



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 21, 2015

denr.sd.gov

NOTICE OF HEARING

TO: Seth Jeffs
United Order of South Dakota
PO Box 5050
Custer SD 57730
and Parties of Record (see attached list)

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Notice of Hearing on Water Permit Application No. 2730-2, United Order of South Dakota

Petitions opposing approval of Water Permit Application No. 2730-2 have been filed in response to the Notice of Application published in the Custer County Chronicle and Rapid City Journal. This notice schedules a hearing on the application before the South Dakota Water Management Board.

Water Permit Application No. 2730-2 proposes to appropriate an additional 0.46 cubic feet of water per second (cfs) and an additional well. Water Permit No. 2610-2 authorizes 0.21 cfs from two wells located in the NW 1/4 SE 1/4 Section 10-T6S-R3E. This application proposes to appropriate an additional 0.46 cfs and authorizes one additional well to be completed into the Madison Aquifer (1100 feet deep) located in the NW 1/4 SE 1/4 Section 10-T6S-R3E. This application, if approved, and Water Permit No. 2610-2 will authorize a total diversion rate of 0.67 cfs (300 gallons per minute) from three wells for use in the United Order of South Dakota's water system.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2730-2 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. 2730-2 at 8:30 AM (Central Standard Time) on Thursday, March 5, 2015, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate. Parties will be provided written notice if there is a change to the hearing time, date or location.

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 March 5, 2015, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer (Joe Foss Building, 523 E Capitol Avenue, Pierre SD 57501) from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by February 23, 2015. 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 the staff report, recommendation, affidavits of publication and petitions in the matter of Water Permit Application No. 2730-2. 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 February 2, 2015. 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-Bailey, Assistant Attorney General

PARTIES OF RECORD LIST FOR WATER PERMIT 2730-2, United Order of South Dakota

APPLICANT:

Seth Jeffs United Order of South Dakota
PO Box 5050
Custer SD 57730

PETITIONERS:

William R Hansen, Chief
Water Rights Branch
National Park Service
1201 Oak Ridge Drive, Suite 250
Fort Collins CO 80525
Original Petition received – 12/22/2014
Amended Petition received – 01/20/2015

Karl R and Suzanne K Von Rump
11560 Farmer Road
Custer SD 57730
Petition received - 01/07/2015

Mr and Mrs. David Albrecht
High Lonesome Ranch
26541 Stagecoach Spgs Rd
Custer SD 57730-9109
Petition received – 01/12/2015

Toni Martin
4141 Villa Ridge Ct #122
Rapid City SD 57701
Petition received – 01/12/2015

Linda Van Dyke Kilcoin
23470 Paradise Drive
Hill City SD 57745
Petition received – 01/12/2015

Douglas L Leshner, Acting Manager
Stone Meadow Ranch
26699 Remington Rd
Custer SD 57730

Craig Bobzien, Forest Supervisor
Black Hills National Forest
1019 North 5th Street
Custer SD 57730
Petition emailed – 01/16/2015
Petition received by mail – 01/20/2015

Rick Fox
PO Box 35
Hermosa SD 57744

Dean and Delia Johnson
14585 East French Creek Road
Fairburn SD 57738