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October 28, 2016

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Sioux Falls, SD 57104

Rich Williams  
Assistant Attorney General  
DENR Feedlot Permit Program  
1302 E. Hwy. 14, Suite 1  
Pierre, SD 57501

Re: In the Matter of George Ferebee's Petition for Declaratory Ruling on  
ARSD 74:53:01:04 and  
In the Matter of George Ferebee's Petition for Declaratory Ruling on  
ARSD 74:53:01:18 and

Dear Counsel:

Attached please find a proposed Order Granting Motion to Dismiss in the above captioned matters. Please submit any written objections to these Orders to Eric Gronlund at:

Eric Gronlund  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3182

All written objections must be received by November 14, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read 'MN', with a long horizontal flourish extending to the right.

Matthew Naasz  
Assistant Attorney General

MN/cmm  
Enclosures

cc w/encl: Eric Gronlund

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

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IN THE MATTER OF	)	
GEORGE FEREBEE'S PETITION	)	ORDER GRANTING
FOR DECLARATORY RULING ON	)	MOTION TO DISMISS
ARSD 74:53:01:04	)	

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This matter came on for hearing before the Water Management Board on October 13, 2016, following proper notice to all parties. Petitioner George Ferebee appeared personally and was represented by his attorney Ken Jasper. Intervenor Pennington County was represented by Deputy State's Attorney Kinsley Groote. Intervenor City of Rapid City was represented by Assistant City Attorney Wade Nyberg. Intervenor City of Sioux Falls was represented by Assistant City Attorney Diane Best. Intervenor South Dakota Association of County Commissioners and the South Dakota Municipal League were represented by attorney Eric Erickson. DENR Feedlot Permit Program Administrator Kent Woodmansey was present in person and represented by Assistant Attorney General Ellie Bailey.

This matter and the matter captioned "In the Matter of George Ferebee's Petition for Declaratory Ruling on ARSD 74:53:01:18" were consolidated for hearing by motion of the Water Management Board. None of the parties objected to the consolidation of the two petitions for declaratory relief.

Counsel for Intervenor Pennington County moved the Water Management Board to dismiss both of the consolidated petitions for declaratory ruling on the

grounds that the petitions did not submit a factual basis as required by ARSD 74:02:01:46. This motion was joined by Intervenors the City of Rapid City, the City of Sioux Falls, the South Dakota Association of County Commissioners and the South Dakota Municipal League. The DENR Feedlot Permit Program did not take a position on the motion. Petitioner George Ferebee resisted the motion.

Upon consideration of the Motion to Dismiss made by Pennington County, the Board determines that neither petition for declaratory relief has submitted a factual situation as required by ARSD 74:02:01:46. Therefore, the petitions for declaratory ruling filed by George Ferebee regarding ARSD 74:53:01:04 and 74:53:01:18 are hereby DISMISSED.

Dated this \_\_\_\_\_ day of November 2016.

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Jim Hutmacher, Chairman  
South Dakota Water Management Board

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

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Jim Hutmacher, Chairman  
South Dakota Water Management Board