

WATER PERMIT NO. 1902-1

Name of Applicant: **Loup Land Development**

Address: **940 Kervin Lane, Spearfish SD 57783**

Phone: **605 578-2323**

Amount of Water Claimed: **0.11 cfs**

Total Acres: **NA**

Source of Water Supply: **groundwater (one well)**

Water to be used for: **suburban housing development**

County: **Lawrence**

Type of Waste Disposal System:

Location: **1 north of Spearfish**

PRIORITY

Date Received: **12-18-08**

Application/License Fee: **\$200**

Corrected Application Received:

Period of Annual Use: **Jan 1 – Dec 31**

Remarks:

Diversion Point: **SE ¼ NE ¼ Sec 34-T7N-R2E**

Land to be Irrigated: **NA**

Depth of Well: **738 feet deep**

Well Driller: : **Ellingson Drilling**

Remarks:

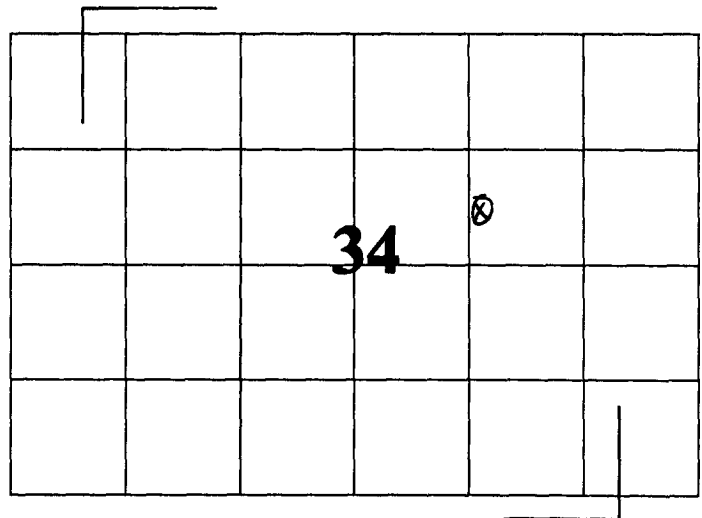
Type of Map: **plat**

Prepared by: **Nicholas Hoffman, PE**

Reviewed and the Number Assigned on: **12-18-08**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



SD EForm - 1585 V2
FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>1902-2</u> (office use only) Hydrologic Unit <u>10120203</u>
	Basin <u>Belle Fourche River</u>
	Newspaper <u>Black Hills Pioneer</u>
	<u>605-642-2761</u> <u>PO Box 7 Spearfish 57783</u>

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PROGRAM

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 Loup Land Development/Daphne Loup Phone 605-578-2323, ext. 127
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 940 Kerwin Lane, Spearfish, SD 57783 State South Dakota 57783
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 0.11 *CFS or 50 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply 738 foot drilled well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Lawrence
1 Well in NW1/4SE1/4NE1/4 of Section 34, T7N, R2E, BHM, Lawrence County, SD
- County or counties where water will be used Lawrence
- Annual period during which water is to be used starting in 2009 and when lots are sold Jan 1-Dec 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)
Future 28 lot rural residential subdivision. See attached plat drawing. The water distribution system will be through the use of a cased well, 30,000 gallon storage tank and 6" water lines.

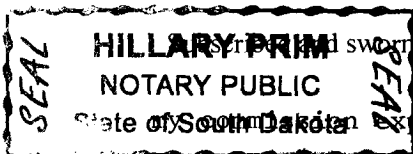
STATE OF SOUTH DAKOTA)

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, Daphne Loup, 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 Daphne Loup



and sworn to before me this 16th day of December 2008

Hillary Prim
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 1902-1**

Date of first receipt of application December 18, 2008.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1902-1 to Loup Land Development, c/o Daphne Loup, 940 Kerwin Lane, Spearfish SD 57783 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1902-1 appropriates 0.11 cubic feet of water per second from one well completed into the Minnekahta Limestone (738 feet deep) located in the SE ¼ NE ¼ Section 34-T7N-R2E.
2. The water appropriated shall be used for the purpose of suburban housing development and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 1902-1 is March 9, 2009.
5. The date from which applicant may claim right is December 18, 2008.
6. One-fifth of the construction is to be completed on or before September 9, 2011.
7. All construction is to be completed on or before March 9, 2014.
8. Water is to be put to beneficial use on or before March 9, 2019.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

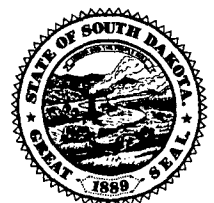
QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Loup Land Development shall report to the Chief Engineer annually the amount of water withdrawn from this well completed in the Minnekahta Limestone.

WATER MANAGEMENT BOARD

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

JUN 12 2009
date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 7½ inches Depth 738 feet
- b) Casing Type steel Diameter 5½ inches Thickness ¼" wall
- c) Screen Type N/A Diameter N/A Thickness N/A
- d) Gravel Pack Portland Grout Length of Gravel Pack depth of grouting is 701 feet
- e) Depth to Top of Water Bearing Material 698 feet Mincota
- f) Depth to Water (ground surface to water level) 7 feet
- g) Distance to nearest existing domestic well:
- On applicants property 2000 feet On property owned by others ½ mile

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) all properties will have septic tanks and drain fields
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

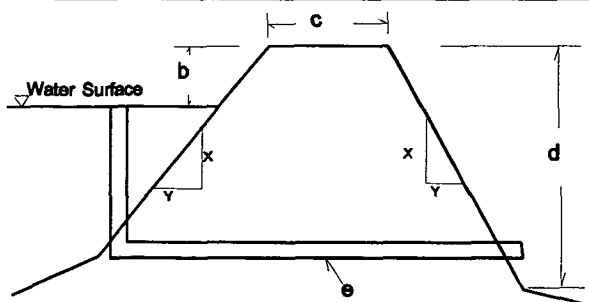
3. Dugout Information

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

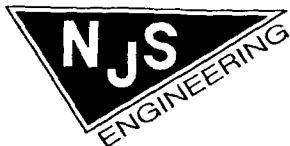
4. Water Storage Dams

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

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



- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres



Consulting Engineers
Land Surveyors

123 E. JACKSON BLVD. SUITE 1
P.O. BOX 226
SPEARFISH, SD 57783
(605) 642-4772 • Fax (605) 642-4773

LETTER OF TRANSMITTAL

DATE Dec. 17, 2008	JOB NO. 4268
Spring Creek Preserve Subdivision	

TO Water Rights Program, DENR

Joe Foss Building

523 East Capitol

Pierre, South Dakota 57501-3181

RECEIVED

DEC 18 2008

WATER RIGHTS
PROGRAM

WE ARE SENDING YOU ☒ Attached ☐ Under separate cover via Mail the following items:

- ☐ Shop drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications
☐ Copy of letter ☐ Change order ☐ _____

COPIES	DATE	REV. NO.	DESCRIPTION
2	12/17/08		Water Permit (Forms 2 and 2A)
2	12/17/08		Subdivision Well Location Plans
1			Check #7013

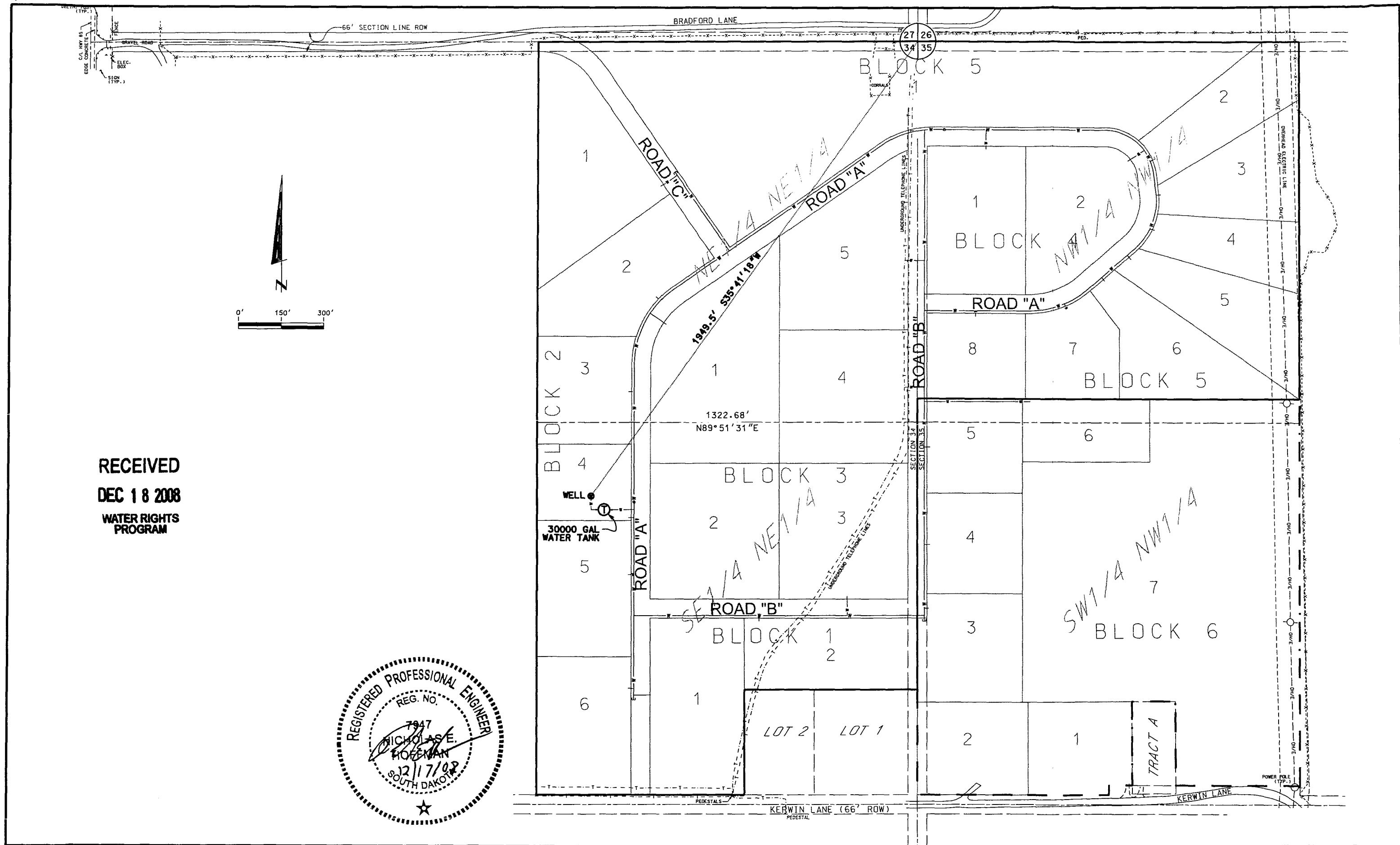
THESE ARE TRANSMITTED as checked below:

- ☒ For approval ☐ Approved as submitted ☐ Resubmit _____ copies for approval
☒ For your use ☐ Approved as noted ☐ Submit _____ copies for distribution
☐ As requested ☐ Returned for corrections ☐ Return _____ corrected prints
☐ For review and comment ☐ _____
☐ FOR BIDS DUE _____ 20 _____ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS _____

COPY TO File

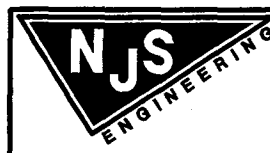
SIGNED: Alan J. Drews
Alan J. Drews, EIT



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SURVEY:	_____	DESIGN:	_____
DATE:	_____	DATE:	_____
DRAW:	AJD/CDK	CHECK:	_____
DATE:	12/17/08	DATE:	_____



P.O. BOX 226
123 E. JACKSON BLVD. SUITE 1
SPEARFISH, SD 57783

WWW.NJSENGINEERING.COM

TELEPHONE: (605) 642-4772
FAX: (605) 642-4773

REV.#	DESCRIPTION	DATE	CHKD

SHEET TITLE:

WELL LOCATION MAP

PROJECT:

SPRING CREEK PRESERVE
LAWRENCE COUNTY, SOUTH DAKOTA

SHEET 1 OF 1

Well Location Map.dgn

PROJECT NO: 4268

07-92

Please mark well location with an "X"

Well-Completion Date

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 100 ft. from sewer lines (identify source).

☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

rotary

☒ Steel ☐ Plastic ☐ Other

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
15.50 LB/FT	5 1/2 IN	0 FT	701 FT	7 1/2 IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

Grout Type	No. of Sacks	Grout Weight	From	To
Portland	92	lb./gal	0	201
		lb./gal	ft	ft

Describe grouting procedure

Diameter _____ IN Length _____ FEET

Material

Slot Size _____ Set From _____ Feet to _____ Feet

Other information

If so, what material?

Describe packer(s) and location?

X YES, How: Clorox

Laboratory sent to for water quality analysis

Address: 940 Kerwin Lane
Spearfish S.D. 57783

DEPTH

FORMATION

FROM

TO

grey-green clay	0	80
reddish-grey	80	698
limestone	698	7.38

Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe _____

Controlled by ☐ Valve ☐ Reducers ☐ Other_____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

☒ Air Pumped

Describe: 40 g Fm @ 220'☐ Bailed

50 a Pm @ 350'

☐ Other

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

ft. After Hrs. pumped GPM

If pump installed, pump rate _____ GPM

REMARKS

This well was drilled under license # 93

And this report is true and accurate.

Drilling firm ELLINGSON Drilling

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: 8-16-08

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/18, 20 08

RECEIVED OF Daphne B Loup 105 Spruce Lane Spearfish SD 57783

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

Fee for Application for Permit No. <u>1902-1</u> to Appropriate Water, to construct and to put water to beneficial use	150	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>1902-1</u>	50	00
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	200 00

No.

03007

By

Garland Erbe
Chief Engineer



**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 WATER PERMIT
APPLICATION NO. 1902-1, Loup Land Development**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1902-1, Loup Land Development, c/o Daphne Loup, 940 Kerwin Lane, Spearfish SD 57783.

The Chief Engineer is recommending APPROVAL of Application No. 1902-1 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Loup Land Development shall report to the Chief Engineer annually the amount of water withdrawn from this well completed in the Minnekahta Limestone.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 10, 2009

NOTE: Loup Land Development will likely need to treat the water to meet SD Drinking Water Standards. I encourage you to contact the Paul Oien or Mark Mayer with the Drinking Water Program at (605) 773-3754 to discuss these regulations.

WATER PERMIT APPLICATION NO. 1902-1
LOUP LAND DEVELOPMENT,
c/o DAPHNE LOUP
JANUARY 15, 2009

Water Permit Application No. 1902-1 proposes to appropriate 0.11 cubic feet of water per second (cfs) from one well 738 feet deep, completed into the Minnekahta aquifer. The well is located in the SE¼ NE¼ Sec. 34, T7N-R2E, Lawrence County. The water is for suburban housing development use.

AQUIFER: Minnekahta Limestone (MNKT)

General:

The Minnekahta Limestone is a grayish-pink, laminated, limestone approximately 40 feet thick. The Minnekahta underlies an estimated 126,080 acres of Lawrence County and contains an estimated 315,200 acre feet of recoverable water in storage in the County (Allen and others, 1985). The aquifer is areally extensive around the Black Hills and is hydraulically connected into Wyoming to the west, Butte County to the north and Meade County to the east. The top of the Minnekahta was reported to be 698 below grade in this wellbore. The completion report for the well identifies a July 4, 2008 static water level of "0".

Water Availability:

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

Recharge to the Minnekahta Limestone occurs through direct infiltration of precipitation falling on the outcrop (approximately one mile southwest of this well site), (Strobel and others, 1999), and possibly from upward leakage from underlying aquifers. The average annual recharge to the Minnekahta has been estimated to be 6,500 ac-ft/yr (Driscoll and Carter, 2001).

Total withdrawals from wells completed into the Minnekahta is estimated to be 700 ac-ft/yr (Driscoll and Carter, 2001). The largest use of the Minnekahta is irrigation use. The number of appropriations and the amount of water reported pumped each of the past 16 years is shown in figure 1.

Irrigation Water Rights from the Minnekahta Aquifer

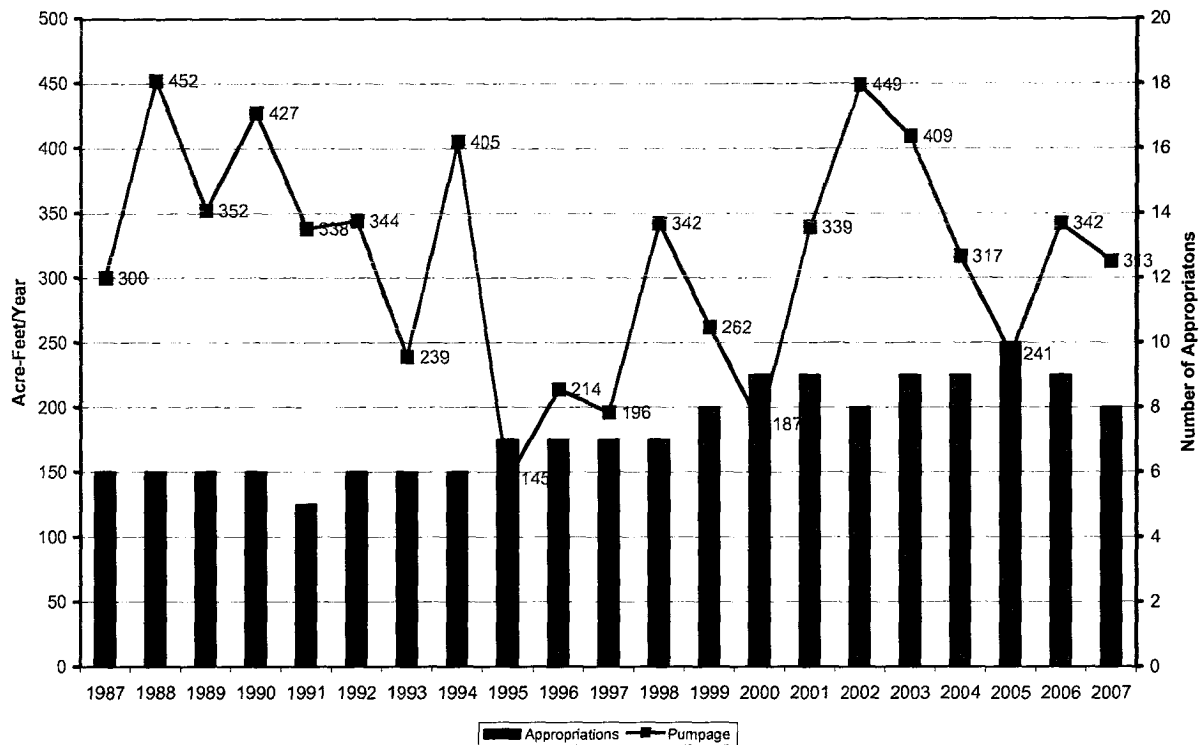


Figure 1. Irrigation Usage of the Minnekahta Aquifer from 1987-2002 (Water Rights, 2009a)

A comparison of the average annual recharge and well withdrawals from the Minnekahta aquifer indicate that unappropriated water is available.

The Water Rights Program monitors four observation wells completed into the Minnekahta Limestone (Water Rights, 2009_b). The nearest of these wells, Observation Well LA-86B, is located approximately four miles southwest of this well site. Measurements taken from the well indicate the water level fluctuates naturally, as much as 72 feet in response to seasonal and annual climatic conditions. The water level rises in the spring and declines the rest of the year, and is lower during drought years (figure 2).

**WATER RIGHTS' OBSERVATION WELL
LA-86B**

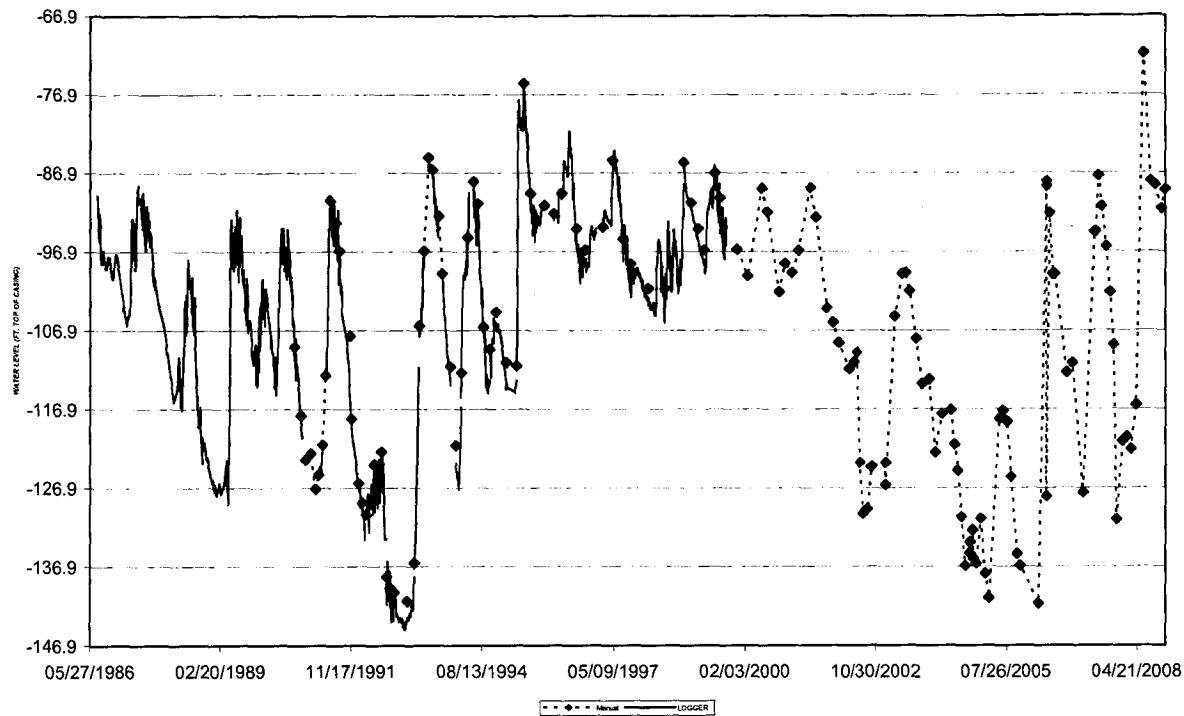


Figure 2. Hydrograph of a Water Rights' Observation Well located approximately four miles southwest of this well site. (Water Rights, 2009b)

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

Effects on Existing Water Rights:

The Minnekahta Limestone is a major source of water in this area. Of the 28 Water Rights/Permits appropriating water from the Minnekahta Limestone in South Dakota, 23 of these are located within ten miles of this well site (Water Rights, 2009_c).

There are 21 Water Rights/Permits appropriating groundwater within approximately two and one-half miles of this well site (Water Rights, 2009_c). In addition, Future Use Permit 369-1 reserves water from Spearfish Creek Alluvium, Minnelusa and Madison aquifers approximately two and one-quarter miles north west of this well site (Water Rights, 2009_c). Water Rights appropriating water from the Minnekahta aquifer in this area are shown below in table one.

PERMIT NO	NAME	USE	CFS	ACRES	DISTANCE FROM 1902-1
1129-1	RAND & GAYLA WILLIAMS	COM	0.10		2.5 mi
1265-1	TODD L HECKERT	COM	0.45		2 mi
1636-1	WAYNE LINDSTAD	COM	0.39		<0.75 mi
673-1	DENNY BRENGLE	IRR	0.16	15.00	1 mi
COM= commercial, IRR= irrigation					

Table 1. Water Rights appropriating water from the Minnekahta aquifer within approximately two and one-half miles of 1902-1

The Water Rights Program also has record of a number of domestic wells in this area (Water Rights, 2009_d). These domestic wells are supplied from various sources including the Alluvium, Sundance, Spearfish, Minnekahta, Minnelusa and the Madison aquifers. It is unlikely that wells completed into aquifers other than the Minnekahta aquifer would be affected by diversions made from this well since the Minnekahta is hydraulically isolated from deeper aquifers by the Opeche Shale and from shallower aquifers by the Spearfish Formation.

There have been a number of controversies involving groundwater appropriations in this area. During a dry period in the early 1960's, the South Dakota Water Resources Commission, the precursor to the Water Management Board, requested that the State Geological Survey prepare a report on the artesian aquifers in this area because a perceived decline in pressure of the aquifers. Around that time, several groundwater permits, contained the following qualification: "This well appears to be in an artesian basin having limited supplies, and restrictions as to flow and time of flow may be made by the Commission to protect prior water rights." The Geological Survey report (Cox, 1962) recommended that "approval to drill wells for irrigation use be held in abeyance until the extent of the overdraft can be determined by additional studies."

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

The application for Water Right No. 1313-1, an appropriation for water from the Spearfish aquifer approximately three miles from this well site was contested in 1984, over well interference concerns. Following a hearing, the application was approved and there has been no reported controversy.

Development of the groundwater resources in this area has progressed smoothly with over 40 groundwater appropriations made in this area since 1984. The observation well data for the area (see figure 2 for example) documents there is no "overdraft" from the aquifers and there has not been a single case of well interference resulting in an adverse impact to existing groundwater rights or domestic wells.

It is not likely that this appropriation will have an adverse impact on water rights in the area since the requested diversion rate is relatively low and the distance to existing wells is sufficient to minimize any interference.

Although the impact of this appropriation cannot be quantified precisely, it is still possible to address whether this appropriation can be made without adversely affecting existing water rights, including domestic wells. In the first place, the distance from other Minnekahta wells should be sufficient to minimize interference. Secondly, Water Management Board rules 74:02:04 and 74:02:05, which were promulgated pursuant to SDCL 46-6-6.1, provide protection to prior appropriators only to the degree necessary to maintain an adequate depth of water in wells that have the ability to produce water independent of artesian pressure. Simply put, the pump placement in a prior appropriator's well is not necessarily protected. In fact, in past action, the Water Management Board has concluded that if increased cost or decreased production is considered an adverse impact, it could be in conflict with SDCL 46-1-4, which requires South

Dakota's water resources to be put to beneficial use to the fullest extent of which they are capable.

The hydrograph for Water Rights' Observation Well LA-86B documents climatic effects of over 70 feet of fluctuation of the potentiometric surface. Flowing wells completed into the Minnekahta aquifer with a maximum shut in pressure of less than 30 pounds per square inch will require a pump to obtain water under natural fluctuation due to climatic conditions. Increased development from the Minnekahta aquifer in this area may result in more complaints regarding the loss of flow from wells. However, since water law does not protect artesian head pressure as a means of delivery, it is unlikely an adequate well would be considered "adversely affected".

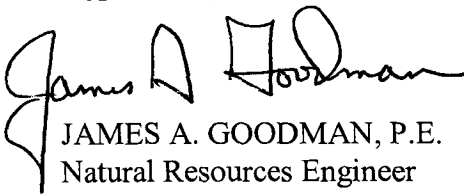
CONCLUSIONS:

1. The Minnekahta Limestone is a viable source of groundwater in this area.
2. There is a reasonable probability that unappropriated groundwater is available from the Minnekahta Limestone in this area.
3. There are numerous domestic wells and wells supplying appropriative rights in this area.
4. This proposed appropriation should have no adverse affect on existing water rights/permits due to the small increased diversion rate requested from the well.



KEN BUHLER
Natural Resource Engineer

Approved by:



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

REFERENCES:

- Allen, J.C., Iles, D.L., and Petres, A.K., 1985, Analysis of Groundwater and Streamflow Data Western Dakotas Region of South Dakota, Task 3 and 4: Groundwater Resource Inventory, Department of Water and Natural Resources,
- Carter, J.M., and Redden, J.A., 1999, Altitude of the Top of the Minnekahta Limestone in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-744-B, 2 sheets, scale 1:100,000
- Cox, E., 1962, Preliminary Report on the Artesian Water Supplies from the Minnelusa and Aphasia Aquifers in the Spearfish-Belle Fourche Area: S. D. Geological Survey Special Report-19, 17 p.
- Driscoll, D.G., and Carter J.M., 2001, Hydrologic Conditions and Budgets in the Black Hills Area of South Dakota Through Water Year 1998: U.S. Geological Survey Water-Resources Investigations Report 01-4226, 143 p.
- Strobel, M.L, Jarrell, G.J., Sawyer, J.F., Schleicher, J.R., and Fahrenbach, M.D., 1999, Distribution of Hydrogeologic Units in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-743, 3 sheets, scale 1:100,000
- Water Rights, 2009a, Irrigation Use Summary Report 1988-2008, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2009b, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2009c, Water Permit/Right Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2009d, Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

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MAR - 3 2009

WATER RIGHTS
PROGRAM

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 Application

No. 1902-1 to Appropriate Water

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 18th day of Feb., 2009, and the last publication on the 25th day of Feb., 2009, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 36.63, 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 27th day of Feb., 2009

Wendy Johnson
Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2010

Notice of Application
No. 1902-1 to
Appropriate Water

Notice is given that Loup Land Development, c/o Daphne Loup, 940 Kerwin Lane, Spearfish SD 57783 has filed an application for a water permit to appropriate 0.11 cubic feet of water per second from one well completed into the Minnekahta Limestone (738 feet deep) located in the SE1/4 NE1/4 Section 34-T7N-R2E for suburban housing development use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1902-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 9, 2009.

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

#76

Feb. 18, 25



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 11, 2009

Black Hills Pioneer
PO Box 7
Spearfish SD 57783

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 1902-1 to Appropriate Water to be published twice. Please publish the first notice on February 18, 2009 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 Loup Land Development, c/o Daphne Loup, 940 Kerwin Lane, Spearfish SD 57783 (Ph # 605-578-2323 ext. 127).

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. 1902-1

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

Date _____

We are in receipt of your letter of February 11, 2009 enclosing Notice to Appropriate Water by Application No. 1902-1 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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

February 11, 2009

Loup Land Development
c/o Daphne Loup
940 Kerwin Lane
Spearfish SD 57783

Dear Ms. Loup:

Water Permit Application No. 1902-1 for suburban housing 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 # 605-642-2761). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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 Notices 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 applications.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish first Notice on February 18, 2009 with the second publication 7 days later. The applicant 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 Application No. 1902-1 to Appropriate Water

Notice is given that Loup Land Development, c/o Daphne Loup, 940 Kerwin Lane, Spearfish SD 57783 has filled an application for a water permit to appropriate 0.11 cubic feet of water per second from one well completed into the Minnekahta Limestone (738 feet deep) located in the SE ¼ NE ¼ Section 34-T7N-R2E for suburban housing development use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1902-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 9, 2009.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 12 2003

Loup Land Development
c/o Daphne Loup
940 Kerwin Lane
Spearfish SD 57783

Dear Ms. Loup:

Enclosed is Water Permit No. 1902-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 1902-1

I have this day, July 24, 2017 made a thorough examination of the water use system constructed by **Loup Land Development, % Daphne Loup, 3855 Spring Creek Lane, Spearfish, SD 57783** of Permit No. **1902-1**, bearing the priority of **12/18/2008** authorizing the diversion of **0.11** cu. ft. per second water from one well for suburban housing purposes, in Lawrence County.

Inspection contact & relationship to permit holder, if applicable: **Daphne Loup, owner**
605-641-1390

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Ellingson Drilling (2008)
- 2) No. of Wells 1
- 3) Depth(s) 738 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 5 ½ "
- 2) Length 701 feet
- 3) Type steel

Screen:

- 1) Type open hole
- 2) Length 37 feet
- 3) Static water level 0 feet

Pump:

- 1) Make unknown
- 2) Model -----
- 3) Size 4"
- 4) Capacity 40 GPM
- 5) Horsepower rating ----- hp
- 6) Completion test – 40 gpm @ 220', 50 gpm @ 350'

Note: No information was available from any of the parties involved in development of this system concerning the pump installed. Based on the well completion report and the size of casing; the pump is most likely a 40 gpm rated pump.

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

- 1) Type PVC
- 2) Size 6 inches
- 3) Length various feet

C. Works used to apply water to beneficial use:

The well delivers water to a 30,000 gallon steel above ground storage tank which then gravity feeds to homes in the subdivision. Each of the homes utilizes a booster pump and pressure system to provide necessary pressure above what is delivered by gravity from the tank. There are currently 8 of the 28 lots built out and occupied.

D. Compliance with Permit Requirements:

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

E. Condition and Location:

1. The system is in fair condition with the point of diversion located as follows:
1,568' S and 1,134' W of the NE corner Section 34 T7N R2E (44.528079, -103.853918)

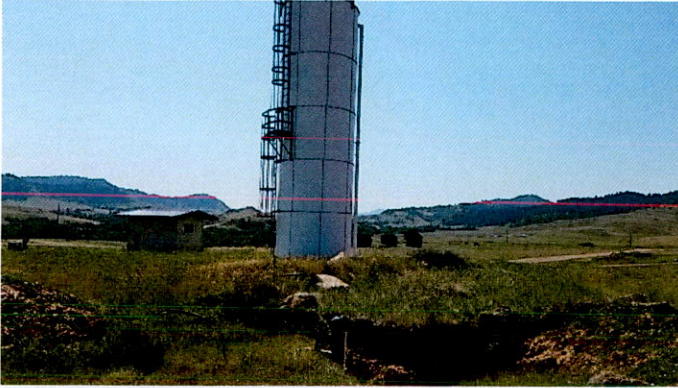
Note: At the time of inspection the well pump was not being used and the piping from the well had been temporarily routed to bypass the pump house and storage tank. A minimal flow from the well is gravity feeding the system. Repairs to the storage tank and piping connecting the well to the pump house and tank need to be made to provide a reliable water source.

2. The works are capable of diverting and conveying to the place of use 0.089 cu. ft. per second (40 gpm) of water which is to be used for **suburban housing** use and the license should be issued for 0.089 cfs.
3. All structures, wells and lands on map: **No, only the well and storage location.**

F. Comments or other permit(s) associated with the project: none

Steven Quissell
Water Rights Inspector
DENR Water Rights Program

Date report completed: Aug 16, 2017



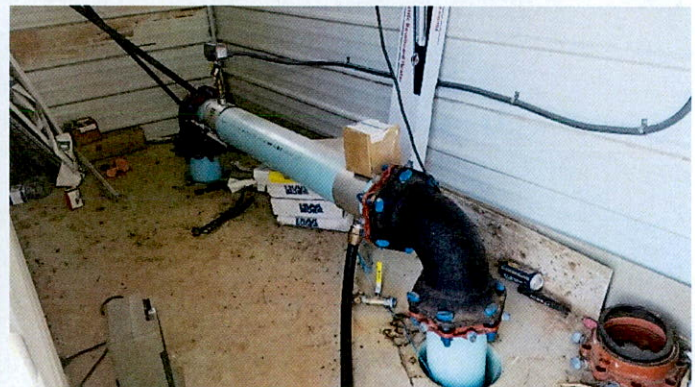
Well with storage tank and pump house



Temporary pipe connection to distribution

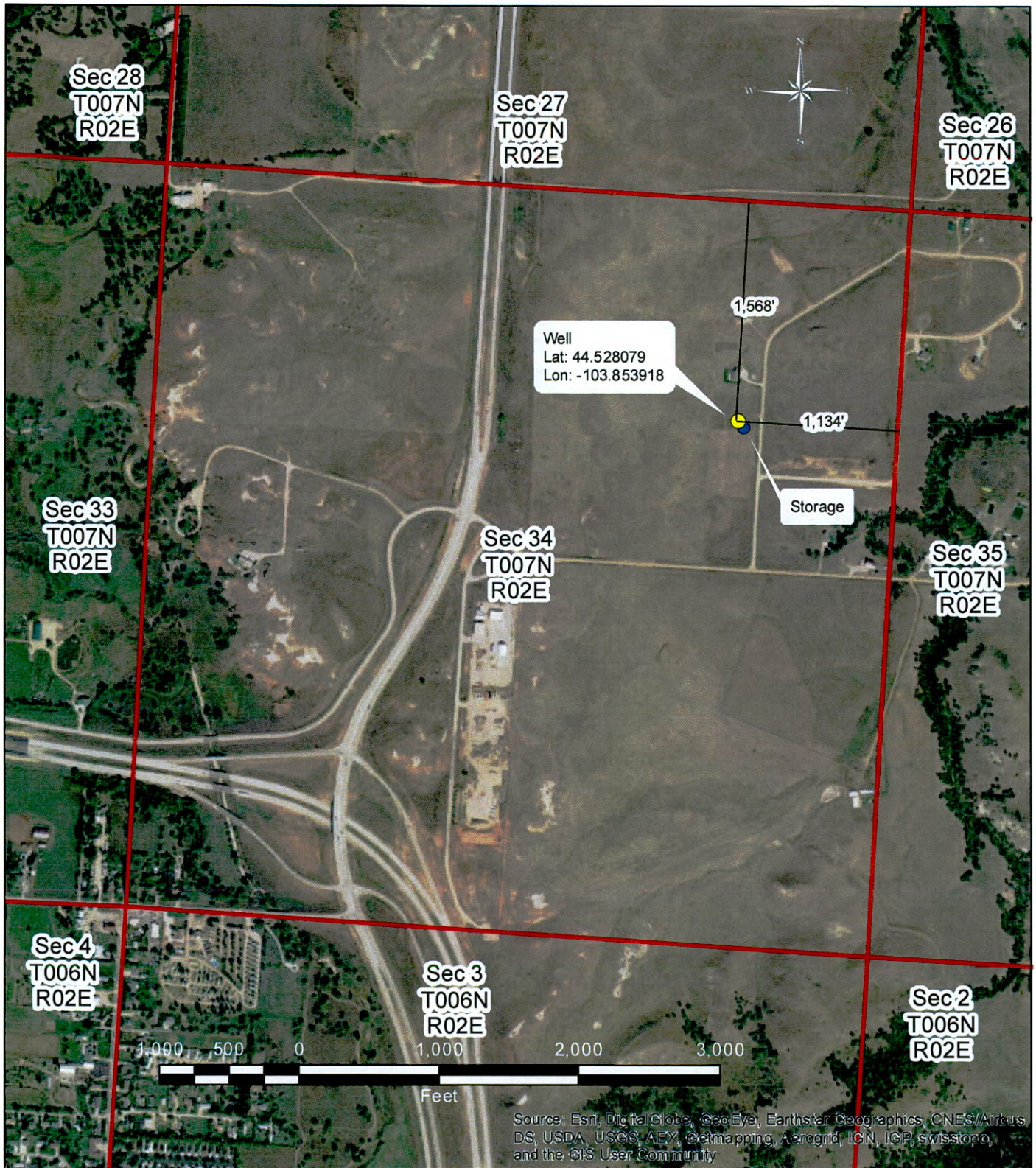


Storage tank with access door removed

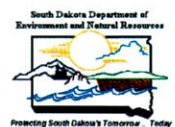


Pump house appurtenances

Water Right #1902-1
Loup Land Development
7/24/2017



Steven Quissell
Water Rights Inspector
DENR Water Rights Program





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

OCT 10 2017

1902-1

Daphne Loup
Loup Land Development
3855 Spring Creek Lane
Spearfish SD 57783

Dear Ms. Loup:

Enclosed is Water License No. 1902-1. 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.

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

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1902-1

(1) Loup Land Development, 3855 Spring Creek Lane, Spearfish SD 57783 made Application No. 1902-1, December 18, 2008 for a water permit to divert 0.11 cubic feet of water per second from ground water, one well (Minnekahta Limestone), Lawrence County, South Dakota for suburban housing development purposes. Permit No. 1902-1, with a priority date of December 18, 2008 was approved March 9, 2009 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 9, 2014 and for the application to beneficial use of said water on or before March 9, 2019.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.089 cubic feet of water per second for beneficial use. The location of the diversion point is:

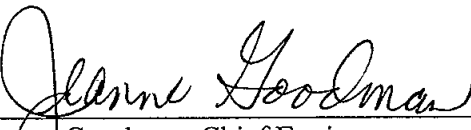
- 1,568'S & 1,134'W of the NE corner of Section 34 T7N R2E (SE ¼ NE ¼, Latitude 44.528079, Longitude -103.853918)

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use. The well delivers water to a 30,000 gallon above ground storage tank and is gravity fed to homes within the subdivision.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Loup Land Development, 3855 Spring Creek Lane, Spearfish SD 57783 the holder and/or owner of Water Right No. 1902-1 is issued a license to appropriate water, the right to use 0.089 cubic feet of water per second from ground water, one well (Minnekahta Limestone) with a priority date of December 18, 2008 from the location specified in (2) of this license for suburban housing development purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1902-1 and subject to the following qualifications:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- Loup Land Development shall report to the Chief Engineer annually the amount of water withdrawn from the well completed into the Minnekahta Limestone.


Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 10 2017
date



1902-1



Nies & Karras, P.C.

ATTORNEYS AT LAW

A professional law firm founded in 1977

Eric John Nies JD, LL.M. (Taxation)

Licensed in South Dakota and Wyoming

Dillon J. Karras JD

Licensed in South Dakota

February 10, 2022

ENCLOSURE MEMO

To:

PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

From: ☒ Eric Nies
 ☐ Dillon Karras

Date: 02/10/2022

Re: Spring Creek Preserve HOA

The following information is enclosed:

Notice of Transfer of Ownership
Check for Filing

This information is:

☐	Per your request.	☐	To keep you advised.
☐	Per our conversation.	☒	For filing.
☐	For your files.	☐	For recording.
☐	Other		

Please advise if you have any questions or comments.

Thanks!

P.O. Box 759, 109 Main Street Spearfish, SD 57783-0759

Phone (605) 642-2757

Facsimile (605) 642-2751

Email eric@nkhillslaw.com

1902-1

RECEIPT**WATER RIGHTS PROGRAM**
South Dakota Department of Agriculture and Natural ResourcesDate February 14, 2022RECEIVED OF Nies & Karras PC 109 Main 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. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form <u>1902-1</u>	<u>\$50.00</u>
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	<u>\$50.00</u>

By Eric Gronlund
Chief Engineer
vm

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

FEB 14 2022

Ck#

15488

Mail to: PMB 2020

DENR - Water Rights Program

523 E Capitol Ave

Pierre, SD 57501-3182

RECEIVED

FEB 14 2022

WATER RIGHTS
PROGRAM

Rec't#

Water Right/Permit No. 1902-1

Date:

02/09/2022

I/We request that Water Right/Permit No. 1902-1 formerly owned by:

Loup Land Development

be transferred to:

New Owner Name: Spring Creek Homeowners Association, Inc.

Address:

3725 GRAND LOOP

City, State, Zip

Spearfish

SD

57783

Telephone No.

Title to the following described land(s)/property has been transferred as described above:

1 well in SE1/4 NE1/4 Section 34, T7N, R2E, Lawrence County South Dakota

☒ I understand that the validity of Water Right/Permit No. 1902-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Spring Creek Preserve Homeowners Association, the new owner, certify that the above information is true and correct.


(signed by new owner)
Steven Hofmann

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



1902-1
**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

March 9, 2022

1902-1

Steven Hofmann
Spring Creek Homeowners Association Inc
3725 Grand Loop
Spearfish SD 57783

Dear Mr. Hofmann:

On February 14, 2022 we received a transfer of ownership form and filing fee from Nies & Karras in Spearfish for Water Right No. 1902-1.

The ownership change has been completed. The water right formerly held by Loup Land Development is now listed under Spring Creek Homeowners Association Inc.

I have included a copy of the water right in the event you do not have one. At the end of the water license, please note the second qualification. Next January, you will receive a letter from our program requesting water use information for 2022.

The receipt for the filing fee will be directed to Nies & Karras PC by copy of this letter. If you have any questions, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

c: Eric Nies w/Nies & Karras, PC