

Considered: _____

WATER PERMIT NO. 1512-1

Phone: 787-6349

Name of Applicant: Elk Creek Steakhouse Lounge

Post Office Address: Box 409, Piedmont SD 57769

Amount of Water Claimed: 10 gpm Total Acres: _____

Source of Water Supply: groundwater

Water to be used for: commercial County: Meade

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C/.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY Date Received: 2-26-91 Fee: \$50.00 Remarks _____

Corrected Application Received _____ 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: NE 1/4 NE 1/4 Sec 15-T3N-R6E

Land to be Irrigated: _____

				Ⓢ	
			15		

Well Log: Driller: Downen Drilling Licensed YES X NO _____

Depth of Well: 640' REMARKS _____

Type of Map: aerial PREPARED BY: J.L. Johnston Reviewed and the Number

Assigned on 3-4-91 By Karen Schlaak

**SOUTH DAKOTA
WATER PERMIT No. 1512-1**

Date of first receipt of application February 26, 1991.
Date of return to applicant for corrections, amendments or changes
February 26, 1991.
Date of receipt of corrected application March 7, 1991.

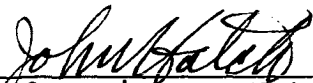
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1512-1 to Elk Creek Steakhouse Lounge, Tom Gunderson, Box 409, Piedmont SD 57769 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1512-1 appropriates 0.022 cubic feet of water per second (10 gallons per minute) from one well (Minnelusa Formation) 640 feet deep located in the NE 1/4 NE 1/4 Section 15-T3N-R6E.
2. The water appropriated shall be used for the purpose of supplying water to the steakhouse and lounge and may not exceed the amount of water needed for beneficial use for commercial purposes.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date of approval of Permit No. 1512-1 is May 22, 1991.
5. The date from which applicant may claim right is February 26, 1991.
6. 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: 
Chief Engineer, Water Rights Division
Department of Environment and Natural Resources

SEP 18 1991
date

Mail to: Water Rights Div.
523 E. Capitol
Pierre, SD 57501
(605) 773-3352
57785 (Wed)

No. 1512-1 Hydrologic Unit 10120111
Map No. Upper Cheyenne Basin
Newspaper Meade Co Times-Tribune, Box 69, Sturgis,

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

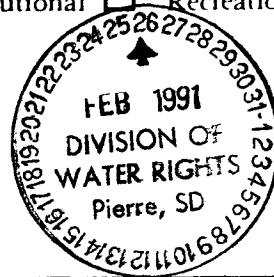
New ☒ Vested Right ☒ Future Use ☐ Change Use ☐

☐ 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 Elk Creek Steakhouse Lounge Phone No. 787-6349

Post Office Address Box 409 Piedmont SD State 57769
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s) 0.02 cfs ~~from~~ 10 gal per min

3. Source of water supply Well

4. Location of point of diversion NE 1/4 NE 1/4 Sec 15-T3N-R6E

County Meade

5. Counties where water will be used Meade

6. Annual period during which water is to be used year around Jan 1-Dec 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, Don Anderson 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.

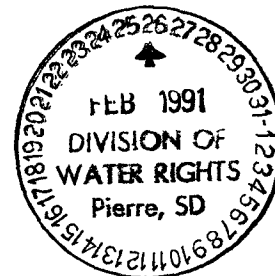
Signed Don Anderson

Subscribed and sworn to before me this 24 day of Feb 19 91

Stacy Roselle
Notary Public

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 8" Depth 640
- b) Casing Type steel Diameter 6 Thickness 1/4"
- c) Screen Type no Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material Free Flowing
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property no On property owned by others 1000 yard

2. Dugout Information Estimates

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

3. Water Storage Dams

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 _____

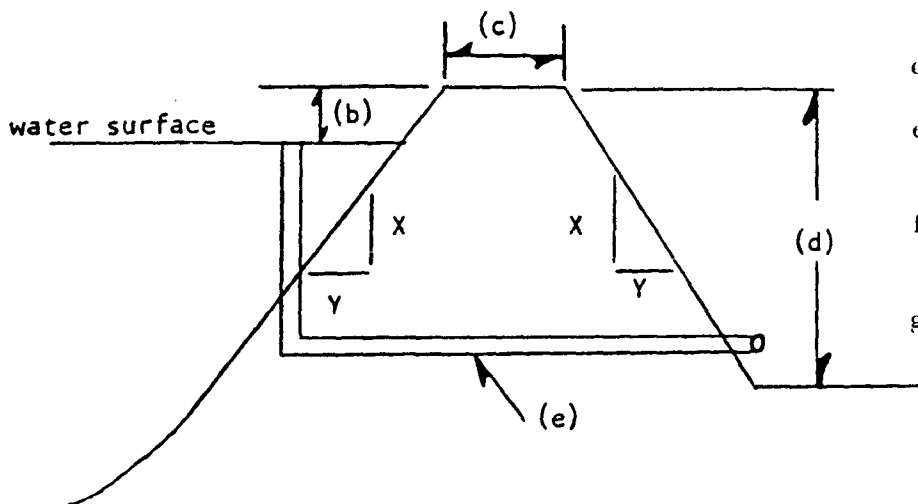
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant _____

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412557

Pierre, February 28, 1991

RECEIVED OF Holly Aunderson, (Elk Creek) I-90 at Elk Creek Rd, Piedmont, SD
the following amount in fees for services rendered as provided for by law: 57769

Fee for Application for Permit No. <u>1512-1</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

Chief Engineer

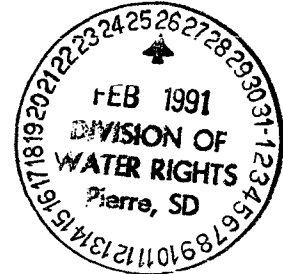
John Hald



GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES

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



November 18, 1990

ELK CREEK STEAKHOUSE
JEAN GUNDERSON
BOX 267
PIEDMONT SD 57769

Dear MS. GUNDERSON:

I am contacting you regarding the possibility that your facility needs to obtain a permit to appropriate water. We have reviewed our records based on information received from the Office of Drinking Water and can not locate a water permit for your facility.

The enclosed "Summary of South Dakota Water Law and Water Right Information" provides general information regarding what uses of water in South Dakota need to be permitted. Activities that require permits are listed under item 7 in the enclosed summary. Domestic uses of water that do not require permits are listed under item 5. Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit to use water in South Dakota for any purpose other than domestic uses defined by SDCL 46-1-6(4). In addition, any water user without a water permit receives no protection if a new or future water user who is permitted adversely affects your water supply.

Enclosed are application forms and an instruction sheet for preparing a water permit application. Please complete the application and submit it with the required fee to the "Water Rights Division, Joe Foss Building, 523 E. Capitol, Pierre, SD 57501" by January 31, 1991. If you have questions or need assistance contact Regan Fanning, Natural Resources Analyst (605-773-3352).

Very truly yours,

Ron Duvall
Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division

enclosure



DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 26, 1991

Elk Creek Steakhouse Lounge
Tom Gunderson
Box 409
Piedmont SD 57769

Dear Mr. Gunderson:

In regard to your water permit application received on February 26, 1991, a few additions have been made to your application. On Item No. 4, it appears that the location of the point of diversion (place where the well is located) is the NE 1/4 NE 1/4 Section 15-T3N-R6E. Please review these additions, and contact us if you do not agree with them.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

Conversation or File Documentation

NAME OF PERSON OR FILE: Elk Creek Stakehouse - Tom Lunderson

ADDRESS: _____ COUNTY _____

DATE: 3/7/91 TELEPHONE _____RE: application

COMMENTS:

Mr. Lunderson stated that the NE 1/4 NE 1/4
Sec 15-T3N-R6E was correct. He also added
it was be Lot A of NE 1/4 NE 1/4. I told him we
only needed it ~~back~~^{to} the quarter-quarter

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: Karen Schlaack

REPORT ON WATER PERMIT APPLICATION No.1512-1
ELK CREEK STEAKHOUSE
MARCH 27, 1991

Water Permit Application No. 1512-1 proposes to appropriate 10 gallons per minute (0.022 cubic feet of water per second) from one well 640 feet deep located in the NE 1/4 NE 1/4 Sec. 15, T3N-R6E. The water is for commercial use by the steakhouse and lounge.

AQUIFER: Minnelusa Formation

INTRODUCTION:

SDCL 46-2A-9 requires that a permit to appropriate water may only be issued 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.

WATER AVAILABILITY:

The Minnelusa Aquifer is composed of a varied assemblage of sandstone, limestone, dolomite, and shale, approximately 450 feet thick in this area. The Minnelusa underlies approximately 2,172,800 acres of Meade County and contains an estimated 81,480,000 acre-feet of recoverable water in storage in the county (Allen, 1984). The Minnelusa formation is overlain by 490 feet of sediments at this site. The aquifer is under confined conditions at this location, and the well information provided with this application indicates this well flows. The hydraulic characteristics of the Minnelusa Aquifer reflect the lithology of the formation and are therefore quite variable. Hydraulic conductivity estimates for the aquifer range from 2.4×10^{-5} to 1.4 ft/d, transmissivity estimates range from 30 to 1,000 ft²/d, and estimates of the Minnelusa's storage coefficient range from 6.6×10^{-5} to 2.0×10^{-4} (Kyllonen, 1987).

The Division of Water Rights currently monitors 15 observation wells completed into the Minnelusa Aquifer. The nearest Minnelusa observation well, (MD-84A), is located within 1/4 mile of this well. Records from the observation wells indicate the potentiometric surface of the aquifer fluctuates by several feet in response to seasonal and climatic variations. Water levels of MD-84A have declined approximately 23 feet since 1985. A downward trend of the water levels in recent years is probably indicative of recent low annual precipitation from 1986 to present. Observation well data suggests that existing development has not adversely affected water levels of the aquifer.

SDCL 46-6-3.1 states that no application to appropriate groundwater may be approved if, according to the best information reasonable 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.

Recharge to the Minnelusa aquifer occurs through: losses from streams as they cross the outcrop, direct infiltration of precipitations, and potentially from upward movement of water from the underlying Madison Limestone. Although distinct potentiometric surfaces exist in the Minnelusa and Madison aquifers, the lower portion of the Minnelusa formation, consisting primarily of limestone and dolomite, may represent a leaky confining layer over the underlying Madison. Average estimated annual recharge has not been quantified for the Minnelusa aquifer. However, observation well hydrographs suggest that the appropriation from the Minnelusa does not exceed the recharge to the aquifer.

EXISTING WATER RIGHTS

The upper portion of the Minnelusa aquifer is the most utilized aquifer in the eastern Black Hills. The aquifer is extensively used for domestic use. There are a total of 135 permits appropriating water from the Minnelusa aquifer in South Dakota, with 36 permits in Meade county. There are six existing water permits/rights within a one mile radius of this application.

<u>Permit</u>	<u>Name</u>	<u>Rate</u>	<u>Use</u>	<u>Source</u>
842-1	Anderson	1.00 cfs	IRR	MNLS
843-1	Wilburn	0.77 cfs	IRR	MNLS
989-1	Trail West	0.22 cfs	SHD	MNLS
1155-1	Wittinger	0.03 cfs	COM	MNLS
1902-2	Carol/JBar	0.01 cfs	COM	MNLS
*1507-1	Piedmont Baptist Church	0.022 cfs	INS	MNLS

*Pending application

The diversion rate proposed by this application is relatively small and the distance between wells is relatively large, therefore there is a reasonable probability existing rights will not be unlawful impaired.

CONCLUSIONS

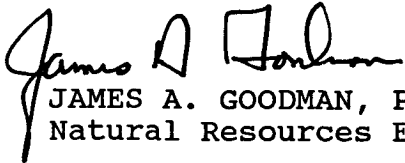
1. The Minnelusa Aquifer is a viable aquifer in this area and there is a reasonable probability that unappropriated water is available for this appropriation.
2. Appropriation from the Minnelusa Aquifer does not exceed recharge estimates for the Minnelusa.
3. There is a reasonable probability that the appropriation proposed by this application can be made without unlawful impairment of existing rights.
4. The well to be used to supply water for this permit has been in existence since 1979 with no reported controversy.

5. The well to be used to supply water for this permit to should be controlled to the amount of flow necessary.



KEN BUHLER
Natural Resources Engineer

approved by:



JAMES A. GOODMAN, P.E.
Natural Resources Engineer

BIBLIOGRAPHY

Allen, J.C., D. Iles, A. Petres, 1984, Analysis of Ground Water and Streamflow Data Western Dakotas Region of South Dakota, Tasks 3 & 4: Groundwater Resources Inventory, Department of Water and Natural Resources, Division of Geological Survey, Vermillion, South Dakota, 57069, U.S. Army Corps of Engineers Contract No. DAWC ;45-82-C-0151

Division of Water Rights, 1991a., "Observation Well Files", SD
DWNR-Division of Water Rights, Joe Foss Building, Pierre, SD,
57501

Division of Water Rights, 1991b., "Water Permit Files", SD
DWNR-Division of Water Rights, Joe Foss Building, Pierre, SD,
57501

Kyllonen, D.P., K.Peter, 1987, Geohydrology and Water Quality of the Inyan Kara, Minnelusa, and Madison Aquifers of the Northern Black Hills, South Dakota and Wyoming, and Bear Lodge Mountains, Wyoming, USGS Water-Resources Investigations Report 86-4158, Rapid City, South Dakota, 57701

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1512-1, Elk Creek Steakhouse Lounge

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. 1512-1, Elk Creek Steakhouse Lounge, Box 409, Piedmont, SD 57769.

The Chief Engineer is recommending APPROVAL of Application No. 1512-1 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) in the public interest with the following 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.

See report on application for additional information.

A handwritten signature in cursive script, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer
April 8, 1991



DEPARTMENT OF WATER & NATURAL RESOURCES

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

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

April 17, 1991

Tom Gunderson
Elk Creek Steakhouse Lounge
Box 409
Piedmont, SD 57769

Dear Mr. Gunderson:

Water Permit Application No. 1512-1 for commercial 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, the recommendation of the Chief Engineer and a report on the application are 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 Hearing 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. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



DEPARTMENT OF WATER & NATURAL RESOURCES

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

April 17, 1991

Meade County Times-Tribune
Box 69
Sturgis, SD 57785

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 1512-1 to be published twice. Please publish the first notice on April 24, 1991, 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 the Elk Creek Steakhouse, Box 409, Piedmont, SD 57769.

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. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund

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 April 24, 1991, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 1512-1 to Appropriate Water

Notice is given that the Elk Creek Steakhouse, Box 409, Piedmont SD 57769 has filed an application for a water permit to appropriate 10 gallons per minute from one well (Minnelusa Formation) 640 feet deep located in the NE 1/4 NE 1/4 Section 15-T3N-R6E. The water is for commercial use by the steakhouse and lounge.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1512-1 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. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition 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 Division, 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 13, 1991. 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.

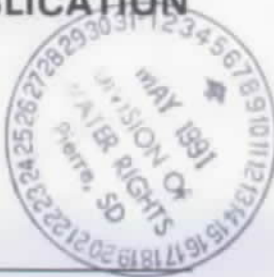
For purposes of publishing 1) the notice of hearing on Application No. 1512-1 and 2) the chief engineer's recommendation, a special Board meeting is scheduled for May 22, 1991, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre, SD. If this application is opposed or the recommendation is contested, the May 22, 1991, hearing date may be rescheduled for another Board meeting. If the hearing is rescheduled, notice of the time and place will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The May 22, 1991, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by May 13, 1991.

If a hearing is held, 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 hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County Meade) ss.



I, Sharon Allison
 certify that the attached printed Notice was taken
 from the Meade County Times

A newspaper which during the whole time of publication of
 said notice herein after stated, has been and is printed and
 published in the _____

City of Sturgis
 County of Meade and State of South Dakota;
 that the said notice was published in said newspaper on the
 following two dates:

Apr 24 1991
May 1 1991

Sharon Allison
 (Signature)
Billing Clerk
 (Title)
May 1, 1991
 (Date Signed)

Cost of Printing: 57⁰⁰

Application - 1512-1

Dept. of Water
 & Natural Resources
 Joe Foss Building
 523 East Capitol
 Pierre, SD 57501-3181

NOTICE OF HEARING
 on Application No. 1512-1
 to Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1512-1 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. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue a permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition 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 Division, 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 13, 1991. 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.

For purposes of publishing 1) the notice of hearing on Application No. 1512-1 and 2) the chief engineer's recommendation, a special Board meeting is scheduled for May 22, 1991, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre, SD. If this application is opposed or the recommendation is contested, the May

22, 1991, hearing date may be rescheduled for another Board meeting. If the hearing is rescheduled, notice of the time and place will be given by First Class Mail to the applicant and persons filing written objections to the petition.

Any person, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The May 22, 1991, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by May 13, 1991.

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This application is made pursuant to SDCL 46-1-1 thru 46-1-9.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

SEP 18 1991

Tom Gunderson
Elk Creek Steakhouse Lounge
Box 409
Piedmont, SD 57769

Dear Mr. Gunderson:

Enclosed is Water Permit No. 1512-1 authorizing construction of the water system and the application of water beneficial use, 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 Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

August 3, 1999

1512-1

Elk Creek Steakhouse Lounge
%Tom Gunderson
Box 409
Piedmont, SD 57769

Dear Mr. Gunderson:

The investigation of your water use system was conducted on July 12, 1999, by Ron Duvall, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit No. 1512-1. Your final water right document, the Water License, can now be issued.

Statutes require 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 begin processing your Water License.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

February 24, 2000

Permit No. 1512-1

REMINDER NOTICE

TO: Tom Gunderson, Elk Creek Steakhouse Lounge, Box 409, Piedmont, SD 57769

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Water License/Investigation Fee Requirement

On August 3, 1999, we advised you that a \$50.00 fee is due for the completed investigation of Water Permit No. 1512-1. The fee also covers issuance of your water license which is the final document in obtaining and perfecting a water right.

To date, we have not received the \$50.00 fee and the water license has not been issued. 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 any permit requirements.

Please remit the fee as soon as possible to obtain your water license. In addition, South Dakota water law does not allow water to be diverted until the license fee is paid. To avoid jeopardizing your ability to use water, please send the fee to the following address:

Department of Environment and Natural Resources
Water Rights Program
523 E Capitol
Pierre SD 57501-3181

Thank you for your prompt response. If you have any questions or believe our records are in error, please contact Genny McMath at (605) 773-3352.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

Nº 416442

Pierre, March 24, 2000

RECEIVED OF Elk Creek Steak Hous & Lounge, I-90 at Elk Creek Rd., Piedmont, SD 57769
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 _____

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. 1512-1

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

50 00

By

Chief Engineer

Harold Erbe

Permit No. 1512-1
Upper Cheyenne - 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, **July 12, 1999**, made a thorough examination of the water use system constructed by **Elk Creek Steakhouse Lounge c/o Tom Gunderson of Box 409, Piedmont SD 57769** holder of Permit No. **1512-1**, bearing the priority of **February 26, 1991** authorizing the diversion of **0.022** cu. ft. per second of the waters of **Minnelusa Formation** for **commercial** purposes, in **Meade** County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

Pump\Motor:

- 1) Make **Unknown Submersible**
- 2) Horsepower rating **2** hp

B. Works used to transport\apply water to place of use:

Water is used to supply the steakhouse and lounge.

The system is in the following condition **good**. The point of diversion is located **Well: $\approx$ 1,650 feet E and $\approx$ 1,500 feet N from center of section 15-T3N-R6E (NE $\frac{1}{4}$ NE $\frac{1}{4}$)**. The works are capable of diverting and conveying to the place of use **0.022** cu. ft. per second of water which is to be used for **commercial purposes**. Water has been put to beneficial use to the maximum extent and the license should be issued for **0.022** cfs.

Applicable permit qualifications have been complied with: Yes **X** No

Exceptions to compliance are: **none** Date report completed: **August 2, 1999**



Ron Duvall
Natural Resources Engineer
DENR, Water Rights Program

FIELD INVESTIGATION REPORT FOR PERMIT NO. 1512-1

DATE OF INVESTIGATION	July 12, 1999
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	
NAME & ADDRESS OF PERMIT HOLDER	Tom Gunderson (owner) Elk Creek Steakhouse Lounge Box 409 Piedmont SD 57769
DIVERSION POINT LEGAL LOCATION	Well: $\approx$ 1,650 feet E and $\approx$ 1,500 feet N from center of section 15-T3N-R6E (NE$\frac{1}{4}$NE$\frac{1}{4}$)

Other permit(s) associated with the project: none

WELL INFORMATION:

- 1) Well Drilling Firm: Downen Drilling
- 2) No. of Wells 1
- 3) Depth(s) 640 feet
- 4) Well log is available Y

Casing:

- 1) Length 640 feet
- 2) Type steel

Screen:

- 1) Type none

Pump\Motor:

- 1) Make Unknown Submersible
- 2) Horsepower rating 2 hp

DISTRIBUTION LINES OR CANALS:

Water is used to supply the steakhouse and lounge.

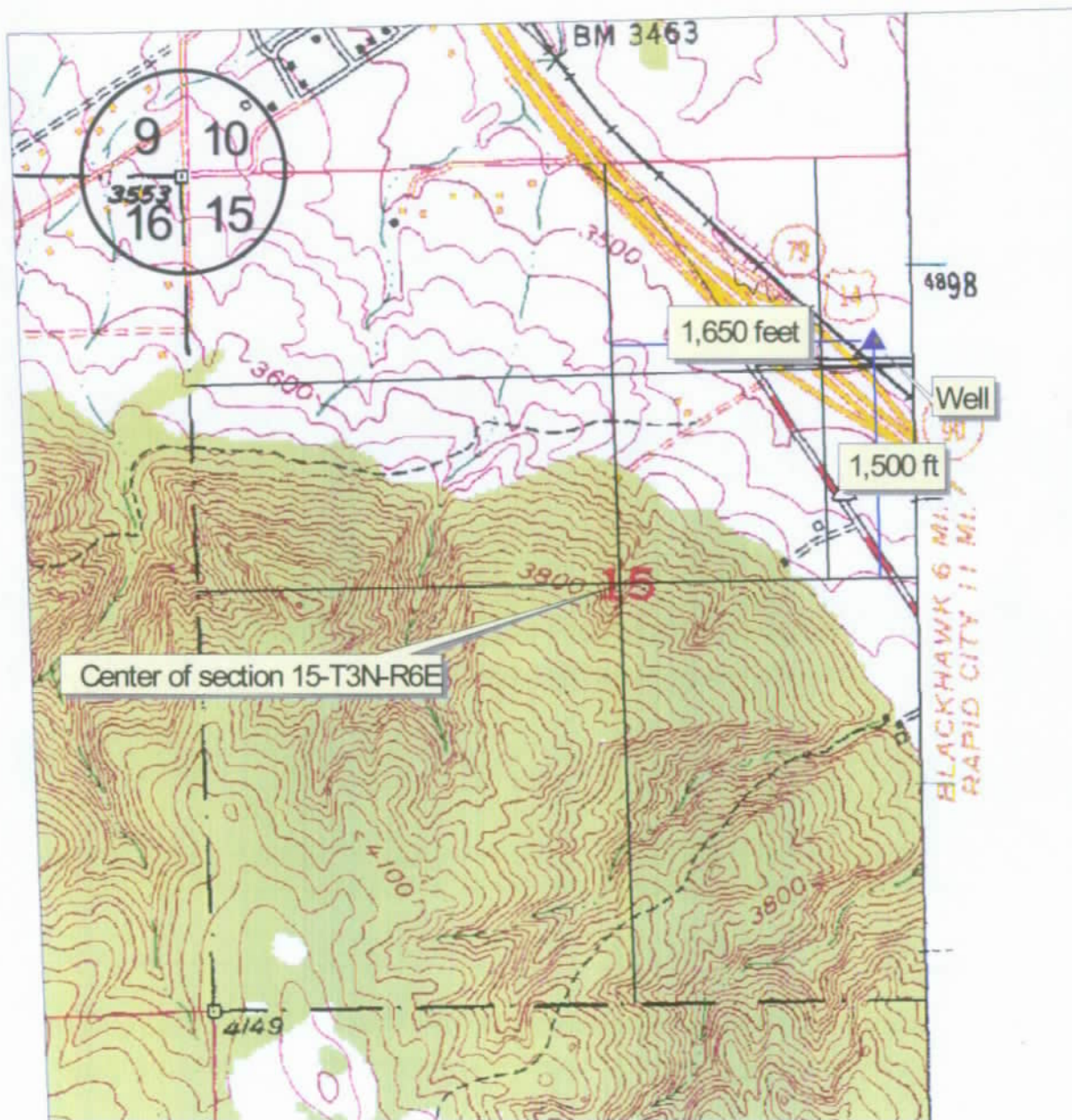
PERMIT QUALIFICATIONS:

- 1) Special qualifications to permit being abided by Y
- 2) All structures, wells and lands on map Y

1000 0 1000 Feet



Final inspection map for Water Right No. 1512-1, Elk Creek Steakhouse Lounge



Ron Duvall, Nat Res Engineer

August 2, 1999

Water Right No. 1512-1

STATE OF SOUTH DAKOTA

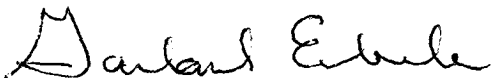
WATER LICENSE NO. 1512-1

(1) Elk Creek Steakhouse Lounge, c/o Tom Gunderson, Box 409, Piedmont SD 57769 made Application No. 1512-1, February 26, 1991 for a water permit to divert 0.022 cubic feet of water per second from groundwater (one well), Meade County, South Dakota for commercial purposes. Permit No. 1512-1, with a priority date of February 26, 1991 was approved May 22, 1991 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.022 cubic feet of water per second for beneficial use. The location of the diversion point is 1,650 feet east and 1,500 feet north from the center of Section 15-T3N-R6E (NE ¼ NE ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use at the steakhouse and lounge.

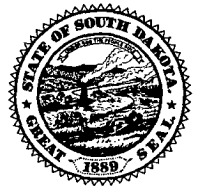
(4) Pursuant to South Dakota Water Law 46-5-30.1 Elk Creek Steakhouse Lounge, c/o Tom Gunderson, Box 409, Piedmont SD 57769 the holder and/or owner of Water Right No. 1512-1 is issued a license to appropriate water, the right to use 0.022 cubic feet of water per second from groundwater (one well) with a priority date of February 26, 1991 from the location specified in (2) of this license for commercial purposes. This license is subject to any limitations or qualifications listed in Water Right No. 1512-1 and subject to South Dakota State Law.



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

APR 10 2000

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

APR 10 2000

1512-1

Elk Creek Steakhouse Lounge
%Tom Gunderson
Box 409
Piedmont, SD 57769

Dear Mr. Gunderson:

Enclosed is Water License No. 1512-1. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416442 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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. 1512-1, 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

ks
enclosures

