl Althoff	Waubay	DA	1.22 cfs	75 acres	1 well-Coteau Lakes Aquifer	wi, iq, 1 special
8001-3	Todd Block	Grenville	DA	1.44 cfs	120 acres	Waubay Lake	iq, 3 special
8002-3	Todd Block	Grenville	DA	1.44 cfs	120 acres	1 well-Coteau Lakes Aquifer	wi, wcr, iq

Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
5689-3	Big Sioux Community Water System	Egan	LK	360 AF	rws	Big Sioux:Northern Skunk Creek	none
6834-3	Big Sioux Community Water System	Egan	LK	600 AF	rws	Big Sioux:Northern Skunk Creek	none

CANCELLATIONS – July 10, 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 1510A-1	Boulder Canyon Country Club	Same % Jerry Weber	LA	No add'l	IRR	NC	Ground water Minnelusa Aquifer	6-5-2014	
PE 1510B-1	Boulder Canyon Country Club	Same % Jerry Weber	LA	No add'l	IRR	NC	Ground water Minnelusa Aquifer	6-5-2014	
DIVISION II FUTURE USE PERMIT AND WATER PERMIT									
FU 1507-2	South Central Water Development District	Same % Cheryle Van Zee, Mgr.	LY GY TR	100,000 acre feet	IRR MUN RWS REC	A	Missouri River	6-5-2014	
PE 2510-2	David Enyeart	Floyd Simunek	FR	0.05	IRR	A/F	Ground water (one well) Unkpapa Sandstone	6-5-2014	
DIVISION III WATER PERMITS and WATER RIGHTS									
RT 374-3	Bernice Anderson	Arthur Anderson (owner) Darrell Neilson (renter)	YA	2.25	IRR	A/F	Ground water (one well) Lower James Missouri	6-5-2014	
RT 556-3	Hugh Barnett	Rita M Barnett	BG	1.22	IRR	A/F	Ground water (one well) Big Sioux Six Mile Creek Aquifer	6-5-2014	
RT 661-3	Gary K Fisher	Same	BD	3.00	IRR	A/F	Ground water (one well) Bad Cheyenne Aquifer	6-5-2014	
RT 1613-3	Rex Binger	Same	SP	1.85	IRR	A/F	Ground water (one well) Tulare Western Spink Hitchcock Aquifer	6-5-2014	
RT 3878-3	Catherine Fischer	Same	CA	1.89	IRR	A/F	Ground water (one well) Selby Aquifer	6-5-2014	
RT 4134-3	Richard Boomsma	Richard Boomsma Reed Bixler w/Bixler Farms	BD	1.33	IRR	A	Ground water (one well) Tulare Western Spink Hitchcock Aquifer	6-5-2014	
PE 6739-3	Stencil Construction	Nathan Stencil w/Stencil Construction (former owner) KARBCO LLC (new owner)	LN	0.167	IRR	NC	Ground water (one well) Shindler Aquifer	6-5-2014	

ABBREVIATIONS

N/C = NON-CONSTRUCTION	**A/F = ABANDONMENT OR FORFEITURE**	**A = ABANDONMENT**	**F = FORFEITURE**
V/R = VESTED WATER RIGHT	**FU = FUTURE USE PERMIT**	**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 – July 10, 2014

Number	Original Owner	Present Owner(s) & Other Persons Notified	County	Amount C.F.S.	Use	Reason	Source	Date Notified	Letters
PE 6851-3	Todd Cowan	Same	HY	0.15	COM	NC	Ground water (one well) Inyan Kara Aquifer	6-5-2014	
PE 6852-3	Todd Cowan	Same	HY	0.044	COM	NC	Ground water (one well) Highmore Blunt Aquifer	6-5-2014	

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

IN THE MATTER OF WATER PERMIT APPLICATION 1942-1, JAMES CHAMBLISS	)))	ORDER GRANTING INTERVENORS PAT, ROSEMARY, AND TOM TRASK , AND ELK CREEK WATER TRUST'S MOTION FOR CONTINUANCE

Intervenors Pat, Rosemary, and Tom Trask, and Elk Creek Water Trust (Intervenors) filed a Motion for Continuance dated June 4, 2014, to continue the hearing in the above captioned matter tentatively scheduled for July 9 and 10, 2014, before the Water Management Board. A teleconference hearing on the motion was scheduled and heard on June 23, 2014, by Water Management Board Prehearing Chair Rodney Freeman. Present at the hearing were counsel for Intervenors William Taylor; Applicant James Chambliss and his counsel, Erika Olson; Assistant Attorney General Matt Naasz, Chief Engineer Jeanne Goodman and Eric Gronlund for the DENR Water Rights Program. Prior to the hearing, written responses to the motion were submitted by the Water Rights Program and Applicant. At the hearing counsel for the Applicant, Intervenors and the Water Rights Program argued the merits of the motion.

The Prehearing Chair, having reviewed and considered the motion, responses and arguments of counsel finds that the Motion for Continuance is meritorious and that good grounds have been provided for its granting. It is therefore:

ORDERED, that Intervenors' Motion for Continuance is granted and the Water Rights Program is directed to include an agenda item on the Water

Management Board's July 10, 2014, meeting agenda to schedule a date in October for the hearing on Applicant's Water Permit Application, and provide notice to all parties and counsel of record of the time and call in number for the scheduling matter.

Dated this 30th day of June, 2014.

Rodney Freeman
Prehearing Chair

MINUTES OF THE 188th MEETING OF THE
WATER MANAGEMENT BOARD
VIA TELECONFERENCE at the
FLOYD MATTHEW TRAINING CENTER
523 EAST CAPITAL AVE
PIERRE, SD

May 7, 2014

CALL TO ORDER: Chairman Comes called the meeting to order at 10:01 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.

Legislative Oversight Committee: Senator Chuck Welke.

Other parties: Jay Gilbertson, East Dakota Water Development District; Jeff DeVille, City of Watertown; Reed Bixler, applicant and his legal counsel, Ray Rylance.

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

Department of Environment and Natural Resources (DENR): Adam Mathiowetz, Ron Duvall, Karen Schlaak, Joe Stonesifer, Eric Gronlund, and Jeanne Goodman.

Attorney General's Office: Ann Mines and Matt Naasz.

Legislative Oversight Committee: Representative Mary Duvall.

Other parties: Bob Mercer.

MARCH 6, 2014, MINUTES:
Mr. Comes advised there is a misspelled word on page 15 of the minutes for March 6, 2014; "Hinrs" needs to be changed to "Hines" in reference to the Hines decision.

Mr. Hoyt advised another misspelled word in the third paragraph from the end; "council" should read "counsel" in the first and second lines of the paragraph.

Motion to approve minutes with changes as stated above by Freeman, seconded by Hoyt. Motion carried.

NEXT MEETING: July 9-10, 2014 in Pierre. Mr. Hoyt advised he will not be present.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: Mr. Hallem stated the only litigation currently pending is the Peterson appeal and that is in the briefing stage. A decision will not be made before the July meeting.

ADMINISTER OATH TO DENR STAFF: The court reporter administered the oath to the DENR Staff who intend to testify during the meeting.

CANCELLATION CONSIDERATIONS:

Mr. Gronlund stated that the board packet included a table on the cancellations scheduled for today. Also in the packet is the notice scheduling today's hearing that was sent to all the permit holders, along with the chief engineer's recommendation. There are 20 water rights or permits scheduled for cancellation today. DENR did not receive any response to the notice of today's hearing. DENR does make every effort to personally contact the permit holders to discuss and try to answer any questions prior to scheduling the water right for cancellation.

Mr. Gronlund asked the board to note the cancellation consideration for Oaklane Colony. With respect to Water Right 2813-3, only a portion of the water right will be cancelled. The water right was for two quarter sections and the colony built a dairy on one of the quarter sections and ceased irrigation. If the board does cancel that portion, that water right will be reissued for 1.77 cfs for irrigation of 124 acres.

Motion to cancel the water rights and permits as listed and as recommended by the chief engineer by Hoyt, seconded by Bjork. Motion carried.

WATER PERMIT APPLICATION NO. 4134A-3, BIXLER FARMS:

Ms. Mines stated Mr. Buhler is not present today and Mr. Gronlund will be testifying on his behalf.

Ms. Mines offered DENR Exhibit 1, the agency file, which was accepted into the record.

Appearances:

Ms. Mines and Mr. Naasz, representing the chief engineer and the Water Rights Program.

Mr. Rylance, counsel for Reed Bixler.

Reed Bixler, water permit applicant.

Mr. Hallem went over what was received by the board prior to this matter.

Mr. Gronlund presented Ken Buhler's staff report.

Mr. Gronlund stated Application No. 4134A-3 proposes to amend Water Right No. 4134-3 by transferring the acreage authorized for irrigation and point of diversion to new locations. Water Right No. 4134-3, held by Richard Boomsma authorizes the diversion of water from one well located in the SW¼ SE¼ Section 10, T113N-R64W at a maximum rate of 1.33 cubic feet of water per second (cfs). The water right authorizes the irrigation of 128 acres located in the SE¼ Section 10, T113N-R64W. The diversion point proposed by Application No. 4134A-3 is to be a well located in the SW¼ SE¼ Section 25, T115N-R63W. Application No. 4134A-3 proposes a permit authorizing the irrigation of 128 acres located in the E½ SW¼, SE¼ Section 25, T115N-R63W. The water source for this irrigation system is the Tulare: Western Spink/Hitchcock aquifer and no increase in the diversion rate or number of acres irrigated are requested by this application.

The application proposes to move the irrigation and diversion approximately 12 miles to the northeast into Spink County (seven miles NE of the town of Hitchcock). The aquifer remains the TWSH aquifer and no increase in diversion rate or number of acres are requested. Water Right No. 4134-3 was approved in 1979 and licensed in 1982 based on the level of development.

SDCL 46-5-34 provides the statutory authority allowing an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation on the current land. The land where the water right is currently appurtenant is owned by Mr. Boomsma. Mr. Boomsma submitted a letter expressing his desire to transfer this water right to Bixler Farms. The letter also provides an explanation for some periods of nonuse such as wet conditions in the 1990's and enrollment in CRP.

Bixler Farms filed the application stating the basis for the transfer is the enrollment in CRP since the ground has become inundated with water due to its pot hole nature.

DENR's review included looking at past water use under Water Right No. 4134-3, FSA aerial photos and the potential for well interference. Well interference has not been an issue from the TWSH aquifer. The aquifer is under unconfined conditions in this area and drawdown from this proposed diversion is not expected to adversely impact existing users.

The FSA aerials from 2004, 2008, 2010 and 2012 were reviewed. The maps confirm that this quarter section could be characterized as having pot holes with portions of the quarter section inundated with water.

Table 1 on Page 2 of Mr. Buhler's report represents the irrigation questionnaire reporting since 1985. This shows that 1988 was the last time the land authorized by Water Right No. 4134-3 was irrigated. The table shows 2 four year periods of no irrigation without an explanation (1989 – 1992 and 1994 – 1997) and an 8 year period the land was in CRP.

The period of the early 1990's to mid-1990's were historically known as a wet period in South Dakota and the Board has in the past determined in this area that legal excuse exists. Administrative rule provides for legal excuse when water use under existing climatic conditions would result in a waste of water.

Further the Beadle County FSA office was contacted to confirm the period the land was enrolled in CRP. The actual dates of enrollment were 1997 through 2006. 46-5-37.2 provides that land placed in an acreage reserve program is an exception to the 3 year forfeiture for nonuse statute as long as the source is not fully appropriated and does not prevent approval of new permits from the source.

When a matter of forfeiture for nonuse arises, the burden of proof lies with the state. In this case, based on the past climatic conditions, comments on submitted irrigation questionnaires, review of FSA aerial photos, and a period of enrollment in CRP, the state did not believe it could meet the burden needed in order to bring the matter before the Board for cancellation. Therefore, DENR feels that legal excuse likely exists for the periods greater than three years.

The Chief Engineer's recommendation is for approval with the standard well interference, well construction and irrigation questionnaire qualification. The application was public noticed in the Redfield Press and Huron Plainsman and no petitions to intervene were filed.

Responding to questions from Ms. Mines, Mr. Gronlund stated based on the assessment the FSS aerial photos, the land authorized for irrigation is not conducive to irrigation. The application does not increase in the number of acres, it does not impair any existing rights, and it is deemed of beneficial use.

Responding to a question from Mr. Hoyt, Mr. Gronlund stated DENR does not get involved in the financial considerations between landowners when a water right is transferred to a different person. DENR only follows the statute as far as allowing the transfer.

Mr. Rylance stated he agrees with the chief engineer's report and recommends that the board approve the water permit.

In response to Mr. Hoyt, Mr. Rylance stated that Mr. Bixler did not buy the permit from the previous holder. The previous holder is a friend of the family and the permit is to be transferred without any financial consideration.

Mr. Hoyt stated the fear is that water rights can be sold once obtained.

In response, Mr. Freeman stated that it is not relevant at this point in time, not only to this case, but future cases. The legislature would need to tell the board that it is a relevant consideration.

Mr. Hallem stated there is no prohibition for consideration; it will be considered the same as other licenses. The parties are allowed to do a transfer under agreements they have and whether or not there was consideration will not be an issue for the board. If there is a secondary market, that will be an issue for the legislature to decide whether or not that is something that should be addressed or left to the individual parties.

Motion to approve Water Permit Application No. 4134A-3, subject to the qualifications of the chief engineer by Freeman, seconded by Holzbauer. Motion carried.

Mr. Rylance stated he will waive finding of facts and conclusions of law.

GENERAL DISCUSSION OF IMPLEMENTATION OF HOUSE BILL NO. 1015:

Ms. Goodman stated Secretary Pirner appeared before the board during the March board meeting to go through the department's legislation and gave a brief discussion on House Bill (HB) 1015. Shortly after the March board meeting the governor signed the bill and it will become effective as of July 1, 2014. The bill creates an equitable process to handle water right applications submitted for aquifers determined to be fully appropriated.

Ms. Goodman stated the presentation she will go through is available on the department's website if anyone would like to view it and follow along. Starting with step one the board will determine if an aquifer is fully appropriated. The legislation requires that within 30 days of the final decision that the aquifer is fully appropriated or for aquifers determined fully appropriated prior to July 1, 2014, when the legislation goes into effect, there will need to be a public notice. The public notice states the board's decision of a fully appropriated aquifer as well as provides a 30 day period in which the department will accept applications for future appropriations if water is determined to become available for that aquifer. In the meantime, any applications that are submitted prior to the board's final decision that the aquifer is fully appropriated will not be included in the process but handled as all applications are handled now.

Mr. Hoyt asked if the applicant, in an event of a denial, is free to avail themselves to the new process.

Ms. Goodman answered that the applicant of a denied application may submit the application during the 30 day window when public noticed under this new law.

Ms. Goodman stated that the second step in the process is that the Water Rights Program will accept applications during that 30 day period. All applications submitted within the 30 days will be given a priority of the 30th day. As legislation indicates, no more than one application will be accepted for the same acreage. This is to avoid one person from submitting several applications for the same acreage in the hopes of having a better opportunity to be higher on a priority list. Any application that is submitted after the board's final decision and prior to the 30 day period will be given a priority date of the 30th day. If DENR receives applications that are determined to be incomplete, those applications will be returned to the applicant giving them 30 days to respond and complete the application. If that application is returned complete within that timeline, that application will also be given a priority date of the 30th day. Any applications that are received after the 30 days will be given a priority of the date that they are received and will not be part of a random priority draw.

Ms. Goodman stated that step three is for the board to create a priority list of all the accepted applications. The legislation requires that no later than the second regularly scheduled board meeting after that 30 day window in which applications are accepted, the board will hold a meeting to determine a priority based on a random selection process. That random process,

to be approved by the board, can be conducted a number of ways. DENR will present the board with options to be considered. The random selection process in the development of the priority list will be included as an agenda item at the October board meeting. From there the board can take the information and consider several things as they make a decision on a final random selection process. Following a discussion, DENR will have the board select a process via motion and a roll call vote. As the board is considering and choosing a process, a number of things should be considered, including the number of applications, public input, board member acceptability, legal acceptance, and ease of documentation. Once the random selection process is decided, a priority list will be made with the applications that have been submitted and accepted.

Mr. Rylance asked about applications that are in process and turned down prior to the 30 day notice and the 30 day window.

Ms. Goodman advised any applications that are received before the board makes a final decision that an aquifer is fully appropriated will be handled as all applications are now and will be recommended for approval, denial, or deferral. After the board makes the final decision on the fully appropriated designation and before the 30 day window, those applications will be received and held with a priority date of the 30th day of the window.

Mr. Hallem stated if there is an appeal like there currently is in the Peterson case regarding whether the aquifer is fully appropriated whether DENR will look at the board's final decision?

Ms. Goodman answered DENR believes so.

Ms. Goodman stated that step four states the process for applications after they are in a priority list and will be held for five years. During this time the Water Rights Program will conduct a review of that fully appropriated aquifer. That review is going to include a number things, including staff looking at all permits and licenses in the aquifer, review to determine those permits that can be licensed, allowing the last application to be developed and determining if cancellations of permits or licenses are possible for non-use. If necessary, DENR can conduct additional hydrogeologic studies. The annual irrigation questionnaire will be reviewed as well. Once the five year review is done, there will be a public notice scheduling hearing before the board to hear the results of that five year review. The public notice will be in the area that the aquifer occurs and all the applications on that priority list will be notified. Those applicants will be required to do two things, respond to the Water Rights Program with their desire to maintain eligibility and submit a 10 percent fee of the original filing fee to maintain eligibility.

Ms. Goodman stated the last step of the process is the board holding the five year review hearing. During that time the DENR staff will present what they have done during the review and the results of that review. The board will then decide whether there is unappropriated water available based on the information presented. If there is water available the board can approve applications in the order on the developed priority list. Any remaining applications that are still on the list after all the water is appropriated will go back and be held for another five years. However, if it is determined that there is remaining water available after all the

applications have been satisfied, then DENR will open up the aquifer for general appropriation, as DENR does on applications now.

Ms. Goodman stated as the legislation was drafted DENR had thoughts regarding speculation with someone filing applications for lands that are not irrigable or the aquifer is not present at that sight. The legislation does include that no transfer of a permit issued under this process is allowed until the water is placed to beneficial use as specified in the permit.

Mr. Bjork asked what will prevent someone from applying for a permit with the intent of selling it to another landowner to transfer to other land.

Ms. Goodman stated if someone files an application for a section of land it will first have to be developed on the originally permitted land prior to transferring it.

Mr. Freeman asked if that is allowed by statute, since there is three years to develop it.

Mr. Hallem stated section eight of the bill specifically addresses needing to develop at original site and this section is the controlling provision.

Ms. Goodman stated because the bill goes in to effect on July 1, 2014, and DENR does have aquifers that have been determined to be fully appropriated, DENR will first public notice the Floyd:Pearl Creek aquifer. DENR anticipates in that public notice identifying the 30 day window within which DENR will accept applications as August 1 through September 1. This is longer than 30 days but the last two days of the month are on a weekend. DENR will come before the board at the October meeting to demonstrate proposed random selection processes. The board will have an opportunity to informally, without any applications, see how a random process will work. At that meeting, a decision will be made on which process the board prefers. At the December board meeting, DENR will come before the board prepared to go through that process with the applications that have been received, and have the board develop a priority list for the Floyd:Pearl Creek aquifer. At the July 2014 meeting, with the effectiveness of HB1015, DENR will begin implementation and review of the Floyd: Pearl Creek aquifer. The review will continue until July 2019 when the five year period is completed. A review before the board will be public noticed notifying all the applicants of the five year review and the results. In December of 2019, the board will conduct their five year review hearing. As Mr. Hallem mentioned, there is an appeal pending on the Tulare:Western Spink Hitchcock aquifer. DENR believes the next item in the schedule for implementation of HB1015 will include the Tulare:Western Spink Hitchcock and the Tulare:East James aquifers after the final decision is made on the appeal.

Mr. Hallem stated there will be a number of formats that DENR may be presenting; all those will have a cost associated. Equipment will need to be purchased for the random selection. Mr. Hallem asked if there was a determination on how to proceed with the cost of some of the items that will need to be purchased.

Ms. Dixon asked if DENR was aware of the randomizer in Excel that can be used.

Ms. Goodman stated that DENR has looked at that option as well as others.

Board of Minerals and Environment Rules Regarding Conflict of Interest

74:09:01:20. Board member conflict of interest. A board member who is personally related to a party involved in a contested case hearing by two degrees of consanguinity, who has a direct financial interest in a party involved in a contested case hearing through employment or by contract, or whose spouse is employed by or directly contracts with a party involved in a contested case hearing, may not participate in a contested case proceeding concerning that party. The member shall make an oral statement of recusal on the record at the initiation of the hearing in the contested case. A recused member may not participate in board discussions or decision-making regarding that contested case proceeding.

Source: 40 SDR 198, effective May 29, 2014.

General Authority: SDCL 34A-1-6, 34A-6-1.6, 34A-6-1.14, 34A-11-9, 45-9-13.

Law Implemented: SDCL 1-26-27, 34A-1-21, 34A-1-43, 34A-1-44, 34A-1-45, 34A-1-46.

74:09:01:21. Board member potential conflict of interests. A potential conflict of interest is an indirect financial interest, or a personal relationship or another interest in a party involved in a contested case hearing or enforcement hearing that is different from that of the general public, that a reasonable person would believe might result in bias or prejudgment of a contested case hearing. Board members shall disclose any potential conflict of interest in a contested case proceeding on the record at the initiation of the hearing, or during the hearing if they become aware of the existence of a potential conflict of interest. Upon its own motion or the motion of a party, the board may recuse a member with a potential conflict of interest if it determines that the potential conflict of interest raises an unacceptable risk of bias or prejudgment in the contested case proceeding.

Source: 40 SDR 198, effective May 29, 2014.

General Authority: SDCL 34A-1-6, 34A-6-1.6, 34A-6-1.14, 34A-11-9, 45-9-13.

Law Implemented: SDCL 1-26-27, 34A-1-21, 34A-1-43, 34A-1-44, 34A-1-45, 34A-1-46.

CANCELLATION CONSIDERATIONS
July 10, 2014 WMB MEETING

DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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

June 5, 2014

NOTICE OF CANCELLATION

TO: Jerry Weber, Boulder Canyon Country Club, PO Box 305, Sturgis SD 57785

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

SUBJECT: Cancellation of Water Permit Nos. 1510A-1 and 1510B-1

Water Permit Nos. 1510A-1 and 1510B-1 were both obtained as an extension of time to allow for additional construction time for the project authorized under Water Permit No. 1510-1. The additional time was to allow for construction of another pond to be used for irrigation at the golf course. An inspection of the project found all works were developed under the originating Water Permit No. 1510-1 and additional work authorized under Nos. 1510A-1 and 1510B-1 was no longer needed. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 1510A-1 and 1510B-1 due to non-construction.

The Water Management Board will consider cancellation of Water Permit Nos. 1510A-1 and 1510B-1 at 10:00 a.m., July 10, 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. 1510A-1 and 1510B-1 based upon facts presented at the public hearing. Our records show the country club 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 July 1, 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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT NOS. 1510A-1 and 1510B-1 BOULDER CANYON COUNTRY CLUB

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. 1510A-1 and 1510B-1.

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

Water Permit Nos. 1510A-1 and 1510B-1 were both obtained as an extension of time to allow for additional construction time for the project authorized under Water Permit No. 1510-1. The additional time was to allow for construction of another pond to be used for irrigation at the golf course. An inspection of the project found all works were developed under the originating water permit and the additional work authorized under Nos. 1510A-1 and 1510B-1 was no longer needed.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 2014

Note:

Cancellation of the Water Permit Nos. 1510A-1 and 1510B-1 will not alter Water Right No. 1510-1 which was licensed in April 2011 for the entire project as constructed.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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June 5, 2014

NOTICE OF CANCELLATION

TO: Cheryle Van Zee, Mgr., South Central Water Development District
PO Box 43, Armour SD 57313

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

SUBJECT: Cancellation of Future Use Permit No. 1507-2

Future Use Permit No. 1507-2 reserves 100,000 acre feet of water from the Missouri River for irrigation, municipal, rural water and recreational purposes. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether or not reasonable need exists for the reserved water. On April 9, 2014, a letter was received from Gary LaCompte with SCWDD Board of Directors indicating the Board had met and moved not to renew the future use permit. The Chief Engineer of the Water Rights Program is recommending cancellation of Future Use Permit No. 1507-2 due to abandonment.

The Water Management Board will consider cancellation of Future Use Permit No. 1507-2 at 10:00 a.m., July 10, 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 Future Use Permit No. 1507-2 based upon facts presented at the public hearing. Our records show South Central Water Development District to be the holder of the future use permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by July 1, 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.

June 5, 2014

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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT
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RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE PERMIT NO. 1507-2 SOUTH CENTRAL WATER DEVELOPMENT DISTRICT

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Permit No. 1507-2.

In preparation for the seven year review of the future use permit, a March 12, 2014 letter was directed to SCWDD to determine if they wished to retain the permit and if a reasonable need existed for retaining the permit. On April 9, 2014, a letter was received from Gary LaCompte, the chairperson for the district indicating the Board had met and moved not to renew the future use permit.

The Chief Engineer is recommending cancellation of the above future use permit due to abandonment since the District does not intend to proceed with renewal.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 2014

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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PIERRE, SOUTH DAKOTA 57501-3182
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June 5, 2014

NOTICE OF CANCELLATION

TO: Floyd Simunek, 13052 Fall River Rd, PO Box 339, Hot Springs SD 57747

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

SUBJECT: Cancellation of Water Permit No. 2510-2

Water Permit No. 2510-2, listed in the name of David Enyeart, authorizes diversion of ground water to be used for irrigation purposes. The former owner of the property intended to irrigate a vineyard, truck garden and/or greenhouse with the water. On March 20, 2014, Aaron Tieman with our program spoke with you about the project. It is our understanding that you do not intend to irrigate. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 2510-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 2510-2 at 10:00 a.m., July 10, 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. 2510-2 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 July 1, 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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 2510-2, DAVID ENYEART

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. 2510-2. The land is now owned by Floyd Simunek.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment and/or forfeiture. On March 20, 2014, Aaron Tieman with the Water Rights Program contacted Floyd Simunek who now owns the land. Mr. Simunek confirmed he has no intent on using the well and acreage for the purpose described in the water permit.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 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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June 5, 2014

NOTICE OF CANCELLATION

TO: Arthur Anderson, 11746 Giorgio Dr., Skiatook OK 74070
Darrell Neilson, 110 W 3rd, Mission Hill SD 57046

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

SUBJECT: Cancellation of Water Right No. 374-3

Water Right No. 374-3, listed in the name of Bernice Anderson, authorizes irrigation of acreage in Section 5 & 8, T93N, R55W in Yankton County SD. On April 1, 2014, in follow-up to the 2013 irrigation questionnaire, Genny McMath with our program spoke with Darrell Neilson about the water right. Mr. Neilson confirmed the land had not been irrigated since the early 1990's. An irrigation system no longer exists on the land. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 374-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 374-3 at 10:00 a.m., July 10, 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. 374-3 based upon facts presented at the public hearing. Our records show Arthur Anderson 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 July 1, 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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 374-3, BERNICE ANDERSON

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. 374-3. The land is now owned by Arthur Anderson.

The Chief Engineer is recommending cancellation of the above water right due to abandonment and/or forfeiture. The 2013 irrigation questionnaire submitted for Water Right No. 374-3 indicated the use had been abandoned. On April 1, 2014, Genny McMath spoke with Darrell Neilson who currently rents the land. Mr. Neilson confirmed the land had not been irrigated since the early 1990's. There is no longer an irrigation system on the property.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 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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June 5, 2014

NOTICE OF CANCELLATION

TO: Rita M Barnett, 3933 34th Ave., Brookings SD 57006

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

SUBJECT: Cancellation of Water Right No. 556-3

Water Right No. 556-3, listed in the name of Hugh Barnett, authorizes diversion of ground water to irrigate 147 acres in the NE ¼ Section 7, T110N, R49W in Brookings County. On June 4, 2014, Genny McMath with our program spoke with you about your use of water for irrigation purposes. It is our understanding the irrigation system has been removed and the land is not being irrigated. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 556-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 556-3 at 10:00 a.m., July 10, 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. 556-3 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 July 1, 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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 556-3, HUGH BARNETT

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. 556-3. The land is now owned by Rita M Barnett.

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

Irrigation questionnaires on file with the water right indicate no irrigation has taken place since 1991. On June 4, 2014, Genny McMath with the program spoke with Mrs. Barnett concerning the water right. She confirmed the irrigation system had been removed from the property. The power lines were still there however the power to the site has been shut off. She further indicated her renter did not wish to irrigate the land.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 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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June 5, 2014

NOTICE OF CANCELLATION

TO: Gary K Fisher, 895 NE Dixie Hwy Ste 101, Jensen Beach FL 34957 6188

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

SUBJECT: Cancellation of Water Right No. 661-3

Water Right No. 661-3 authorizes irrigation of the W 1/2 and SE ¼ Section 8, T110N, R65W in Beadle County, South Dakota. Beginning in 2006, irrigation questionnaires submitted for this property reflect the use had been abandoned. In December 2012, Genny McMath with our program spoke with Dave at Nelson Seed Company who had called on your behalf. It is our understanding the system was removed years ago. Our records indicate the land was last irrigated in 1992. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 661-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 661-3 at 10:00 a.m., July 10, 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. 661-3 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 July 1, 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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
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PIERRE, SOUTH DAKOTA 57501-3182
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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 661-3, GARY K FISHER

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. 661-3.

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

Irrigation Questionnaires on file for the water right indicate the land was last irrigated in 1992. In response to a letter directed to the water right holder in 2012, Dave with Nelson Seed Company who manages the land for Mr. Fisher confirmed the irrigation system had been removed and the land had not been irrigated for many years.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 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

JOE FOSS BUILDING
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June 5, 2014

NOTICE OF CANCELLATION

TO: Rex H Binger, 17843 377th Ave., Redfield SD 57469

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

SUBJECT: Cancellation of Water Right No. 1613-3

Water Right No. 1613-3 authorizes irrigation of SE ¼ Section 9, T115N, R65W from a well into the Tulare Western Spink Hitchcock Aquifer. Records on file with the Water Rights Program show you purchased the land in 1987 from the Federal Land Bank and we were informed the irrigation system had been removed from the property. Based on irrigation questionnaires on file, the last reported irrigation was 1977. The acreage was noted as being in the Conservation Reserve Program on the 2001 irrigation questionnaire and out in 2008. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 1613-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 1613-3 at 10:00 a.m., July 10, 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. 1613-3 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 July 1, 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.

DEPARTMENT OF ENVIRONMENT
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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 1613-3, REX H BINGER

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. 1613-3.

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

Water Right No. 1613-3 was transferred in January, 1987 from the Federal Land Bank to Rex Binger. Mr. Binger reported on his 1993 irrigation questionnaire that when he purchased the property the irrigation system had been removed since it was leased from the manufacturer. On the 2001 irrigation questionnaire the land was noted as being in the Conservation Reserve Program which continued through 2007. Since your acquiring ownership of the property, the Water Rights Program has no record of an irrigation system being installed or any irrigation taking place.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 2014

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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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June 5, 2014

NOTICE OF CANCELLATION

TO: Catherine Fischer, PO Box 573, Eureka SD 57437

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

SUBJECT: Cancellation of Water Right No. 3878-3

Water Right No. 3878-3 authorizes diversion of ground water from the Selby Aquifer to irrigate the NW ¼ Section 25, T126N, R75W in Campbell County. On April 1, 2014, in follow-up to your 2013 irrigation questionnaire, Genny McMath with our program called and spoke with you about the water right. You confirmed the land was not being irrigated. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 3878-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 3878-3 at 10:00 a.m., July 10, 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. 3878-3 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 July 1, 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.

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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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 3878-3, CATHERINE FISCHER

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. 3878-3.

The Chief Engineer is recommending cancellation of the above water right due to abandonment and/or forfeiture. Irrigation questionnaire records on file with the Water Rights Program indicate irrigation was last reported in 1994. In 2012 and 2013 the water right holder indicated the use of water for irrigation had been abandoned. On April 1, 2014, during a phone conversation with Genny McMath, Ms. Fischer confirmed the irrigation system was not in working order and the land was not being irrigated.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 2014

Note:

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

DEPARTMENT OF ENVIRONMENT
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June 5, 2014

NOTICE OF CANCELLATION

TO: Richard Boomsma, 19749 Ponderosa Ln, Hitchcock SD 57348
Reed Bixler, Bixler Farms, 39477 184th St., Hitchcock SD 57348

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

SUBJECT: Cancellation of Water Right No. 4134-3

Water Right No. 4134-3, held by Richard Boomsma, authorized diversion of ground water from the Tulare Western Spink Hitchcock Aquifer for irrigation of 128 acres. Water Permit No. 4134A-3, held by Bixler Farms, amended No. 4134-3 by transferring the diversion point and acreage to other land. With the entire acreage and diversion rate authority now authorized under Water Permit No. 4134A-3, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 4134-3 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Right No. 4134-3 at 10:00 a.m., July 10, 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. 4134-3 based upon facts presented at the public hearing. Our records show Richard Boomsma 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 July 1, 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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 4134-3, RICHARD BOOMSMA

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. 4134-3.

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

Water Permit No. 4134A-3 amended Water Right No. 4134-3 by transferring the acreage and point of diversion to other land. With the entire acreage and diversion point transferred, nothing remains under No. 4134-3 for appropriation.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 2014

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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June 5, 2014

NOTICE OF CANCELLATION

TO: KARBCO LLC., 27276 Kenworth Place., Harrisburg SD 57032
Nathan Stencil, Stencil Construction Inc., PO Box 89624, Sioux Falls SD 57109

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

SUBJECT: Cancellation of Water Permit No. 6739-3

Water Permit No. 6739-3 authorizes diversion of ground water from the Shindler Aquifer for irrigation of 40 acres in the E ½ SE ¼ Section 1, T99N, R50W in Lincoln County. On May 2, 2014, Mike DeFea with our program spoke with Nathan Stencil about the water permit and the extent of development. Mr. Stencil stated he no longer owned the property and indicated the system had not been constructed. The time limit for completion of works, as specified in the permit, expired September 11, 2011. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 6739-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 6739-3 at 10:00 a.m., July 10, 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. 6739-3 based upon facts presented at the public hearing. Our records show KARBCO LLC 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 July 1, 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.

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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 July 1, 2014.

Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 6739-3, STENCIL CONSTRUCTION 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. 6739-3. The land is now owned by KARBCO LLC.

The Chief Engineer is recommending cancellation of the above water permit due to non-construction. The time limit for completion of works expired on September 11, 2011. On May 2, 2014, Mike DeFea with the Water Rights Program spoke with Nathan Stencil, the former owner of the property. Mr. Stencil indicated the project was never constructed.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 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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June 5, 2014

NOTICE OF CANCELLATION

TO: Todd Cowan, PO Box 455, Highmore SD 57345

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

SUBJECT: Cancellation of Water Permit Nos. 6851-3 and 6852-3

Water Permit Nos. 6851-3 and 6852-3 authorize diversion of ground water for use in a cattle feedlot operation. On July 18, 2013, Joe Stonesifer with our program visited with you about the extent of development. You indicated at that time that the wells authorized under the permits had not been drilled. The time limit for completion of works, as specified in both permits, expired July 16, 2012. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 6851-3 and 6852-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit Nos. 6851-3 and 6852-3 at 10:00 a.m., July 10, 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. 6851-3 and 6852-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this 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 July 1, 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.

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Prior to July 1, 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 June 16, 2014.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NOS. 6851-3 and 6852-3, TODD COWAN

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. 6851-3 and 6852-3.

The Chief Engineer is recommending cancellation of the above water permits due to non-construction. On July 18, 2013, the permit holder was contacted and confirmed the wells authorized under both of the permits had not been constructed.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
June 5, 2014

Note:

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

CERTIFICATION

I hereby certify that on June 5, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated June 5, 2014 regarding cancellations addressed as stated below:

Water Permit Nos. 1510A-1 and 1510B-1
Jerry Weber, Boulder Canyon Country Club, PO Box 305, Sturgis SD 57785

Future Use Permit No. 1507-2
Cheryle Van Zee, Mgr, South Central Water Development District, PO Box 43, Armour SD 57313

Water Permit No. 2510-2
Floyd Simunek, 13052 Fall River Rd, PO Box 339, Hot Springs SD 57747

Water Right No. 374-3
Arthur Anderson, 11746 Giorgio Dr, Skiatook OK 74070
Darrell Neilson, 110 W 3rd, Mission Hill SD 57046

Water Right No. 556-3
Rita M Barnett, 3933 34th Ave., Brookings SD 57006

Water Right No. 661-3
Gary K Fisher, 895 NE Dixie Hwy Ste 101, Jensen Beach FL 34957 6188

Water Right No. 1613-3
Rex H Binger, 17843 377th Ave., Redfield SD 57469

Water Right No. 3878-3
Catherine Fischer, PO Box 573, Eureka SD 57437

Water Right No. 4134-3
Richard Boomsma, 19749 Ponderosa Ln, Hitchcock SD 57348
Reed Bixler, Bixler Farms, 39477 184th St., Hitchcock SD 57348

Water Permit No. 6739-3
Nathan Stencil, Stencil Construction Inc., PO Box 89624, Sioux Falls SD 57109
KARBCO LLC, 27276 Kenworth Place., Harrisburg SD 57032

Water Permit Nos. 6851-3 and 6852-3
Todd Cowan, PO Box 455, Highmore SD 57345-0455

Gail Jacobson
Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 5th day of June, 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
JULY 10, 2014 WMB MEETING

Big Sioux
Community Water System, Inc.
23343 479TH AVE. • EGAN, SOUTH DAKOTA 57024 • (605) 997-2098

RECEIVED
MAY - 9 2014
WATER RIGHTS
PROGRAM

Karen Schlaak
Water Rights Program
Department Of Environment & Natural Resources
Joe Foss Building, 523 East Capitol
Pierre, SD 57501

May 6, 2014

Dear Ms. Schlaak,

Thank you for the letter concerning our Future Use Water Permits, No. 5689-3 and 6834-3, both from the Big Sioux: Northern Skunk Creek Aquifer.

Since the last review of these permits we built (2009-10) and are currently operating a micro-filtration water treatment plant utilizing this aquifer. This Treatment plant serves the Lake Madison and Lake Brant areas where we are continuing to see growth in the number of homes hooking up to the system.

We have now been serving Dakota Ethanol 500,000 to 600,000 gallons per day since 2001, also from this aquifer. Dakota Ethanol is currently updating their treatment process which may increase their water usage slightly. An overall expansion of the plant is also possible in the near future for which further allocations from the water supply would be required.

I hope the above examples illustrate that the future use permits are a very valuable tool when planning for the future economy and livelihood of this company and all the residents of Lake County, South Dakota.

Big Sioux Community Water system Inc., is keen on retaining these future use permits and would very much appreciate the Board allowing us to retain them.

If I can be of any further assistance, please don't hesitate to contact me at the above address,

Sincerely

Martin Jarrett
Manager BSCWS

DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
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RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 5689-3, Big Sioux Community Water System, 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. 5689-3, Big Sioux Community Water System, Inc., c/o Martin Jarrett, Manager, PO Box 158, Egan SD 57024.

The Chief Engineer is recommending that Future Use Permit No. 5689-3 REMAIN in EFFECT for 360 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 5689-3 , 2) the system has demonstrated a reasonable need for the water reserved by Permit No. 5689-3, 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. 5689-3 is subject to payment of the $85.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.

Jeanne Goodman

Jeanne Goodman, Chief Engineer
May 29, 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. 6834-3, Big Sioux Community Water System, 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. 683489-3, Big Sioux Community Water System, Inc., c/o Martin Jarrett, Manager, PO Box 158, Egan SD 57024.

The Chief Engineer is recommending that Future Use Permit No. 6834-3 REMAIN in EFFECT for 600 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 6834-3, 2) the system has demonstrated a reasonable need for the water reserved by Permit No. 6834-3, 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. 6834-3 is subject to payment of the $105.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the system after the Board hearing.

Jeanne Goodman

Jeanne Goodman, Chief Engineer
May 29, 2014

RECEIVED

JUN 16 2014

WATER RIGHTS PROGRAM

Affidavit of Publication

10/

State of South Dakota

ss

County of Brookings

Jennifer Milligan of said county, first duly sworn, on oath says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

Leg#521 Notice of Hearing Permit #'s 5689-3 & 6834-3

same was published, is hereto attached marked Exhibit said newspaper for 1 times, to-wit:

June 11, 2014

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or 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; that the fees charged for the publication thereof are:

forty dollars and forty-five cents $40.45

AARON JORENBY
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

12th day of June 2014

Notary Public in and for the County of Brookings, South Dakota.
My Commission expires February 22, 2020.

Exhibit "A"

Legal 521, 1x, 6/11

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 5689-3 and 6834-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 5689-3 and 6834-3 held by Big Sioux Community Water System, Inc., c/o Martin Jarrett, Manager, PO Box 158, Egan SD 57024 for progress made in the development and future plans for use of the water reserved by the permits.

Permit No. 5689-3 was approved in 1992 and currently reserves 360 acre-feet of water from the Big Sioux:Northern Skunk Creek Aquifer located in the N 1/2 NW 1/4 Section 9-T105N-R51W. Permit No. 6834-3 was approved in 2007 and currently reserves 600 acre-feet of water from the Big Sioux:Northern Skunk Creek Aquifer located in the SW 1/4 Section 16-T105N-R51W. The water is reserved for rural water system use in Lake, Brookings, Moody, and Minnehaha Counties.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 5689-3 and 6834-3 REMAIN in EFFECT for 360 acre-feet annually and 600 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. 5689-3 and 6834-3 at 10:00 am on July 10, 2014 at the Floyd Mathew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD.

The recommendations of the Chief Engineer are 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 June 30, 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. 5689-3 and 6834-3 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 June 30, 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 June 30, 2014. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of $40.45.

CUSTOMER NUMBER:	078200	Argus Leader		
AD ORDER NUMBER:	1442482	P.O. Box 677349, Dallas, TX 75267-7349		
	6/11, 2014			$102.67pd

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JUN 12 2014
WATER RIGHTS PROGRAM

Big Sioux Community Water System, Inc
% Martin Jarrett, Manager
PO Box 158
Egan, SD 57024

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

AFFIDAVIT OF PUBLICATION-
Customer Number: 078200
Invoice Number: 1442482

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 11 day of June 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 $102.67pd was charged for publishing the same

Linda Schulte

Subscribed and sworn to before me 6/11/2014 .

J. Zimmerman
Notary Public, South Dakota

My Commission expires December 22, 2015

JACQUELINE ZIMMERMAN
SEAL NOTARY PUBLIC SOUTH DAKOTA SEAL

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 5689-3 and 6834-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 5689-3 and 6834-3 held by Big Sioux Community Water System, Inc., c/o Martin Jarrett, Manager, PO Box 158, Egan SD 57024 for progress made in the development and future plans for use of the water reserved by the permits.

Permit No. 5689-3 was approved in 1992 and currently reserves 360 acre-feet of water from the Big Sioux:Northern Skunk Creek Aquifer located in the N 1/2 NW 1/4 Section 9-T105N-R51W. Permit No. 6834-3 was approved in 2007 and currently reserves 600 acre-feet of water from the Big Sioux:Northern Skunk Creek Aquifer located in the SW 1/4 Section 16-T105N-R51W. The water is reserved for rural water system use in Lake, Brookings, Moody, and Minnehaha Counties.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 5689-3 and 6834-3 REMAIN in EFFECT for 360 acre-feet annually and 600 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. 5689-3 and 6834-3 at 10:00 am on July 10, 2014 at the Floyd Mathew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD.

The recommendations of the Chief Engineer are 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 June 30, 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 approximate cost of $102.67.

1442482 June 11, 2014

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JUN 13 2014

WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Moody)

I, Angela Nibbelink

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:

June 11, 2014

Cost of Printing $40.74

Angela Nibbelink
(Signature)

Bookkeeper
(Title)

June 11, 2014
(Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 5689-3 and 6834-3

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

(June 11, 2014)

Published once at the total approximate cost of $42

AFFIDAVIT OF PUBLICATION

RECEIVED
JUN 16 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

Big Sioux Rural Water

Hearing to Review Future Use Water Permits 5689-3 & 6834-3

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 11th day of June, 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 $ 41.73 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 12th day of June, 20 14

ANN L. KOCH
NOTARY PUBLIC
SOUTH DAKOTA
SEAL

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

Wednesday, June 11

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 5689-3 and 6834-3

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Publication Fees ———— $.....

Notary Fees ———— $.....

Total ———— $.....

Received Payment,

.....

In ..... Court

County of .....

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 30, 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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STEVEN M. PIRNER
Secretary, Department of Environment and Natural Resources

Published once at the total approximate cost of $41.73

AFFIDAVIT OF PUBLICATION

Filed in the office of .....

..... on the

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

20 .....

.....

.....

Attorneys for .....

REPORT TO THE CHIEF ENGINEER

WATER PERMIT APPLICATION NO. 7988-3
Owen and Lamont Peterson
April 30, 2014

Water Permit Application No. 7988-3 proposes to appropriate groundwater at a maximum diversion rate of 1.78 cubic feet of water per second (cfs) from one well to be completed into the Prairie Coteau aquifer. The well is expected to be 240 feet deep and located in the center of the SE¼ of Section 9, T114N-R51W. Water will be used to irrigate 290 acres located in the S½ of Section 9, T114N-R51W.

AQUIFER: Prairie Coteau aquifer (PCO)

HYDROGEOLOGY:
The Prairie Coteau aquifer is composed of several lenticular bodies of outwash that cannot be included into surficial aquifers or basal aquifers, such as the Big Sioux and Altamont aquifers. The Prairie Coteau defined in this area is not a continuous aquifer, and instead is a group of discontinuous outwash deposits whose depth and thickness can vary widely (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 from the aquifer and the potential for impairment of existing rights.

WATER AVAILABILITY & EXISTING RIGHTS:
The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires that 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. If the source of the groundwater is older or lower than the Greenhorn formation and will be used for a public water system, recharge and withdrawal does not need to be considered. Here, a public water system is not involved and the aquifer is above the Greenhorn formation. So, recharge and withdrawal must be considered.

Recently, courts have ruled that if average annual recharge is considered, average annual withdrawals should also be considered to determine if unappropriated water is available. Also, data must be presented to show that it is probable 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 29, 2005; Memorandum Decision, April 11, 2012). This could be interpreted as necessitating the identification and quantification of recharge and discharge of an individual outwash deposit of the Prairie Coteau aquifer from which the applicant proposes to withdraw water. To determine this information, the areal extent, altitude

interval, and water level data of the individual outwash deposit is necessary. A 72-hour aquifer pump could provide sufficient information.

Once this data is determined, all known existing rights would also be identified and the effects due to the proposed diversion could be determined.

At this location and proposed depth, the proposed well will encounter a unit of the Prairie Coteau aquifer that was recently identified and studied. Capen (2013) determined that defining this unit of the Prairie Coteau aquifer was not possible due to insufficient data. Therefore, water availability and effect of existing rights could not be determined. Subsequently, Water Permit Application No. 7921-3 was deferred by the Water Management Board until such data becomes available. This data could include an aquifer pump test.

This permit application currently remains in deferred status. The similarities between these applications dictate deferral of this application, also.

CONCLUSIONS:

1. This application proposes to divert groundwater at a maximum rate of 1.78 cfs from one well to be completed into a unit of the Prairie Coteau aquifer to irrigate 290 acres.
2. From the best information reasonable available, the probability of unappropriated water available from this Prairie Coteau aquifer for the proposed appropriation cannot be determined.
3. From the best information reasonable available, the effects on existing rights in this Prairie Coteau aquifer due to the proposed diversion cannot be determined.

Joseph R Stonesifer
SD DENR-Water Rights Program

Approved by

Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

Capen, B. 2013. Report on Water Permit Application No. 7921-3 for Owen and Lamont Peterson. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

In the Matter of Water Permit Application No. 6431-3, by Phillip W. Hines v. SD Department of Environment and Natural Resources, South Dakota Sixth Judicial Court Civ. No. HU04-37 (Memorandum Decision, April 29, 2005)

In the Matter of Water Permit Application No. 7239-3, by Hanson County Dairy v. Robert Bender and Stace Nelson, South Dakota First Judicial Court Civ. No. 11-54 (Memorandum Decision, April 11, 2012)

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

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. 7988-3, 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. 7988-3, Owen and Lamont Peterson, PO Box 97, Wendell MN 56595.

The Chief Engineer is recommending DEFERRAL of Application No. 7988-3 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
May 16, 2014

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 Estelline Journal

printed and published in Estelline

County of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

May 28, 2014

Cost of Printing $55.44

LeeAnne Dufek
(Signature)

Owner
(Title)

5-29-14
(Date Signed)

NOTICE OF HEARING ON APPLICATION NO. 7988-3 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 1.78 cubic feet of water per second from one well to be completed into the Prairie Coteau Aquifer (240 feet deep) located in the center of the SE 1/4 Section 9 for irrigation of 290 acres located in the S 1/2 Section 9; 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. 7988-3 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 10:00 a.m. on July 9, 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 June 30, 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 July 9, 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 June 30, 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 June 30, 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 June 9, 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 May 28, 2014, at total cost of $55.44.

RECEIVED
JUN - 2 2014
WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of_____)

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:

May 28th, 2014

Cost of Printing 127.01

Monica K Saathoff
(Signature)

Bookkeeper
(Title)

May 28th, 2014
(Date Signed)

DENR

NOTICE OF HEARING on Application No. 7988-3 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 1.78 cubic feet of water per second from one well to be completed into the Prairie Coteau Aquifer (240 feet deep) located in the center of the SE 1/4 Section 9 for irrigation of 290 acres located in the S 1/2 Section 9; 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. 7988-3 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 10:00 a.m. on July 9, 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 June 30, 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 July 9, 2014 hearing date will be automatically

REPORT ON
IRRIGATION QUESTIONNAIRE VIOLATIONS FOR
WATER RIGHT NO. 5391A-3 AND WATER PERMIT NO. 6063A-3
DANIEL ULMER
July 10, 2014

Daniel Ulmer, Menno, SD holds Water Right Nos. 6131-3, 6132-3, 5391A-3 and Water Permit No. 6063A-3.

- Water Right No. 6131-3 – authorizes irrigation in Section 11, T97N, R58W from the James River;
- Water Right No. 6132-3 – authorizes irrigation in Section 14, T97N, R58W from the James River;
  Irrigation questionnaires for Water Right Nos. 6131-3 and 6132-3 were received from Mr. Ulmer on December 9, 2013.

- Water Right No. 5391A-3 – authorizes irrigation of land in Section 23, T97N, R58W from the James River;
- Water Permit No. 6063A-3 – authorizes irrigation of the same land in Section 23, T97N, R58W from ground water (Lower James Missouri Aquifer)
  Questionnaires for Nos. 5391A-3 and 6063A-3 have not been received.

Requests for irrigation questionnaire information for Water Right No. 5391A-3 and 6063A-3 were sent:

- **October 18, 2013** (original questionnaire mailing that included forms and a postage paid envelope);
- **January 21, 2014** (additional forms were sent)
- **March 13, 2014** (sent copy of January letter and included link to website for on-line reporting)
- **May 28, 2014** (sent additional forms and a postage paid envelope)
- Several phone calls were also made from January thru first week in June. Left messages on answering machine; also left a message with Mrs. Ulmer to have Dan call in and we could take care of information over the phone.
- **June 9, 2014**, Scheduled for hearing. The notice of hearing included a statement indicating if the forms were received prior to hearing date, the matter would be removed from the agenda.

The June 9th notice advised Mr. Ulmer that pursuant to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation.

Mr. Ulmer has not had any past violations. The Water Rights Program is recommending the Board suspend Water Right No. 5391A-3 and Water Permit No. 6063A-3 for a period of up to one year. Past Board actions have given the permit holder an additional 30 days to submit the irrigation questionnaires. The recommendation would be for the suspension to be effective August 10, 2014 for a period of one year running through August 10, 2015.

Genny McMath
Water Rights Program

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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

June 9, 2014

NOTICE

TO: Daniel Ulmer, PO Box 433, Menno SD 57045-0433

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

SUBJECT: Reporting Requirement for the 2013 Irrigation Questionnaires

Our records indicate that the 2013 Irrigation Questionnaires have not been submitted for Water Right No. 5391A-3 and Water Permit No. 6063A-3. The request for the questionnaires was dated October 18, 2013. Requests for the information were also sent to you January 21st, March 13th and May 28th, 2014. The Water Management Board has directed that owners of water permits who have not submitted Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of the following qualification listed on both Nos. 5391A-3 and 6063A-3:

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

The hearing will be held at **10:00 am, July 10, 2014** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1 Suspend or cancel Permit No Water Right No. 5391A-3 and Water Permit No. 6063A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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 the State Supreme Court as provided by law.

If the questionnaires are received in this office prior to the hearing date, you will no longer be in violation of your permits and your name will be removed from the Board agenda. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaires online at the following link: http://denr.sd.gov/iq.aspx

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

REPORT ON DEFERRED WATER PERMIT APPLICATION NO. 4092-3
Floyd Peterson
May 13, 2014

Floyd Peterson filed an application to construct a small dam to appropriate overflow water from Lake Dudley for irrigation. Application No. 4092-3 has been in deferred status dating back to 1977 pending further investigation. Additional information has been received in order to process the application.

The application proposes to construct a small dam below Lake Dudley before it confluences with the James River. The 5.3 acre-feet storage dam is located in the SW¼ NE¼ Section 21. The application proposes to appropriate 1.21 cubic feet of water per second from the dam to irrigate 85 acres of land located in the NE¼ Section 21; all in T114N-R62W.

DISCUSSION

It was brought to the attention of the Water Rights Program that the structure was on federal land. A letter dated May 23, 2013, from the United States Department of the Interior, Bureau of Reclamation to Floyd H. Peterson states that the dam is to be removed. More specifically that the dam was constructed on federal fee title lands and adjacent flowage easement. The dam was in violation of several federal laws, and the Bureau required its removal and that the area be restored to its original condition.

A subsequent letter dated March 17, 2014, from the United States Department of the Interior, Bureau of Reclamation to Floyd H. Peterson grants an extension of time to remove the unauthorized structure and restore the land to its original condition. The work was to be completed by May 1, 2014. The dam has been removed in accordance with the Bureau's March 23, 2013, and March 17, 2014, letters.

The dam was an integral component of the irrigation project and it's removal is a significant change to the proposed project. The application is for overflow water from Lake Dudley and there is no documentation provided that the applicant has secured access to place a pump on federal land. In addition, a portion of the land to be irrigated is already covered by Water Right 6183-3, held by the applicant, from the James River.

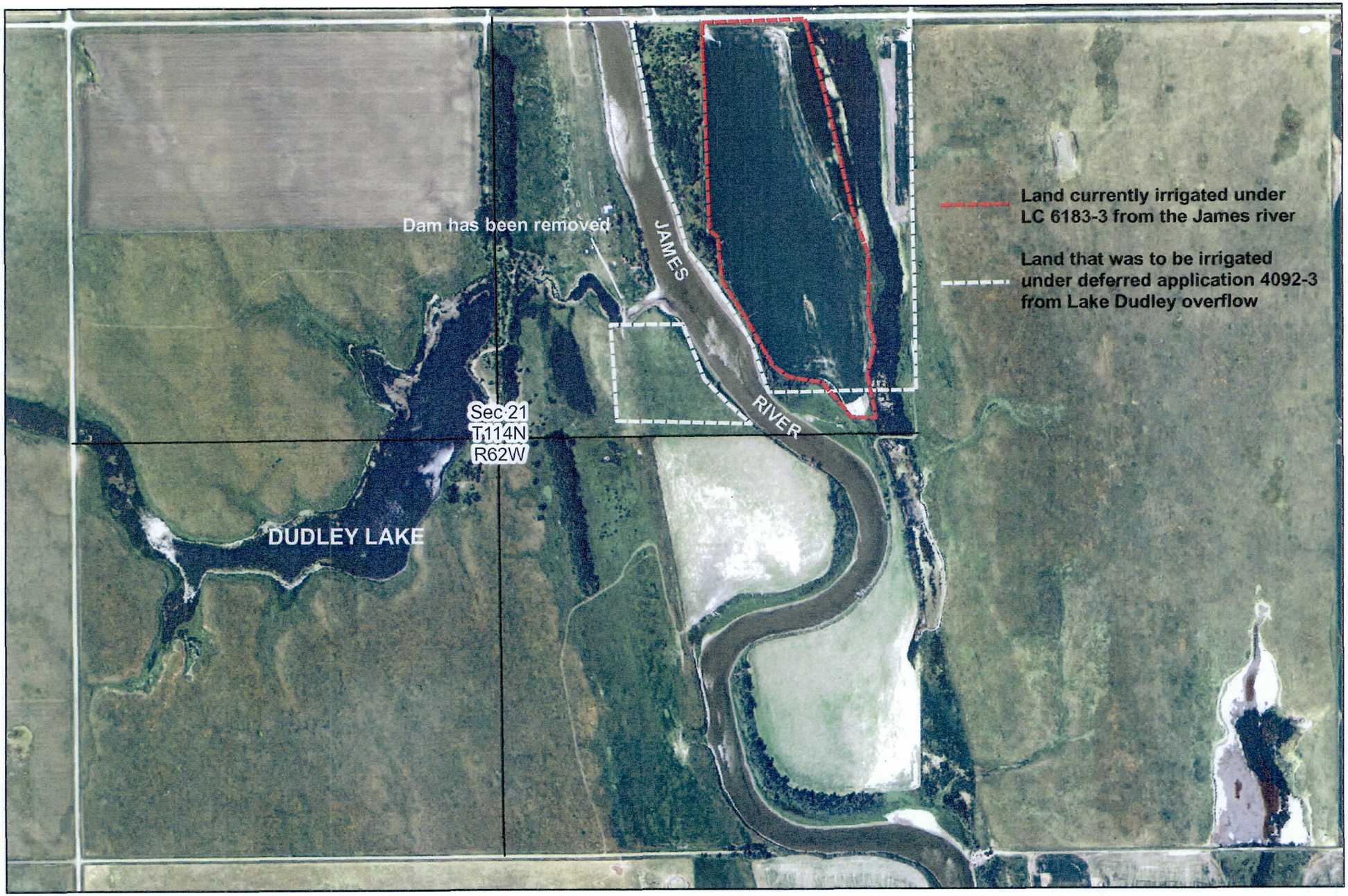
CONCLUSION

In light of the dam's unauthorized status and removal and the significant change to the proposed project, Water Permit Application No. 4092-3 is recommended for denial.

Lynn Beck

Lynn Beck
Natural Resources Engineer III

DEFERRED WATER PERMIT APPLICATION 4092-3
Floyd Petersen
May 13, 2014



SCALE

0 330 660 1,320 1,980 2,640 Feet

Lynn Beck
Natural Resources Engineer III
DENR - Water Rights Program

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 DEFERRED WATER PERMIT APPLICATION NO. 4092-3, Floyd H 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 deferred Water Permit Application No. 4092-3, Floyd H Peterson, 209 27th Street NW, Huron SD 57350.

The Chief Engineer is recommending DENIAL of Application No. 4092-3 because 1) the dam proposed by the application was located on Bureau of Reclamation's federal land and was an unauthorized use that as constructed violated federal regulations and laws as set forth in the attached Bureau of Reclamation letter dated May 23, 2013, 2) the dam has been removed in accordance with the Bureau of Reclamation's directive, 3) that while the application states overflow from Lake Dudley, it is clear that the dam is an integral component of the irrigation project, 4) the applicant has not provided documentation an easement is in place allowing a pump site on federal land, 5) a portion of the land to be irrigated is located on the east side of the James River and currently is permitted for irrigation from the James River and 6) it is not in the public interest to issue a water right permit given the significant change to the proposed project, there has been no documentation provided that the applicant has secured access to place a pump on federal land, and a portion of the land is currently authorized by a water right from the James River.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
May 28, 2014

DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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

May 28, 2014

NOTICE

TO: Floyd Peterson
209 27th St NW
Huron SD 57350

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing on Deferred Water Permit Application No. 4092-3, Floyd Peterson

You filed an application in July 1977 to construct a small dam to appropriate overflow water from Lake Dudley for irrigation. Application No. 4092-3 has been in deferred status dating back to the late 1970's. The application proposed to construct a small dam below Lake Dudley before it confluences with the James River. The 5.3 acre-feet storage dam is located in the SW¼ NE¼ Section 21. The application proposes to appropriate 1.21 cubic feet of water per second from the dam to irrigate 85 acres of land located in the NE¼ Section 21; all in T114N-R62W.

The Chief Engineer recommends denial of deferred Application No. 4092-3 for the reasons set forth in the recommendation. For your information, the recommendation, report and notice are enclosed.

The Water Management Board will conduct a hearing to consider the deferred Water Permit Application No. 4092-3 at 10:30 AM (central time) on Thursday, July 10, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Ave, Pierre SD.

Application No. 4092-3 was public noticed in the Huron Daily Plainsman on September 15 and 22, 1977, for hearing before the Water Management Board. Due to the period of time since the original public notice, DENR has determined that public notice is again warranted. The public notice has been sent the Redfield Press and Huron Plainsman for publication on June 11, 2014. DENR will pay the cost of publication.

This notice also serves to make you aware of the application filed by Michael Sentell to divert from Lake Dudley. Mr. Sentell's application is being public noticed for hearing before the Water Management Board at the same time as deferred Application No. 4092-3. Please find enclosed the report, recommendation and public notice on Mr. Sentell's application.

Please contact Eric Gronlund at 605 773-3352 or eric.gronlund@state.sd.us if you have any questions.

enclosures

c: Ann Mines, Assistant Attorney General
Matt Naasz, Assistant Attorney General

CERTIFICATION

I hereby certify that on May 28, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 28, 2014, regarding scheduling a hearing for deferred Water Right Permit Application No. 4092-3, as as addressed below:

Floyd Peterson
209 27th St NW
Huron SD 57350

Sent Inter-office to:

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

Matt Naasz, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Gail Jacobson

Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 28th day of May, 2014

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2019

SEAL KAREN SCHLAAK NOTARY PUBLIC State of South Dakota SEAL

LAW OFFICES
RICHARDSON, WYLY, WISE, SAUCK & HIEB, LLP
ONE COURT STREET
POST OFFICE BOX 1030
ABERDEEN, SOUTH DAKOTA
57402-1030

RECEIVED
JUN 25 2014
WATER RIGHTS PROGRAM

ROY A. WISE
WILLIAM K. SAUCK, JR.
JACK H. HIEB
ZACHARY W. PETERSON
KIMBERLY A. DORSETT
STACY M. JOHNSON
JOSHUA K. FINER

E-MAIL: jfiner@rwwsh.com

DWIGHT CAMPBELL (1887 - 1964)
STANLEY R. VOAS (1909 -1972)
JAMES A. WYLY (1939 - 2009)
LLOYD C. RICHARDSON, JR. (1924 - 2012)
RICHARD L. RUSSMAN (1967 - 2014)

TELEPHONE (605) 225-6310
FACSIMILE (605) 225-2743

June 24, 2014

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

Dear Chief Engineer:

Re: Petition to Oppose Application No. 4092-3
to Appropriate Water of Floyd H. Peterson

Please accept this letter as Michael Sentell's, and I, as his legal counsel, petition to oppose Application No. 4092-3 to appropriate water from Lake Dudley Spillway.

Mr. Sentell has an interest in this application because, if granted, it would restrict Mr. Sentell's ability to appropriate water from Lake Dudley. Mr. Sentell opposes this application because the dam proposed by the application was located on the Bureau of Reclamation's federal land and was unauthorized and violated federal regulations. Further, allowing Mr. Peterson to back water up onto federal land without a proper easement may violate federal and state regulations.

If you have any questions or need any further information, please do not hesitate to contact me.

Best regards.

Sincerely,

Joshua K. Finer

JKF/kkt

cc: Mike Sentell

PRINTER'S AFFIDAVIT

RECEIVED
JUN 2 0 2014
WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss

I, ELDON JACOBS, being duly sworn on oath say that the PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

SD ENVIRONMENTAL – WATER PERMIT - PETERSON

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the **11TH** day **JUNE 2014.** That the full amount of the fee charged for publishing is: **NINTY-TWO & 61/00** dollars insures to the benefit of the publisher of said newspaper; that no agreement or 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 whom so ever.

Eldon Jacobs

Subscribed and sworn to me before this **11TH** day of **JUNE 2014.**

Ashley D. Neuhaus

Notary Public, South Dakota

My term expires 10/25/2017
Legal #1313

F.P. 06-11-14

NOTICE OF HEARING on Application No. 4092-3 to Appropriate Water

Notice is given that Floyd H Peterson, 209 27th St NW, Huron SD 57350 has filed an application to construct a small dam to appropriate overflow water from Lake Dudley for irrigation. Application No. 4092-3 has been in deferred status dating back to 1977. This application proposes to construct a small dam below Lake Dudley's spillway to hold water before it confluences with the James River. The 5.3 acre-feet storage dam is located in the SW 1/4 NE 1/4 Section 21 and the applicant proposes to appropriate 1.21 cubic feet of water per second from the dam to irrigate 85 acres located in the NE 1/4 Section 21; all in T114N-R62W.

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 DENIAL of Application No. 4092-3 because 1) the dam proposed by the application was located on Bureau of Reclamation's federal land and was an unauthorized use that as constructed violated federal regulations and laws as set forth in the attached Bureau of Reclamation letter dated May 23, 2013, 2) the dam has been removed in accordance with the Bureau of Reclamation's directive, 3) that while the application states overflow from Lake Dudley, it is clear that the dam is an integral component of the irrigation project, 4) the applicant has not provided documentation an easement is in place allowing a pump site on federal land, 5) a portion of the land to be irrigated is located on the east side of the James River and currently is permitted for irrigation from the James River and 6) it is not in the public interest to issue a water right permit given the significant change to the proposed project, there has been no documentation provided that the applicant has secured access to place a pump on federal land, and a portion of the land is currently authorized by a water right from the James River.

The Water Management Board will consider this application at 10:30 a.m. on July 10, 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 June 30, 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 July 10, 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 June 30, 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 June 30, 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 June 23, 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.

No. 1313 (adv)

Published once at the total approximate cost of $92.61.

Notice

#917

NOTICE OF HEARING on Application No. 4092-3 to Appropriate Water

Notice is given that Floyd H Peterson, 209 27th St NW, Huron SD 57350 has filed an application to construct a small dam to appropriate overflow water from Lake Dudley for irrigation. Application No. 4092-3 has been in deferred status dating back to 1977. This application proposes to construct a small dam below Lake Dudley's spillway to hold water before it confluences with the James River. The 5.3 acre-feet storage dam is located in the SW 1/4 NE 1/4 Section 21 and the applicant proposes to appropriate 1.21 cubic feet of water per second from the dam to irrigate 85 acres located in the NE 1/4 Section 21; all in T114N-R62W.

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 DENIAL of Application No. 4092-3 because 1) the dam proposed by the application was located on Bureau of Reclamation's federal land and was an unauthorized use that as constructed violated federal regulations and laws as set forth in the attached Bureau of Reclamation letter dated May 23, 2013, 2) the dam has been removed in accordance with the Bureau of Reclamation's directive, 3) that while the application states overflow from Lake Dudley, it is clear that the dam is an integral component of the irrigation project, 4) the applicant has not provided documentation an easement is in place allowing a pump site on federal land, 5) a portion of the land to be irrigated is located on the east side of the James River and currently is permitted for irrigation from the James River and 6) it is not in the public interest to issue a water right permit given the significant change to the proposed project, there has been no documentation provided that the applicant has secured access to place a pump on federal land, and a portion of the land is currently authorized by a water right from the James River.

The Water Management Board will consider this application at 10:30 a.m. on July 10, 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 June 30, 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.

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Contact Eric Gronlund by June 30, 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.

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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 $64.05. (June 11)

REPORT ON WATER PERMIT APPLICATION NO. 7347-3
Michael Sentell
May 13, 2014

Michael Sentell has filed Water Permit Application No. 7347-3 to appropriate 1.49 cubic feet of water per second (cfs) from Lake Dudley Dam to irrigate 120 acres of land.

PROPOSED PROJECT

Water Application No. 7347-3 is located six miles northeast of the town of Hitchcock, SD in Spink County. This project proposes to divert 1.49 cubic feet per second (cfs) of water from a point on Lake Dudley located in the SE¼ NW¼ Section 21-T114N-R62W. The annual period of use requested is from May 1 through September 30. The 120 acres of land to be irrigated are located in the NW¼ Section 21-T114N-R62W.

REVIEW OF THE WATER SOURCE

The water source for the proposed project is Lake Dudley Dam in Spink County. The dam is located on a tributary to the James River. SD School and Public Lands hold the easement for Lake Dudley Dam. The dam was constructed in 1936 and is capable of storing a maximum of 200 acre feet of water at the top of the embankment while normal storage is 140 acre feet at the spillway elevation.

According to locals the dam is also spring fed and often discharging over the spillway. As a State owned dam it is inspected every three years. In all inspections since 1987, except one, it is noted that water was discharging over the spillway. The inspections have taken place during spring and early summer as well as late summer and indicate 1 to 2 inches of flow over the spillway. The overflow of Lake Dudley contributes to the flow of the James River approximately 1500 feet downstream of the spillway.

Water is available for this project when Lake Dudley is spilling. The project proposes to divert 1.49 cfs for irrigation, which equates to approximately 1.5 inches of flow over the spillway. Pumping can take place until Lake Dudley ceases to spill over the primary spillway; at that time all pumping should cease. During extended dry periods the water source may not be reliable.

REVIEW OF EXISTING WATER RIGHTS

There is one existing water right for Lake Dudley. The Department of Game, Fish, and Parks holds Vested Water Right Claim 1636-3 which appropriates 150 acre feet or sufficient water to fill the lake annually to the outlet elevation for recreational purposes. In order to protect Game, Fish, and Parks vested water right claim for stored water in Lake Dudley, no pumping can take place when the water level is at or below the primary spillway elevation.

There are four water rights on the James River within 1.5 miles downstream of the confluence of the Lake Dudley outlet channel. Oscar Inc. holds three water rights 616-3, 6183-3, and 7183-3 with a combined diversion of 9.72 cfs. Peterson Farms holds water right 7234-3 for diversion of

2.28 cfs. To protect water rights on the James River this project should meet the same qualifications found on the existing James River water rights.

There was a small dam of less than 25 acre-feet just downstream of Lake Dudley Dam. The dam has been the subject of deferred Permit Application No. 4092-3. This dam was not an authorized structure and was illegally located on Bureau of Reclamation federal fee title lands. The Bureau ordered this structure removed and the land restored to its original condition. The dam has been removed in accordance with the Bureau's order.

If approved, with qualifications, the applicant's diversion of water would not be expected to adversely impact existing Water Rights or domestic use on the James River.

Review of Qualifications

In 2007, Water Rights staff reviewed all of the shut-off and by-pass qualifications on the existing James River water rights/permits. Based on this review, the Chief Engineer recommended amending the existing qualifications in order to standardize them. The Water Management Board adopted the standardized qualifications and amended the existing water rights/permits. In addition, it was the intent that future appropriations of water from the James River be administered with the same amended qualifications.

Due to Lake Dudley's close proximity to and contribution to the flow in the James River, if approved, Application No. 7347-3 should contain the following qualifications.

- This permit authorizes diversion of water from Lake Dudley when water is discharging over the primary spillway elevation after pumping.
- This permit does not authorize diversion of water from Lake Dudley after August 10th of each calendar year, or at any time James River flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from Lake Dudley when there is less than 20-cfs by-passing the James River gage at Huron, SD after pumping.

Conclusions

1. Water Application No. 7347-3 proposes to appropriate 1.49 cubic feet per second of water from Lake Dudley to irrigate 120 acres of land.
2. Though water levels in Lake Dudley commonly exceed the outlet level, during extended dry periods the water source may not be reliable.
3. If approved, with qualifications, this permit should not impair existing water rights.
4. If Application No 7347-3 is approved, the following qualifications should be included:

- This permit authorizes diversion of water from Lake Dudley when water is discharging over the primary spillway elevation after pumping.

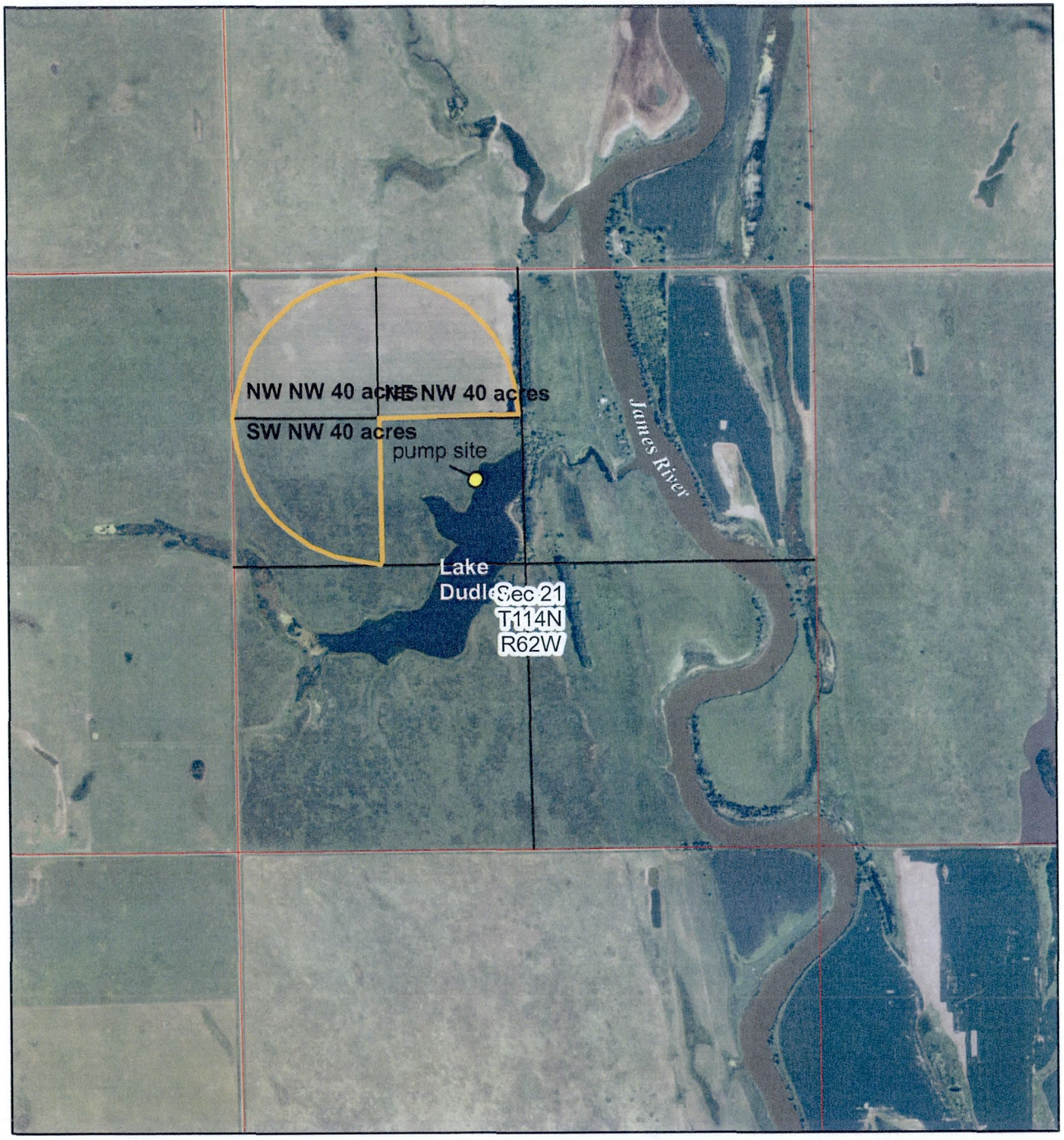
- This permit does not authorize diversion of water from Lake Dudley after August 10th of each calendar year, or at any time the James River flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.

- This permit does not authorize diversions from Lake Dudley when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

Lynn Beck

Lynn Beck
Natural Resources Engineer III

WATER PERMIT APPLICATION NO. 7347-3
Michael Sentell
July 20, 2012



SCALE

0 660 1,320 2,640 3,960 5,280 Feet

Lynn Beck
Natural Resources Engineer III
DENR - Water Rights Program

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. 7347-3, Michael Sentell

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. 7347-3, Michael Sentell, 18690 398th Avenue, Hitchcock SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 7347-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) as conditioned the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Diversion of water from Lake Dudley shall be in accordance with the following criteria:

   a) This permit authorizes diversion of water from Lake Dudley only when water is discharging over the primary spillway elevation when pumping is occurring.

   b) This permit does not authorize diversion of water from the Lake Dudley after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.

   c) This permit does not authorize diversions from James River when there is less than 20 cfs bypassing the USGS gaging station at Huron SD after pumping.

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

See report on application for additional information.

Jeanne Goodman

Jeanne Goodman, Chief Engineer
May 28, 2014

NOTE: The recommendation on your application is for approval and will be brought before the Water Management Board for hearing. The Chief Engineer has recommended DENIAL of deferred Application No. 4092-3 filed by Floyd Peterson to irrigate from a small dam below Lake Dudley. This dam has been removed by order of the Bureau of Reclamation. Mr. Peterson will have an opportunity to oppose the recommendation for denial of his application. The final Board decision on Application No. 4092-3 may impact the recommendation for Application No. 7347-3. If Application No. 4092-3 is approved, by the Board the recommendation on your application may need to be revised to denial because of senior water rights.

The domestic use of water for livestock watering below Lake Dudley takes precedence over the irrigation use under the water permit. As long as the outlet for Lake Dudley is spilling, this domestic right should be satisfied. However, if either Game Fish and Parks' water right for Lake Dudley or domestic uses are impaired, DENR will take appropriate action to protect these prior rights.

LAW OFFICES
RICHARDSON, WYLY, WISE, SAUCK & HIEB, LLP
ONE COURT STREET
POST OFFICE BOX 1030
ABERDEEN, SOUTH DAKOTA
57402-1030

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ROY A. WISE
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E-MAIL: jfiner@rwwsh.com

DWIGHT CAMPBELL (1887 - 1964)
STANLEY R. VOAS (1909 -1972)
JAMES A. WYLY (1939 - 2009)
LLOYD C. RICHARDSON, JR. (1924 - 2012)
RICHARD L. RUSSMAN (1967 - 2014)

TELEPHONE (605) 225-6310
FACSIMILE (605) 225-2743

June 24, 2014

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

Dear Chief Engineer:

Re: Petition to Support Application No. 7347-3
to Appropriate Water

Please accept this letter as a petition to support the application of Michael Sentell, Application No. 7347-3, to appropriate water. Mr. Sentell has retained me as legal counsel to represent him at the hearing. I, as a representative of Mr. Sentell, support this application as it is necessary for Mr. Sentell to appropriate water from Lake Dudley. Also, it is clear based on the chief engineer's findings that there is unappropriated water available in Lake Dudley, existing rights will not be unlawfully impaired, it is a beneficial use of the water, and it is in the public interest.

If you have any questions or need anything further from me, please do not hesitate to contact me.

Best regards.

Sincerely,

Joshua K. Finer

JKF/kkt

cc: Mike Sentell

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, *Mark E. Davis,* of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Mark E. Davis, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

#918 NOTICE OF HEARING

A printed copy of which is hereto attached, was printed and published in said newspaper in 1 issue, to wit: The first publication being made on June 11th 2014, that Fifty-two and .15/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or 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.

Subscribed and sworn to before me this 11th day of June, 2014.

DEBORAH LEESCH
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

Notary Public, South Dakota

My commission expires 10/09/2019

RECEIVED
JUN 19 2014
WATER RIGHTS PROGRAM

Notice

#918

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7347-3because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

The Water Management Board will consider this application at 10:30 a.m. on July 10, 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.

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

Published once at the total approximate cost of $52.15. (June 11)

PRINTER'S AFFIDAVIT

RECEIVED
JUN 2 0 2014
WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss

I, ELDON JACOBS, being duly sworn on oath say that the PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

SD ENVIRONMENTAL – WATER RIGHTS - SENTELL

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the **11TH** day **JUNE 2014.** That the full amount of the fee charged for publishing is: **SEVENTY-FIVE & 55/00** dollars insures to the benefit of the publisher of said newspaper; that no agreement or 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 whom so ever.

Subscribed and sworn to me before this **11TH** day of **JUNE 2014.**

Notary Public, South Dakota

My term expires 10/25/2017
Legal #1314

F.P. 06-11-14

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

No. 1314 (adv.)

Published once at the total approximate cost of $75.55.

REPORT TO THE CHIEF ENGINEER
WATER PERMIT APPLICATION NO. 7983-3
RICHARD BEITELSPACHER
May 5, 2014

Water Permit Application No. 7983-3 proposes to appropriate water at a rate of 2.78 cubic feet per second (cfs) from two existing wells and one proposed well completed at a depth of approximately 24 feet below ground surface. The water will be used to irrigate 195 acres in the SW ¼ NW ¼ (11 acres), SE ¼ NE ¼ (16 acres), SW ¼ NE ¼ (1 acre), NW ¼ SE ¼ (14 acres), SW ¼ SE ¼ (8 acres), NW ¼ SW ¼ (38 acres), SW ¼ SW ¼ (30 acres), SE ¼ SW ¼ (37 acres), and NE ¼ SW ¼ (40 acres) all in Section 28, T123N-R73W. The proposed well and one of the existing wells are located in the SW ¼ SW ¼ of Section 28, T123N-R73W. The other existing well is located in the NE ¼ NE ¼ of Section 32, T123N-R73W in Edmunds County. The two existing wells are currently being used under Water Permit No. 7013-3. Mr. Beitelspacher has requested these existing wells be used for irrigation under Water Permit No. 7013-3 as well as the land specified in this permit application.

AQUIFER: Edmunds Management Unit of the Bowdle aquifer (B: E).

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Bowdle: Edmunds aquifer is composed predominately of surficial outwash (sand and gravel). Review of lithological records indicate the aquifer is under unconfined conditions in the area of interest. The Bowdle: Edmunds aquifer underlies 36,000 acres and contains an estimated 108,000 acre-feet of recoverable storage in Edmunds County (Hedges, 1982). To the west and south the aquifer extends into Walworth County, and water within the aquifer generally flows from northeast to southwest (Kume, 1987).

No test hole records were submitted with this application. However, records are available for the two existing wells. These records indicate gravel is present in the NE ¼ NE ¼ of Section 32, T123N-R73W in the interval of two to 21 feet below ground surface. The static water level was reported to be two feet below ground surface. Test hole records for the Town of Bowdle water system indicate there is a superficial layer of clay in some places below ground surface up to 24 feet thick and water bearing material extends as far down as 90 feet below ground surface (Water Rights, 2014c). However, extensive drilling has not been conducted in this area.

SDCL 46-2A-9:

In accordance with SDCL 46-2A-9, a permit may be issued to appropriate water only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will review the availability of unappropriated water to supply the additional amount needed for Water Permit Application No. 7983-3.

WATER AVAILABILITY:

This application proposes to divert water from the Bowdle: Edmunds aquifer at a rate of 2.78 cfs to irrigate 195 acres. If the application is approved, it is unlikely the amount of water needed to irrigate the land will exceed 195 ac-ft/yr. The probability of unappropriated water available from the aquifer can be evaluated using 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."

HYDROLOGIC BUDGET:

Recharge:
Using observation well measurements, Hedges' (1982) determined the recharge rate in the Bowdle: Edmunds aquifer to be 2.7 inches per year. Given the aerial extent of the management unit (36,000 acres), it follows that the annual recharge rate is 8,100 acre-feet per year (ac-ft/yr).

Discharge:
There are currently 16 water rights/permits pumping water from the Bowdle: Edmunds aquifer (Water Rights, 2014b). Thirteen of these are for irrigation purposes, and three are for municipal systems for the towns of Bowdle and Tolstoy. Although Bowdle and Tolstoy maintain their wells and water rights for standby purposes, water for the towns is supplied by local rural water systems. Therefore, actual withdrawals under their respective water rights are limited to emergencies and do not occur regularly. For the purposes of calculating total withdrawals from the Bowdle: Edmunds aquifer, withdrawals by the towns of Bowdle and Tolstoy are assumed to be zero. The amount of water pumped by irrigators from 1979-2012 is displayed in Table 1. The average amount pumped from the Bowdle: Edmunds aquifer for irrigation purposes is approximately 337 ac-ft/yr. The maximum annual amount pumped was in 2012 and was approximately 896 ac-ft (Water Rights, 1980-2013).

Water Balance:
Given the expected annual recharge rate of 8,100 ac-ft, and a maximum diversion of 896 ac-ft/yr, it follows that at least 7,204 ac-ft/yr is available for use. Therefore, unappropriated water is available from the Bowdle: Edmunds aquifer for the proposed application.

Year	Number of Permits	Appropriation (ac-ft/yr)	Reported Pumped (ac-ft/yr)
1979	5	1860	136
1980	8	2120	476
1981	8	2120	372
1982	6	1706	362.39
1983	6	1838	226.61
1984	7	2318	413
1985	7	2318	616
1986	6	1838	22.6
1987	6	1838	394
1988	6	1838	682.4
1989	7	1862	678
1990	8	1878	182
1991	8	2002	136.9
1992	6	1810	217
1993	5	1640	12
1994	6	1350	83.44
1995	6	1350	58.71
1996	4	1180	147.61
1997	4	1180	191
1998	4	1180	135.89
1999	4	1180	155.11
2000	4	1180	76.45
2001	4	1180	154.67
2002	4	1180	103.41
2003	4	1180	97.44
2004	6	1704	341.22
2005	7	1784	403.61
2006	7	1784	517.18
2007	8	2016	551.67
2008	13	3316.96	668.36
2009	13	3316.96	597.49
2010	13	3316.96	825.85
2011	13	3316.96	522.45
2012	13	3316.96	895.52
Average	6.94	1911.73	336.88

Table 1: Summary of irrigation questionnaires from 1979 to 2012 (Water Rights, 1980-2013).

OBSERVATION WELL DATA:

Administrative Rule of South Dakota Section 74:02:05:07 requires "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 monitors 10 observation wells completed into the Bowdle: Edmunds aquifer. The closest of these wells to the proposed well site (as well as the existing wells) is ED-75B and is located approximately 1,500 feet to the north (Water Rights, 2014 a). Historic water levels in Observation Well ED-75B are shown below in Figure 1.

Water levels in Observation Well ED-75B reflect climatic conditions. Levels rise as the aquifer recharges during wet years and drop during dry years. Although the effects of pumping are visible, they are not significant. Therefore, natural discharge is available for capture, and unappropriated water is available for use.

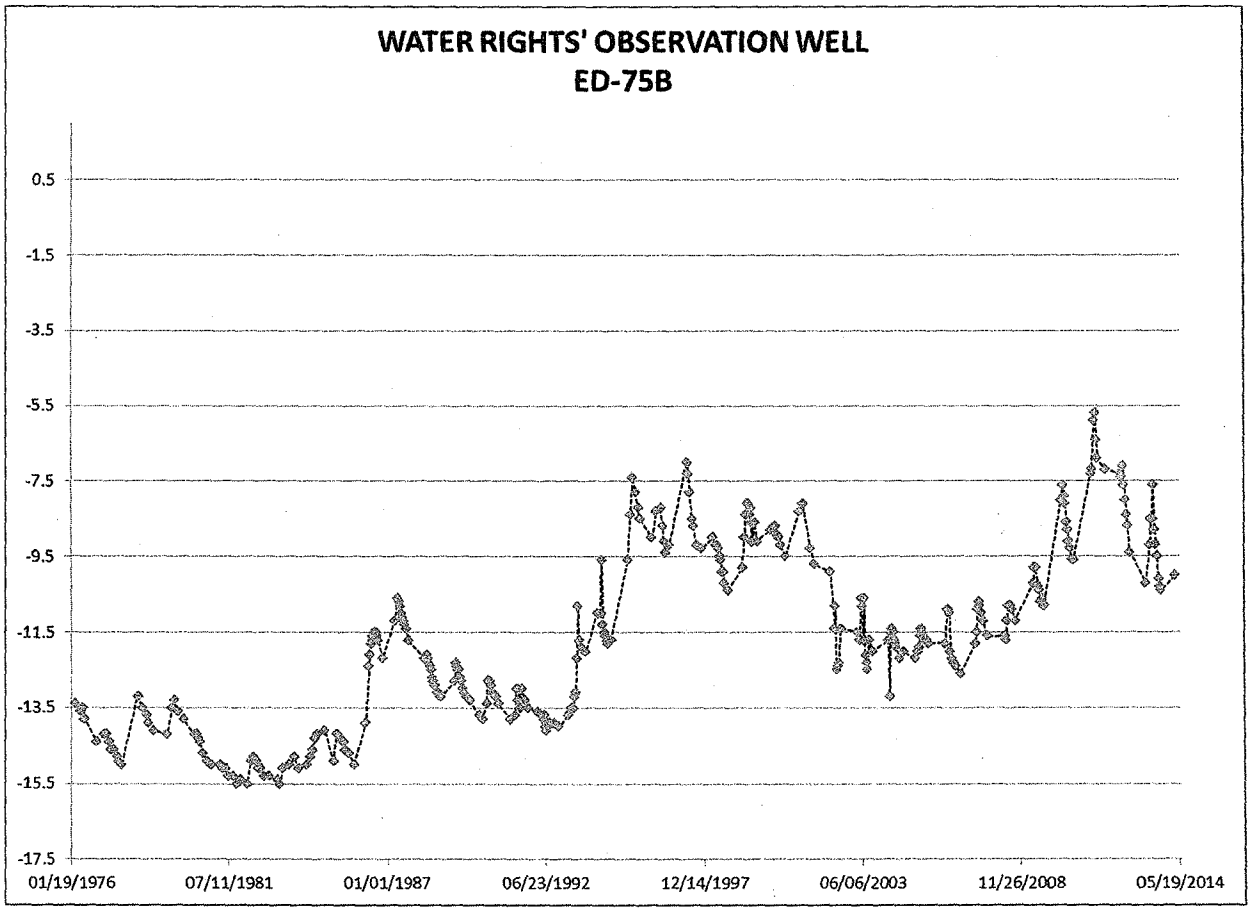

Figure 1: Historic water levels in Observation Well ED-75B (Water Rights, 2014a).

EXISTING WATER RIGHTS:

The SD DENR Water Rights Database was reviewed for the nearest existing water rights/permits and domestic wells that could be potentially impacted by the pumping proposed in this application. The nearest water right (704-3/704B-3) is located approximately 4,000 feet to the northeast of the proposed well site. Given the aquifer characteristics in the region and the

distance between the wells, interference is not expected. The nearest domestic well on file with the DENR Water Rights Program is located approximately one mile to the northeast of the proposed well site. This is sufficient distance to minimize the potential for any negative effects as a result of pumping, therefore interference with domestic wells in the area is not expected to occur.

CONCLUSIONS:

1. Water Permit Application No. 7983-3 proposes to appropriate up to 390 ac-ft/yr at a maximum diversion rate of 2.78 cfs for the irrigation of 195 acres from two existing wells and one new well completed into the Bowdle: Edmunds aquifer.
2. There is a reasonable probability that unappropriated water is available from the Bowdle: Edmunds aquifer to supply this proposed diversion.
3. There is a reasonable probability that the diversion rate requested by this application can be made without adversely impacting existing water rights/permits and domestic users.

Bracken Capen
SD DENR-Water Rights Program

Approved by:

Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

Hedges, L.S., S.L. Burch, D.L. Iles, R.A. Barari, and R.A. Schoon. 1982. Evaluation of Ground-water Resources in Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.

Water Rights. 1980-2013. "1979-2012 Irrigation Summaries by Aquifer and County": SD DENR-Water Rights Program. Joe Foss Bldg., Pierre, SD.

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

Water Rights. 2014b. Water Right/Permit Files. SD DENR-Water Rights Program. Joe Foss Bldg., Pierre, SD.

Water Rights. 2014c. Well Completion Reports. SD DENR-Water Rights Program. Joe Foss Bldg., Pierre, SD.

Kume, J., L. Howells, 1987. "Water Resources of Walworth County, South Dakota" Water Resources Investigation Report 85-4015, USGS, Huron, SD.

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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

REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT APPLICATION NO. 7983-3, Richard or Sharon Beitelspacher

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. 7983-3, Richard or Sharon Beitelspacher, 13418 328th Avenue, Bowdle SD 57428.

The Chief Engineer is recommending APPROVAL of Application No. 7983-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The wells approved under Water Permit No. 7013-3 and this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The new well authorized by Permit No. 7983-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

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

See report on application for additional information.

Eric Gerlach
for Jeanne Goodman, Chief Engineer
May 8, 2014

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Chief Engineer
DENR Water Rights Program
Joe Foss Building
523 East Capitol Ave
Pierre, SD 57501

Richard Beitelspacher
13418 328th Ave
Bowdle, SD 57428

RE: Water Permit Application No. 7983-3

Dear Ms. Goodman & Mr. Beitelspacher,

I am writing to petition in opposition to the above water permit application. I am petitioning the installation of irrigation by Mr. Beitelspacher because I am concerned about the effects to our water supply. The proposed location for the irrigation is approximately a half mile from our house and well. I am concerned that a well this close to our home will diminish our water supply greatly. Our well is our only source of water for our home and farm. Thank you for understanding my concerns.

Sincerely,

Jaime Belcher

Jaime Belcher
13439 325th Ave
Bowdle, SD 57428
5/21/14

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MAY 23 2014
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PROGRAM

Chief Engineer
Water Rights Program
Joe Foss Building
523 East Capitol Ave
Pierre, SD 57501

Richard Beitelspacher
13418 328th Ave
Bowdle, SD 57428

May 22, 2014

To Whom It May Concern:

We are writing to express our concern regarding water permit application 7983-3. We fear that an irrigation system that is drawing water this close to our home will draw down the well that we use for our home and farm. This well is our only supply of water, and connecting to the WEB rural water system is not an option due to the cost involved. For these reasons, we feel that we must protect our domestic water supply and oppose this water permit application.

Thank you for your consideration.

Sincerely,

Joel Hoffman
Sheila Hoffman

Joel & Sheila Hoffman
13457 325th Ave
Bowdle, SD 57428

DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

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

May 29, 2014

NOTICE OF HEARING

TO: Richard and Sharon Beitelspacher
13418 328th Avenue
Bowdle SD 57428

Joel and Sheila Hoffman
13457 325th Avenue
Bowdle SD 57428

Jaime Belcher
13439 325th Avenue
Bowdle SD 57428

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 7983-3, Beitelspacher

Petitions opposing approval of Water Permit Application No. 7983-3 have been filed in response to the Notice of Application published in the Pride of the Prairie and Aberdeen American News. This notice schedules a hearing on the application before the South Dakota Water Management Board.

Water Permit Application No. 7983-3 proposes to appropriate 2.78 cubic feet of water per second (cfs) from three wells to be completed into the Bowdle:Edmunds Aquifer (24 feet deep) located in the SW 1/4 SW 1/4 Section 28 for irrigation of 195 acres located in the SW 1/4, S 1/2 NW 1/4, W 1/2 SE 1/4, SW 1/4 NE 1/4 Section 28; all in T123N-R73W.

Mr. Beitelspacher also holds Water Permit No. 7013-3 which appropriates 1.89 cfs from four wells completed into the Bowdle:Edmunds Aquifer to be located in the NE 1/4 Section 32 to irrigate 156 acres located in the NE 1/4 Section 32; all in T123N-R73W. This notice also serves to correct the well location of the two wells authorized by No. 7013-3. The two developed wells as constructed are located in the NE 1/4 NE 1/4 Section 32 and SW 1/4 SW 1/4 Section 28; all in T123N-R73W. It is Mr. Beitelspacher's intent to have the wells authorized by Permit No. 7013-3 and Application No. 7983-3, if approved, interchangeable for irrigation of authorized acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7983-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

The Water Management Board will consider Application No. 7983-3 at 1:00 PM on Thursday, July 10, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. Parties will be provided written notice if there is a change to the hearing time or date.

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 after it reaches a conclusion based on the facts presented at the public hearing.

The July 10, 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 June 30, 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.

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.

Contact Eric Gronlund at the above Chief Engineer's address to request copies of the staff report, recommendation, application or any 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.

Enclosed is a copy of the report, recommendation, affidavits of publication and petitions in the matter of Water Permit Application No. 7983-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds $2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is June 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; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or eric.gronlund@state.sd.us.

enclosures

c: Ann Mines, Assistant Attorney General
Matt Naasz, Assistant Attorney General

RECEIVED
MAY 15 2014
WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Edmunds)

I, Tim Dewald

certify that the attached printed Notice was taken

from the Pride of the Prairie

printed and published in Bowdle

County of Edmunds and

state of South Dakota. The notice was published

in the newspaper on the following date:

May 15, 2014

Cost of Printing $26.07

Tim Dewald
(Signature)

Billing - Newspaper
(Title)

05-14-14
(Date Signed)

NOTICE OF APPLICATION NO. 7983-3 to Appropriate Water

Notice is given that Richard or Sharon Beitelspacher, 13418 328th Ave, Bowdle SD 57428 have filed an application for a water permit to approximate 2.78 cubic feet of water per second (cfs) from three wells to be completed into the Bowdle: Edmunds Aquifer (24 feet deep) located in the SW ¼ SW ¼ Section 28 for irrigation of 195 acres located in the SW ¼, S ½ NW ¼, W ½ SE ¼, SW ¼ NE ¼ Section 28; all in T123N-R73W.

Mr. Beitelspacher also holds Water Permit No. 7013-3 which appropriates 1/89 cfs from four wells completed into the Bowdle: Edmunds Aquifer to be located in the NE ¼ Section 32 to irrigate 156 acres located in the NE 1/3 Section 32; all in T123N-R73W. This notice also serves to correct the well location of the two wells authorized by No. 7013-3. The two developed wells as constructed are located in the NE ¼ NE1/4 Section 32 and SW ¼ SW ¼ Section 28; all in T123N-R73W. It is Mr. Beitelspacher's intent to have the wells authorized by No. 7013-3 and Application No. 7983-3, if approved, interchangeable for irrigation of authorized acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7983-4 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 27, 2014.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application.

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

Published once at the total approximate cost of $26.40 at .02 cents per reader.

TIM DEWALD APPEARED BEFORE Cheryl McCallum NOTARY

RECEIVED
MAY 19 2014
WATER RIGHTS PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Brown)

I, Mary Bastin

certify that the attached printed Notice was taken

from the American News

printed and published in Aberdeen

County of Brown and

state of South Dakota. The notice was published

in the newspaper on the following date:

May 15 2014

Cost of Printing 55.37

Mary Bastin
(Signature)

Adv. Billing Spec
(Title)

5/16/14
(Date Signed)

(No. 1777173)
(May 15, 2014 - 1T)

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7983-4 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

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