

WATER PERMIT NO. 1681-1

Name of Applicant: John & Connie Niehaus

Address: 209 W Elgin, Spearfish SD 57783

Phone: 605 642-7609

Amount of Water Claimed: 0.1 cfs Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: commercial County: Lawrence

Type of Waste Disposal System: septic tanks

Location: northwest part of Spearfish

PRIORITY Date Received: 2-19-1999

Fee: \$50

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: NE ¼ NW ¼ (Lot 3)

Section 4-T6N-R2E

Land to be Irrigated: NA

Depth of Well: 332 feet deep

Well Driller:

Remarks:

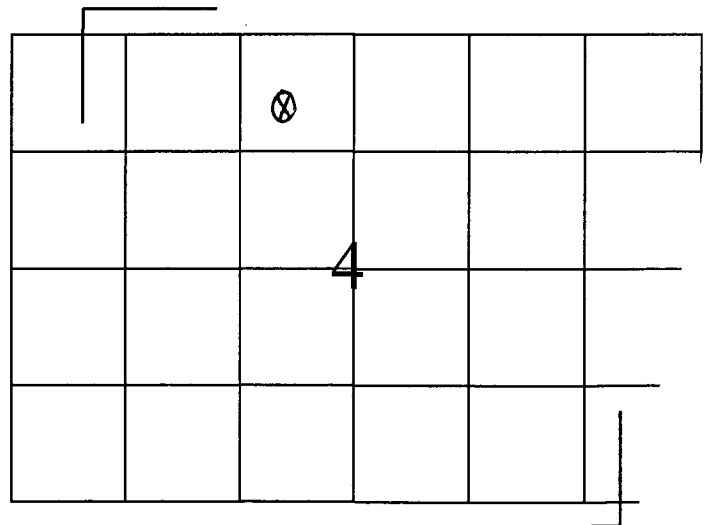
Type of Map: plat

Prepared by: James D Walker, RLS

Reviewed and the Number Assigned on: 2-19-1999

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 1681-1**

Date of first receipt of application February 19, 1999.

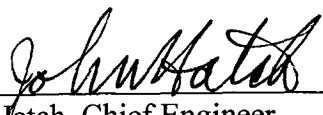
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1681-1 to John & Connie Niehaus, 209 W Elgin, Spearfish SD 57783 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1681-1 appropriates 0.1 cubic feet of water per second (45 gallons per minute) from one well (Minnekahta Limestone) 332 feet deep located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ (Government Lot 3) Section 4-T6N-R2E.
2. The water appropriated shall be used for the purpose of supplying water for commercial use and domestic use at homes on the property 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 of approval of Permit No. 1681-1 is May 17, 1999.
5. The date from which applicant may claim right is February 19, 1999.
6. One-fifth of the construction is to be completed on or before November 17, 2002.
7. All construction is to be completed on or before May 17, 2004.
8. Water is to be put to beneficial use on or before May 17, 2008.
9. 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

AUG 6 1999
date



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)	
	No. <u>1681-1</u>	Hydrologic Unit <u>10/20203</u>
	Basin <u>Belle Fourche River</u>	
	Newspaper <u>Black Hills Pioneer, Spearfish, SD</u>	



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

Check use(s) of water:

☐ Municipal	☒ Suburban Housing	☐ Recreational	☐ Institutional
☐ Rural Water System	☒ Commercial	☐ Fish & Wildlife	☐ Geothermal Heat
☐ Domestic (over 18 gpm)	☐ Industrial	☐ Other	

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____

- Name of Applicant John & Connie Niehaus Phone (605) 642-7609
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 209 W Elgin, Spearfish State SD 57783
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 0.1 *CFS or Homes 30 Approx (45) Shop 15 Approx **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
Lot 3, (NE1/4 NW1/4) of Section 4, T6N. R2E. BHM
County Lawrence County
- County or counties where water will be used Lawrence County
- Annual period during which water is to be used Year round Jan 1 - Dec 31

7. Give a description of the 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)

To construct (3) three home sites for homes. Double wide/single widw, and 1 42 X 80 shop. Homes will be occupied by family members and shop will have approximately four employees (family members). Building will have two (2) bathrooms. 1 female, 1 male. Showers, lavatory and stool in each. Should use less than 18 gallons per hour average

STATE OF SOUTH DAKOTA)

County of Lawrence)

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, John Niehaus, 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.

Applicant's signature John H Niehaus

Subscribed and sworn to before me this 18 day of February 19 99

Victor H. Starr
Notary Public signature

Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 6 inch Depth 332 feet
- b) Casing Type PVC Diameter 5½ inch Thickness 3/8 inch
- c) Screen Type Casing grouted to 298 feet Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material 298 cases 34 feet drilled into limestone
- f) Depth to Water (ground surface to water level) Flowing (Free) 15 GPM Approx
- g) Distance to nearest existing domestic well:
- On applicants property N/A On property owned by others 500 feet

2. Wastewater Disposai System Information

- a) Type of System (i.e. septic tank, drain field) 2 septic systems on the 8 acres
- b) System Capacity (gallons) (2) 1500 gal Year Constructed 1999
- c) Connected to the City of N/A Sanitary System

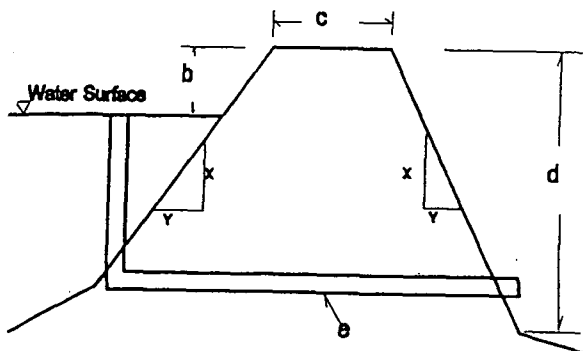
3. Dugout Information

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

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to 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 _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

№ 416047

Pierre, February 19, 19 99

Johnny Niehaus, 209 W Elgin, Spearfish SD 57783

RECEIVED OF

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

Fee for Application for Permit No. 1681-1 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. 1681-1

50 00

Fee for Filing Transfer Form

Fee for Filing Extension Request

Fee for

(Any Other Work Provided by Law)

Total

By

Chief Engineer

John Hatch
JOHN HATCH KS

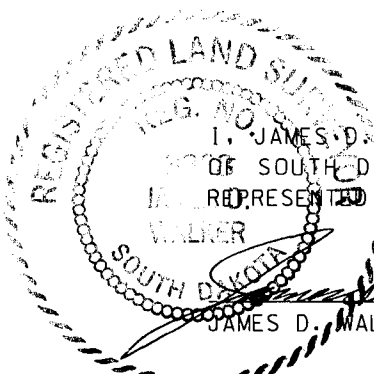
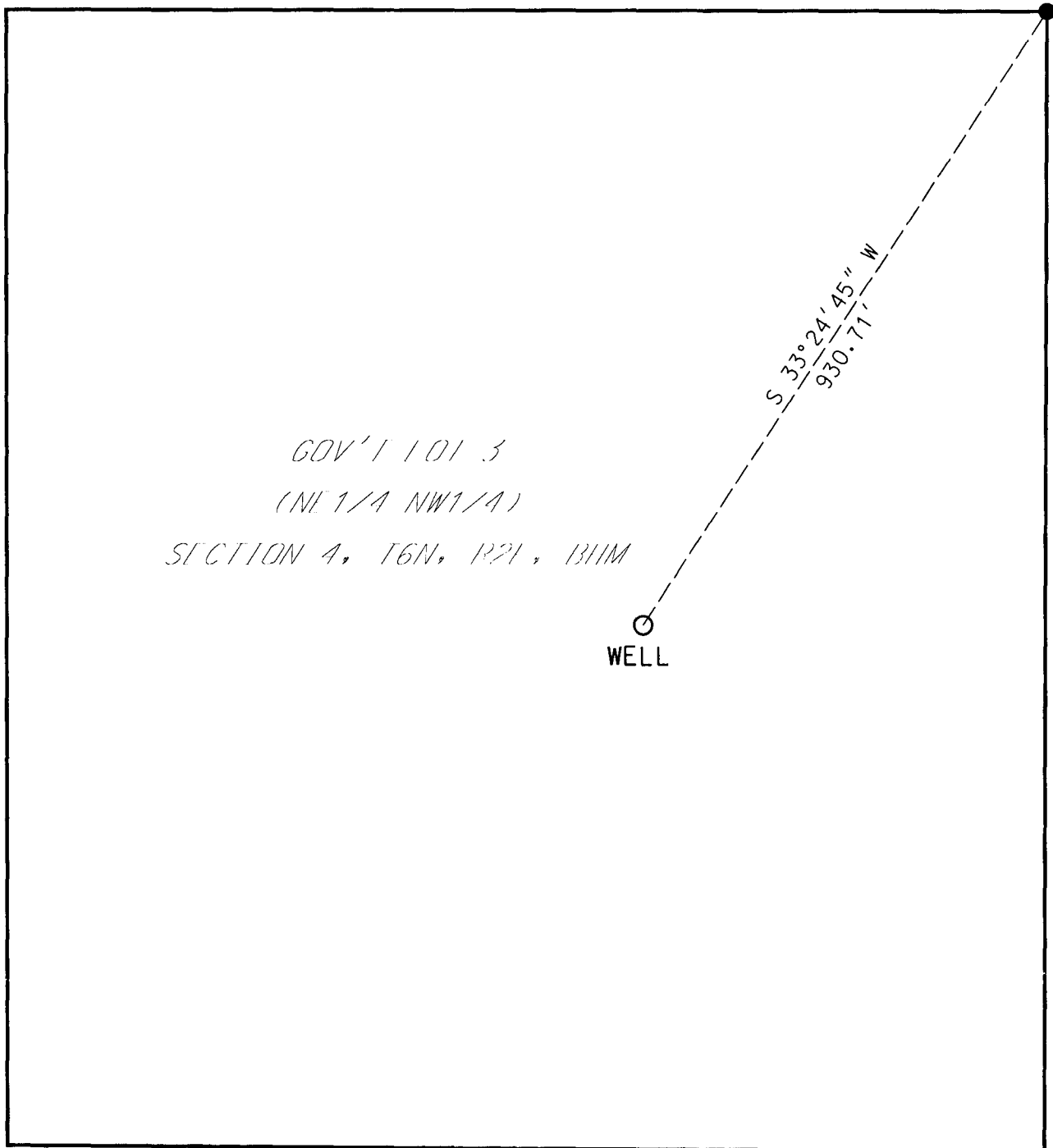
EXHIBIT "A"

MAP OF WELL LOCATION IN GOVERNMENT LOT 3
(NE1/4 NW1/4) OF SECTION 4, T6N, R2E, BHM
LAWRENCE COUNTY, SOUTH DAKOTA



SCALE: 1"=200'

NORTH 1/4 CORNER
SECTION 4, T6N, R2E, BHM



I, JAMES D. WALKER, REGISTERED LAND SURVEYOR #3328 IN THE STATE
OF SOUTH DAKOTA, DO HEREBY STATE THAT THE WELL LOCATION AS
REPRESENTED BY THIS DRAWING WAS SURVEYED UNDER MY SUPERVISION.

JAMES D. WALKER

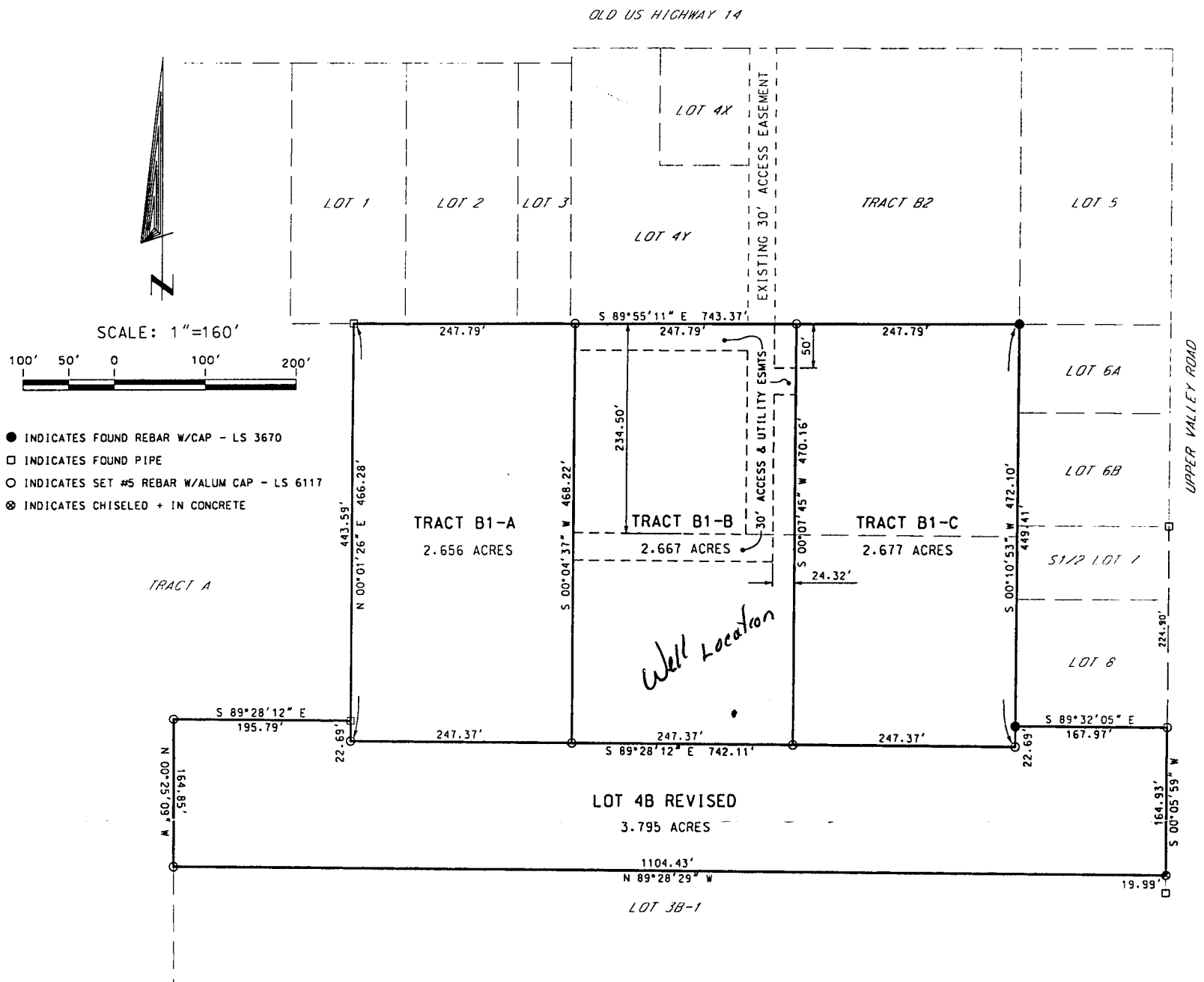
RLS 3328

PREPARED BY:

NJS ENGINEERING
SPEARFISH, SD 57783
P.O. BOX 226
(605) 642-4772
PROJECT #2871

1681-1

REPLAT OF
TRACT B1 AND LOT 4B
INTO
TRACT B1-A, TRACT B1-B, TRACT B1-C AND LOT 4B REVISED, ALL IN THE
NE1/4 NW1/4 (LOT 3) OF SECTION 4, T6N, R2E, BHM
LAWRENCE COUNTY, SOUTH DAKOTA



NOTES:

1. BASIS OF BEARINGS: SOLAR OBSERVATION.
2. PLAT OF TRACT B IS RECORDED AS DOCUMENT #91-1810.
3. PLAT OF LOT 4B IS RECORDED IN PLAT BOOK 3, PAGE 100.

CERTIFICATE OF OWNERSHIP
State of South Dakota County of Lawrence

We, Mearl E. Blosma and Lois M. Blosma, do hereby certify that we are the owners of the property shown and described hereon, that the plat was done at our request for the purposes indicated hereon and that we do hereby approve the within plat of said land. We further certify that development of this land will conform to all existing applicable zoning, subdivision, erosion and sediment control regulations.

OWNERS: Mearl E. Blosma Lois M. Blosma
Address: 369 Upper Valley Road, Spearfish, SD 57783

ACKNOWLEDGMENT OF OWNERSHIP
State of South Dakota County of Lawrence

On the _____ day of _____, 1999, before me, a Notary Public, personally appeared Mearl E. Blosma and Lois M. Blosma, known to me to be the persons described in and who executed the foregoing certificate and acknowledged to me that they signed the same.

My Commission Expires: _____
Notary Public

SURVEYOR'S CERTIFICATE

I, Robert A. Reiling, a Registered Land Surveyor in the State of South Dakota, on the basis of my knowledge, information and belief, certify to the above named Owner(s), that at the request of said Owner(s), the survey represented by this plat was made under my supervision, on the ground to the normal standard of care of Professional Land Surveyors practicing in the State of South Dakota. This survey does not constitute a title search to determine ownership or easements of record as performed by myself or by NJS Engineering.

Robert A. Reiling RLS #6117 Date _____

OFFICE OF THE ADMINISTRATIVE OFFICIAL
State of South Dakota County of Lawrence City of Spearfish

This plat is approved by the Administrative Official on this _____ day of _____, 1999.

Administrative Official Attest: Finance Officer

CERTIFICATE OF COUNTY TREASURER
State of South Dakota County of Lawrence

I, Marie Farrier, Lawrence County Treasurer, do hereby certify that the _____ taxes which are liens upon the lands platted hereon as shown by the records of my office, have been fully paid.

County Treasurer Date

OFFICE OF COUNTY DIRECTOR OF EQUALIZATION
State of South Dakota County of Lawrence

I, Darlene M. Piekkola, County Director of Equalization, hereby certify that I have received a copy of this plat.

County Director of Equalization: _____

OFFICE OF REGISTER OF DEEDS
State of South Dakota County of Lawrence

Filed for record this _____ day of _____, 1999, at _____ o'clock _____ M., and recorded as document _____.

Register of Deeds: _____

Plat Has been filed

PREPARED BY:
NJS ENGINEERING
P.O. BOX 226
SPEARFISH, SD
605-642-4712
PROJECT #2871

Individual Sewage Disposal Permit

OFFICE OF LAWRENCE COUNTY
ENVIRONMENTAL HEALTH DEPARTMENT
DEADWOOD, SOUTH DAKOTA 57732

Individual Sewage Disposal System Permit No. 314

Date JAN. 19, 1999

Building Permit No. yes

Permit Issued to: Name JOHN NIEHAUS

Address 209 W. Elgin Sprfh Phone 642-7609

Contractor DON HARMON Owner SAME

For installation of: Two new septic systems with two 1500 gal. septic tanks with risers to ground level. Drain fields to be 704 sq. ft. & 800 sq. ft. using 31 & 35 Sidewinder Infiltrator Chambers in dual trenches. Field depth to be 18 to 24 inches.

Located at: Service Rd. behind storage units.

LEGAL DESCRIPTION:

Subdivision of Lot 4B Tract B1 Block
Lot 4B Section NE 1/4 NW 1/4 OF 4 Township 6N Range 2E
Mineral Survey 8 acres H.E.S.

I hereby apply for the above sewage disposal system permit and acknowledge that this permit does not guarantee, warrant or in any way insure the operation, reliability or longevity of said system, the risk of which is strictly that of the applicant.

Johnny Niehaus
Applicant **JOHNNY NIEHAUS**

Individual Sewage Disposal System specifications have been submitted to, approved, by, and are on file at the Administrative Official's office located in the Lawrence County Courthouse.

Fee Paid \$ 200.00

Receipt # 0281

Dan Kuettle
Administrative Official **DAN KUETTLE**

SEWER INSPECTION CERTIFICATE

This certifies that the installation of the individual sewage disposal system has been inspected and based on the data provided by the applicant, conforms to the minimum requirements of South Dakota Department of Environmental Protection Guidelines.

Administrative Official

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1681-1, John and Connie Niehaus**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1681-1, John & Connie Niehaus, 209 W Elgin, Spearfish SD 57783..

The Chief Engineer is recommending APPROVAL of Application No. 1681-1 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) it is 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 14, 1999

WATER PERMIT APPLICATION NO. 1681-1
JOHN & CONNIE NIEHAUS
APRIL 13, 1999

Water Permit Application No. 1681-1 proposes to appropriate 0.10 cubic feet of water per second (45 gallons per minute) from one well (Minnekahta Limestone) 332 feet deep located in the NE¼ NW¼ (Government Lot 3) Section 4, T6N-R2E. The water is for commercial use and domestic use at homes on the property.

AQUIFER: Minnekahta Limestone (MNKT)

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. This report will address the issues of water availability and the affects on existing rights.

WATER SOURCE: Minnekahta Limestone (MNKT)

General Information:

Well completion information is not available for this well that has been recently completed. The supplemental information provided with this application indicates that the well is 332 feet deep, has 298 feet of casing grouted in place, and flows approximately 15 gpm. The depth of the well and the depth of casing suggest the well is completed into the Minnekahta Limestone.

The Minnekahta Limestone is a grayish-pink, laminated, limestone approximately 40 feet thick. The Minnekahta underlies an estimated 126,080 acres of Lawrence County and contains an estimated 315,200 acre feet of recoverable water in storage in the County (Allen, 1984). The aquifer is areally extensive around the Black Hills and is hydraulically connected into Wyoming to the west, Butte County to the north and Meade County to the east. The Minnekahta is confined and under artesian conditions at this site.

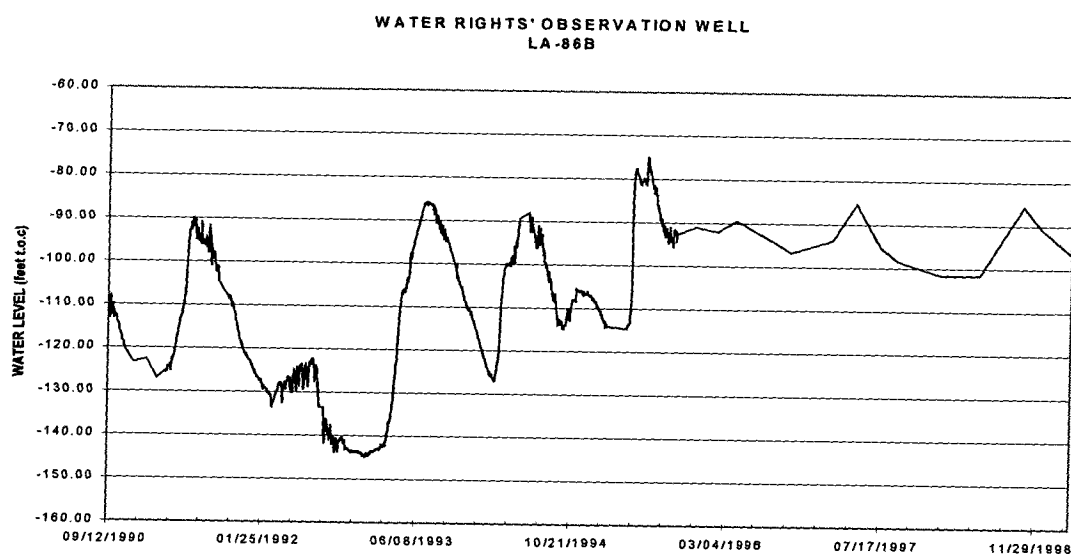
Water Availability:

The availability of unappropriated water from the Minnekahta Limestone in this area can be evaluated by considering SDCL 46-6-3.1. This statute requires that an application to appropriate groundwater can not be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of average estimated annual recharge.

Recharge to the Minnekahta Limestone in this area occurs through direct infiltration of precipitation falling on the outcrop (approximately 1.5 miles south-southwest of this well site), (Darton, 1925), and possibly from upward leakage from underlying aquifers. The average annual recharge has not been estimated for the Minnekahta Limestone in this area.

The Water Rights Program monitors four observation wells completed into the Minnekahta Limestone. LA-86B is approximately 1.5 miles west of this well. Measurements taken from the well indicate the water level fluctuates in response to seasonal and annual climatic conditions, that is the water level rises

in the spring and declines the rest of the year, and the water level is lower during drought years (figure 1).



In general, the Water level measurements suggest that withdrawals have not exceeded recharge over the period of record. Approval of this application will not cause withdrawals to exceed recharge.

Effects on Existing Water Rights:

The Minnekahta Limestone is a major source of water in this area. The Water Rights Program has record of several domestic wells in the Spearfish Area (Water Rights, 1999). There are 24 Water Rights/Permits appropriating water from the Minnekahta Limestone in South Dakota. There are 13 Minnekahta Water Rights/Permits within three miles of this well (Water Rights, 1999). Seven of these are located within one mile from this proposed project. It is not likely that this appropriation will have an adverse impact on water rights in the area since the requested diversion rate is relatively low and the distance to existing wells is sufficient to minimize any interference.

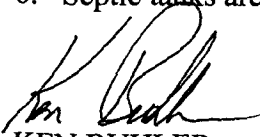
In 1979, Water Rights' staff dealt with a complaint, which involved interference between wells in this area. Withdrawals from the Minnekahta Limestone well authorized by Water Permit No. 1194-1 allegedly were affecting water levels in a nearby domestic well completed into the Minnelusa Aquifer, and a Minnekahta Limestone well used to supply Water Permit No. 952-1. The conclusion of the staff investigation stated that while the wells had lost the flow in their wells, sufficient water was still available to meet their needs with the aid of a pump.

Increased development from the Minnekahta aquifer in this area may result in more complaints regarding the loss of flow from wells. However, since water law does not protect artesian head pressure as a means of delivery, it is unlikely an adequate flowing well would be considered "Adversely Affected"

CONCLUSIONS:

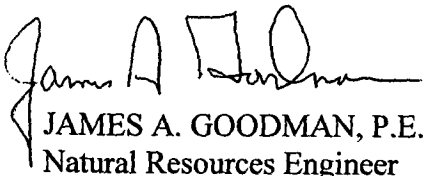
1. The Minnekahta Limestone is a viable source of groundwater in this area.
2. Recharge to the Minnekahta Limestone, which is through direct infiltration of precipitation, has not been quantified.

3. There is a reasonable probability that unappropriated groundwater is available from the Minnekahta Limestone in this area.
4. There are numerous domestic wells and wells supplying appropriate rights in this area.
5. This proposed appropriation should have no adverse affect on exiting water rights/permits due to the small diversion rate requested from the well.
6. Septic tanks are to be used for waste disposal.



KEN BUHLER
Natural Resource Engineer

approved by:



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

REFERENCES:

- Allen, J.C., D.Iles, A.Peters, 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
- Darton, N.H, S. Paige, 1925, Geologic Atlas of The United States, Central Black Hills Folio, South Dakota, Folio No. 219, Washington, DC
- Water Rights₁, 1999, Domestic Well Logs, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights₂, 1999, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights₃, 1999, Water Permit/Right Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

April 22, 1999

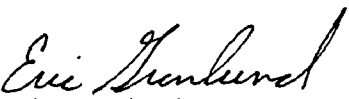
John and Connie Niehaus
209 W. Elgin
Spearfish, SD 57783

Dear Mr. and Ms. Niehaus:

Water Permit Application No. 1681-1 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 Black Hills Pioneer printed at Spearfish, SD (Ph # (605) 642-2761). 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 ENVIRONMENT
and NATURAL RESOURCES

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

April 22, 1999

Black Hills Pioneer
P.O. Box 7
Spearfish, SD 57783-0007

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 1681-1 to Appropriate Water to be published twice. Please publish the first notice on April 29, 1999, 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 APPLICANTS are John & Connie Niehaus, 209 W. Elgin, Spearfish, SD 57783 (Ph # (605) 642-7609).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CU T HERE-----

No. 1681-1

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

Date _____

We are in receipt of your letter of April 22, 1999, enclosing Notice of Hearing to Appropriate Water by Application No. 1681-1 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 29, 1999, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 1681-1 to Appropriate Water

Notice is given that John & Connie Niehaus, 209 W Elgin, Spearfish SD has filed an application for a water permit to appropriate 0.1 cubic feet of water per second (45 gallons per minute) from one well (Minnekahta Limestone) 332 feet deep located in NE ¼ NW ¼ (Government Lot 3) Section 4-T6N-R2E. The water is for commercial use and domestic use at homes on the property.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1681-1 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 17, 1999.

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

Affidavit of Publication

STATE OF SOUTH DAKOTA)
COUNTY OF LAWRENCE

Billy T. Masterson, Jr. of said County and State being first duly sworn, on his oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Billy T. Masterson, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and That I, Billy T. Masterson, Jr., the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

#633 Notice of Hearing on Application No 1681-1

a printed copy of which is hereto attached, was printed and published in said newspaper for 2 successive and consecutive weeks, the first publication being made on the 29th day of April 1999, and the last publication on the 6th day of May, 1999, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 58.75, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

[Signature]
Subscribed and sworn to before me this 6th day of May, 1999.

[Signature]
Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2004



NOTICE OF APPLICATION NO. 1681-1

To Appropriate Water

Notice is given that John & Connie Niehaus, 209 W Elgin, Spearfish SD has filed an application for a water permit to appropriate 0.1 cubic feet of water per second (45 gallons per minute) from one well (Minnekahta Limestone) 332 feet deep located in NE 1/4 NW 1/4 (Government Lot 3) Section 4-T6N-R2E. The water is for commercial use and domestic use at homes on the property.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1681-1 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 17, 1999.

The petition may be informal, but must include



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 6 1999

John & Connie Niehaus
209 W. Elgin
Spearfish, SD 57783

Dear Mr. and Ms. Niehaus:

Enclosed is Water Permit No. 1681-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Very truly yours,

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

enclosures

NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE



Date 8-15-99

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM: Johnny H. Nicholas
(name)

3020 BARRIER PLACE
(address)

Spanish SD 57783
(city, state, zip)

642-7600
605-644-1427
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 1681-1 states that the water use system is to be constructed by

JAN 99, and water is to be put to beneficial use by FEB 10, 99.
(date) (date)

The water use system was completed on JAN 1999.
(date)

Applying the water to beneficial use was completed on FEB 18 1999.
(date)

You may schedule an investigation so that the water license may be issued.

Johnny H. Nicholas
(signature)



Permit No. 1681-1
Belle Fourche 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, October 22, 2003, made a thorough examination of the water use system constructed by John and Connie Niehaus of 3020 Barrier Place, Spearfish, SD 57783 holder of Permit No. 1681-1, bearing the priority of February 19, 1999 authorizing the diversion of 0.10 cu. ft. per second of the waters of groundwater (Minnekahta Limestone) for commercial and domestic purposes, in Lawrence County.

Inspection contact & relationship to permit holder, if applicable: **John Niehaus**

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Ellingson Drilling
- 2) No. of Wells: one
- 3) Depth(s) 330 feet
- 4) Well log is available Yes
- 5) Comment:

Casing:

- 1) Diameter 5 inches
- 2) Length 298 feet
- 3) Type: PVC

Screen:

- 1) Type: None-open hole completion
- 2) Length of open hole interval 32 feet
- 3) Static water level +0 (flowing well) feet

Pump:

- 1) Make: Grundfos
- 2) Model: 16S30-24
- 3) Size: 5-inch
- 4) Capacity 16 GPM

Motor:

- 1) Make: Franklin Electric
- 2) Horsepower rating 3 hp

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

- 1) Type polyethylene
- 2) Size 2 inches

C. Works used to apply water to beneficial use:

Report of Examination of Works

Permit No. 1681-1

Water from the well is pumped to three houses for domestic use and to a shop for commercial use. In addition, overflow from the well flows to a lined 100' x 50' pond with a maximum depth of 6.5'. The ornamental pond has been stocked with fish for recreational purposes.

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A
- 3) Exceptions to compliance are: N/A

The system is in good condition with the point of diversion located as follows: 777' south and 2128' east of the NW corner of Sec. 4, T6N-R2E, (NW¼SE¼NE¼NW¼ Sec. 4, T6N-R2E) with a Latitude of 44.515772 and a Longitude of -103.882065. The works are capable of diverting and conveying to the place of use 0.036 cu. ft. per second of water which is to be used for domestic and commercial use. Water has been put to beneficial use and the license should be issued for 0.036 cfs.



Ken Buhler

Natural Resources Engineering Specialist
DENR, Water Rights Program

Date report completed: December 12, 2003

Water Right No 1681-1



0 385 770 1,540 Feet



Ken Butler

Ken Butler
Natural Resources Engineering Specialist
SD DENR, Water Rights Program
12/11/03

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1681-1

(1) John and Connie Niehaus, 3020 Barrier Place, Spearfish SD 57783 made Application No. 1681-1, February 19, 1999 for a water permit to divert 0.10 cubic feet of water per second from groundwater (one well), Lawrence County, South Dakota for commercial and domestic purposes. Permit No. 1681-1, with a priority date of February 19, 1999 was approved May 17, 1999 and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before May 17, 2004 and for the application to beneficial use of water on or before May 17, 2008.

The permit holders submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on August 17, 1999. The *Notice* stated the diversion system was completed January, 1999 and the water placed to beneficial use on February 18, 1999.

(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 holders and/or owners of Water Right No. 1681-1 is issued a license, bearing a priority date of February 19, 1999 to appropriate 0.036 cubic feet of water per second from groundwater (one well) for commercial and domestic purposes.

The diversion point is located: 777 feet south and 2,128 feet east of the northwest corner of Section 4-T6N-R2E (NE 1/4 NW 1/4).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 1681-1 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

Garland Erbele, Chief Engineer
Water Rights Program

Department of Environment and Natural Resources

JAN 14 2004

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

JAN 14 2004

1681-1

John & Connie Niehaus
3020 Barrier Place
Spearfish SD 57783

Dear Mr. & Ms. Niehaus:

Enclosed is Water License No. 1681-1. This is the final water right document completing your process of obtaining a Water Right.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

enclosures