

WATER PERMIT NO. 1939A-1

Name of Applicant: Magic Canyon LP

Address: PO Box 7591, Rapid City SD 57709

Phone: 605 390-7080

Amount of Water Claimed: no additional

Total Acres: 97 acres

Source of Water Supply: Belle Fourche River

Water to be used for: irrigation County: Meade

Type of Waste Disposal System:

Location: approximately 15 southeast of Enning

PRIORITY Date Received: 4-11-2018

Application/License Fee: \$ 300

Corrected Application Received:

Period of Annual Use: May 1 – October 31

Remarks: Transfer a portion of acres authorized by Water Permit No. 1939-1 and add a diversion point

Diversion Point: SE 1/4 SW 1/4 Sec 24-T5N-R13E

Land to be Irrigated: SE 1/4 Sec 24-T5N-R13E
and SW 1/4 Sec 19-T5N-R14E

Depth of Well: NA

Well Driller:

Remarks:

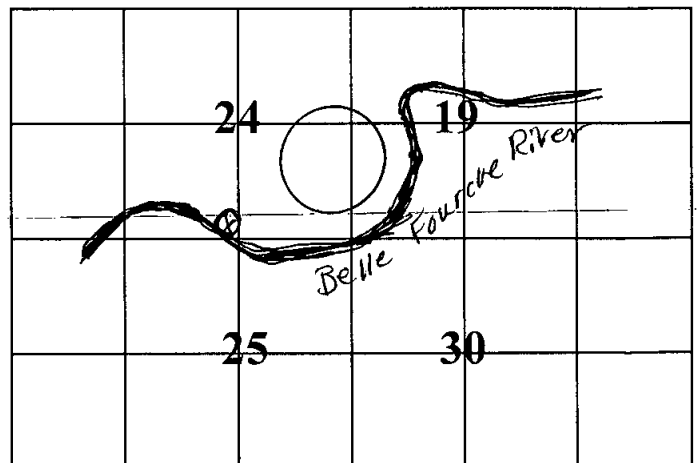
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 4-11-2018

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



SOUTH DAKOTA
WATER PERMIT NO. 1939A-1

Date of first receipt of application April 11, 2018.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1939A-1 to Magic Canyon LP, PO Box 7591, Rapid City SD 57709 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. 1939A-1 amends Water Permit No. 1939-1 by transferring a portion of the irrigated acreage and adding a diversion point. Water Permit No. 1939-1 appropriates 6.68 cubic feet of water per second (cfs) from the Belle Fourche River located in the SE 1/4 SE 1/4 Section 36-T6N-R14E, NE 1/4 SE 1/4 Section 1-T5N-R14E and the NE 1/4 NW 1/4 Section 12-T5N-R14E. Permit No. 1939-1 authorizes irrigation of 500 acres located in the SE 1/4, SE 1/4 SW 1/4 Section 35-T6N-R14E; NE 1/4, NE 1/4 NW 1/4 Section 2-T5N-R14E; W 1/2 NE 1/4, SE 1/4 NE 1/4, N 1/2 SE 1/4, NE 1/4 SW 1/4, W 1/2 SW 1/4, E 1/2 NW 1/4 Section 36-T6N-R14E; E 1/2 NE 1/4, NE 1/4 SE 1/4, SW 1/4, NW 1/4 NW 1/4 Section 1-T5N-R14E; N 1/2 NW 1/4 Section 12-T5N-R14E; W 1/2 NW 1/4 Section 6-T5N-R15E. This permit authorizes moving 97 acres approximately 7 miles southwest with the additional Belle Fourche diversion point to be located in the SW 1/4 SE 1/4 Section 24-T5N-R13E. The 97 acres to be irrigated will be located in the SE 1/4, S 1/2 NE 1/4 Section 24-T5N-R13E and W 1/2 SW 1/4, SW 1/4 NW 1/4 Section 19-T5N-R14E. The diversion rate associated with irrigation of the 97 acres is 1.56 cfs. No increase in the diversion rate or number of acres irrigated is authorized by this permit which is located approximately 15 miles southeast of Enning SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 - October 31.
3. The date from which applicant may claim right is May 1, 2013.
4. The date of approval of Permit No. 1939A-1 is May 29, 2018.
5. One-fifth of the construction is to be completed on or before November 29, 2020.
6. All construction is to be completed on or before May 29, 2023.
7. Water is to be put to beneficial use on or before May 29, 2027.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.
2. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUN 21 2018

date



RECEIVED

APR 11 2018

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>1939A-1</u> (office use only) Hydrologic Unit <u>10120202</u>
	Basin <u>Belle Fourche River</u>
	Newspaper <u>Faith Independent</u> <u>Rapid City Journal</u>

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 1939-1
(Use predates Mar 2, 1955)

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

transfer a portion of the acres authorized by Water Permit No. 1939-1 and add a diversion point1. Name to Appear on Irrigation Permit Magic Canyon LP

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address PO Box 7591 Rapid City SD 57709
(Address) (City) (State) (Zip Code)

Phone 605 343-3842 Mobile 605 390-7080 Email jscull@scullconst.com

2. Amount of water claimed no addl *CFS or **GPM ***AF Total Acreage 97
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Belle Fourche River

4. Location of point of diversion SE 1/4 SW 1/4 of Sec 24 R13E T5N
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Meade5. County or counties where water will be used Meade6. Annual period during which water is to be used May 1 - October 31

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>S 1/2 NE 1/4</u>		<u>SE 1/4 of Sec 24 R13E T5N</u>	<u>70</u>
<u>S 1/2 NW 1/4</u>		<u>SW 1/4 of Sec 19 R14E T5N</u>	<u>27</u>

8. Give a description of the project. (Attach sheet if more space is needed)

Due to soil condition at the location of a portion of the acres authorized by Water Permit No. 1939-1, Magic Canyon LP is proposing to change the location of 97 acres to a new location. The soils at this site are more suitable for irrigation. This will necessitate an additional pump site. Pump rate to be 700GPM when operating. We will be deleting pivot #1 as shown on the attached drawing.

I, James L Scull owner, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

1/8/2018

NEW PIVOT LOCATION 4/9/18

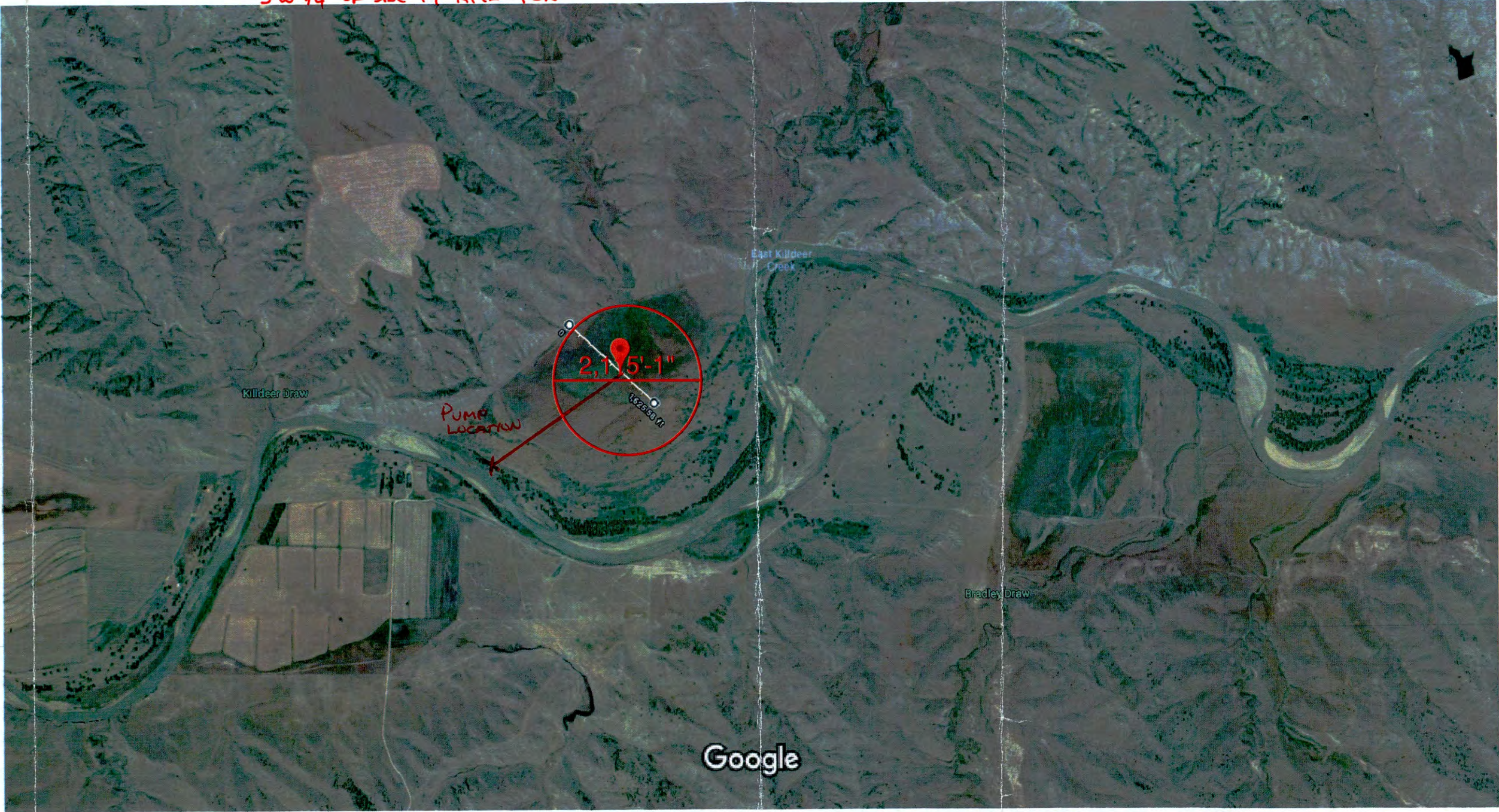
44°22'42.4"N 102°28'59.3"W - Google Maps

MAGIC CANYON LP
JAMES SCULL

Google Maps

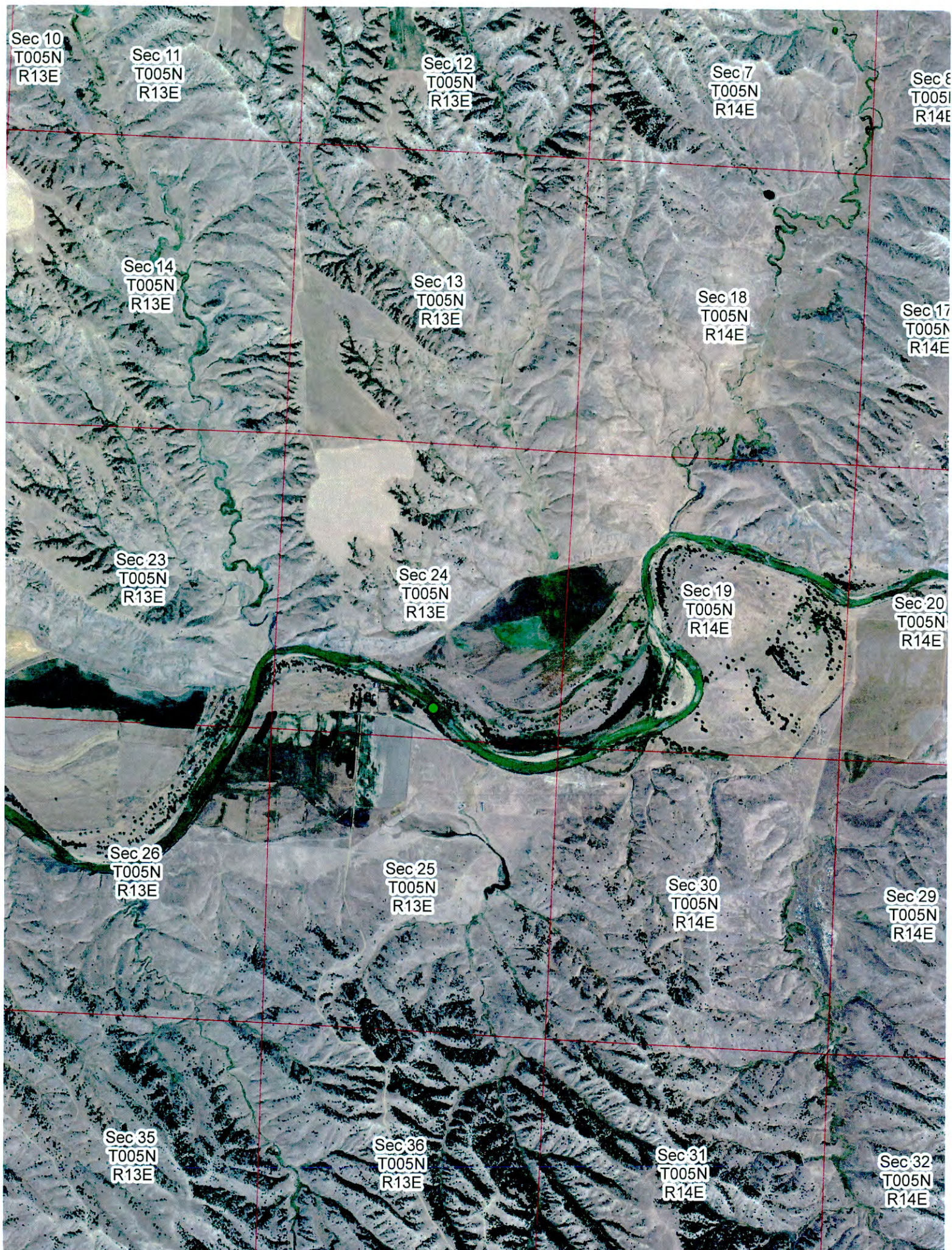
44°22'42.4"N 102°28'59.3"W

SE 1/4 OF SEC 24 R13E T5N
SW 1/4 OF SEC 19 R14E T5N



Imagery ©2018 Google, Map data ©2018 Google 1000 ft

Measure distance
Total distance: 1,625.58 ft (495.48 m)





↑
moved to
here

↑
pivot 1
that is being
deleted

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 11

, 20 18

RECEIVED OF Magic Canyon LP PO Box 7591 Rapid City SD 57709

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

Fee for Application for Permit No. <u>1939A-1</u> to Appropriate Water, to construct and to put water to beneficial use	100	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>1939A-1</u>	200	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	300 00

No. **08653**

By Jeanne Goodman
Chief Engineer *jm*



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 3, 2018

denr.sd.gov

Jim Scull
Magic Canyon LP
PO Box 7591
Rapid City SD 57709

Dear Mr. Scull:

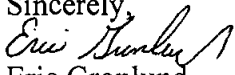
During our phone conversation regarding Water Permit No. 1939-1 which appropriates water from the Belle Fourche River for irrigation in Meade County you indicated a desire to transfer some of the acres to a new location. This would be an amendment to the permit. To be an amendment the source must continue to be the Belle Fourche River and no additional water or acres can be authorized.

Attached are application forms and an instruction sheet to file the application to amend Water Permit No. 1939-1 by transferring a portion of the acres. I have also taken the liberty of partially completing an "example" application. This application will need to be completed with the following additions:

1. Item No. 2 – the number of acres to be transferred to a new location
2. Although this amendment does not request more pump rate authority, please include somewhere on the application the pump rate associated with the transferred acres.
3. Item No. 4 – it is presumed that an additional pump site will be needed. If so, in this space should be the location of the additional pump site defined to the quarter-quarter section.
4. Item No. 7 – breakdown of acres of the new location for transferred acres defined by how many acres will be in each quarter-quarter section.
5. A map is required showing the section that outlines the new location of the acres that are to be transferred and if applicable, the additional pump site.
6. The application/licensing fee for the application is \$300 made payable to the Water Rights Program.

I have also sent this letter to you by email along with a pdf file for you to incorporate changes to complete the application. Please understand that the permit must be in place prior to construction and Permit No. 1939-1 is to have all construction completed on or before July 22, 2018. So timing is critical to get the permit in place as soon as possible.

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

Sincerely,

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

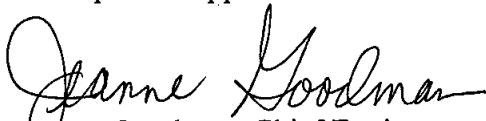
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1939A-1, Magic Canyon LP**

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. 1939A-1, Magic Canyon LP, c/o James L Scull, PO Box 7591, Rapid City SD 57709.

The Chief Engineer is recommending APPROVAL of Application No. 1939A-1 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.
2. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
May 10, 2018

REPORT ON WATER PERMIT APPLICATION NO. 1939A-1

Magic Canyon LP

May 2, 2018

Application No. 1939A-1 proposes to amend Water Permit No. 1939-1 by transferring a portion of the irrigated acreage and adding a diversion point. Water Permit No. 1939-1 appropriates 6.68 cubic feet of water per second (cfs) from the Belle Fourche River located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 36-T6N-R14E, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1-T5N-R14E and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12-T5N-R14E. This permit authorizes irrigation of 500 acres located in the SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35-T6N-R14E; NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 2-T5N-R14E; W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 36-T6N-R14E; E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 1-T5N-R14E; N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 12-T5N-R14E; W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6-T5N-R15E. This application proposes to move 97 acres approximately 7 miles southwest with the additional Belle Fourche diversion point to be located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24-T5N-R13E. The 97 acres to be irrigated will be located in the SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 24-T5N-R13E and W $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 19-T5N-R14E. No increase in the diversion rate or number of acres irrigated is authorized by this application which is located approximately 15 miles southeast of Enning SD in Meade County.

Review of the Proposed Project

The applicant was issued Water Permit No. 1939-1 in 2013 for irrigation through the use of multiple center pivot irrigators for 500 acres at a diversion rate 6.68 cfs. With this application, the applicant is proposing relocating one of the center pivot irrigators due to poor soil conditions. The irrigated acres will be relocated from portions of Section 1 and 2 of T5N-R14E and Sections 35 and 36 of T6N-R14E to the SE $\frac{1}{4}$ of Section 24 T5N-R13E and SW $\frac{1}{4}$ of Section 19 T5N-R14E. This relocation will require an additional diversion point to be located in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24-T5N-R13E. There is no increase in the diversion rate or number of acres irrigated proposed.

Review of Existing Water Rights

From the Belle Fourche River diversion dam downstream to the confluence of the Belle Fourche River with the Cheyenne River, there are 81 existing water rights/permits appropriating 188.52 cfs. Since application No. 1839A-1 does not propose to appropriate any additional water, existing water rights/permits should not be adversely impacted (Water Rights. 2018).

Review of the Proposed Water Source

The water source for this proposed project is the Belle Fourche River. The Belle Fourche River rises in northeastern Wyoming and flows around the northern edge of the Black Hills before heading east and eventually discharging into the Cheyenne River in southeastern Meade County north of the town of Wasta, SD. The Belle Fourche Irrigation District irrigates over 57,000 acres with water coming from the Belle Fourche River and several adjacent streams. The District operates Belle Fourche dam and reservoir located on Owl Creek. The District controls the Belle Fourche River diversion dam located on the river just northeast of the town of Belle Fourche. This diversion dam is capable of diverting the majority of the flow of the Belle

Fourche River to the Belle Fourche Reservoir. Throughout the irrigation season, water is released from the reservoir to supply irrigation land within the irrigation district. Return water from the irrigation project makes its way back to the Belle Fourche River by way of adjacent tributaries and is available for downstream use.

Since 1928 the United States Geological Survey has operated a stream flow gaging station on the Belle Fourche River near Elm Springs South Dakota, approximately 70 river miles downstream from the irrigation district. Depending on the location of the multiple diversion points, this gaging station is located between 6 to 20 miles upstream from this irrigation project. This gage is located downstream of where irrigation return flows enter the river (USGS. 2018).

Figure 1 shows the flow hydrograph with the daily 5, 10, 25, and 50 percentile values for this gage based upon 65 years of available flow data. The shape of the hydrograph is different than what would typically be seen on a hydrograph for a prairie stream. A prairie stream typically shows an increase in flow in March and April time frame corresponding to spring snowmelt and spring rain events then slowly tailing off throughout the remainder of the spring and summer months. The Elm Springs gaging station hydrograph demonstrates how return flows from irrigation district drastically affects the availability of water throughout the entire irrigation season. The hydrograph shows at the four percentile levels flows increase in May and continue throughout the remainder of the summer before tailing off in September and October. Based upon this, water availability for this project would not be a concern (USGS. 2018)

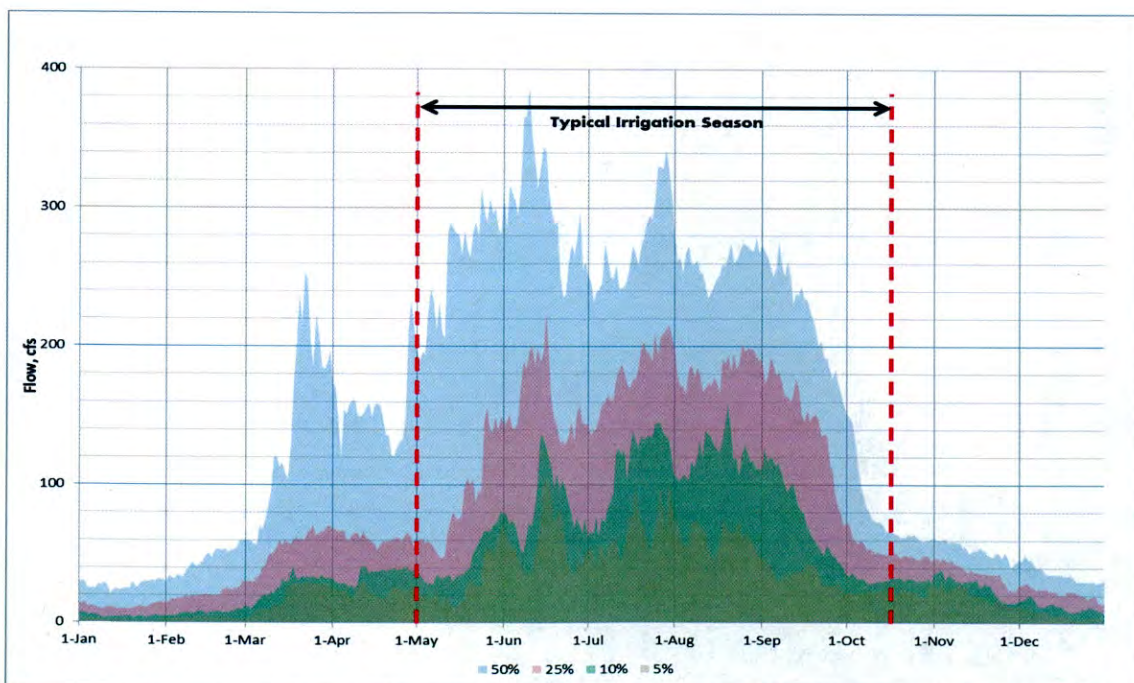


Figure 1. Daily percentile flow hydrographs for the USGS Belle Fourche River near Elm Springs, 1928-2017, contributing drainage area 6997 mi² (USGS, 2018).

Conclusions

1. This application proposes to amend Water Permit No. 1939-1 by transferring a portion of the irrigated acreage and adding a diversion point.

2. Since application No. 1939A-1 does not propose to appropriate any additional water, existing water rights/permits should not be adversely impacted.
3. The Belle Fourche River receives a significant amount of return flow water from the Belle Fourche Irrigation District, which is available for downstream use. Water availability for this project would not be a concern.

for Eric Hunsberr
Mark D. Rath
Natural Resources Engineer III

References

1. USGS. 2018. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. Water Rights. 2018. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, May 10, 2018 2:42 PM
To: 'jscull@scullconst.com'
Subject: Water Permit Application No. 1939A-1
Attachments: 1939A-1.pdf

Enclosed is the information regarding the public notice, the chief engineers recommendation and report on Water Permit Application No. 1939A-1, Magic Canyon LP. Please contact the two papers ASAP to authorize publication and arrange for payment. Paper copies were mailed today.

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352



RECEIVED

JUN 05 2018

WATER RIGHTS
PROGRAM

PUBLISHER'S AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
}SS
COUNTY OF MEADE }

Kris Stocklin-Johnson of said County and State, being duly sworn on oath says: THE FAITH INDEPENDENT is a weekly newspaper of general circulation, published in FAITH, in said County and State and has been such newspaper during the times thereafter mentioned; that the said THE FAITH INDEPENDENT is a legal newspaper and has been in existence for more than one year immediately preceding the first publication herein mentioned; and has more than 200 bonafide subscribers; that I, the undersigned, am Office Manager of said newspaper, and have personal knowledge of all facts stated in this affidavit; and that the advertisement headed:

Notice of Application to Amend Water Permit #1939-1

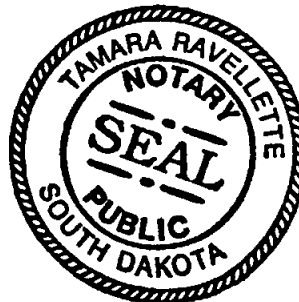
A printed copy of which is hereto attached, was printed and published in said newspaper for one successive issue, the first publication being on the 16th day of May, 2018, and the last publication on the 16th day of May, 2018, that \$31.69 being the full amount of the fee for publication of the annexed notice insures solely to the benefit of the publishers of the said newspaper; that no arrangement 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.

x Kris Stocklin-Johnson

Subscribed and sworn to me before this 16th day of May, 2018.

Tamara Ravellette

Notary Public, State of South Dakota
My Commission Expires
Jan. 24th, 2020



NOTICE OF
APPLICATION NO.
1939A-1 to Amend
Water Permit No. 1939-1

Notice is given that Magic Canyon LP, c/o James L Scull, PO Box 7591, Rapid City SD 57709 has filed an application to amend Water Permit No. 1939-1 by transferring a portion of the irrigated acreage and adding a diversion point. Water Permit No. 1939-1 appropriates 6.68 cubic feet of water per second (cfs) from the Belle Fourche River located in the SE 1/4 SE 1/4 Section 36-T6N-R14E, NE 1/4 SE 1/4 Section 1-T5N-R14E and the NE 1/4 NW 1/4 Section 12-T5N-R14E. This permit authorizes irrigation of 500 acres located in the SE 1/4, SE 1/4 SW 1/4 Section 35-T6N-R14E; NE 1/4, NE 1/4 NW 1/4 Section 2-T5N-R14E; W 1/2 NE 1/4, SE 1/4 NE 1/4, N 1/2 SE 1/4, NE 1/4 SW 1/4, W 1/2 SW 1/4, E 1/2 NW 1/4 Section 36-T6N-R14E; E 1/2 NE 1/4, NE 1/4 SE 1/4, SW 1/4, NW 1/4 NW 1/4 Section 1-T5N-R14E; N 1/2 NW 1/4 Section 12-T5N-R14E; W 1/2 NW 1/4 Section 6-T5N-R15E. This application proposes to move 97 acres approximately 7 miles southwest with the additional Belle Fourche diversion point to be located in the SW 1/4 SE 1/4 Section 24-T5N-R13E. The 97 acres to be irrigated will be located in the SE 1/4, S 1/2 NE 1/4 Section 24-T5N-R13E and W 1/2 SW 1/4, SW 1/4 NW 1/4 Section 19-T5N-R14E. No increase in the diversion rate or number of acres irrigated is authorized by this application which is located approximately 15 miles southeast of Enning SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1939A-1 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 29, 2018.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Steven M. Pimer,

Secretary, Department of Environment and Natural Resources

Published May 16, 2018 at the total approximate cost of \$31.69.



May 16 L21063381

NOTICE OF APPLICATION

**NO. 1939A-1 to Amend
Water Permit No. 1939-1**

Notice is given that Magic Canyon LP, c/o James L. Scull, PO Box 7591, Rapid City SD 57709 has filed an application to amend Water Permit No. 1939-1 by transferring a portion of the irrigated acreage and adding a diversion point. Water Permit No. 1939-1 appropriates 6.68 cubic feet of water per second (cfs) from the Belle Fourche River located in the SE 1/4 SE 1/4 Section 36-T6N-R14E, NE 1/4 SE 1/4 Section 1-T5N-R14E and the NE 1/4 NW 1/4 Section 12-T5N-R14E. This permit authorizes irrigation of 500 acres located in the SE 1/4, SE 1/4 SW 1/4 Section 35-T6N-R14E; NE 1/4, NE 1/4 NW 1/4 Section 2-T5N-R14E; W 1/2 NE 1/4, SE 1/4 NE 1/4, N 1/2 SE 1/4, NE 1/4 SW 1/4, W 1/2 SW 1/4, E 1/2 NW 1/4 Section 36-T6N-R14E; E 1/2 NE 1/4, NE 1/4 SE 1/4, SW 1/4, NW 1/4 NW 1/4 Section 1-T5N-R14E; N 1/2 NW 1/4 Section 12-T5N-R14E; W 1/2 NW 1/4 Section 6-T5N-R15E. This application proposes to move 97 acres approximately 7 miles southwest with the additional Belle Fourche diversion point to be located in the SW 1/4 SE 1/4 Section 24-T5N-R13E. The 97 acres to be irrigated will be located in the SE 1/4, S 1/2 NE 1/4 Section 24-T5N-R13E and W 1/2 SW 1/4, SW 1/4 NW 1/4 Section 19-T5N-R14E. No increase in the diversion rate or number of acres irrigated is authorized by this application which is located approximately 15 miles southeast of Enning SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1939A-1 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 29, 2018.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

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

(Published once at the total approximate cost of \$77.11)

Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington

SS:

RECEIVED

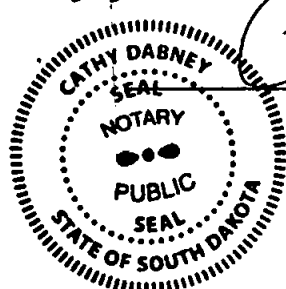
JUN - 1 2018

WATER RIGHTS
PROGRAM

Sheri Sponder being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each day for one successive day, the first publication there of being on the 16th day of May 2018 that the fees charged for the publication there of are 77 dollars and 11 cents.

Sheri Sponder

Subscribed and sworn to before me this 30th day of May, 2018.



Cathy Dabney
Notary public

4-16-2024

My commission expires

NOTICE OF APPLICATION NO. 1939A-1 to Amend Water Permit No. 1939-1

Notice is given that Magic Canyon LP, c/o James L Scull, PO Box 7591, Rapid City SD 57709 has filed an application to amend Water Permit No. 1939-1 by transferring a portion of the irrigated acreage and adding a diversion point. Water Permit No. 1939-1 appropriates 6.68 cubic feet of water per second (cfs) from the Belle Fourche River located in the SE 1/4 SE 1/4 Section 36-T6N-R14E, NE 1/4 SE 1/4 Section 1-T5N-R14E and the NE 1/4 NW 1/4 Section 12-T5N-R14E. This permit authorizes irrigation of 500 acres located in the SE 1/4, SE 1/4 SW 1/4 Section 35-T6N-R14E; NE 1/4, NE 1/4 NW 1/4 Section 2-T5N-R14E; W 1/2 NE 1/4, SE 1/4 NE 1/4, N 1/2 SE 1/4, NE 1/4 SW 1/4, W 1/2 SW 1/4, E 1/2 NW 1/4 Section 36-T6N-R14E; E 1/2 NE 1/4, NE 1/4 SE 1/4, SW 1/4, NW 1/4 NW 1/4 Section 1-T5N-R14E; N 1/2 NW 1/4 Section 12-T5N-R14E; W 1/2 NW 1/4 Section 6-T5N-R15E. This application proposes to move 97 acres approximately 7 miles southwest with the additional Belle Fourche diversion point to be located in the SW 1/4 SE 1/4 Section 24-T5N-R13E. The 97 acres to be irrigated will be located in the SE 1/4, S 1/2 NE 1/4 Section 24-T5N-R13E and W 1/2 SW 1/4, SW 1/4 NW 1/4 Section 19-T5N-R14E. No increase in the diversion rate or number of acres irrigated is authorized by this application which is located approximately 15 miles southeast of Enning SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1939A-1 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 29, 2018.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of _____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, May 10, 2018 2:04 PM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 1939A-1, Magic Canyon LP
Attachments: 1939A-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on May 16, 2018.

Magic Canyon LP, c/o James L Scull, PO Box 7591, Rapid City SD 57709 (605 343-3842 ro 605 390-7080) 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
SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, May 10, 2018 2:03 PM
To: faithind@faithsd.com
Subject: 1939A-1, Magic Canyon LP
Attachments: 1939A-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on May 16, 2018.

Magic Canyon LP, c/o James L Scull, PO Box 7591, Rapid City SD 57709 (605 343-3842 ro 605 390-7080) 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

SD DENR, Water Rights Program
(605) 773-3352





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

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

May 10, 2018

Magic Canyon LP
c/o James L Scull
PO Box 7591
Rapid City SD 57709

Dear Mr. Scull:

Water Permit Application No. 1939A-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Faith Independent printed at Faith SD (Ph # 605-967-2161) and the Rapid City Journal printed at Rapid city SD (Ph # 605-394-8300). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and 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(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. 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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUN 21 2018

Magic Canyon LP
c/o James L Scull
PO Box 7591
Rapid City SD 57709

Dear Mr. Scull:

Enclosed is Water Permit No. 1939A-1 authorizing the transfer of acreage, the associated diversion rate and an additional Belle Fourche River diversion point. Also enclosed is reissued Water Permit No. 1939-1 as it relates to Permit No. 1939A-1.

A 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 information 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,

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

enclosures

NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE1939A-1
RECEIVED
SEP 27 2018
WATER RIGHTS
PROGRAMDate 9/25/18TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

MAGIC CANYON LP

(name)

PO Box 7591

(address)

RAPID CITY, SD 57709

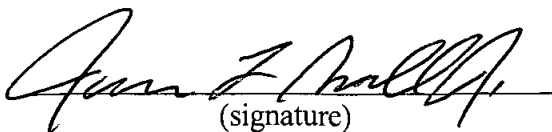
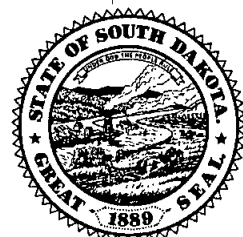
(city, state, zip)

(phone)

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

Water Permit No. 1939A-1 states that the water use system is to be constructed byMAY 29, 2023, and water is to be put to beneficial use by MAY 29, 2027
(date) (date)The water use system was completed on 8/15/18
(date)Applying the water to beneficial use was completed on 8/15/18
(date)

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


(signature)



1939A-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 1, 2018

1939A-1

James L Scull
Magic Canyon LP
PO Box 7591
Rapid City SD 57709

Dear Mr. Scull:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with the water use system authorized under Water Permit No. 1939A-1.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 1939A-1

I have this day June 27, 2019 made a thorough examination of the water use system constructed by Magic Canyon LP, PO Box 7591, Rapid City SD 57709 of Permit No. 1939A-1, bearing the priority of 5/1/2013 authorizing the diversion of 1.56 cu. ft. per second of water of the Belle Fourche River for irrigation purposes in Meade County.

Inspection contact & relationship to permit holder : **Bryan Ulring , ranch manager**
(406) 660-1232 (cell)

A. Works used to divert the water:

- Pump: _____

- 1) Make Cornell
- 2) Model 4RB-RP-F16
- 3) Size 6"X 4"

Power:

- 1) Source Electric
- 2) Horsepower rating 40 hp

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

- 1) Type PVC pipe
- 2) Size 8 inches
- 3) Length 1,890 feet

C. Works used to apply water to beneficial use:

Center Pivot:

- 1) Make T & L
- 2) Machine length 1,083.1 feet
- 3) Number of towers 7 End Gun Yes
- 4) Capacity 675 gpm
- 5) Acres 97. (full circle)

D. Chemigation Equipment: operator does not Chemigate

E. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes
- 3) List any extended period of nonuse: none
- 4) Exceptions to compliance are: none

F. Condition and Location:

1. The system is in **good** condition with the point of diversion located as follows:
1,743' N and 677' W of the SE corner Section 24 T5N R13E (44.374638, -102.49033).
2. The works are capable of diverting and conveying to the place of use **1.5** cu. ft. per second of water (675 gpm) which is to be used for sprinkler **irrigation**. Water has been put to beneficial use to the maximum extent as follows:

<u>Section 24 T5N R13E</u>		<u>Section 19 T5N R14E</u>	
NW ¼ SE ¼ 12.7 acres	NE ¼ SE ¼ 40.0 acres	NW ¼ SW ¼ 11.4 acres	
SW ¼ SE ¼ 3.8 acres	SE ¼ SE¼ 20.9 acres	SW ¼ SW ¼ 3.4 acres	
SE ¼ NE ¼ 4.8 acres			

comprising a total of **97.0** acres of land and the license should be issued for **1.5** cfs.

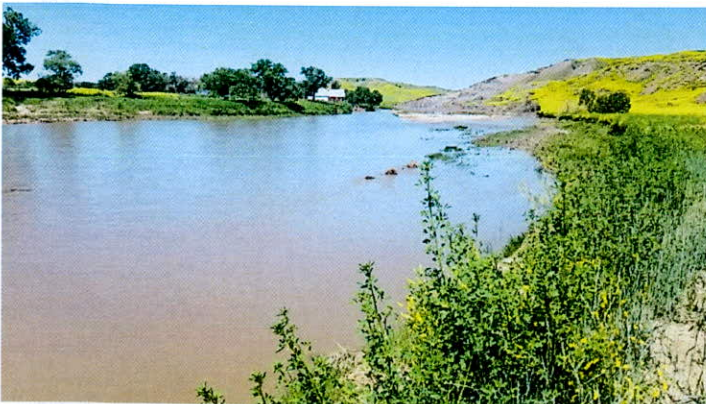
All structures, wells and lands on map: **Yes**

G. Comments or other permits associated with the project: Water Permit 1939-1 appropriated 6.68 cfs and authorized 500 acres of irrigation. **Water Permit No. 1939A-1 amended Water Permit No. 1939-1 transferring 97 acres and adding a diversion point** located approximately 7 miles southwest. The diversion rate associated with the irrigation of the 97 acres is 1.56 cfs.



Steven Quissell
Water Rights Inspector
DENR, Water Rights Program

Date report completed: **7/3/2019**



Belle Fourche River diversion location 6/27/19

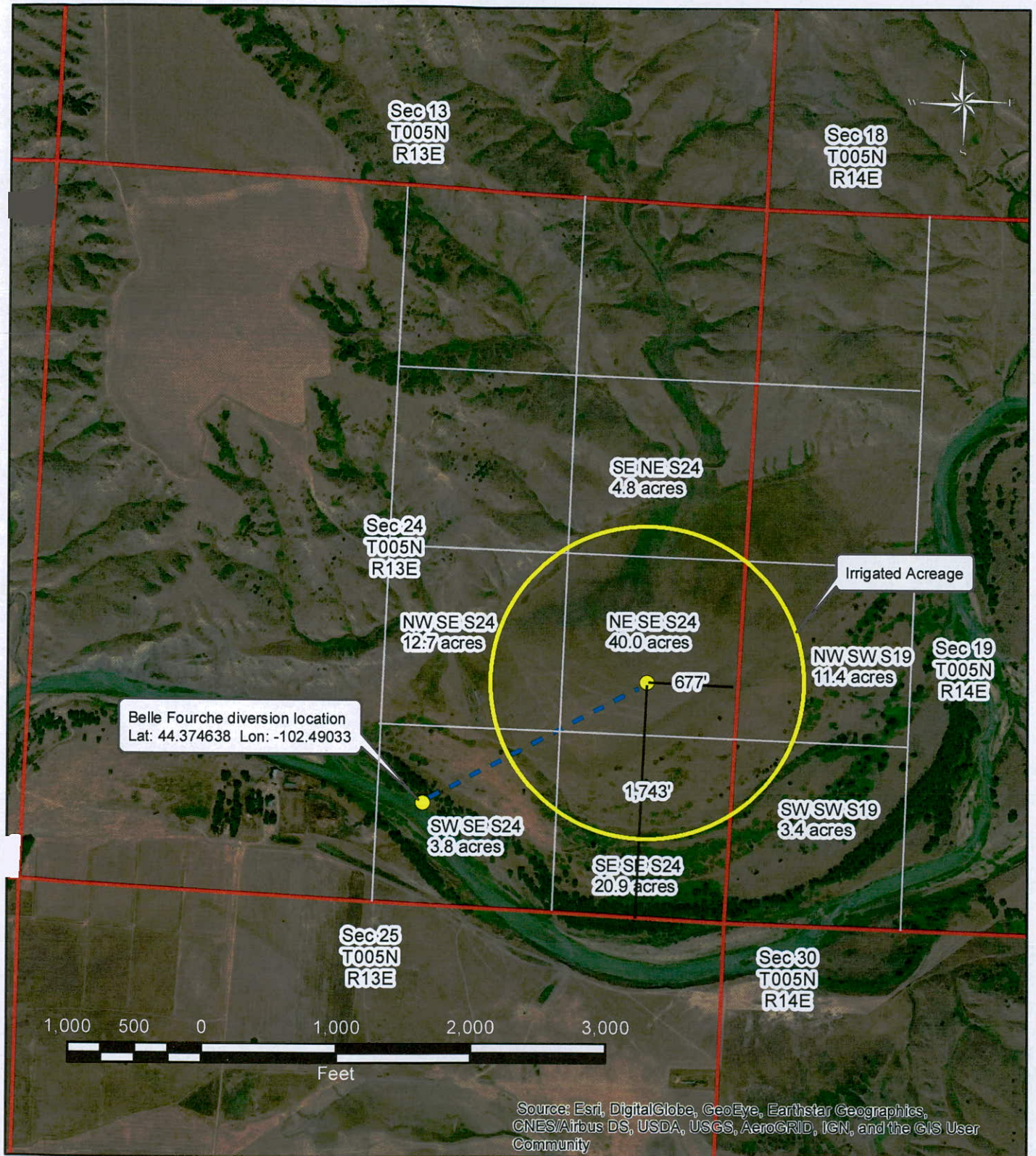


Center Pivot



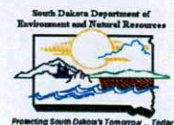
Trailer mounted pump

Water Right #1939A-1
Magic Canyon LP
6/27/2019



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program





1939A-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

SEP 03 2019

1939-1
1939A-1

James Scull Jr
Magic Canyon LP
PO Box 7591
Rapid City SD 57709

Dear Mr. Scull:

Enclosed are Water License Nos. 1939-1 and 1939A-1. They are the final water right documents completing your process of obtaining Water Rights. Included with each license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

A handwritten signature in cursive script that reads "Jeanne Goodman".

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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1939A-1

(1) Magic Canyon LP, PO Box 7591, Rapid City SD 57709 made Application No. 1939A-1, April 11, 2018 for a water permit to divert 1.56 cubic feet of water per second from the Belle Fourche River, Meade County, South Dakota for irrigation purposes. Permit No. 1939A-1, with a priority date of May 1, 2013 (established under Permit No. 1939-1) was approved May 29, 2018 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 29, 2023 and for the application to beneficial use of water on or before May 29, 2027.

The acreage and diversion authority for No. 1939A-1 was originally authorized under Water Permit No. 1939-1. Water Permit No. 1939A-1 authorized moving 97 acres 7 miles southwest of the original project and included an additional diversion point on the Belle Fourche River. The associated diversion rate of 1.56 cfs was also transferred to the new location.

Magic Canyon LP submitted a *"Notice of Completion of Works and Application of Water to Beneficial Use"* on September 27, 2018. The *"Notice"* indicated the project had been completed and water placed to beneficial use on August 15, 2018.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and is entitled to divert 1.50 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,743'N and 677'W of the SE corner of Section 24, T5N, R13E (SW ¼ SE ¼)
Latitude 44.374638, Longitude -102.49033

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 24, T5N, R13E				Section 19, T5N, R14E	
NW ¼ SE ¼	12.7 acres	SE ¼ NE ¼	4.8 acres	NW ¼ SW ¼	11.4 acres
NE ¼ SE ¼	40.0 acres			SW ¼ SW ¼	3.4 acres
SW ¼ SE ¼	3.8 acres				
SE ¼ SE ¼	20.9 acres				

Total: 97 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Magic Canyon LP, PO Box 7591, Rapid City SD 57709 the holder and/or owner of Water Right No. 1939A-1 is issued a license to appropriate water, the right to use 1.50 cubic feet of water per second from the Belle Fourche River with a priority date of May 1, 2013 (established under No. 1939-1) from the location specified in (2) of this license for irrigation purposes.

continued

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1939A-1 and subject to the following qualifications:

- Low flows as needed for downstream domestic use including livestock water and prior water rights must be bypassed.
- Diversions under this water right shall be in accordance with any written orders issued by the Chief Engineer.
- This water right is subject to the irrigation water use questionnaire being submitted each year.



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

SEP 03 2019

date

