

WATER PERMIT NO. 1872-1

Name of Applicant: City of Spearfish

Address: 625 5th St, Spearfish SD 57783

Phone: 605 642-1333

Amount of Water Claimed: 3,890 AF

Total Acres: NA

Source of Water Supply: Madison Aquifer

Water to be used for: municipal use

County: Lawrence

Type of Waste Disposal System:

Location:

PRIORITY Date Received: 11-13-2006

Application/License Fee: \$100

Corrected Application Received: 11-20-2006

Period of Annual Use: January 1 – December 31

Remarks: Future Use Application for the City

Diversion Point:

Land to be Irrigated:

Depth of Well:

Well Driller: :

Remarks:

Type of Map: plat

Prepared by: Kyle D Mathis, PE

Reviewed and the Number Assigned on: 11-20-06

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

RECEIVED
NOV 13 2006
WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>1872-1</u> (office use only) Hydrologic Unit <u>101 20203</u>
	Basin <u>Belle Fourche River</u>
	Newspaper <u>Black Hills Pioneer Spearfish</u>
	<u>605-642-2761</u> <u>8057283</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: (check one)

- ☐ New ☐ Vested Right (Use predates Mar 2, 1955) ☒ Future Use Reservation
☐ 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 City of Spearfish Phone (605) 642-1333
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 625 5th Street Spearfish State SD 57783
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 5.410 *CFS or 2,430 **GPM 3,890.00 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Madison Aquifer
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Lawrence
The City Limits of Spearfish and the areas within the Joint Powers Agreement between the City of Spearfish and Lawrence County which are annexed during the period of this permit. (See attached sheet)
- County or counties where water will be used Lawrence
- Annual period during which water is to be used January/ December 31
- 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)

The City of Spearfish is seeking a Future Use Reservation for our growing community.

STATE OF SOUTH DAKOTA)

County of Lawrence) SS

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, Jerry A. Krambeck, 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 Jerry A. Krambeck

Subscribed and sworn to before me this 8th day of November 20 06

Bonnie S. Klunder
Notary Public signature

City of Spearfish application

From the area outlined on the map, the proposed future use area will include the following:

- Sections 10, 15, 22, 26-29, 31-35 and W $\frac{1}{2}$ Section 36; all in T7N-R2E
- Sections 1-18, E $\frac{1}{2}$, NW $\frac{1}{4}$ Section 19, Sections 20-29, 32-36; all in T6N-R2E
- S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 4, Sections 7-9, W $\frac{1}{2}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, Sections 15-22, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23, Sections 27-33, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 34; all in T6N-R3E.

SOUTH DAKOTA
FUTURE USE PERMIT NO. 1872-1

Date of first receipt of application November 13, 2006.

Date of return to applicant for corrections, amendments or changes November 14, 2006.

Date of receipt of corrected application November 16, 2006.

The Water Management Board approved Future Use Permit No. 1872-1 on March 7, 2007 for City of Spearfish, 625 5th St, Spearfish SD 57783 subject to the following limitations, conditions and qualifications:

1. Future Use Permit No. 1872-1 reserves 3,890 acre-feet annually from the Madison Aquifer. The area to be reserved for future water use is Sections 10, 15, 22, 26-29, 31-35 and W 1/2 Section 36; all in T7N-R2E; Sections 1-18, E 1/2, NW 1/4 Section 19, Sections 20-29, 32-36; all in T6N-R2E; S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 4, Sections 7-9, W 1/2, SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 14, Sections 15-22, N 1/2 NW 1/4 Section 23, Sections 27-33, E 1/2, E 1/2 NW 1/4, NW 1/4 NW 1/4, E 1/2 SW 1/4 Section 34; all in T6N-R3E.
2. The water appropriated shall be used for the purpose of future municipal water supplies for the City of Spearfish 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 November 13, 2006.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Permit No. 1872-1 reserves 3,890 acre feet of water annually from the Madison Aquifer.
2. That Future Use Permit No. 1872-1 is approved with the stipulation that this Permit is subject to review by the Water Management Board in developing reserved water upon expiration of seven (7) years. This Permit shall be subject to cancellation if the Water Management Board determines during the review that the holder cannot demonstrate a reasonable need for the Permit.
3. At such time as definite plans are made to construct works and put the water reserved by this permit to beneficial use, specific application for all or any part of the reserved water must be submitted and approved prior to construction of facilities pursuant to SDCL 46-5-38.1 with particular attention given to flows of Higgins Gulch Spring and Old Spearfish Hatchery Spring.

WATER MANAGEMENT BOARD

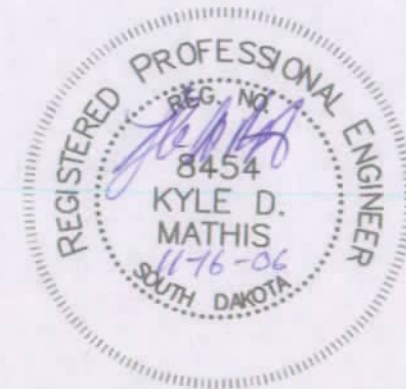
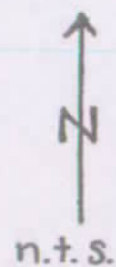
By: Garland Erbele

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

APR 30 2007

date

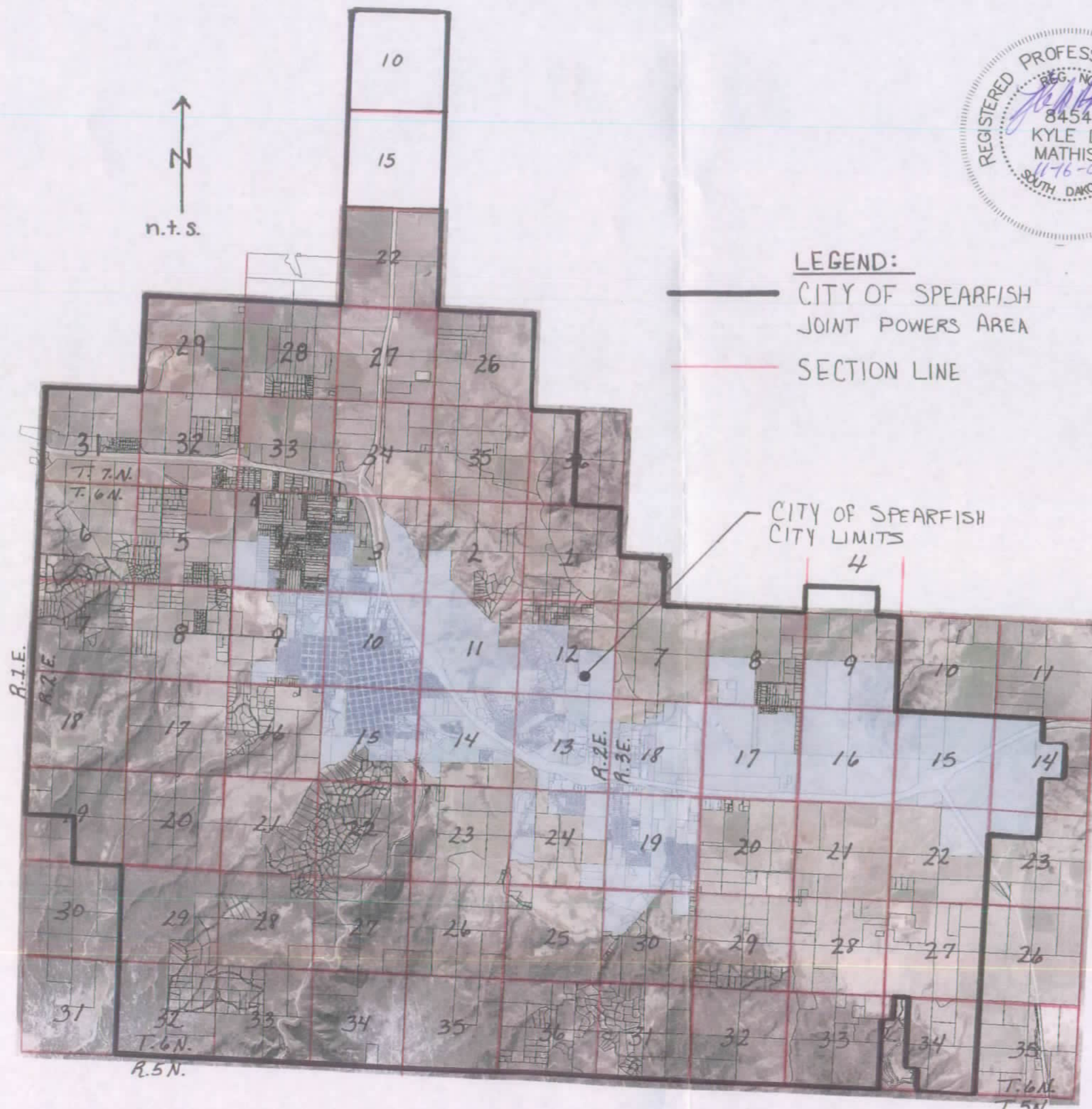




LEGEND:

— CITY OF SPEARFISH
JOINT POWERS AREA

— SECTION LINE



Monthly Pumping Totals vs Consumption

Year 2003

	Wells								Meters				
Month		Dickey	Ellingson	Vigna	Nevin	Kyte	Total Pump	Daily Ave		Bulk	Com/Res	Total Cons.	% Acct
January	129,500	4,461,600	28,728,500	2,068,300	0	0	35,387,900	1,179,597	0	2,200	23,056,200	23,058,400	65
February	484,100	5,899,800	26,759,400	0	0	0	33,143,300	1,104,777	0	0	22,593,000	22,593,000	68
March	0	5,516,700	30,059,800	0	0	0	35,576,500	1,185,883	0	6,500	23,828,000	23,834,500	67
April	452,500	7,287,900	28,929,500	0	0	0	36,669,900	1,222,330	0	51,700	24,809,000	24,860,700	68
May	4,083,200	10,602,000	28,779,500	0	0	0	43,464,700	1,448,823	7,000	0	23,362,000	23,369,000	54
June	1,087,400	17,916,200	18,985,200	10,502,600	0	0	48,491,400	1,616,380	92,000	81,500	31,881,000	32,054,500	66
July	26,395,600	25,621,200	29,624,100	21,724,700	0	0	103,365,600	3,445,520	6,439,000	82,625	47,627,000	54,148,625	52
August	35,977,000	22,186,400	31,804,400	24,330,800	0	0	114,298,600	3,809,953	6,284,700	115,000	78,772,000	85,171,700	75
September	18,144,200	0	28,593,300	18,794,500	0	0	65,532,000	2,184,400	1,485,200	610,958	53,859,000	55,955,158	85
October	6,385,200	0	28,459,100	10,131,400	0	0	44,975,700	1,499,190	1,214,100	56,125	33,067,000	34,337,225	76
November	80,500	0	24,942,100	6,685,100	0	0	31,707,700	1,056,923	0	6,100	17,441,000	17,447,100	55
December	0	0	25,127,000	6,567,100	0	0	31,694,100	1,056,470	0	110,110	29,640,000	29,750,110	94
Water Right#	1452-1	579-1	1003-1	1229-1A	1579-1	1359-1							
Yearly Total	93,219,200	99,491,800	330,791,900	100,804,500	0	0			15,522,000	1,122,818	409,935,200	426,580,018	68
Monthly Max	35,977,000	25,621,200	31,804,400	24,330,800	0	0	114,298,600		6,439,000	610,958	78,772,000	85,171,700	
Monthly Ave	7,768,267	8,290,983	27,565,992	8,400,375	0	0	52,025,617	1,710,431	1,293,500	93,568	34,161,267	35,548,335	

Annual Exp \$925,748.73 **Production Costs =** \$1.48 /1000 gal
 624,307 1000gal/pumped

Accounts as of 12/31/06 3,272

Well Prod	1200 GPM	650 GPM	650 GPM	525 GPM	2200 GPM	500 GPM
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Source- All Madison Wells Storage- 3.892 MG

Winter Ave	1,180,473
Summer Ave	2,287,901

College Irr Charge	\$21,265.14
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EPA ID 0311

City of Spearfish

Monthly Pumping Totals vs Consumption

Year 2004

Month	Wells						Total Pump	Daily Ave	Meters			Total Cons.	% Acct
		Dickey	Ellingson	Vigna	Nevin	Kyte				Bulk	Com/Res		
January	242,600	0	25,089,900	6,979,300	0	6,500	32,318,300	1,077,277	0	130,000	23,288,000	23,418,000	72
February	0	0	24,594,900	6,534,400	0	0	31,129,300	1,037,643	0	0	22,742,000	22,742,000	73
March	217,406	0	24,898,200	7,277,000	0	0	32,392,606	1,079,754	0	152,500	21,615,000	21,767,500	67
April	231,200	0	27,831,000	8,779,000	0	0	36,841,200	1,228,040	126,000	81,000	26,161,000	26,368,000	72
May	15,173,300	0	20,899,300	11,747,700	0	0	47,820,300	1,594,010	1,202,000	97,940	38,489,000	39,788,940	83
June	39,407,900	0	19,118,300	17,380,300	0	0	75,906,500	2,530,217	5,583,000	138,400	40,494,000	46,215,400	61
July	41,472,700	0	18,213,000	17,417,000	0	0	77,102,700	2,570,090	4,295,600	82,000	42,541,000	46,918,600	61
August	31,619,000	23,021,200	15,512,000	20,986,000	0	0	91,138,200	3,037,940	4,303,600	87,325	69,601,000	73,991,925	81
September	32,697,000	7,495,400	16,105,800	19,497,600	0	0	75,795,800	2,526,527	2,493,000	2,532,585	56,143,000	61,168,585	81
October	17,924,900	0	16,713,200	13,266,400	0	0	47,904,500	1,596,817	2,009,100	119,675	38,910,000	41,038,775	86
November	0	0	24,440,000	9,451,000	0	0	33,891,000	1,129,700	0	89,250	24,209,000	24,298,250	72
December	0	0	27,672,800	13,121,000	0	0	40,793,800	1,359,793	0	140,125	25,012,000	25,152,125	62
Water Right#	1452-1	579-1	1003-1	1229-1A	1579-1	1359-1							
Yearly Total	178,986,006	30,516,600	261,088,400	152,436,700	0	6,500			20,012,300	3,650,800	429,205,000	452,868,100	73
Monthly Max	41,472,700	23,021,200	27,831,000	20,986,000	0	6,500	91,138,200		5,583,000	2,532,585	69,601,000	73,991,925	
Monthly Ave	14,915,501	2,543,050	21,757,367	12,703,058	0	542	51,919,517	1,706,943	1,667,692	304,233	35,767,083	37,739,008	

Annual Exp \$820,478.77 Production Costs = \$1.32 /1000 gal
 623,034 1000gal/pumped

Accounts as of 12/31/06 3,450

Well Prod	1200 GPM	650 GPM	650 GPM	525 GPM	2200 GPM	500 GPM
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Source- All Madison Wells Storage- 3.892 MG

Winter Ave 1,213,497
 Summer Ave 2,247,804

\$27,416.85

EPA ID 0311

City of Spearfish

Monthly Pumping Totals vs Consumption

Year

2005

Month	Wells						Total Pump	Daily Ave	Meters			Total Cons.	% Acct
	Dickey	Ellingson	Vigna	Nevin	Kyte				Bulk	Com/Res			
January	107,700	104,550	27,687,400	16,906,400	0	0	44,806,050	1,493,535	0	0	22,032,000	22,032,000	49
February	0	6,050	23,429,800	9,369,540	0	0	32,805,390	1,093,513	0	107,625	23,875,000	23,982,625	73
March	106,040	61,860	24,563,300	10,630,460	0	0	35,361,660	1,178,722	0	180,700	22,191,000	22,371,700	63
April	594,160	2,437,740	25,409,500	12,130,300	0	0	40,571,700	1,352,390	0	41,800	25,595,000	25,636,800	63
May	368,700	964,600	29,536,300	12,918,700	0	0	43,788,300	1,459,610	1,775	199,400	26,418,000	26,619,175	61
June	1,122,400	7,961,700	28,086,500	15,871,300	0	0	53,041,900	1,768,063	1,304,025	196,100	43,968,000	45,468,125	86
July	13,638,100	31,360,600	30,388,400	21,177,300	13,146,400	5,724,700	115,435,500	3,847,850	9,031,300	932,250	62,013,000	71,976,550	62
August	0	26,365,000	26,883,120	17,238,000	16,402,000	10,682,000	97,570,120	3,252,337	4,171,400	132,002	75,178,000	79,481,402	81
September	203,200	26,451,100	4,230,680	18,002,000	23,685,000	11,150,500	83,722,480	2,790,749	4,868,400	147,600	60,379,000	65,395,000	78
October	527,200	14,020,900	14,708,200	10,878,000	0	0	40,134,300	1,337,810	426,000	1,156,700	37,394,000	38,976,700	97
November	565,700	3,403,200	18,798,000	9,703,000	0	0	32,469,900	1,082,330	0	409,850	25,471,000	25,880,850	80
December	0	13,026,500	10,902,400	10,289,000	0	0	34,217,900	1,140,597	0	37,950	22,552,000	22,589,950	66
Water Right#	1452-1	579-1	1003-1	1229-1A	1579-1	1359-1							
Yearly Total	17,233,200	126,163,800	264,623,600	165,114,000	53,233,400	27,557,200			19,802,900	3,541,977	447,066,000	470,410,877	72
Monthly Max	13,638,100	31,360,600	30,388,400	21,177,300	23,685,000	11,150,500	115,435,500		9,031,300	1,156,700	75,178,000	79,481,402	
Monthly Ave	1,436,100	10,513,650	22,051,967	13,759,500	4,436,117	2,296,433	54,493,767	1,791,576	1,650,242	295,165	37,255,500	39,200,906	

Annual Exp \$861,318.69 Production Costs = \$1.32 /1000 gal

653,925 1000gal/pumped

Accounts as of 12/31/06 3,605

Well Prod	1200 GPM	650 GPM	650 GPM	525 GPM	2200 GPM	500 GPM
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Winter Ave 1,221,084

Summer Ave 2,411,833

Source- All Madison Wells Storage- 3.892 MG

College Irr Charge

\$27,129.97

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date November 13, 20 06

RECEIVED OF City of Spearfish, 625 Fifth Street, Spearfish SD 57783

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	100	00
Fee for Application for Permit No. <u>18727</u> 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 _____		
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	100.00

No.

02623

By

Darland Ebele

Chief Engineer

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 14, 2006

Jerry Krambeck, Mayor
City of Spearfish
625 5th St
Spearfish SD 57783

Dear Mayor Krambeck:

Thank you for submitting the *Application for a Permit to Appropriate Water* for future use for the City of Spearfish. In order to complete the application the following is required.

Enclosed is the map submitted with the application. The map is being required because it must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties.

From the area outlined on the map it appears that the proposed future use area will include the following:

- Sections 10, 15, 22, 26-29, 31-35 and W ½ Section 36; all in T7N-R2E
- Sections 1-18, E ½, NW ¼ Section 19, Sections 20-29, 32-36; all in T6N-R2E
- S ½ SW ¼, SW ¼ SE ¼ Section 4, Sections 7-9, W ½, SW ¼ NE ¼, NW ¼ SE ¼ Section 14, Sections 15-22, N ½ NW ¼ Section 23, Sections 27-33, E ½, E ½ NW ¼, NW ¼ NW ¼, E ½ SW ¼ Section 34; all in T6N-R3E.

Do you concur with the locations listed above? They will be included in the public notice which we will prepare.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosure.

Schlaak, Karen

From: Tom Callaway [tomc@city.spearfish.sd.us]
Sent: Thursday, November 16, 2006 6:03 PM
To: Schlaak, Karen
Subject: Proposed Future Use Area

All the locations are correct. The map will be on its way tomorrow, sorry for the inconvenience.

Tom W Callaway
Environmental Services Manager
City of Spearfish
625 5th Street
Spearfish, South Dakota 57783
Ph 605-642-1333
Fax 605-642-1337
tomc@city.spearfish.sd.us

11/20/2006



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
APPLICATION NO. 1872-1, City of Spearfish**

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 Future Use Water Permit Application No. 1872-1, City of Spearfish, c/o Mayor Jerry A Krambeck, 625 5th Street, Spearfish SD 57783.

The Chief Engineer is recommending APPROVAL of Application No. 1872-1 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the applicant has demonstrated a reasonable need for the water reserved, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Permit No. 1872-1 reserves 3,890 acre feet of water annually from the Madison Aquifer.
2. That Future Use Permit No. 1872-1 is approved with the stipulation that this Permit is subject to review by the Water Management Board in developing reserved water upon expiration of seven (7) years. This Permit shall be subject to cancellation if the Water Management Board determines during the review that the holder cannot demonstrate a reasonable need for the Permit.
3. At such time as definite plans are made to construct works and put the water reserved by this permit to beneficial use, specific application for all or any part of the reserved water must be submitted and approved prior to construction of facilities pursuant to SDCL 46-5-38.1 with particular attention given to flows of Higgins Gulch Spring and Old Spearfish Hatchery Spring.

See report on application for additional information.

Garland Erbele, Chief Engineer

January 25, 2007

NOTE: This future use reservation will not fully appropriate the Madison Aquifer. Therefore, new water permit applications within the boundaries of the city's future use area will not be considered as temporary use permits as set forth is SDCL 46-5-39.

FUTURE USE PERMIT APPLICATION NO. 1872-1
CITY OF SPEARFISH
DECEMBER 12, 2006

Future Use Application No. 1872-1 proposes to reserve 3,890 acre-feet annually from the Madison aquifer. The area to be reserved for future water use is within the City Limits of Spearfish and the areas within the Joint Powers Agreement between the City of Spearfish and Lawrence County. This area includes Sections. 10, 15, 22, 26-29, 31-35 and the W ½ Section. 36; all in T7N-R2E; Section 1-18, E ½, NW¼ Section 19, Section 20-29, 32-36; all in T6N-R2E; S ½ SW¼, SW¼ SE¼ Section 4, Section 7-9, W ½, SW¼ NE¼, NW¼ SE¼ Section 14, Section 15-22, N ½ NW¼ Section 23, Section 27-33, E ½, E ½ NW¼, NW¼ NW¼, E ½ SW¼ Section 34; all in T6N-R3E, Lawrence County. The water is to be reserved for future municipal water supplies for the City of Spearfish. This application does not authorize construction of works of the application of water to beneficial use.

Pursuant to SDCL 46-2A-10 "A reservation for a future use may be approved only if there is a reasonable probability that unappropriated water is available for appropriation, that the quantity of water reserved will be needed by the entity and that the proposed use will be a beneficial use and in the public interest."

WATER AVAILABILITY

The probability of unappropriated water available for appropriation can be evaluated by considering SDCL 46-6-3.1 which requires that:

"No application to appropriate groundwater may 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 the average estimated annual recharge of water to the groundwater source."

Although this statute contains two exceptions which could apply to this application, namely exceptions for water distribution systems and for groundwater from formations older than or stratigraphically lower than the Greenhorn Formation; the principle of withdrawals not exceeding recharge is a reasonable benchmark to define water availability.

Aquifer: Madison aquifer (MDSN)

Aquifer Characteristics:

The Madison Limestone, locally known as the Pahasapa Limestone, is a fine to medium crystalline, cavernous limestone and dolomite. The Madison underlies approximately 314,880 acres of Lawrence County and contains an estimated 9,446,400 acre-feet of recoverable water in storage in the county (Allen and others, 1985). The Madison is laterally extensive and underlies much of the Western United States. The thickness of the Madison is estimated to be between 600 feet thick (Allen and others, 1985) and 900 feet thick (Carter and Redden, 1999a; and Carter and Redden, 1999b). The top of the Madison limestone is expected to vary from 120 and 1,800 feet below ground surface in the area specified by the application (Carter and Redden, 1999), see figure 1.

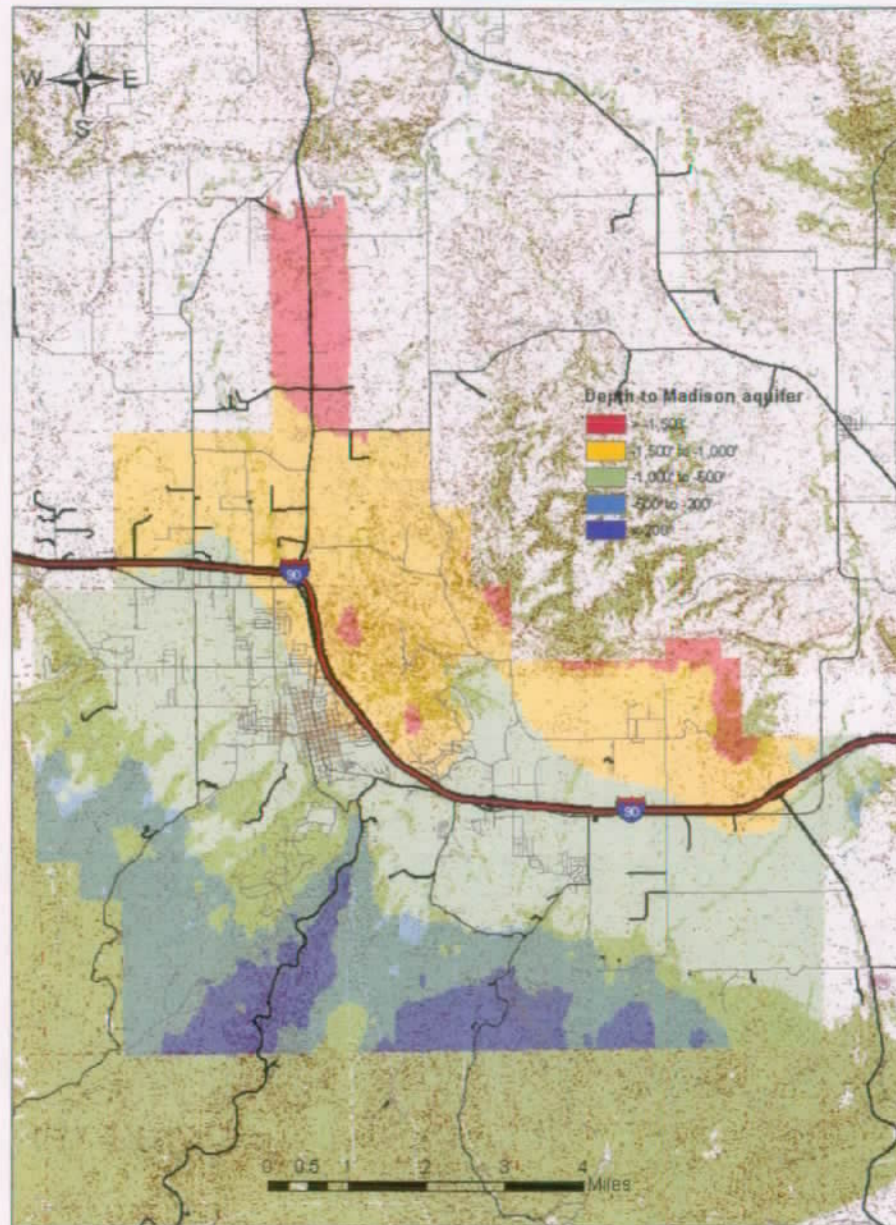


Figure 1. Depth to the top of the Madison Aquifer in the Future Use area proposed by 1872-1

The upper portion of the Madison Limestone is karstic, therefore it contains randomly distributed zones of secondary porosity and permeability formed by weathering of exposed surfaces, groundwater solution and fracturing, and is considered the Madison aquifer. The average porosity of the Madison is estimated to be 11% and the effective porosity from which recoverable water can be obtained by wells is assumed to be 5% (Rahn, 1979). The

water level is expected be between 800 feet below grade in the south to around 285 feet above grade, (i.e. flowing wells with around 250 psi shut-in pressure) in the north.

Some of the interpretation of historic data from the Spearfish-Belle Fourche area questions whether groundwater withdrawals exceed recharge. Cox, (1962) advised that the "approval to drill wells for irrigation use be held in abeyance until the extent of the overdraft can be determined". A water balance and examination of Water Rights' observation well data suggest that the Madison aquifer is not "being mined" in this area.

Water Balance:

The Madison is recharged through infiltration of precipitation falling directly on the outcrop area, possibly upward leakage from the Deadwood aquifer, and from streamflow losses. The estimated average annual recharge for the Madison aquifer in South Dakota ranges from 140,000 to 400,000 acre-feet annually (Woodward Clyde, 1981). Average annual recharge from 1931-1998 is estimated to be approximately 137,000 ac-ft/yr (Carter and others, 2001).

The high cost of Madison wells, except very near the outcrop, and the availability of groundwater from shallower aquifers, has limited domestic development and generally restricted usage from the Madison to those uses which require water rights. There are a total of 144 permits/rights which appropriate water from the Madison aquifer in South Dakota (Water Rights, 2006b). In addition, there are five future use permits (369-1 City of Belle Fourche, 1833-2 Weston Heights Home Owners, 2086-2 The City of Rapid City, 2560-2 Fall River Water User's District, and 2580-2 Southern Black Hills Water System) that reserve 8,202.8 acre-feet of water annually from the Madison aquifer. The majority of the water rights/permits from the aquifer are from Butte, Lawrence, Meade, Pennington and Fall River Counties. The Madison supplies water for irrigation, geothermal, industrial, and commercial use. However, by far the major use of the aquifer is for common distribution systems (suburban housing development and municipal use). The cities of Spearfish, Belle Fourche, Sturgis, Rapid City, Box Elder, and Edgemont all depend on water from the Madison aquifer.

If the worst case assumptions are made that (1) permits/rights with an annual withdrawal limitation (ac-ft/yr) will use the maximum allowable; and (2) permits/rights that are limited by a diversion rate only, will use 60% of the maximum allowable (considered reasonable for water distribution systems); the total water use from the Madison would be less than 50,000 acre-feet per year. The actual amount of water used from the Madison is considerably less than this estimate. Withdrawals from wells completed into the Madison aquifer were estimated to be 10,990.2 acre-feet annually from 1987-1996 (Carter and others, 2001).

This application proposes to appropriate 3,890 acre-feet of water annually from the Madison aquifer. Comparison of the estimated annual recharge to the Madison with the water use estimated from the aquifer indicates unappropriated water is available from the Madison aquifer.

A water budget is not intended to suggest that all of the water that is in storage in the Madison or that all of the recharge is available for this appropriation, merely to demonstrate that in general the Madison aquifer is an immense resource that is relatively untapped.

Observation Well Data:

The Water Rights Program monitors 26 observation wells completed into the Madison aquifer in the Black Hills area (Water Rights, 2006a). Records from the observation wells indicate the potentiometric surface of the Madison aquifer fluctuates 30-40 feet per year near the recharge area in response to seasonal and climatic variations. Long-term water level declines are not apparent from any of the hydrographs. Observation well data suggest that at the existing level of development, natural influences dominate the water levels of the aquifer and the effects of pumping as yet are not obvious. Three of Water Rights' Madison aquifer observation wells (LA-88C, LA-95A and LA-96B) are located within the area this application proposes to reserve for future use (see figure 2). The hydrographs for the wells are shown in Figures 3-5.

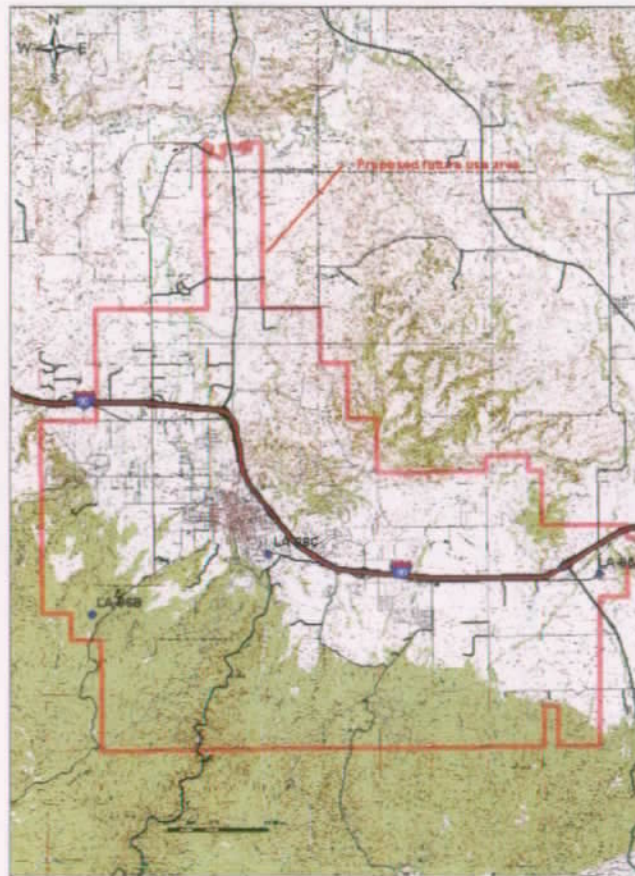


Figure 2. Location of Water Rights' Madison aquifer Observation Wells within the proposed future use area

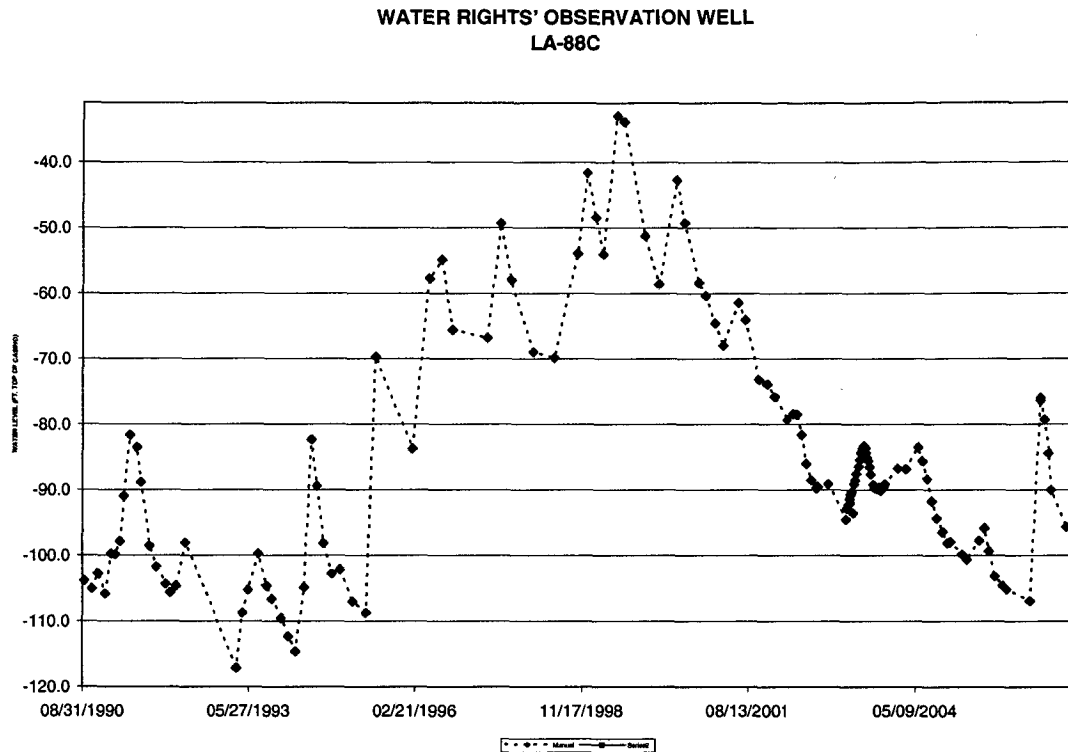


Figure 3. Hydrograph of a Madison aquifer observation well completed in the area proposed for future use reservation

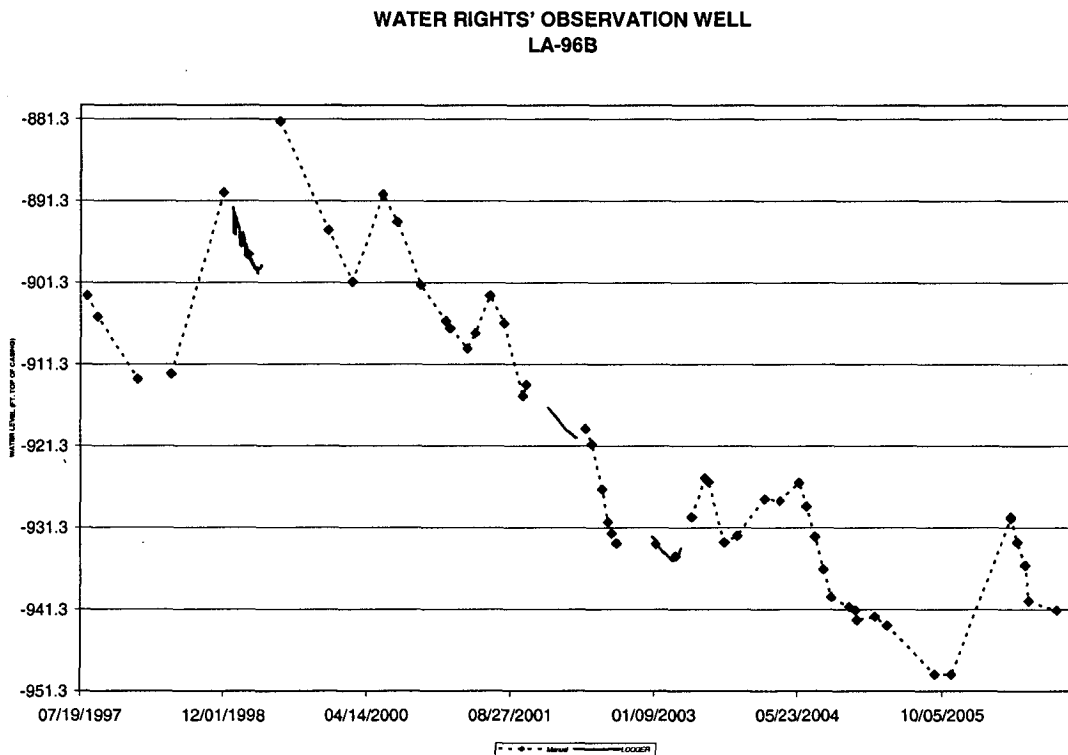


Figure 4. Hydrograph of a Madison aquifer observation well completed in the area proposed for future use reservation

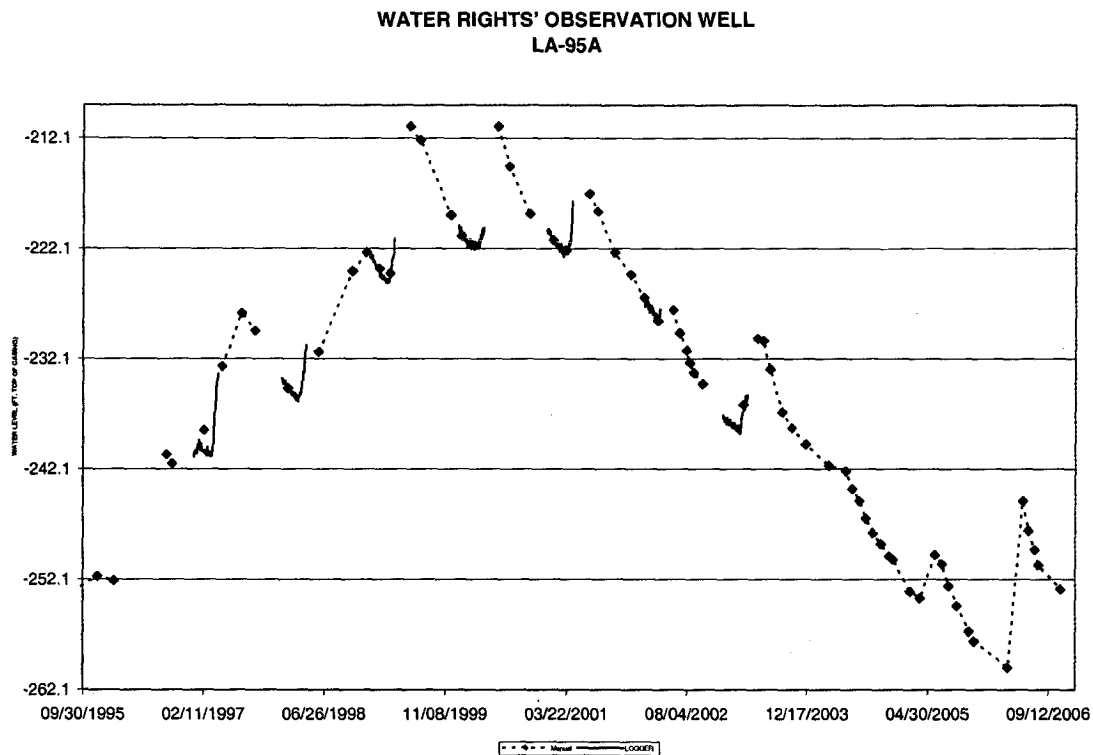


Figure 5. Hydrograph of a Madison aquifer observation well completed in the area proposed for future use reservation

The hydrographs show the potentiometric surface measured at these sites rose during the late 1990's in response to wet climatic conditions. The water levels have decreased since about 2000 in response to less recharge. A comparison of these hydrographs with data from Water Rights' Observation wells completed into the Madison aquifer that have longer periods of record, suggest the fluctuations shown in figures 3-5 are representative of climatic conditions instead of pumping from the aquifer. Long-term water level declines are not apparent from the hydrographs of wells with longer periods of record. The observation well data verifies that unappropriated water is available from the Madison aquifer.

NEED FOR THE PROPOSED QUANTITY OF WATER RESERVATION:

Water use reported by the City of Spearfish from 2003-2005 is shown in Table 1.

Year	Water Use (ac-ft/yr)
2003	1,915.64
2004	1,911.73
2005	2,006.52
Average	1,944.63

Table 1. Spearfish's reported water use

Pursuant to Water Management Board rule ARSD 74:02:01:24.01, "The board may, at its discretion, limit future use applications and future use permits for entities with permits to use water to two times the annual amount actually put to beneficial use." The 3,890 acre-feet per year requested by this application equals twice the City's average use for the past three years.

BENNEFICIAL USE AND PUBLIC INTEREST

Developing Water from the Future Use Reservation:

Although a future use permit is a reservation of water, it does not authorize construction or putting the water to beneficial use. SDCL 46-5-38.1 states that:

"Water Management Board approval of an application to appropriate water for future use is a reservation of a definite amount of water with a specified priority date and is not a grant of authority to construct the works or to put the water to beneficial use. Prior to the time that the holder of a future use permit initiates construction of the works and puts water to beneficial use, he shall file an application for a water permit pursuant to the procedure contained in chapter 46-2A."

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if unappropriated water is available for the proposed use, the proposed use will not unlawfully impair existing rights and the proposed use is a beneficial use and in the public interest. It may not be prudent to reserve water for future use, if it is likely that reservation could not be put to beneficial use. There are two potential concerns related to putting water reserved by this proposed future use permit to beneficial use: the affects of existing rights, and the public interest issues related to development.

Affect on Existing Rights:

There are 69 Water Permits/Rights appropriating groundwater within the area specified by this future use (Water Rights, 2006c). The extent of a hydrologic connection between the Madison and shallower aquifers is unclear and debatable. If leakage between the aquifers were significant, drawdown in the Madison could cause decreased leakage and consequently lower the water levels in the overlying aquifers. The dolomitic lower portion of the Minnelusa formation is thought to serve as a confining layer, and for the most part the Madison and Minnelusa aquifers are "hydraulically distinct units". Confining layers that occur above the Minnelusa aquifer limit any leakage to the overlying Minnekahta and Inyan Kara aquifers. Therefore, appropriations supplied by wells completed into aquifers that are shallower than the Madison (i.e. Minnelusa and Inyan Kara) are not expected to be impacted by withdrawals from the Madison.

There are 17 permits/rights appropriating water from the Madison aquifer in this proposed future use are. They are shown in Table 2.

PERMIT NO	NAME	USE	CFS
1003-1	CITY OF SPEARFISH	MUN	1.50
1187-1A	HILLS MATERIALS COMPANY	IND	0.04
1229-1A	CITY OF SPEARFISH	MUN	1.45
1359-1	CITY OF SPEARFISH	MUN	1.17
1363-1	SPEARFISH CANYON CNTRY CL	IRR	0.90
1435-1	POPE & TALBOT, INC	IND	0.89
1452-1	BLACK HILLS STATE COLLEGE	IRR	3.33
1579-1	CITY OF SPEARFISH	MUN	4.45
1583-1	WILL/MARY ELLEN LANTIS	COM	0.04
579-1	CITY OF SPEARFISH	MUN	1.20
1707E-1	FRAWLEY RANCHES, INC	IRR	0.00
1599-1	MOUNTAIN PLAINS 2 HOMEOWNERS ASSOC	SHD	0.21
1707A-1	ELKHORN RIDGE @ FRAWLEY RANCHES LLC	IRR	3.71
1707B-1	CITY OF SPEARFISH	SHD	1.04
1707C-1	CITY OF SPEARFISH	MUN	0.00
1707D-1	CITY OF SPEARFISH	MUN	0.00
1854-1	OLD APOSTOLIC LUTHERAN CHURCH OF SPEARFISH	INS	0.17

Table 2. Water Permits/Rights appropriating water from the Madison aquifer within the future use area proposed by this application.

In addition to the Water Rights/Permits listed in table 2. The City of Belle Fourche holds a future use permit (No. 369-1) which reserves 620 acre-feet per year from the Madison aquifer within the future use area proposed by 1872-1.

The area Future Use Permit Application No. 1872-1 proposed for this future use reservation extends over approximately 65 square miles. Therefore, sufficient area is available to allow placement of a well or wells that should enable development of the future use without adversely impacting existing wells.

Affect on Area Springs:

A potential obstacle to development of the Madison aquifer concerns the possibility of affecting discharge from springs that may originate from the Madison aquifer. There are a number of springs in or within two miles of this future use area (Klemp, 1995). "Higgins Gulch Spring" is located in the area proposed for future use and "Old Spearfish Hatchery Spring" is just outside the future use area. These springs are classified as Type 2 springs by Rahn and Gries (1973), meaning "The springs do not dry up and serve as points of permanent discharge from the carbonate aquifer" (Rahn and Gries, 1973). Water discharged by these springs probably originated in the Madison aquifer (Klemp, 1995). The spring discharges are estimated to be 5-10 cfs for Higgins Gulch Spring and 5 cfs at Old Spearfish Hatchery Spring (Naus and others, 2001). These springs discharge to unnamed tributaries of Redwater River. The Redwater River and its tributaries in this area are fully appropriated streams (Mark Rath, Per. Comm., December 19, 2006). A decline of the potentiometric surface in the vicinity of the springs could decrease spring discharge.

Since SD Water Law does not protect artesian head pressure as a means of diversion, well interference resulting in decreased discharge from these "artesian" springs probably may not be considered an adverse impact. However, if the base flows of the Redwater River decrease as the result of well interference, surface water users (appropriative and domestic) could be affected and the issue of "public interest" as it relates to surface water use versus the groundwater use would have to be considered.

The Water Management Board considered potential well interference/spring discharge issues related to Future Use Permit No. 2560-2, Fall River Water User Assoc. The future use permit was approved with the qualification stating:

"At such time as definite plans are made to construct works and put the water reserved by this permit to beneficial use, specific application for all or any part of the reserved water must be submitted and approved prior to construction of facilities pursuant to SDCL 46-5-38.1 with particular attention given to the flows of Beaver Spring, Cascade Springs and Hot Springs."

Although the findings of fact and conclusions of law have not yet been adopted, the Water Management Board placed a similar qualification on Future Use Permit No. 2580-2, Southern Black Hills Water System stating:

"At such time as definite plans are made to construct works and put the water reserved by this permit to beneficial use, specific application for all or any part of the reserved water must be submitted and approved prior to construction of facilities pursuant to SDCL 46-5-38.1 with particular attention given to flows of Beaver Spring, Cascade Springs and Hot Springs."

The findings of fact and conclusions of law are also awaiting adoption on the Board's decision to defer Water Permit Application No. 2585-2, Southern Black Hills Water System. The application which proposes to construct a well near Beaver Creek Spring was deferred "until an aquifer test pump is completed by the applicant and the effect to Beaver Creek Springs is evaluated."

The proximity of proposed well sites to the area springs could lead to specific qualifications on any permit placing water to beneficial use to address any public interest concerns.

Affect on Future Water Rights/Permits:

As stated earlier, this application proposes to reserve for future use an area consisting of approximately 65 square miles. Large future use areas are not unprecedented, see South Lincoln Rural Water System (over 250 square miles), Rapid City (over 20 square miles), etc.

SDCL 46-5-39 states that

"Before an entity described in § 46-5-38 is ready to use part or all of the water subject to a future use permit or permits, temporary appropriations may be made of the water. Any person desiring to appropriate the water shall make an application to

the chief engineer for a temporary permit pursuant to the procedure contained in chapter 46-2A.”

This statute was probably intended to put water to use that otherwise would not have been, by “temporarily” using *the water* (i.e. that water held in a future use permit) in a fully appropriated aquifer. However, the argument could be made that water permits issued to others inside the future use area proposed by this application could be/should be “Temporary use permits”.

Unappropriated water will still be available from the Madison aquifer if this future use permit is approved. Therefore, since the aquifer is not fully appropriated, new water permits not belonging to the City of Spearfish that are within the boundaries of the city’s future use area will not need to be issued as temporary use permits.

Pursuant to SDCL 46-5-40, theoretically appropriations made as “Temporary use Permits” are subject to cancellation following six months notice following the time that facilities are constructed and water may be put to beneficial use by future use permit holder.

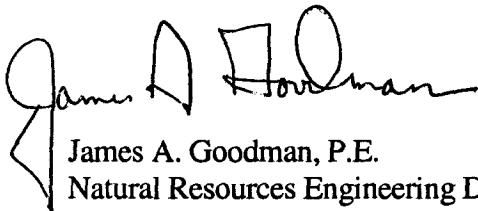
Conclusions:

1. Water Permit Application 1872-1 proposes to reserve for future use 3,890 acre-feet of water annually from the Madison aquifer.
2. The Madison aquifer is a prolific aquifer that is laterally extensive. Unappropriated water is available for this appropriation.
3. Before the City of Spearfish initiates construction of the works to put water reserved by this future use permit to beneficial use, a water permit application must be approved. Water permit applications in the areas specified by this future use application may contain specific conditions/qualifications to address any public interest concerns relating impacts of groundwater withdrawals on area springs.



Ken Buhler
Natural Resources Engineering Specialist

Approved by



James A. Goodman, P.E.
Natural Resources Engineering Director

REFERECNES:

- Allen, J.C., Iles, D.L., and Petres, A.K., 1985, Analysis of Groundwater and Streamflow Data Western Dakotas Region of South Dakota, Tasks 3A.B.C. and 4A.B.: Groundwater Resource Inventory: South Dakota Department of Water and Natural Resources
- Carter, J.M., and Redden, J.A., 1999a, Altitude of the Top of the Madison Limestone in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-744-D, 2 sheets, scale 1:100,000
- Carter, J.M., and Redden, J.A., 1999b, Altitude of the Top of the Deadwood Formation in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-744-D, 2 sheets, scale 1:100,000
- Carter, J.M., Driscoll, D.G., Hamade, G.R., 2001, Estimated Recharge to the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota and Wyoming, Water Years 191-98, USGS Water-Resources Investigations Report 00-4278, 66 p.
- Carter, J.M., Driscoll, D.G., Hamade, G.R., and Jarrell, G.J., 2001, Hydrologic Budgets for the Madison and Minnelusa Aquifers, Black Hills of South Dakota and Wyoming, Water Years 1987-1996, Water-Resources Investigations Report 01-4119, 53 p.
- Cox E.J., 1962, Artesian Water, Minnelusa and Pahasapa Formations, Spearfish-Belle Fourche Area: South Dakota Geological Survey Special Report 19, 17 p.
- Klemp, J.A., 1995, Source Aquifers for large Springs in Northwestern Lawrence County, South Dakota: South Dakota School of Mines and Technology Master of Science Thesis, Rapid City, SD, 175 p.
- Naus, C.A., Driscoll, D.G., and Carter, J.M., 2001, Geochemistry of the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota: USGS Water-Resources Investigations Report 01-4129, 118 p.
- Rahn, P.H., Gries, J.P., 1973, Large Springs in the Black Hills, South Dakota and Wyoming: SD Geological Survey Report of Investigations No. 107, 46 p.
- Rahn, P.H., 1979, Ground Water Resources of Western South Dakota: U.S. Army Corps of Engineers, SDSM&T Project #2533
- Water Rights Program, 2006a, Observation Well Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights Program, 2006b, Water Permit/Right Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501

Water Rights Program, 2006c, Well Completion Report Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501

Woodward Clyde Consultants, 1981, Well Field Hydrology Technical Report, for the ETSI Coal Slurry Pipeline Project, U.S. Dept. of the Interior, Bureau of Land Management

Affidavit of Publication

STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

Stewart Huntington 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 Stewart Huntington, 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, Stewart Huntington, 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:

Notice Of Hearing for
Application No. 1872-1

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 5th day of Feb., 2007, and the last publication on the 12th day of Feb., 2007, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 70.27, 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 12th day of Feb., 2007

[Signature]
Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2010



RECEIVED

FEB 16 2007

WATER RIGHTS
PROGRAM

**NOTICE OF HEARING
for APPLICATION
NO. 1872-1**

**to Appropriate Water for
Future Use**

Notice is given that the City of Spearfish, Jerry Krambeck, Mayor, 625 5th St. Spearfish SD 57783 has filed an application for a water permit to appropriate and reserve for future use 3,890 acre-feet annually from the Madison Aquifer. The area to be reserved for future water use is Sections 10, 15, 22, 26-29, 31-35 and W 1/2 Section 36; all in T7N-R2E; Sections 1-18, E 1/2, NW 1/4 Section 19, Sections 20-29, 32-36; all in T6N-R2E;

S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 4, Sections 7-9, W 1/2, SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 14, Sections 15-22, N 1/2 NW 1/4 Section 23, Sections 27-33, E 1/2, E 1/2 NW 1/4, NW 1/4 NW 1/4, E 1/2 SW 1/4 Section 34; all in T6N-R3E. The water is to be reserved for future municipal water supplies for the City of Spearfish. This application does not authorize construction of works or application of water to beneficial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1872-1 because 1) unappropriated water is available, 2) the quantity of water reserved will be needed by the city of Spearfish, 3) it is a beneficial use of water, and 4) it is in the public interest.

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 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 February 23, 2007. 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.

The Water Management Board will consider this application at 10:30 a.m. March 7, 2007 in the Matthews Training Center, Foss Building, 523 E Capitol, Pierre SD. 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. The March 7, 2007 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 February 23, 2007.

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 Eric Gronlund by February 23, 2007, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by February 23, 2007.

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, 46-2A-20, 46-2A-21; 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, 46-5-38, 46-5-38.1, 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.

Steven M. Pirner,
Secretary,
Department of
Environment and Natural
Resources.

#93
Feb. 5, 12



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2007

Black Hills Pioneer
PO box 7
Spearfish SD 57783-0007

ATTENTION: Legal Public Notice

Enclosed is a Notice on Hearing for Application No. 1872-1 to Appropriate Water for future use to be published twice. Please publish the first notice on February 5, 2007 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 City of Spearfish, c/o Mayor Jerry Krambeck, 625 5th Street, Spearfish SD 57783 (Ph # 642-1333).

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

-----CUT HERE-----

No. 1872-1

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

Date _____

We are in receipt of your letter of January 26, 2007 enclosing Notice to Appropriate Water by Application No. 1872-1 which was first published in our issue of the BLACK HILLS PIONEER. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

January 26, 2007

Jerry Krambeck, Mayor
City of Spearfish
625 5th Street
Spearfish SD 57783

Honorable Mayor Krambeck:

Future Use Water Permit Application No. 1872-1 to reserve water for future use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Black Hills Pioneer printed at Spearfish, SD (Ph # 642-2761). You will need to contact the newspaper and authorize publication of this notice. 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 and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also 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

c: Tom Callaway, City of Spearfish

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.

NOTICE OF HEARING for APPLICATION NO. 1872-1 to Appropriate Water for Future Use

Notice is given that the City of Spearfish, Jerry Krambeck, Mayor, 625 5th St, Spearfish SD 57783 has filed an application for a water permit to appropriate and reserve for future use 3,890 acre-feet annually from the Madison Aquifer. The area to be reserved for future water use is Sections 10, 15, 22, 26-29, 31-35 and W $\frac{1}{2}$ Section 36; all in T7N-R2E; Sections 1-18, E $\frac{1}{2}$, NW $\frac{1}{4}$ Section 19, Sections 20-29, 32-36; all in T6N-R2E; S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 4, Sections 7-9, W $\frac{1}{2}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, Sections 15-22, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23, Sections 27-33, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 34; all in T6N-R3E. The water is to be reserved for future municipal water supplies for the City of Spearfish. This application does not authorize construction of works or application of water to beneficial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1872-1 because 1) unappropriated water is available, 2) the quantity of water reserved will be needed by the city of Spearfish, 3) it is a beneficial use of water, and 4) it is in the public interest.

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 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 February 23, 2007. 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.

The Water Management Board will consider this application at 10:30 a.m. March 7, 2007 in the Matthews Training Center, Foss Building, 523 E Capital, Pierre SD. 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. The March 7, 2007 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 February 23, 2007.

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 Eric Gronlund by February 23, 2007, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by February 23, 2007.

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, 46-2A-20, 46-2A-21; 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, 46-5-38, 46-5-38.1, 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.
Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO:

BA WTR
SD WR
Mail Stop 60189

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1807

Garland Erbele, Chief Engineer
South Dakota Department of Environment
and Natural Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

FEB 23 2007

RECEIVED
FEB 28 2007
WATER RIGHTS
PROGRAM

RE: Application No. 1872-1

Dear Mr. Erbele:

The Fish and Wildlife Service has received notice that the Chief Engineer has recommended approval of Application No. 1872-1, City of Spearfish, for a permit to appropriate and reserve 3,890 acre-feet of groundwater annually from the Madison Aquifer for future municipal use for the city of Spearfish. The area to be reserved is Sections 10, 15, 22, 26-29, 31-35 and W1/2 Section 36, Township 7 North, Range 2 East; Section 1-18, E1/2 and NW1/4 Section 19, Sections 20-29, 32-36, Township 6 North, Range 2 East; and S1/2 SW1/4, SW1/4 SE1/4 Section 4, Sections 7-9, W1/2, SW1/4 NE1/4, NW1/4 SE1/4 Section 14, Sections 15-22, N12 NW1/4 Section 23, Sections 27-33, E1/2, E1/2 NW1/4, NW1/4 NW1/4, E1/2 SW 1/4 Section 34, Township 6 North, Range 3 East, Lawrence County, South Dakota.

The Service is concerned with this appropriation because of the effects it may have on water sources that we utilize for the D.C Booth National Fish Hatchery located in Section 15, Township 6 North, Range 2 East, Lawrence County, South Dakota. Currently, the Service retains two water licenses issued by the State of South Dakota as follows:

Water License 967-1 is for a groundwater well, 1.11 cfs; and
Water License 1041-1 (vested right) 6.66 cfs from Spearfish Creek

The hatchery is part of the National Wildlife Refuge System, and is subject to the provisions of 16 U.S.C. section 668dd(c), which prohibits persons from knowingly disturbing or injuring property of the United States in any area of the System.

If you have questions or require further information, please contact me at (303) 236-4491.

Sincerely,

A handwritten signature in black ink, appearing to read "Megan A. Estep". The signature is fluid and cursive, with the first name "Megan" being more prominent.

Megan A. Estep
Chief, Water Resources Division

cc: City of Spearfish
Jerry Krambeck, Mayor
625 5th Street
Spearfish SD 57783



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 15, 2007

Meg Estep, Chief
Water Resources Division
US Fish and Wildlife Service
PO Box 25486
Denver Federal Center
Denver CO 80225-0486

Dear Mr. Estep:

On March 7, 2007, the South Dakota Water Management Board considered the city of Spearfish's Application No. 1872-1 to reserve water from the Madison Aquifer in South Dakota for future use. The US Fish and Wildlife Service had petitioned in response to the public notice citing concerns on the effects it may have on the water sources utilized by the D. C. Booth National Fish Hatchery. A copy of the Service's petition was provided to the Board.

Upon hearing testimony presented by Spearfish and the Water Rights Program, the Water Management Board approved the future use permit as recommended by the Chief Engineer of the Water Rights Program.

Spearfish will need to file an application which specifies the amount and proposed location of proposed wells when the city is prepared to develop any portion of water reserved by this future use permit. The application process will include public notice.

If you have any questions regarding the Board's action, please contact me.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352
eric.gronlund@state.sd.us



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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APR 30 2007

CITY OF SPEARFISH
JERRY KRAMBECK
625 5TH ST
SPEARFISH SD 57783

Dear Mr. Krambeck:

Enclosed is Future Use Permit No. 1872-1, as approved by the Water Management Board.

When plans for facilities are prepared to put any portion of the water granted in the future use permits to beneficial use, an application covering such facilities and water use should be submitted to this office before construction is initiated.

Sincerely,

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

enclosure



1827-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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denr.sd.gov

November 15, 2013

Tom Callaway, Environmental Services Manager
City of Spearfish
625 N 5th Street
Spearfish SD 57783-2311

Dear Mr. Callaway:

I am writing in regard to the seven year review of Future Use Water Permit No. 1872-1 from the Madison Aquifer held by the City of Spearfish. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 2,730 acre-feet remain in reserve under this future use permit that was issued in 2007.

Please respond in writing by January 1, 2014 regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs.

Permit No. 1872-1 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 2,730 acre-feet remain in reserve, the fee will be \$285.00.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us



CITY OF SPEARFISH

625 FIFTH STREET, SPEARFISH, SOUTH DAKOTA 57783

RECEIVED

JAN - 2 2014

WATER RIGHTS
PROGRAM

December 27, 2013

SD DENR, Water Rights Program
Attn: Eric Gronlund
523 East Capitol Ave.
Pierre, South Dakota 57501

Re: Future Use Permit 1872-1

Dear Eric:

The City of Spearfish wishes to renew Future-Use Permit 1872-1 based on the following:

1. Our 5 year running average water usage is equal to 2259 acre feet annually; an increase of 14% since 2007. With the current demand increase of 2% per year we could expect a 5 year running average to equal 2600 acre feet annually with a peak year of 2912 acre feet by the year 2020.
2. In 2010 the city experienced its fourth consecutive decade of growth of 20% or more.
3. In the last 5 years the city has issued an average of 67 single family housing permits per year.
4. New subdivisions since 2007 such as the Reserve on Higgins Creek subdivision, McGuigan Ranch, additions to Elkhorn Ridge and newly annexed areas have future projections of over 800+ single family units, several multifamily and commercial units as well.
5. Growth in area schools has increased 10% since 2008.

Our city has seen significant growth over the past several decades and this trend is expected to continue due to several factors. Tourism continues to expose many people to this area as it has in the past and we have seen the same with the coal and natural gas production to our west. In addition, today we are experiencing a limited amount of growth due to the oil field activity to our north as well.

The city has established master plans for its water, wastewater and transportation needs to assist in managing its growth. We see this Future -Use permit as part of the planning process for our days ahead. Our projected needs are listed in item 1 above and if you have any further questions feel free to contact me.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom W. Callaway".

Tom W. Callaway
Environmental Services Manager
City of Spearfish
605-642-1333

Cc: Karen Schlaak X





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 1872-1, City of Spearfish**

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 Future Use Water Permit No. 1872-1, City of Spearfish, 525 N 5th St, Spearfish SD 57783.

The Chief Engineer is recommending that Future Use Permit No. 1872-1 REMAIN in EFFECT for 2,730 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1872-1, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 1872-1, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 1872-1 is subject to payment of the \$285.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman, Chief Engineer
January 13, 2014



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

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January 14, 2014

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

City of Spearfish
Tom Callaway, Environmental Services Manager
625 5th St
Spearfish SD 57783

Dear Mr. Callaway:

Future Use Permit No. 1872-1 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice the county where water will be diverted or used. The notice of this review has been sent to the Publisher of the Black Hills Pioneer, Spearfish SD (605 642-2761). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish this notice on January 22, 2014. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

January 14, 2014

Megan Estep, Chief
Water Resources Division
US Fish and Wildlife Service
PO Box 25486 Denver Federal Center
Denver CO 80225-0486

Dear Ms. Estep

The city of Spearfish holds Future Use Permit No. 1872-1 which reserves water for future development from the Madison Aquifer in Lawrence County, South Dakota. The future use permit was obtained in 2007. At that time, the US Fish and Wildlife Service filed a letter citing concerns on the effect future diversions may have on the water resources utilized by the D.C. Booth National Fish Hatchery. South Dakota law required future use permits to be reviewed every seven years. Based on the Service's past concern, I wanted to make you aware of the public notice scheduling the seven year review of this future use permit. Enclosed is the public notice and Chief Engineer's recommendation.

Please be aware that when the city wants to construct and place to beneficial use water reserved by this permit, it will need to file a water permit application specifying the amount and location of the diversion point. Any application to construct and place water to beneficial use will be public noticed.

Please let me know if you have any questions.

Sincerely,

Eric Gronlund

Water Rights Program, DENR

605 773-3352

Eric.gronlund@state.sd.us

Enclosures

RECEIVED

JAN 27 2014

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her 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 Letitia Lister, 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, Letitia Lister, 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:

Notice Of Hearing

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 22nd day of Jan, 2014, and the last publication on the _____ day of _____, _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 38.89, 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.

Subscribed and sworn to before me this 22nd day of Jan, 2014

Wendy Richards

Notary Public, Lawrence County, South Dakota

My commission expires: 10-24-2016

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1872-1

Notice is given that the Water Management Board will review Future Use Permit No. 1872-1 held by the City of Spearfish, c/o Tom Callaway, Environmental Services Manager, 625 N 5th St, Spearfish SD 57783 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1872-1. This permit was approved in 2007 and currently reserves 2,730 acre feet from the Madison Aquifer. The area reserved for future water use is Sections 10,15, 22, 26-29, 31-35 and W 1/2 Section 36; all in T7N-R2E; Sections 1-18, E 1/2, NW 1/4 Section 19, Sections 20-29, 32-36; all in T6N-R2E; S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 4, Sections 7-9, W 1/2, SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 14, Sections 15-22, N 1/2 NW 1/4 Section 23, Sections 27-33, E 1/2, E 1/2 NW 1/4, NW 1/4 NW 1/4, E 1/2 SW 1/4 Section 34; all in T6N-R3E. Water is reserved for municipal use for the City.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1872-1 REMAIN in EFFECT for 2,730 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1872-1 at 9:00 am, March 6, 2014 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26,

must file a written petition with BOTH the permit owner and the Chief Engineer by February 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1872-1 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 24, 2014. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 24, 2014.

Steven M. Pirner,
Secretary,
Department of
Environment and
Natural Resources

Published once at the
total approximate cost of
\$39.79.

#286
Jan. 22



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

January 14, 2014

Black Hills Pioneer
PO Box 7
Spearfish SD 57783

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 1872-1 to be published on January 22, 2014. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at 605 773-3352 or email karen.schlaak@state.sd.us

The applicant must verify to you that the notice is to be published. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is the City of Spearfish, c/o Tom Callaway, Environmental Services Manager, 625 N 5th St, Spearfish SD 57783 (605 642-1333).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

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

Instruction to Newspaper-Publish the following Notice on January 22, 2014. The City of Spearfish is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1872-1

Notice is given that the Water Management Board will review Future Use Permit No. 1872-1 held by the City of Spearfish, c/o Tom Callaway, Environmental Services Manager, 625 N 5th St, Spearfish SD 57783 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1872-1. This permit was approved in 2007 and currently reserves 2,730 acre feet from the Madison Aquifer. The area reserved for future water use is Sections 10,15, 22, 26-29, 31-35 and W 1/2 Section 36; all in T7N-R2E; Sections 1-18, E 1/2, NW 1/4 Section 19, Sections 20-29, 32-36; all in T6N-R2E; S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 4, Sections 7-9, W 1/2, SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 14, Sections 15-22, N 1/2 NW 1/4 Section 23, Sections 27-33, E 1/2, E 1/2 NW 1/4, NW 1/4 NW 1/4, E 1/2 SW 1/4 Section 34; all in T6N-R3E. Water is reserved for municipal use for the City.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1872-1 REMAIN in EFFECT for 2,730 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1872-1 at 9:00 am, March 6, 2014 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 24, 2014. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1872-1 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by February 24, 2014. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 24, 2014. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of_____.



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov



March 7, 2014

NOTICE

Tom Callaway, Environmental Services Manager
City of Spearfish
625 N 5th Street
Spearfish SD 57783-2311

Dear Mr. Callaway:

I am writing in response to action taken by the Water Management Board at the hearing on March 6, 2014 to review Future Use Permit No. 1872-1. The Board allowed the permit to remain in effect for 2,730 acre-feet of water annually. Future Use Permit No. 1872-1 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 1872-1 is \$285.00 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

Please contact Eric Gronlund, staff engineer, if you have any questions.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
605 773-3352

CERTIFICATION

I hereby certify that on March 7, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated March 7, 2014 regarding Future Use Permits addressed as stated below:

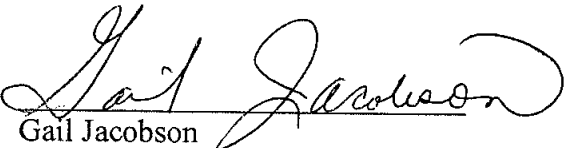
City of Spearfish, T Callaway, 625 N 5th St, Spearfish SD 57783 # **1872-1**

Southern Black Hills WS, Don Peterson, 26858 Hwy 385, Hot Springs SD 57747 # **2580-2**

Watertown Municipal Utilities, J DeVille, 901 4th Ave SW, Watertown SD 57201 # **5862-3**

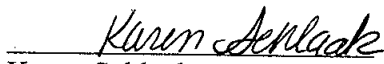
City of Brandon, B Read, PO Box 95, Brandon SD 57005 # **4002-3**

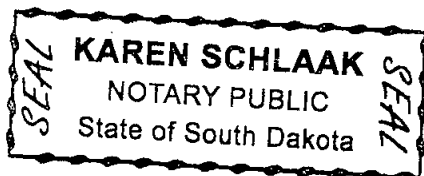
Minnehaha Community Water, S J Buss, 47381 248th St, Dell Rapids SD 57022
#s **4838A-3, 5063A-3 & 5716-3**


Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of March, 2014.


Karen Schlaak
Notary Public
My Commission expires April 1, 2019





DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov



1872-1

May 9, 2014

Tom Callaway, Environmental Services Manager
City of Spearfish
625 N 5th Street
Spearfish SD 57783-2311

Dear Mr. Callaway:

On March 7, 2014 we requested the fee for maintaining the effectiveness of Future Use Permit No. 1872-1. To date, we have not received this payment.

Please submit the \$285.00 fee as soon as possible to avoid jeopardizing the City's future use permit. If you have questions, please contact Eric Gronlund or me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/27, 20 14

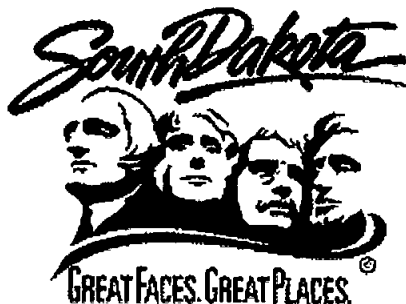
RECEIVED OF City of Spearfish 625 5th St Spearfish SD 57783

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	285	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>1872-1</u> 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 _____		
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	285 00

No. **06863**

By J. Lane Hoelmer
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

OCT 10 2017

1003-1
1955-1
1872-1

Cheryl Johnson, PWD
City of Spearfish
625 5th St
Spearfish SD 57783

Dear Ms. Johnson:

Enclosed is Water License No. 1955-1. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, 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.

Upon licensing, the applicable portions of Water Right No. 1003-1 were incorporated into Water License No. 1955-1. Additionally, based on the capability of the well, a total of 104 acre feet in annual volume reverted back to Future Use Permit No. 1872-1.

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,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

January 6, 2021

City of Spearfish
Dustin Lee, Public Works Director
625 5th St
Spearfish SD 57783

Dear Mr. Lee:

I am writing in regard to the seven year review of Future Use Water Permit No. 1872-1 from the Madison Aquifer held by City of Spearfish. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 2,704 acre-feet remain in reserve under this future use permit that was issued in 2007 and last reviewed in 2014.

Please respond in writing by February 1, 2021 regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs.

Permit No. 1872-1 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 2,704 acre-feet remain in reserve, the fee will be \$285.00.

Please contact Ron Duvall or me, if you have any questions.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us



CITY OF SPEARFISH
625 N. 5TH STREET
SPEARFISH, SD 57783

RECEIVED

JAN 25 2021

WATER RIGHTS
PROGRAM

January 20, 2020

Ms. Karen Schlaak
Water Rights Program
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

RE: Future Use Water Permit No. 1872-1

Dear Ms. Schlaak,

In response to the Department of Environment and Natural Resources (DENR) letter dated January 6, 2021, the City of Spearfish requests the continued reservation of 2,704 acre-feet of water under Permit 1872-1, in order to serve the future water supply needs of the City.

The City of Spearfish is rapidly expanding eastward near Interstate 90 Exit 17. The construction of approximately 230 homes in this area is anticipated over the next five years. In addition to these residences, the Spearfish Sport Complex will be complete in 2022, and significant commercial growth is expected in the vicinity of Exit 17.

In order to meet the water needs of the growing community, in 2021, the City has budgeted for and plans to initiate a hydrogeologic study at Exit 17 for a new municipal water well. The City's 2022 capital improvement plan includes budget for the construction of the new well and a storage tank upon the completion of the 2021 hydrogeologic study.

Please don't hesitate to contact me at 605.717.1127 or brandy.kean@cityofspearfish.com with any questions or comments. We look forward to working with the DENR on the expansion of the City of Spearfish's water supply needs.

Sincerely,

Brandy Kean
Public Works Director
City of Spearfish

Cc: Miles Burtzloff, City of Spearfish Water and Sewer Utility Superintendent
Kyle Mathis, City of Spearfish City Engineer

642.1335 BUILDING & DEVELOPMENT SERVICES
642.1325 FINANCE OFFICE
642.1313 FIRE DEPARTMENT
642.1354 HUMAN RESOURCES

LIBRARY 642.1330
PARKS & REC 722.1430
POLICE DEPARTMENT 642.1305
PUBLIC WORKS 642.1333

WWW.CITYOFSPEARFISH.COM



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO: 1872-1, City of Spearfish SD**

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 Future Use Water Permit No. 1872-1, City of Spearfish, 625 N 5th St, Spearfish SD 57783.

The Chief Engineer is recommending that Future Use Permit No. 1872-1 REMAIN in EFFECT for 2,704 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1872-1, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 1872-1, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 1872-1 is subject to payment of the \$285.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Eric Gronlund, Chief Engineer
January 28, 2021



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

January 28, 2021

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

City of Spearfish
Brandy Kean, Public Works Director
625 N 5th St
Spearfish SD 57783

Dear Ms. Kean:

Future Use Permit No. 1872-1 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice in the county where water will be diverted or used. Notice of this review has been sent to the Black Hills Pioneer (605 642-2761). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish this notice on February 4, 2021. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, January 28, 2021 2:48 PM
To: Legals (legals@bhpioneer.com)
Subject: 1782-1, City of Spearfish
Attachments: 1872-1FU pub notice.doc; FORM8.FRM.doc

Attached is a notice to be published on February 4, 2021.

City of Spearfish, c/o Brandy Kean, Public Works Director, 625 N 5th St, Spearfish SD 57783 (605 642-1333) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak
Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, January 28, 2021 2:52 PM
To: brandy.kean@cityofspearfish.com
Subject: Future Use Permit No. 1872-1, City of Spearfish
Attachments: 0469.pdf

Attached is a copy of the chief engineer recommendation and information regarding the public notice for the city's water permit application. As stated in the letter, please contact the paper as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak

Water Rights Program
(605) 773-3352



DENR
SOUTH DAKOTA

Instruction to Newspaper - Publish the following Notice on February 4, 2021. The City of Spearfish is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1872-1

Notice is given that the Water Management Board will review Future Use Permit No. 1872-1 held by the City of Spearfish, c/o Brandy Kean, Public Works Director, 625 N 5th St, Spearfish SD 57783 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1872-1. This permit was approved 2007 and currently reserves 2,704 acre-feet from the Madison Aquifer. The area reserved for future water use is Sections 10, 15, 22, 26-29, 31-35, W 1/2 Section 36; all in T7N-R2E; Sections 1-18, E 1/2, NW 1/4 Section 19, Sections 20-29, 32-36; all in T6N-R2E; S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 4, Sections 7-9, W 1/2, SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 14, Sections 15-22, N 1/2 NW 1/4 Section 23, Sections 27-33, E 1/2, E 1/2 NW 1/4, NW 1/4 NW 1/4, E 1/2 SW 1/4 Section 34; all in T6N-R3E. Water is reserved for municipal use for the City.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1872-1 REMAIN in EFFECT for 2,704 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1872-1 at 10:00 am central time, March 3, 2021, in the Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2021. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1872-1 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron Duvall, Water Rights Program, (605 773-3352) by February 22, 2021. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2021.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 15, 2021. Published once at the approximate cost of _____.

RECEIVED

FEB 10 2021

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her 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 Letitia Lister, 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, Letitia Lister, 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:

Notice Of Hearing

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 4th day of Feb, 2021, and the last publication on the day of , , that the full amount of fees charged for publishing same, to-wit: The sum of \$ 42.97, 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.

Subscribed and sworn to before me this 8th day of Feb, 2021

Notary Public, Butte County, South Dakota

My commission expires: 3-21-2023

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1872-1

Notice is given that the Water Management Board will review Future Use Permit No. 1872-1 held by the City of Spearfish, c/o Brandy Kean, Public Works Director, 625 N 5th St, Spearfish SD 57783 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1872-1. This permit was approved 2007 and currently reserves 2,704 acre-feet from the Madison Aquifer. The area reserved for future water use is Sections 10, 15, 22, 26-29, 31-35, W 1/2 Section 36; all in T7N-R2E; Sections 1-18, E 1/2, NW 1/4 Section 19, Sections 20-29, 32-36; all in T6N-R2E; S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 4, Sections 7-9, W 1/2, SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 14, Sections 15-22, N 1/2 NW 1/4 Section 23, Sections 27-33, E 1/2, E 1/2 NW 1/4, NW 1/4 NW 1/4, E 1/2 SW 1/4 Section 34; all in T6N-R3E. Water is reserved for municipal use for the City.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1872-1 REMAIN in EFFECT for 2,704 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1872-1 at 10:00 am central time, March 3, 2021, in the Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications,

3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 22, 2021. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1872-1 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD, 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron Duvall, Water Rights Program, (605 773-3352) by February 22, 2021. The time of the hearing

will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by February 22, 2021.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by February 15, 2021.

Published once at the total approximate cost of \$44.81.

#923
Feb 4



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

March 4, 2021

NOTICE OF ENTRY OF ORDER

City of Spearfish
Brandy Kean, Public Works Director
625 5th St
Spearfish SD 57783

Dear Ms. Kean:

I am writing in response to action taken by the Water Management Board at the hearing on March 3, 2021 to review Future Use Permit No. 1872-1. The Board allowed the permit to remain in effect for 2,704 acre-feet of water annually. Future Use Permit No. 1872-1 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 1872-1 is \$285.00 pursuant to SDCL 46-2-13(2). Please make checks payable to the Water Rights Program and remit the fee within 60 days.

Please contact Karen Schlaak, if you have any questions.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program
605 773-3352

CERTIFICATION

I hereby certify that on March 4, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated March 4, 2021, regarding Future Use Review addressed as stated below:

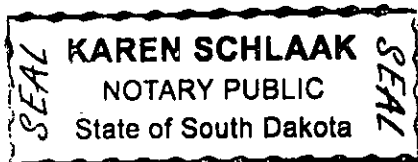
City of Spearfish, Brandy Kean, Public Works Director, 625 5th St., Spearfish SD 57783
Southern Black Hills Water System, C/O Don Peterson, 26858 Hwy 385, Hot Springs SD 57747
Matthew E Naasz, Gunderson Palmer Nelson & Ashmore, PO Box 8045, Rapid City SD 57709
Tami Jansma, City Engineer, City of Brandon, PO Box 95, Brandon SD 57005
Scott Buss, Manager, Minnehaha Community Water Corp., 47281 248th St., Dell Rapids SD 57022-5305


Vickie Maberry
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 4th day of March, 20 21.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Environment and Natural Resources

Date March 19, 2021

RECEIVED OF City of Spearfish 625 Fifth St. Spearfish SD 57783

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. <u>1872-1</u> after period of seven years.	\$285.00
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$
Fee for Filing Transfer Form _____	\$
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$285.00

By Eric Gronlund
Chief Engineer
vm