

Considered: \_\_\_\_\_

WATER PERMIT NO. 1497-1

Phone: 787-6263

Name of Applicant: Midland Heights Water & Service Co.

Post Office Address: P.O. Box 766, Black Hawk, SD 57718

Amount of Water Claimed: 0.09 cfs (40 gpm) Total Acres: \_\_\_\_\_

Source of Water Supply: groundwater

Water to be used for: RWS County: Meade

About 2 miles NW at Black Hawk

PROOF OF PUBLICATION: Received \_\_\_\_\_ Not Received \_\_\_\_\_

APPLICATION: Approved \_\_\_\_\_ Subject to \_\_\_\_\_

F.F. & C/L. Adopted \_\_\_\_\_ Not Approved \_\_\_\_\_ Deferred \_\_\_\_\_

PRIORITY Date Received: 7/31/90 Fee: 150.00 Remarks \_\_\_\_\_

Corrected Application Received August 17, 1990 Period of Annual Use Jan. 1 - Dec. 31

WATER QUALITY APPROVAL RECEIVED \_\_\_\_\_ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES \_\_\_\_\_ NO \_\_\_\_\_ REMARKS \_\_\_\_\_

Diversion Point: SW1/4 NW1/4 Section 25 T3N-R6E

Land to be Irrigated: \_\_\_\_\_

|   |  |    |  |  |  |
|---|--|----|--|--|--|
|   |  |    |  |  |  |
|   |  |    |  |  |  |
| * |  | 25 |  |  |  |
|   |  |    |  |  |  |
|   |  |    |  |  |  |

Well Log: Driller: ?? Licensed YES \_\_\_\_\_ NO \_\_\_\_\_

Depth of Well: 552 feet REMARKS well log is from 1975 and is from a well 2 miles away

Type of Map: Plat PREPARED BY: Robert Dominicak Reviewed and the Number \_\_\_\_\_

Assigned on August 20, 1990 By Eric Gronlund

**SOUTH DAKOTA**  
**WATER PERMIT NO. 1497-1**

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Date of first receipt of application July 31, 1990.

Date of return to applicant for corrections, amendments or changes August 1, 1990.

Date of receipt of corrected application August 17, 1990.

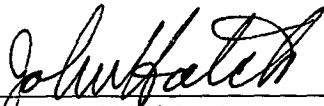
The Water Management Board approved Water Permit Application No. 1497-1 on May 5, 1999 for Midland Heights Water & Service Co., Garry V Zelfer, President, PO Box 766, Black Hawk SD 57718 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1497-1 appropriates 0.09 cubic feet of water per second (40 gallons per minute) from one existing well (Minnelusa Formation) 552 feet deep located in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  Section 25-T3N-R6E.
2. The water appropriated shall be used for the purpose of supplying water for common distribution system use by the water service company and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is July 31, 1990.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATION**

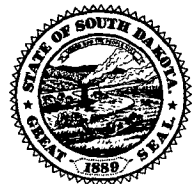
The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

**WATER MANAGEMENT BOARD**

By:   
John Hatch, Chief Engineer  
Water Rights Program  
Department of Environment and Natural Resources

MAY 20 1999

date



No. 1497-1 Hydrologic Unit 10/20/11  
Map No. \_\_\_\_\_ Basin Upper Cheyenne  
Newspaper Meade Co. Times Tribune, Sturgis, SD

523 E. Capitol  
Pierre, SD 57501  
(605) 773-3352

# Application For Permit To Appropriate Water Within The State Of South Dakota

Check use of water: Industrial ☐ Commercial ☐ Municipal ☐ Other Common Distribution System ☐  
Rural Water System ☒ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☐  
Domestic ☐ (above 18gpm) Other ☐

Type of Application: Check one or more of the following

New ☒ Vested Right ☐ Future Use ☐ Change Use ☐

☐ Amend Permit No. \_\_\_\_\_ with old priority date retained

Change diversion point(s) ☐ Add diversion point(s) ☐ Other ☐

☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No.

☐ Construction to use water reserved by Future Use Permit No. \_\_\_\_\_

1. Name of Applicant Midland Heights Water Service Co. Phone No. 605-787-6263

Post Office Address P.O. Box 766 Black Hawk State SD 57718  
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s) 40 gpm

3. Source of water supply well

4. Location of point of diversion SW 1/4 NW 1/4 Section 25 T3N-R6E

County Mead

5. Counties where water will be used Meade

6. Annual period during which water is to be used all year January 1 - December 31

7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

**Attachments:** Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA)  
County of Meade ) SS

I, midland Heights Water and Service Co. the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Roll Martin Pres

Subscribed and sworn to before me this 29<sup>th</sup> day of June 1990

**Dale R. Hansen**  
Notary Public

Carol M. Stone  
Notary Public

**My Commission Expires Jan. 27, 1996**

# Supplemental Information

(type or print in ink)



## 1. Well Information - Proposed construction

- a) Drill Hole Diameter 6 1/2" Depth 552'
- b) Casing Type Steel Diameter 5 1/2" OD Thickness 1/4"
- c) Screen Type no Diameter no Thickness no
- d) Gravel Pack Thickness no Length of Gravel Pack no
- e) Depth to Top of Water Bearing Material 376'
- f) Depth to Water (ground surface to water level) 180'
- g) Distance to nearest existing domestic well:  
On applicants property 1/8 mile On property owned by others no

## 2. Dugout Information Estimates N/A

- a) Surface Dimensions \_\_\_\_\_ Depth \_\_\_\_\_
- b) Depth to water (ground surface to water level) \_\_\_\_\_

## 3. Water Storage Dams N/A

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

\_\_\_\_\_  
\_\_\_\_\_

b) Freeboard \_\_\_\_\_

c) Crest Width \_\_\_\_\_

Crest Length \_\_\_\_\_

d) Height \_\_\_\_\_

e) Primary Outlet Capacity \_\_\_\_\_  
If Pipe, diameter \_\_\_\_\_

f) Secondary Spillway Capacity \_\_\_\_\_  
Spillway width \_\_\_\_\_

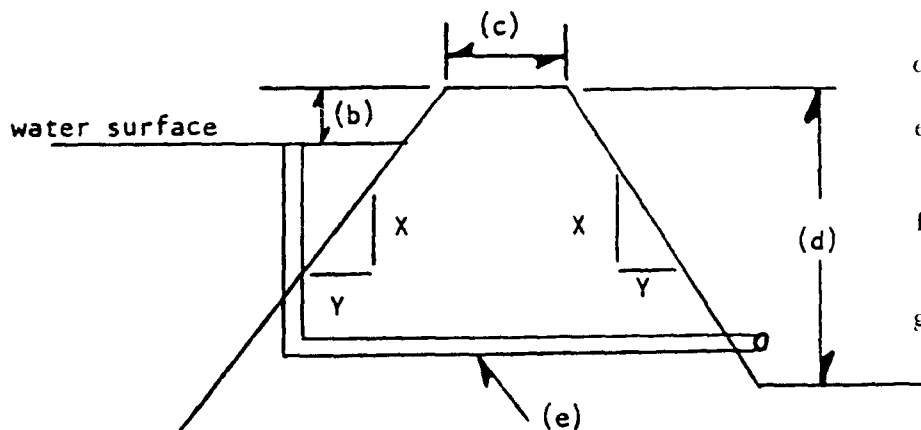
g) X & Y Slope  
Upstream \_\_\_\_\_

Downstream \_\_\_\_\_

Surface Area of Impoundment \_\_\_\_\_

Storage \_\_\_\_\_ acre feet

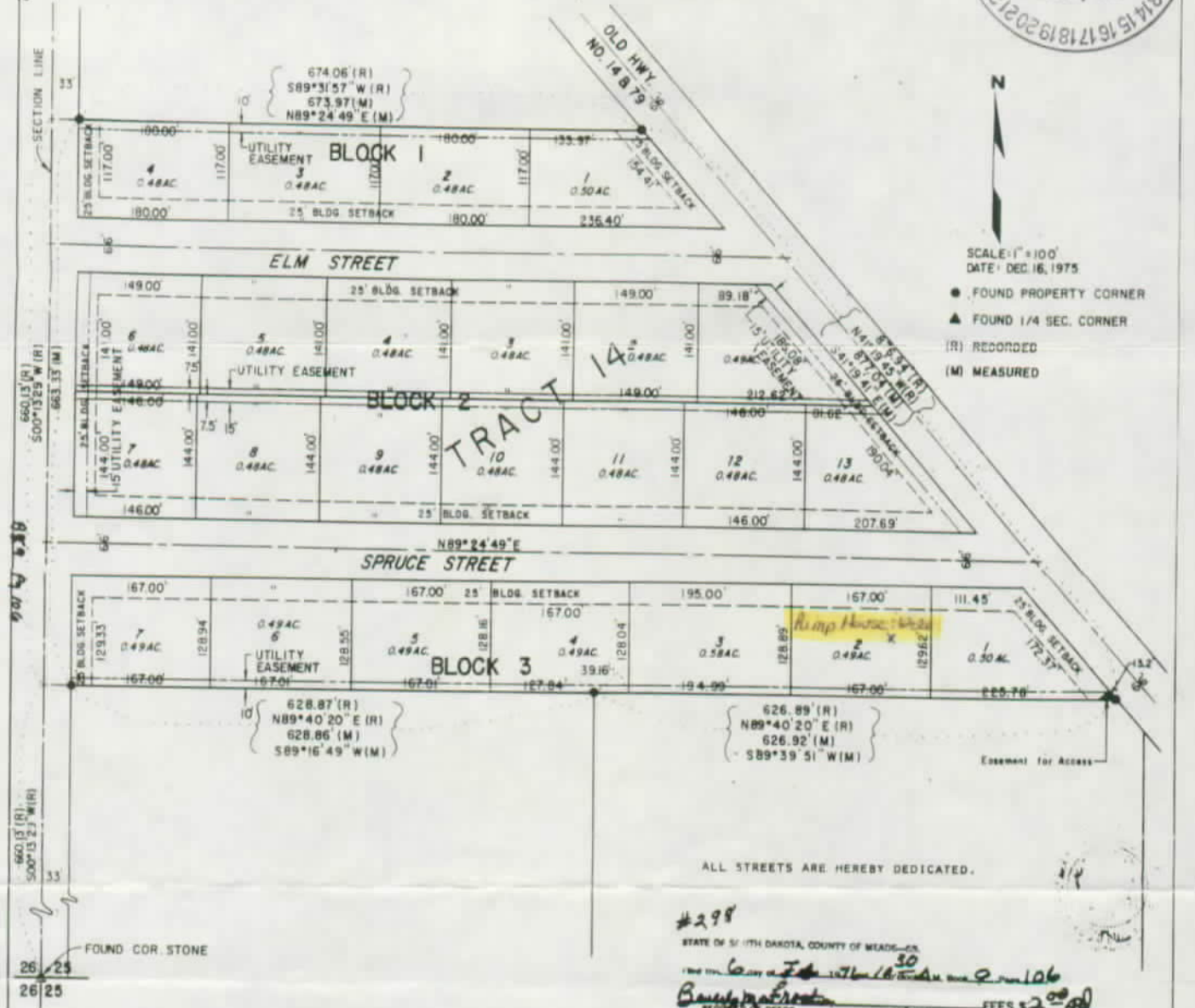
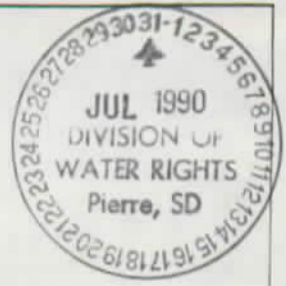
Drainage area above dam \_\_\_\_\_



Edith J. Scott, CPS  
for Rodney A. Martens.  
Signature of Applicant

Applic. 1497-1

PLAT OF MIDLAND HEIGHTS SUBDIVISION  
(TRACT 14) BLOCK 1, LOTS 1-4; BLOCK  
2, LOTS 1-13; BLOCK 3, LOTS 1-7 ALL  
IN N W 1/4, SECTION 25, T3N, R6E, BHM  
MEADE COUNTY, SOUTH DAKOTA



ALL STREETS ARE HEREBY DEDICATED.

#298

STATE OF SOUTH DAKOTA, COUNTY OF MEADE, SD  
I, Barbara J. Smith, Treasurer of Meade County, South Dakota, do hereby certify that all taxes which are liens upon the land shown in the above plat, according to the records of my office, have been fully paid. DATED THIS 5 DAY OF January, 1976.  
Barbara J. Smith  
TREASURER OF MEADE COUNTY

COUNTY TREASURER'S CERTIFICATE

I, Barbara J. Smith, TREASURER OF MEADE COUNTY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT ALL TAXES WHICH ARE LIENS UPON THE LAND SHOWN IN THE ABOVE PLAT, ACCORDING TO THE RECORDS OF MY OFFICE, HAVE BEEN FULLY PAID. DATED THIS 5 DAY OF January, 1976.  
Barbara J. Smith  
MEADE COUNTY TREASURER

STATE OF SOUTH DAKOTA: : SS  
COUNTY OF MEADE : :

I, Elizabeth R. Smith, AUDITOR OF MEADE COUNTY, DO HEREBY CERTIFY THAT AT AN OFFICIAL MEETING HELD ON January 14, 1976, THE COUNTY COMMISSIONERS BY RESOLUTION DID APPROVE THE PLAT AS SHOWN HEREON.  
Elizabeth R. Smith  
MEADE COUNTY AUDITOR

PLANNING COMMISSION CERTIFICATE

I, Bill Rother, PLANNING DIRECTOR FOR MEADE COUNTY, DO HEREBY CERTIFY THAT AT AN OFFICIAL MEETING OF THE MEADE COUNTY PLANNING COMMISSION HELD ON January 14, 1976, THE PLANNING COMMISSION DID APPROVE THE PLAT AS SHOWN HEREON.  
Bill Rother  
PLANNING DIRECTOR

CERTIFICATE OF DIRECTOR OF EQUALIZATION

I, Marvin H. Mc Macken, DIRECTOR OF EQUALIZATION OF MEADE COUNTY, DO HEREBY CERTIFY THAT I HAVE ON RECORD IN MY OFFICE A COPY OF THE WITHIN DESCRIBED PLAT.  
Marvin H. Mc Macken  
DIRECTOR OF EQUALIZATION FOR MEADE COUNTY

APPROVED: \_\_\_\_\_  
DATE: \_\_\_\_\_

MEADE COUNTY, S.D.  
APPROVED  
FEB 6 1976  
John P. Smith  
CLERK

SURVEYOR'S CERTIFICATE

I, ROBERT H. DOMINICAK, REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT AT THE DIRECTION OF THE OWNER, I HAVE PLATTED THE SUBDIVISION OF LAND AS SHOWN ON THE ABOVE PLAT AND SUCH SUBDIVISION SHALL BE HEREAFTER KNOWN BY THE DESCRIPTION DESIGNATED ABOVE. THE LOCATION AND DIMENSIONS OF THE SUBDIVISION AND LOTS WITHIN THE SUBDIVISION ARE AS SHOWN ON THE ABOVE PLAT. IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 19 DAY OF DECEMBER, 1975.  
Robert H. Dominicak  
REGISTERED LAND SURVEYOR NO. 2163

STATE OF SOUTH DAKOTA: : SS  
COUNTY OF DENNISTON : :

ON THIS 19 DAY OF DECEMBER, 1975, BEFORE ME THE UNDERSIGNED OFFICER, PERSONALLY APPEARED ROBERT H. DOMINICAK, KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES THEREIN CONTAINED.  
IN WITNESS WHEREOF, I HEREBY SET MY HAND AND SEAL.  
Bruce C. Johnson  
NOTARY PUBLIC

MY COMMISSION EXPIRES: JULY 9, 1981

OWNER'S CERTIFICATE

WE, MARVIN E. MC MACKEN AND CONNIE A. MC MACKEN, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND AS DESCRIBED ABOVE AND THAT WE DO HEREBY JOIN IN AND APPROVE SAID PLAT.  
Marvin E. Mc Macken  
Connie A. Mc Macken

STATE OF SOUTH DAKOTA: : SS  
COUNTY OF Meade : :

ON THIS 30 DAY OF December, 1975, BEFORE ME THE UNDERSIGNED OFFICER, PERSONALLY APPEARED MARVIN E. MC MACKEN AND CONNIE A. MC MACKEN, KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE FOREGOING OWNER'S CERTIFICATE, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES THEREIN CONTAINED.  
IN WITNESS WHEREOF, I HEREBY SET MY HAND AND SEAL.  
Donald H. Smith  
NOTARY PUBLIC

MY COMMISSION EXPIRES: April 29, 1982

TABLE OF MIDLAND DISTRICTS SUBDIVISIONS



# RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412341

Pierre, August 17, 19 90

RECEIVED OF Midland Heights Water & Service Co., Box 766, Black Hawk, SD 57718

the following amount in fees for services rendered as provided for by law:

|                                                                                                                               |       |       |
|-------------------------------------------------------------------------------------------------------------------------------|-------|-------|
| Fee for Application for Permit No. <u>1497-11</u> to Appropriate Water, to construct works and to put water to beneficial use | 50    | 00    |
| Fee for Application for Permit No. _____ to Appropriate Water for Future Use                                                  |       |       |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                                        |       |       |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____                           |       |       |
| Fee for Filing Transfer Form _____                                                                                            |       |       |
| Fee for Filing Extension Request _____                                                                                        |       |       |
| Fee for Certified Copy of _____                                                                                               |       |       |
| Fee for Print Copy of Map _____                                                                                               |       |       |
| Fee for Certifying _____                                                                                                      |       |       |
| Fee for _____                                                                                                                 |       |       |
| (Any Other Work Provided by Law)                                                                                              | Total | 50 00 |

By

John Hatch  
Chief Engineer

## STATEMENT

## DOWNEN DRILLING CO.

Box 837

Phone 722-4625

RAPID CITY, SOUTH DAKOTA 57701

Charles Schmitt

Rapid City, S. Dak. 57701

TERMS: Cash-

DATE Nov. 22, 1974

|                |                 |                   |
|----------------|-----------------|-------------------|
| 480' drilling  |                 | 3,120.00          |
| 400' 4" casing | 2,200.00        |                   |
| 1-4" well seal | 12.50           |                   |
|                | <u>2,212.50</u> |                   |
| Tax            | 85.50           |                   |
|                |                 | <u>2,298.00</u>   |
|                |                 | <u>\$5,418.00</u> |

## Well log:

0-140' red shale  
 140-180' limestone  
 180-300' red shale  
 300-400' red lime & shale  
 400-435' white limestone  
 435-470' yellow sandstone  
 470-480' red limestone  
 Test 35 gal. per min

*Note lower 155 ft*

*pd by ckh*  
*268*

DOWNEN DRILLING CO.

1 PERCENT PER MONTH

INTEREST ON CHARGE

PROMPT PAYMENT WILL

REDUCE INTEREST.

design population of 105 people and a maximum day design flow of 100 gallons per person per day. This is a 67 percent increase over the maximum day flow rate ever recorded. This results in an estimated requirement of 10,500 gallons per day for the entire system. This value is the maximum amount of water that will ever be required by the Niche Subdivision consumers in one day.

#### Present Well Yield

In the fall of 1974, the Niche Subdivision well was drilled by the Downen Drilling Company of Rapid City, South Dakota. The following well log was obtained from Charles Schmitt:

|             |                    |
|-------------|--------------------|
| 0' - 140'   | Red Shale          |
| 140' - 180' | Limestone          |
| 180' - 300' | Red Shale          |
| 300' - 400' | Red Lime and Shale |
| 400' - 435' | White Limestone    |
| 435' - 470' | Yellow Sandstone   |
| 470' - 480' | Red Limestone      |

The water level of the well was determined to be 155 feet and the well capacity was estimated at 35 gallons per minute by the Downen Drilling Company.

The existing two horsepower REDA pump is capable of supplying 17.5 gallons per minute to the pressure tanks with 40 psi pressure or 21 gallons per minute to the reservoir with 0 psi pressure. The flow rate of 17.5 gallons per minute will produce



DEPARTMENT OF WATER & NATURAL RESOURCES

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

December 11, 1990

NOTICE

TO: Midland Heights Water & Service Company  
P.O. Box 766  
Black Hawk, SD 57718

FROM: John Hatch, Chief Engineer  
Water Rights Division  
605 773-3352

SUBJECT: Deferral of Water Permit Application No. 1497-1

On December 5, 1990, the Water Management Board deferred consideration of Water Permit Application No. 1497-1 until the Midland Heights Water & Service Company's wastewater disposal system is approved by the Department of Water and Natural Resources. The Board will reconsider this application once the wastewater disposal system has been approved. Please notify this Division when Midland Heights Water & Service Company receives this approval. Notice will then be given of the future hearing time and place before the Board.

Please contact Eric Gronlund, staff engineer (605 773-3352) if you have any questions.

cc: John Guhin, Deputy Attorney General  
John Haak, Assistant Attorney General



# Department of Water & Natural Resources

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181



August 1, 1990

Midland Heights Water & Service Co.  
P.O. Box 766  
Black Hawk, SD 57718

Dear Sir:

This letter is in regards to the water permit application for Midland Heights submitted to this office on July 31, 1990. The following items need to be addressed before this office can proceed with processing the application.

1. The filing fee to appropriate less than 45 gpm is only \$50. Since the application is only claiming 40 gpm, I am returning the \$150 check which was submitted. Please remit the proper application filing fee of \$50.
2. The location of the point of diversion must be specified on the application (Item No. 4 on application). From review of the submitted map, it appears the well is located in the SW1/4 NW1/4 Section 25 T3N-R6E. Please confirm whether this is correct. *That is correct.*
3. A well log was not submitted with the application. Item No. 3 on the instruction sheet addresses the need for a well log as part of the application. If this is an existing well, the well driller should have prepared a well completion report on the well.

Please address the above listed items and return the application to this office. Upon receipt of a completed application I will proceed with processing Midland Height's application.

If you have any questions, please do not hesitate to call.

Sincerely,

Eric Gronlund  
Water Rights Division  
605 773-3352

enc.

# CERTIFICATION

I hereby certify that on December 14, 1990 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Deferral of Water Permit Application No. 1497-1 addressed as stated below.

Midland Heights Water & Service Company, P.O. Box 766, Black Hawk  
SD 57718-0766

Marie R. Arthur

Marie R. Arthur  
Secretary

STATE OF SOUTH DAKOTA )  
 ) SS  
COUNTY OF HUGHES )

Sworn to, before me, this 3rd day of January, 1998.



*John Bates*  
Notary Public

## Conversation or File Documentation

NAME OF PERSON OR FILE: Midland Heights Water & Service Co.ADDRESS: \_\_\_\_\_ COUNTY MeadeDATE: 8/28/90 TELEPHONE Mike Rake 787-4355

RE: \_\_\_\_\_

## COMMENTS:

I finally was able to contact Mike Rake, vice president of the water company. The permit that has been applied for is for a system that has been in existence for over 10 years. They just found out they were out of state compliance and on water permitting.

I told him the Water Management Board would probably not hear the application until the December 5 & 6, 1990 and he didn't have a problem with that.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Thorland

## Conversation or File Documentation

NAME OF PERSON OR FILE: Midland Homeowner's Assoc.ADDRESS: \_\_\_\_\_ COUNTY MeadeDATE: 9/12/90 TELEPHONE 787-4355 (Mike Rahe)

RE: \_\_\_\_\_

## COMMENTS:

Called Mr. Rahe (who wasn't home) but talked to his wife  
regarding the well 1/8 of a mile away from their proposed  
well. The well is used by the Niche trailer court  
which is of no affiliation with Midland Homeowners Assoc.  
I told her that we would probably use their well log  
from this well (1/8 a mile away) in preparing the report  
instead of the well log submitted with the application which  
was approximately 2 miles away.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Menlove

Report On Water Permit Application No. 1497-1  
Midland Heights Water & Service Company  
September 11, 1990

This application proposes to appropriate 0.09 cfs (40 gpm) from one existing well approximately 552 feet deep located in the SW 1/4 NW 1/4 of section 25, T3N R6E in Meade County. The water is being used to supply the Midland Heights Water Service Company.

AQUIFER - MINNELUSA (MNLS)

The Minnelusa consists of sandstone, limestone and dolomite and is approximately 550 feet thick in this area. The Minnelusa underlies 2.17 million acres and contains an estimated 81.5 million acre feet of recoverable water in storage in Meade County alone (Allen, 1984). The aquifer is under artesian conditions at this site.

A driller's log for Water Right No. 1170-1, a well about 660 feet south of this application, indicates the top of the Minnelusa is 300 feet below land surface with a static water level of 155 feet below land surface. There is no log or any well construction information available for this well except the Form 2A filed with the application. This information does correspond with the existing data and does indicate this application will be obtaining water from the Minnelusa.

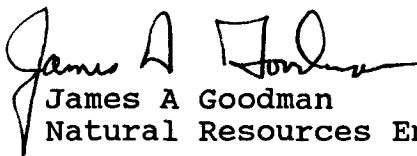
The Division of Water Rights does monitor 2 observation wells in the area. MD-84A and PE-84B are located about 3 miles north and 4 miles south respectively. Water levels for these wells indicate there is a response to climatic conditions, that rising during wet years and declining during dry years, and that there is water available for appropriation (Water Rights, 1990).

REVIEW OF EXISTING WATER RIGHTS/PERMITS

There is one existing Water Right No. 1170-1 which authorizes 0.09 cfs from a 480 feet deep well which is located approximately 660 feet south of this application. Drawdowns due to pumping will occur, however, these should not be significant for two reasons, one, the relatively small pumping rate and two, the pumping is intermittent. Any drawdowns created should not cause adverse interference. This is an existing well and has been used for these purposes for about 10 years.

## CONCLUSIONS

1. Water is available from the Minnelusa.
2. The Minnelusa is under artesian conditions at this site. Pumping is not expected to adversely affect water availability from the aquifer.
3. This is an existing well and has been in use for about 10 years. No log or construction information is available to determine if the well is constructed in accordance with SD Well Construction Standards.
4. There have no reported problems with water availability in this area. The Minnelusa is commonly used in the area between Rapid City and Sturgis to supply water for domestic and suburban housing use.
5. The wastewater disposal system for Midland Heights is controversial, has not been approved by the Department of Water and Natural Resources and has been in litigation.

  
James A Goodman  
Natural Resources Engineer

## BIBLIOGRAPHY

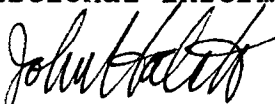
- Allen, J.C., 1984, ANALYSIS OF GROUNDWATER AND STREAMFLOW DATA  
WESTERN DAKOTAS REGION OF SOUTH DAKOTA, for US Army Corps of  
Engineers, SD DWRN, SDGS, Vermillion, SD, 57069.
- Water Rights, 1990, OBSERVATION WELL RECORDS FOR MD-84A AND  
PE-84B, SD DWRN, Div. of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 1497-1, Midland Heights Water & Service Company

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 1497-1, Midland Heights Water & Service Company, P.O. Box 766, Black Hawk SD.

The Chief Engineer is recommending DEFERRAL of Application No. 1497-1 until the Midland Heights Water & Service Company wastewater disposal system is approved by the Department of Water And Natural Resources.

See report on application for additional information.

  
JOHN HATCH, Chief Engineer  
October 12, 1990



# Department of Water & Natural Resources

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

October 29, 1990

NOTE: TO BE SURE OF PUBLICATION ON  
THE CORRECT DATES, CONTACT  
THE NEWSPAPER RIGHT AWAY.

Rodney A. Martens, President  
Midland Heights Water & Service Company  
Box 766  
Black Hawk SD 57718-0766

Dear Mr. Martens:

Water Permit Application No. 1497-1 for rural water system use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Meade County Times-Tribune printed at Sturgis SD. For your information, a copy of the notice is enclosed. Copies of the report and the Chief Engineer's recommendation are also enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Intent to Appropriate Water and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures



# Department of Water & Natural Resources

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

October 29, 1990

Meade Co. Times-Tribune  
Box 69  
Sturgis SD 57785-0069

ATTN: Legal Publications:

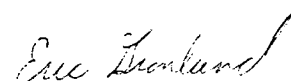
Enclosed is a Notice of Hearing on Application No. 1497-1 to be published twice. Please publish the first notice on or before November 8, 1990 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Midland Heights Water & Service Company, Box 766, Black Hawk, SD 57718-0766.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

  
Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

CUT HERE

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund  
Water Rights Division  
Joe Foss Building  
Pierre SD 57501-3181

No. \_\_\_\_\_

Date \_\_\_\_\_

We are in receipt of your letter of \_\_\_\_\_ enclosing Notice of Hearing to  
Appropriate Water by Application No. \_\_\_\_\_ which was first published in our issue  
of \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name \_\_\_\_\_

Newspaper \_\_\_\_\_

Instruction to Newspaper - Publish first Notice on or before November 8, 1990 with 2nd publication 7 days later. The applicant is responsible for payment.

---

NOTICE OF HEARING on Application No. 1497-1 to Appropriate Water

Notice is given that Midland Heights Water & Service Company, P.O. Box 766, Black Hawk, SD 57718-0766 has filed an application for a water permit to appropriate 0.09 cubic feet of water per second from one existing well, 552 feet deep (Minnelusa Formation) located in the SW1/4 NW1/4 Section 25 T3N-R6E in Meade County. The water is for common distribution system use by the water service company.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends DEFERRAL of Application No. 1497-1 until the Midland Heights Water & Service Company wastewater disposal system is approved by the Department of Water and Natural Resources. This application will be considered by the Water Management Board at the Hilton Inn, Deerfield Room, 445 Mt. Rushmore Road, Rapid City SD, December 5, 1990 at 10:00 am. 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 that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by November 26, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". 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 legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if 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 also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by November 26, 1990.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

## AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA  
COUNTY OF MEADE

Application filed

South Dakota  
Department of Water  
and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, S.D. 57501-3181  
NOTICE OF HEARING  
on Application No. 1497-1

### to Appropriate Water

Notice is given that Midland Heights Water & Service Company, P.O. Box 766, Black Hawk, SD 57718-0766 has filed an application for a water permit to appropriate 0.09 cubic feet of water per second from one existing well, 552 feet deep (Minnelusa Formation) located in the SW1/4 NW1/4 Section 25, T3N-R6E in Meade County. The water is for common distribution system use by the water service company.

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57501 (605-773-3352)". 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 legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

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This application is made pursuant to SDCL 46-1-1 thru 46-1-9; 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Publ. Nov. 7, 14, 1990  
Meade County Times-Tribune

Belinda J. Jerni  
says: That the Meade County Times hereinafter mentioned, was a weekly legal as amended, published at Sturgis, Me Publishing, Inc.; that affiant is and, du of the publisher of such newspaper ar stated in this affidavit; that the notice, of which is attached, was published in bearing the following dates:

|                   |             |
|-------------------|-------------|
| <u>NOV. 7</u>     | <u>1990</u> |
| <u>NOV. 14</u>    | <u>1990</u> |
| <u>          </u> | <u>199</u>  |
| <u>          </u> | <u>199</u>  |
| <u>          </u> | <u>199</u>  |

that the full amount of the fee charged sum of \$ 43.51, in of said newspaper; that no agreement the fee has been made with any person agreed to be paid to any other person

Subscribed and sworn to before me

14 day of NOVEMBER

Notary Public

Notary Public, South Dakota





MIDLAND HEIGHTS WATER AND SERVICE COMPANY  
P.O. BOX 766 BLACK HAWK SD 57718

partially because we were not allowed to install the new drain field in a timely manner.

At present our system drain fields are operating at maximum capacity approximately 10%-12% or less of the time depending upon weather conditions. The rest of the system has never been any problem, the holding tanks and pumps have functioned and are functioning properly. The only real problem we have had is the original design of the drain field has proven to be totally inadequate in size.

As you know in 1986 we installed an additional drain field. As I have learned, if a drain field can be left idle for approximately 6 months it will totally rejuvenate itself. Therefore, if we would be able to install an additional drain field and use the alternating method we would have a very adequate and ACCEPTABLE system.

I have kept this very brief and would be willing to meet with you or anyone who is adept enough and have the fortitude to assist us in these matters.

Also please send a copy of the minutes of your Dec 5, 1990 meeting, especially the portion dealing with the deferral action.

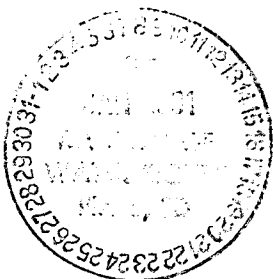
Please send response to P.O. BOX 766 BLACK HAWK.  
If necessary I can be reached at my home phone #(605)-787-6263.

THANK YOU,



ROD MARTENS Pres.  
MIDLAND HEIGHTS WATER & SERVICE CO.  
P.O. BOX 766  
BLACK HAWK SD  
57718

cc: Dale Hanson, Midland Heights Attorney  
John Hatch, Chief Engineer  
John Guhin, Deputy Attorney General  
John Haak, Assistant Attorney General





DEPARTMENT OF WATER & NATURAL RESOURCES

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

January 18, 1991

Mr. Rod Martens, President  
Midland Heights Water and Service Company  
P.O. Box 766  
Black Hawk, SD 57718

Dear Mr. Martens:

I am writing in response to your recent inquiry requesting an explanation of the Water Management Board's deferral of Water Permit Application No. 1497-1. The Water Management Board deferred consideration of Water Permit Application No. 1497-1 until the Midland Heights Water & Service Company's wastewater disposal system is revised and approved by the Department of Water and Natural Resources (DWNR). The Board has legal authority and jurisdiction to take this action pursuant to SDCL 46-2-9 and 46-2-11.

State law regarding the right to appropriate and use water in South Dakota was first enacted by the State Legislature in 1907. The present laws were enacted in 1955 with major revisions in 1983. The domestic use of water does not require a permit and takes precedence over all appropriative rights, however, the use of water by Midland Heights Water & Service Company, which is defined as a water distribution system, does require a water permit. A permit is required for a water distribution system diverting more than eighteen gallons per minute pursuant to SDCL 46-5-8.2.

The original developer of the water and service company was initially responsible for applying for and obtaining a water permit prior to developing the system. We do not know why a permit was not obtained prior to construction of works and the use of water. Nonetheless this does not relieve the present water company from obtaining a water permit to come into compliance with state law to use water.

As part of the water permitting process, a report on the company's water permit application was prepared. During investigation for the report, Raymond Bircham, DWNR Staff Engineer, was contacted and thus provided the information regarding the company's wastewater disposal system. Mr. Bircham's information stems from a complaint by Mr. Headley and subsequent inspection reports filed from Gary Stephenson, a DWNR employee. Mr. Bircham's file show that the latest onsite inspection of the failing system was in February 1990.

The design of this system was originally approved August 3, 1976 by Blaine B. Barker, previous staff engineer for the South Dakota Department of Environmental Protection. We also believe that Brady Engineering designed the system which may have had some design alterations during construction.

The Division of Environmental Regulation's review of your present system shows that neither system is capable of handling the entire daily flows without flow distribution to each system daily. Also that by constructing an additional drain field, a drain field could be left idle and may rejuvenate itself. However, there is the serious question of whether there is sufficient area to construct another drain field?

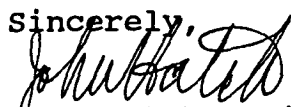
Finally, to answer your last question, DWNR does not have an inspection program to approve the construction work done by the contractor. This Department requires that a wastewater disposal system's plans and specification be approved prior to construction and onsite inspections of systems are done on a complaint basis to assure compliance with state and federal standards. Generally, the consulting engineer, if employed will conduct inspections during and after construction on behalf of a client as specified in a contract.

Staff from the Department of Water and Natural Resources are available to further discuss the water company's wastewater disposal system and your deferred water permit application at your convenience. The Water Management Board deferred your application because it has responsibility for both water quantity and quality and will not approve a water permit where waste disposal facilities are not acceptable.

I have enclosed a copy of the minutes from the December 5, 1990 Board meeting. These minutes will not be official until approved at the February 27, 1991 Board meeting with any correction that may be made at that time.

If you have additional questions or wish to arrange a meeting on these issues, please feel free to contact Eric Gronlund, staff engineer, at (605) 773-3352.

Sincerely,



John Hatch, Chief Engineer  
Water Rights Division

enclosure

cc: John Haak, Assistant Attorney General  
Raymond Birchem

MIDLAND HEIGHTS WATER AND SERVICE COMPANY  
P. O. BOX 700  
BLACK HAWK, SD 57718



February 16, 1991

John Hatch, Chief Engineer  
Water Rights Division  
523 East Capitol Avenue  
Pierre, SD 57501

Dear Mr. Hatch:

The Midland Heights Water and Service Company cordially request your presence at our next monthly meeting, March 6, 1991 at the Sacora Station Restaurant, Piedmont SD. (The Sacora is located between exit 46 and 48 off I-90 on the Service Road>) 7:30pm.

Plans have been made for a slide presentation by Mr. Art May, an engineer with Midwest Assistance Program (MAP). The presentation is of a waste-water system that has been very effective in areas where drain fields and purculation is a problem, which is the problem Midland Heights has been faced with ever since the Nodak was approved to be constructed.

Currently, this Company is paying a judgment in excess of \$40,000 due to the failure of the Nodak System. In addition, the water rights permit for this development has been deferred by the Department of Water and Natural Resources until such time the septic system is corrected. There are 52 homes in this development affected by the water rights permit and 29 home affected by the Nodak System. It is extremely important to correct the problems the Nodak has caused and we need your assistance.

Please plan to attend so that we may gain your insight and guidance for a solution to our problem.

Coffee and soft drinks will be provided.

Thank you,

*Edith J. Scott, CPS*  
Rod Martens, President

cc:

Dale Hanson, Attorney  
Meade County Commission  
Lin Bleeker, Natural Rural Water Association  
Gary Stephson, Dept Water & Natural Resources  
Bob Powles, Water Engineer  
John Guhin, Deputy Attorney General  
John Haak, Assistant Attorney General

RSVP: by mail before March 4, 1991



# Department of Water & Natural Resources

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

March 1, 1991

Rod Martens, President  
Midland Heights Water & Service Co.  
PO Box 766  
Black Hawk SD 57718

Dear Mr. Martens:

I am writing to confirm that Ray Birchem with the Office of Drinking Water and I will attend your monthly meeting on March 6, 1991. Mr. Birchem is responsible for review and approval of plans and specifications for waste water treatment systems and I am familiar with water permitting procedures.

We will attempt to answer any questions you have regarding the waste water system or the water permit application.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Duvall".

Ron Duvall  
Natural Resources Engineer  
605 773-3352

MIDLAND HEIGHTS WATER AND SERVICE CO.  
ROD MARTENS PRESIDENT

AGENDA FOR THE MONTHLY MEETING OF MARCH 6TH 1991

A. SPECIAL SESSION

1. WELCOME
2. INTRODUCTION OF GUESTS
3. CHANGE FROM REGULAR FORMAT
4. REASON FOR SPECIAL SESSION
  - A. HISTORY
    1. ROD MARTENS
  - B. PROBLEMS
    1. BOB POWLES
5. PRESENTATION OF MAIN PROGRAM
  - A. ART MAY
6. COMMENTS BY SPECIAL GUESTS
  - A. CURT NUPEN
  - B. RON DUVAL
  - C. RAY BIRCHEM
7. GENERAL DISCUSSION PERIOD
  - A. QUESTION AND ANSWERS
8. LAND REQUIREMENTS AND AVAILABILITY
9. SUGGESTIONS AND PROCEDURES FOR IMPROVEMENTS

B. INTERMISSION

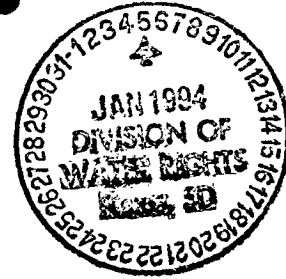
C. REGULAR BUSINESS

1. APPROVAL OF MINUTES OF LAST MEETING
2. APPROVAL OF FIANNICAL PAYMENTS
3. ISSUE OF NEW KEYS
4. COMMITTEE PROGRESS REPORTS
  - A. WELL IMPROVEMENTS
    1. ROD MARTENS
  - B. INSURANCE COMMITTEE
    1. GARY ZELFER
  - C. SANITATION DISTRICT
    1. CATHY OSTWALD
  - D. WATER SHUT OFF LOCATIONS
    1. GARY ZELFER
  - E. LATE PAYMENT COLLECTIONS
    1. EDIE SCOTT
  - F. TIME AND PLACE FOR APRIL MEETING

D. ADJOURN

Midland Heights Water & Service Co.  
P. O. Box 766  
Black Hawk, South Dakota 57718

Dept. of Environment and Natural Resources  
Water Rights Division  
Joe Foss Building  
523 East Capitol  
Pierre, So. Dak. 57501-3131



Dear Mr. Jim Goodman:

Our conversation (12/23/93) on the need for accurate information on water use in South Dakota is a real eye opener.

You requested that I send the application for water rights to you for review. I was able to gain a little ground on the information journey through Mr. Randy Taylor of Taylor Drilling. Some of this information is duplicated in Form 2A.

|                                    |          |
|------------------------------------|----------|
| Date of Completion                 | 12/30/75 |
| Drill Hole Dia.                    | 6 1/4"   |
| Depth                              | 552'     |
| Casing Type                        | Steel    |
| Casing Dia.                        | 5"       |
| Casing Thickness                   | .250"    |
| Depth to Top of Water Bearing Mat. | 376'     |
| Depth to Water                     | 180'     |
| Depth of pump ( 1992)              | 260'     |

Sealing of casing: Mr. Taylor said they used a 10 bag concrete seal at the top and a 10 bag concrete seal at the bottom of the casing. I was informed that this practice was above the requirements of the time.

Hopefully this information will help with the criteria for the wells in South Dakota.

I am enclosing a map of the Midland Heights area. This map has been used, misused and repeatedly copied for 17 year of usage. I hope it will fill the need for a map requested by the application form. I marked in red the lot that houses the well , storage tanks, and the control building.

Would it be possible to apply for the same GMP on a Future Use Reservation with this application?

If this isn't possible at this time, could you mail me the necessary information to accomplish this task. I believe the need to keep our community in a clean and necessary water supply

**important to our existence.**

**Thank you for your time and consideration on this matter. The next time you attend a meeting in my area, give me a call or drop a line, it would be nice to meet you.**

**For a timely response on this matter, mail correspondence to:**

**Garry V. Zelfer President  
7913 Terry Ave.  
Black Hawk, So. Dak.  
57718-9113**

**Sincerely yours;**

A handwritten signature in cursive script, appearing to read 'Garry V. Zelfer', written in dark ink.

**Garry V. Zelfer President  
Midland Heights  
P.O. Box 766  
Black Hawk, So. Dak.  
57718**



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3181

January 13, 1994

Garry V. Zelfer, President  
Midland Heights Water & Service Co.  
7913 Terry Ave.  
Black Hawk, SD 57718-9113

Dear Mr. Zelfer:

I am writing regarding the water permit application filed for the Water & Service Company's well located in the SW¼ NW¼ Section 25, T3N, R6E. It appears that this application was filed subsequent to your phone conversation with Jim Goodman of this Division.

Midland Heights Water & Service Company currently has a water permit application for this well which is in deferred status. Water Permit Application No. 1497-1 was deferred by the Water Management Board on December 5, 1990 pending approval of the wastewater disposal system by the Department of Environment and Natural Resources.

Enclosed are copies of the application, report, recommendation on the original application and subsequent correspondence with Mr. Martens who was the President of the Company in 1990.

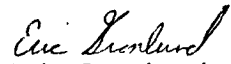
Has the Water & Service Company revised their waste disposal system to address previous inadequacies? If so, the plans and specifications for any revisions must be approved by the Department of Environment and Natural Resources.

In your letter you asked if it is possible to apply for a 'Future Use Reservation' on the same application. A request for a future use permit requires a separate application. Enclosed is a copy of the application form necessary to apply for a future use permit. I do not know how the fact that the Water & Service Company has a deferred water permit application would impact our recommendation on a future use permit application.

(continued)

Hopefully this letter with enclosures gives you some background on the past water permitting activities of the system. Questions regarding requirements for the wastewater disposal system may be directed to Ray Birchem, Division of Environmental Regulation at 773-3296. Please feel free to contact me with questions regarding the water permit application.

Sincerely,

  
Eric Gronlund  
Water Rights Division  
605 773-3352

enclosures

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 1497-1, Midland Heights Water & Service Company**

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. 1497-1, Midland Heights Water & Service Company, P. O. Box 766, Black Hawk SD 57718.

The Chief Engineer is recommending APPROVAL of Application No. 1497-1 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been 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:

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", written in a cursive style.

JOHN HATCH, Chief Engineer  
March 17, 1999



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

March 17, 1999

**NOTICE**

TO: Garry V. Zelfer, President  
Midland Heights Water & Service Company  
P. O. Box 766  
Black Hawk SD 57718

FROM: John Hatch, Chief Engineer  
Water Rights Program  
(605) 773-3352

SUBJECT: Consideration of Deferred Water Permit Application No. 1497-1, Midland Heights Water & Service Company

Midland Heights Water & Service Company filed a water right permit application in 1990 to appropriate 40 gallons per minute from an existing Minnelusa Formation well. This well had been used for numerous years to meet the Company's water supply needs. The Water Management Board deferred the application until the Company's wastewater disposal system received Department approval. The water right permit application has remained on deferred status since 1990.

The on-site wastewater disposal system expansion received Department approval in 1996. Therefore, the water right permit application can be brought back before the Water Management Board for their consideration.

The Water Management Board will consider Water Permit Application No. 1497-1 at 9:45 AM (CDT), on May 5, 1999, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre SD. Enclosed is a copy of the Chief Engineer's revised recommendation on the application.

If you have any questions, please contact Eric Gronlund of my staff at (605) 773-3352.

enclosure

c: Diane Best, Assistant Attorney General  
Bob Powles, HC 80, Box 483, Piedmont, SD 57769

CERTIFICATION

I hereby certify that on March 17, 1999, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 17, 1999, along with a copy of the Revised Recommendation of Chief Engineer, regarding Consideration of Deferred Water Permit Application No. 1497-1, Midland Heights Water & Service Company, addressed as stated below:

Gary V. Zelfer, President  
Midland Heights Water & Service Company  
P.O. Box 766  
Black Hawk, SD 57718

Bob Powles  
HC 80, Box 483  
Piedmont, SD 57769

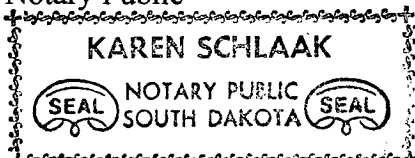
**A copy of the above described Notice and attachment was sent Inter-office to:**

Diane Best, Assistant Attorney General, Capitol Building.

  
Cheryl F. Frost  
Secretary

STATE OF SOUTH DAKOTA     )  
                                          )   SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 22<sup>nd</sup> day of March, 1999

  
Notary Public  
  
KAREN SCHLAAK  
NOTARY PUBLIC  
SOUTH DAKOTA

KAREN SCHLAAK, Notary Public  
My Commission Expires  
April 1, 2001



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

MAY 20 1999

Midland Heights Water & Service Co.  
Garry V. Zelfer, President  
P.O. Box 766  
Black Hawk, SD 57718

Dear Mr. Zelfer:

Enclosed is Water Permit No. 1497-1 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer  
Water Rights Program  
605 773-3352

enclosures

**Permit No. 1497-1**  
**Upper Cheyenne River - Water District**

**Report of Examination of Works and/or Application of Water to Beneficial Use**

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, 26 October 2007, made a thorough examination of the water use system constructed by Midland Heights Water & Service Co. of PO Box 766, Black Hawk, SD. 57718 holder of Permit No. 1497-1, bearing the priority of 31 July 1990 authorizing the diversion of 0.09 cu. ft. per second of the waters of the Minnelusa formation for common distribution system purposes, in Meade County.

**A. Works used to divert the water:**

**Well Information:**

- 1) Well Drilling Firm: Taylor
- 2) No. of Wells 1
- 3) Depth(s) 552 feet
- 4) Well log is available N
- 5) Comment: Well owner acquired well information from Taylor Drilling

**Casing:**

- 1) Diameter 5 inches
- 2) Type steel

**Screen:**

- 1) Type none
- 2) Static water level 180 feet

**Pump:**

- 1) Make McDonald
- 2) Model 21500R
- 3) Capacity 30 GPM

**Motor:**

- 1) Make Franklin
- 2) Model No. 2821139003
- 3) Horsepower rating 5 hp

**B. Works used to apply water to beneficial use:**

2<sup>ea</sup> 400 gallon pressure tanks operating at 55 psi.

**C. Compliance with Permit Requirements:**

- 1) Permit qualifications being abided by Y
- 2) Exceptions to compliance are: none

The system is in good condition with the point(s) of diversion located as follows: SW ¼ NW ¼ Sec 25-T3N-R6E, approximately 1865 feet south and 1005 feet east of the north west corner of section 25, N 44.19315 Latitude and W -103.34851 Longitude. The works are capable of diverting and conveying to the place of use 0.067 cu. ft. per second of water which is to be used for a common distribution system.

The license should be issued for 0.067 cfs.

All structures, wells and lands on map Y

Comments or other permit(s) associated with the project:



---

Mark Costello  
Natural Resources Engineer  
DENR, Water Rights Program

Date report completed: 06 November 2007



South Dakota

# 1497-1

Midland Heights Water & Service Co.  
PO Box 766  
Black Hawk, SD. 57718



*Mark Costello*

Mark Costello  
Natural Resources Engineer  
SDDENR, Water Rights  
06 November 2007

0 500 1,000 2,000 3,000 Feet





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

November 7, 2007

1497-1

Midland Heights Water & Service Co.  
c/o Garry V Zelfer, President  
PO Box 766  
Black Hawk SD 57718

Dear Mr. Zelfer:

On October 26, 2007 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 1497-1, was completed by Mark Costello, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak  
Water Rights Program  
(605) 773-3352

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/7, 20 07

RECEIVED OF Midland Heights Water & Service Co PO Box 766 Black Hawk SD 57718

The following amount in fees for services rendered as provided for by law:

|                                                                                                                |       |       |
|----------------------------------------------------------------------------------------------------------------|-------|-------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 50    | 00    |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                   |       |       |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                         |       |       |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>1497-1</u>    |       |       |
| Fee for Filing Transfer Form _____                                                                             |       |       |
| Fee for _____                                                                                                  |       |       |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |       |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                             |       |       |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         |       |       |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |       |
| (Any Other Work Provided by Law)                                                                               | TOTAL | 50 00 |

No.

03227

By

*Garland Erbe*  
Chief Engineer

*72*



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

JAN 28 2009

1497-1

Midland Heights Water & Service Co  
Garry V Zelfer President  
PO Box 766  
Black Hawk SD 57718

Dear Mr. Zelfer:

Enclosed is Water License No. 1497-1. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 03227 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 1497-1, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program  
(605) 773-3352

enclosures

## STATE OF SOUTH DAKOTA

### WATER LICENSE NO. 1497-1

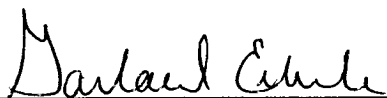
(1) Midland Heights Water & Service Co., Garry V Zelfer, President, PO Box 766, Black Hawk SD 57718 made Application No. 1497-1, July 31, 1990 for a water permit to divert 0.09 cubic feet of water per second from groundwater (one well), Meade County, South Dakota for common distribution system purposes. Permit No. 1497-1, with a priority date of July 31, 1990 was approved May 5, 1999 and issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 1497-1 is issued a license, bearing a priority date of July 31, 1990 to appropriate 0.067 cubic feet of water per second from groundwater (one well) for common distribution system use by the water service company.

The diversion point is located: 1,865 feet south and 1,005 feet east of the northwest corner of Section 25-T3N-R6E (SW ¼ NW ¼).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 1497-1 including the following now applicable qualification:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.



Garland Erbele, Chief Engineer  
Water Rights Program  
Department of Environment and Natural Resources

JAN 28 2000

date

