

Additional documents from the contested case hearing on Water Permit No. 1975A-1 can be found here:

https://denr.sd.gov/wrimage/wrinfo/wr_div1/1975A-1_CCHearingDocs.pdf

SOUTH DAKOTA
WATER PERMIT NO. 1975A-1

Date of first receipt of application December 3, 2018.

The Water Management Board approved Water Permit No. 1975A-1 on February 26, 2020 for Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 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. 1975A-1 authorizes additional areas of use to Water Right No. 1855-1 and Water Permit No. 1975-1. Water Right No. 1855-1 and Water Permit No. 1975-1 appropriate 0.156 cubic feet of water per second (cfs) from one well completed into the Inyan Kara Aquifer (3,385 feet deep) located in the NE 1/4 NE 1/4 Section 28-T8N-R17E for commercial use, domestic use, and use at a temporary man camp to be located in the W 1/2 Section 22-T8N-R17E. This permit authorizes use of the above listed well as a backup supply for temporary workforce camps to be located in Section 3-T97N-R75W (Tripp County), Section 9-T12N-R12E (Meade County), Section 11-T1N-R20E (Haakon County), and Section 25-T19N-R3E (Harding County), and two locations (Section 15-T7N-R59E and Section 29-T14N-R54E) in Dawson and Fallon Counties of Montana. Annual water use for temporary work force camps shall not exceed 57.2 acre-feet of water. This permit does not authorize any increase in the diversion rate of 0.156 cfs authorized by Water Right No. 1855-1 and Water Permit No. 1975-1. This site of the well is approximately one mile northwest of Howes SD.
2. The water shall be used for the purpose of a backup supply for temporary workforce camps and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is December 3, 2018.
5. One-fifth of the construction is to be completed on or before August 26, 2022.
6. All construction is to be completed on or before February 26, 2025.
7. Water is to be put to beneficial use on or before February 26, 2029.
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. The well approved under Water Permit Nos. 1855-1, 1975-1 and 1975A-1 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. The use of water from the wells authorized by Water Permit Nos. 1855-1, 1975-1 and 1975A-1 shall not exceed 57.2 acre feet of water annually for use at temporary workforce camps set forth in Water Permit Nos. 1975-1 and 1975A-1.

(continued)

3. The permit holder shall report the annual volume of water diverted for all uses from the Inyan Kara aquifer. The permit holder shall also report the portion of the volume of water diverted for use at the temporary workforce camps on a monthly basis and for the twelve months prior. The reporting for workforce camps use is not required once the temporary workforce camps are no longer in place.

WATER MANAGEMENT BOARD

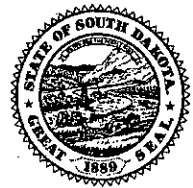
By: _____

Jeanne Goodman

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

FEB 28 2020

date



Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>1975A-1</u> (office use only) Hydrologic Unit <u>10120112</u>
	Basin <u>Lower Cheyenne</u>
	Newspaper <u>see list</u>

RECEIVED

DEC 03 2013

WATER RIGHTS
PROGRAM

PAID

DEC 03 2018

Ck# 305

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

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ Domestic (over 18 gpm)	☐ Industrial	☒ Other <u>temporary workforce camp</u>	

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. <u>1975-1</u>		

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

This request is to amend the previously approved Permit by adding temporary workforce camps that may use this well as a backup water supply. See Part 7 below for additional information.

1. Name to Appear on Water Permit Wink Cattle Company, c/o Dean Wink

Mailing Address PO Box 137 (Address) Howes (City) SD (State) 57748 (Zip Code)

Phone _____ Mobile 605.490.1410 Email _____

2. Amount of water claimed 0.156 *CFS or 70 **GPM and _____ ***AF or _____ Gallons
 Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply Existing well (Wink Cattle Company, c/o Dean Wink)

4. Location of point of diversion NE 1/4 NE 1/4 Section 28-T8N-R17E County Meade
 (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☒ Yes ☐ No

If "Yes," where will water be used? (see locations listed in Part 7. below)

(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Meade, Harding, Haakon, Tripp, Dawson, Fallon6. Annual period during which water is to be used January 1 - December 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

The project description as identified in the approved Water Permit No. 1975-1 has not changed except for the potential of this water being used as a backup to additional temporary workforce camps (see attached approved permit). The additional temporary workforce camp locations are listed below:

Section 3-T97N-R75W	Section 25-T19N-R3E
Section 9-T12N-R12E	Section 15-T7N-R59E
Section 11-T1N-R20E	Section 29-14N-R54E

I, Dean Wink Landowner _____, 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.

Supplemental Information

(Complete applicable portions only)

(type or print)

1. Well Information

(check one or both as applicable)

☐ Drilling new well(s)

☒ Using existing well(s)

a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (**required**) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) ____

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 (e.g. 3 to 1 is a typical slope)

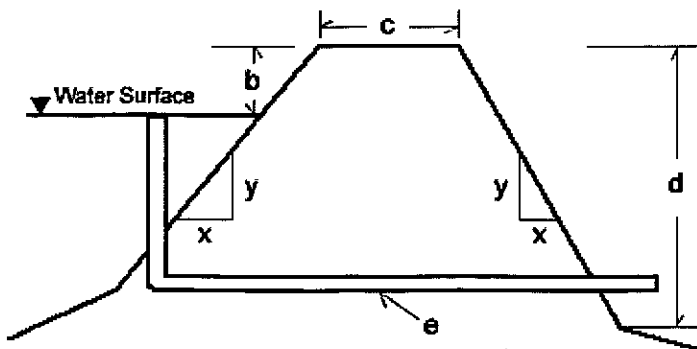
Upstream ____

Downstream ____

h) Surface Area of Impoundment ____

i) Storage ____ Acre Feet

j) Drainage Area Above Dam ____ Acres



**LITHOLOGIC LOG FOR DEAN WINK
WINK #1
MEADE COUNTY, SOUTH DAKOTA
NE NE SEC 28, T8N, R17E**

DEPTH	GENERAL LITHOLOGY	SAMPLE DESCRIPTION	COMMENTS
TOP SOIL			
0- 25	Clay	Brown to gray clay	
PIERRE FORMATION			
25-750	Shale	multi-colored silty calcareous clay - chips of pale And grayish yellow green silty clay	
750- 1665	Shale	hard, platy olive black shale interbedded with siltstone	
1665- 1710	Siltstone	olive black siltstone containing abundant sand and Clayey (Marl) interlayers	
1710-1800	Shale	Olive black shale, occasionally iron stained with interbedded Olive black marl, yellowish gray non-calcareous shale and calcareous siltstone	
TOP OF NIOBRARA FORMATION			
1800-1820	Chalk and shale	Calcareous light gray shale with abundant chalk	
TOP OF CARLILE FORMATION			
1820-1890	Shale	Dusky blue, fissile, non calcareous shale, pale-dark yellowish brown noncalcareous shale with streaks of v.f. sand	
1890- 2235	Shale	Grayish black non-calcareous shale and limestone interbedded with gray marl and olive gray sandstone	
TOP OF GREENHORN LIMESTONE			
2235- 2285	Limestone	Dark gray with rounded white calcareous grains, light gray sandy limestone with fine yellowish gray lime mudstone	
TOP OF BELLE FOURCHE SHALE			
2285- 2365	Shale	Brownish black, slightly fissile shale; abundant bentonite and minor yellowish brown calcareous shale	
TOP OF MOWRY			
2365- 2590	Shale	Brownish black, fossiliferous shale, pyrite and oxidized iron stains; interbedded with white arkosic/calcareous sandstone, calcite veining and yellowish brown micaceous shale	
TOP OF MUDDY FORMATION			
2590- 2945	Interbedded shale and sandstone	Brown - black shale containing dolomite concretions, pyrite, calcite veining. Finely laminated black and light olive gray shale with bentonite and calcite cemented v.f. sandstone	

TOP OF DAKOTA SANDSTONE

2755-2845	Interbedded Shale and Sandstone	Fine grained, calcite cemented, light gray sandstone, with non-calcareous dark gray shale and iron staining in lower olive black shale. Small amount of pyrite. Mostly shale.
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TOP OF FUSON SHALE

2845- 3055	Shale	Dark gray shale with minor amounts of yellowish brown siltstone, pyrite, and light gray sandstone, intermingled reddish and yellowish sandstone
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TOP OF LAKOTA SANDSTONE

3015- 3055	Sandstone	Light gray v.f. to med. grained sub-angular to sub-rounded quartz sandstone Silica cemented sand friable
3055-3150	Shale interbedded sand	Dark gray calcareous-non-calcareous shale intermingled with white clay light gray fine grained sandstone, intermingled with white clay with black streaks
3135- 3150	Sandstone	Light olive gray v.f. to med. grained sub-angular to sub-rounded quartz sandstone

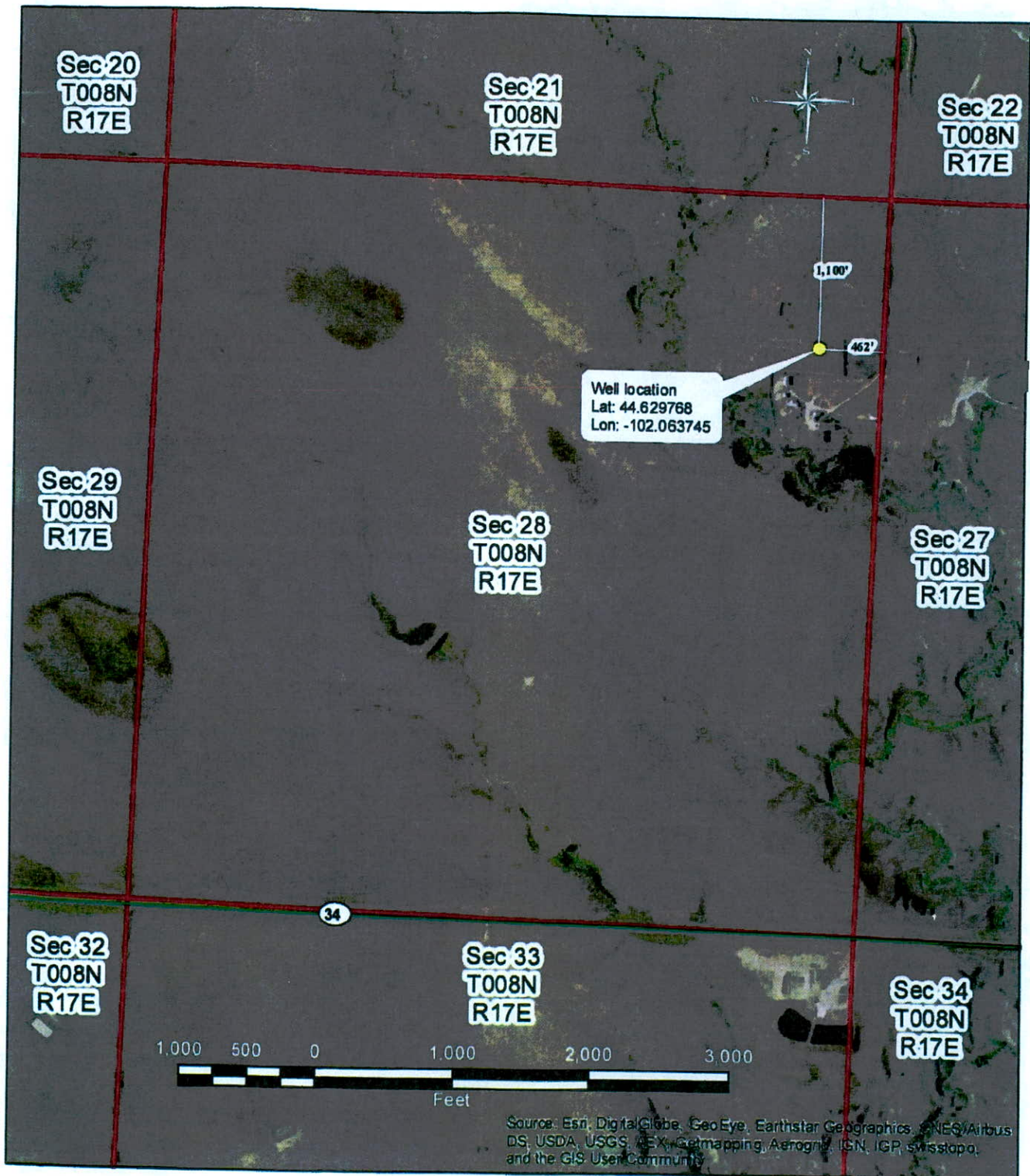
TOP OF MORRISON FORMATION

3150-3225	Shale	Dark gray-green shale, white bentonite clay
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TOP OF SUNDANCE FORMATION

3225- 3385	Sandstone and Interbedded Shale	Light gray v.f. to med. grained sub-angular sandstone. Silica cemented sand friable Dark gray to black calcareous shale abundant (mostly shale). Some red to orange clay and siltstone
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Water Right # 1855-1
Wink Cattle Co.
7/6/2017



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program



Exhibit A

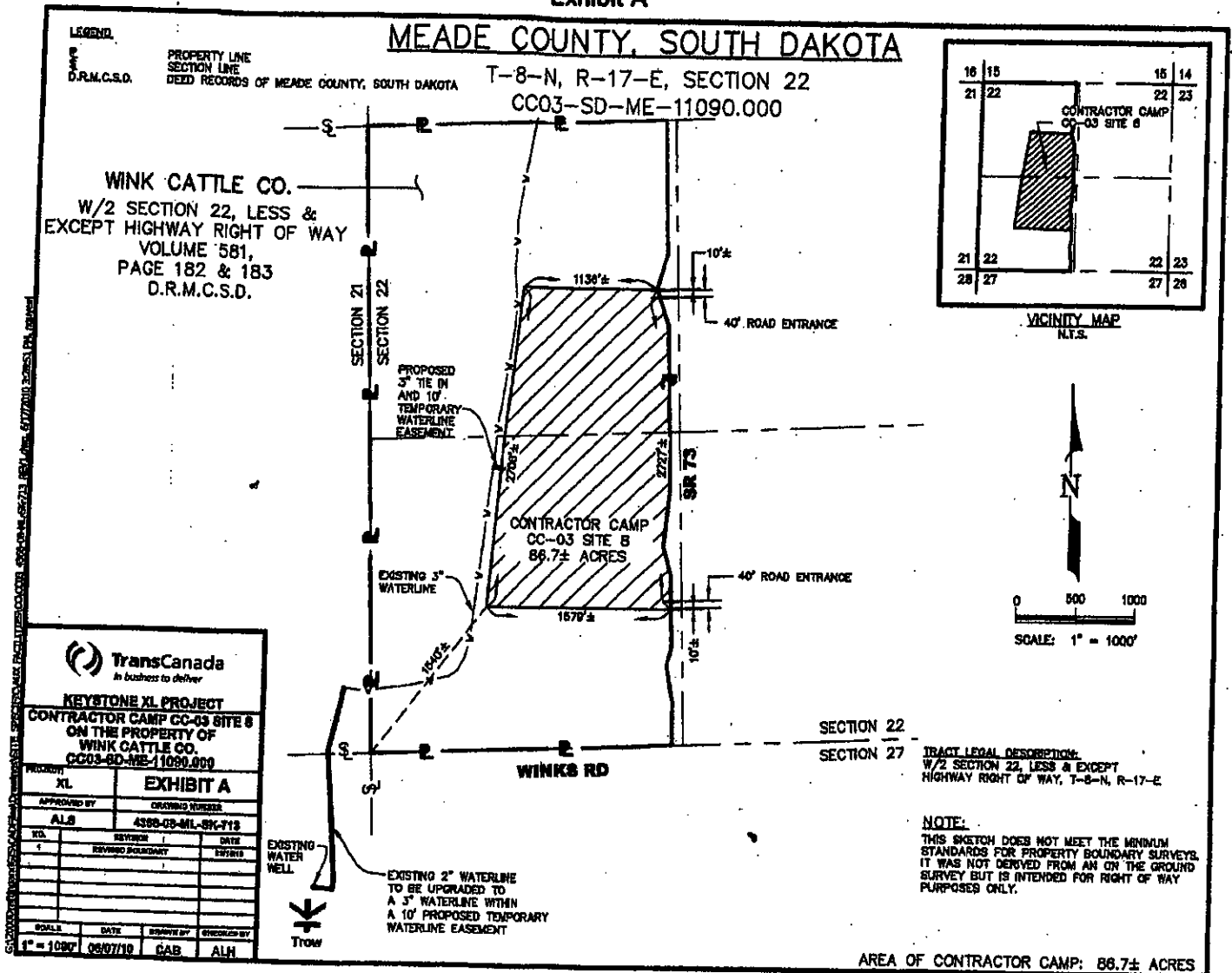


Exhibit A

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 3, 20 18

RECEIVED OF Travis Jones 925 Avenue E Billings MT 59102

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

Fee for Application for Permit No. <u>1975A-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. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	100 00

No. 08822

By Jeanne Goodman
Chief Engineer
vm

RECEIVED

DEC 03 2018

WATER RIGHTS
PROGRAM

November 30, 2018

Eric Gronlund
Water Rights Program
Department of Environment and Natural Resources
523 E. Capitol Avenue
Pierre, SD 57501-3182

Re: Application to Amend Permit 1975-1 to Appropriate Water Within the State of South Dakota

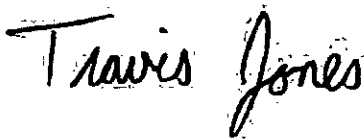
Dear Eric,

I am writing on behalf of Dean Wink, landowner who holds Permit 1975-1. It has been determined that in addition to the temporary workforce camp identified in the existing Permit 1975-1, additional temporary workforce camps may utilize Mr. Wilson's well as a backup supply. No other modifications to Permit 1975-1 are being requested. These additional temporary workforce camp locations include:

Section 3-T97N-R75W	Section 25-T19N-R3E
Section 9-T12N-R12E	Section 15-T7N-R59E
Section 11-T1N-R20E	Section 29-14N-R54E

Mr. Wink requests that SD DENR amend the referenced permit. We appreciate your assistance with this request. If you have any questions or comments related to the request above, please feel free to contact us.

Sincerely,



Travis Jones
Project Engineer

CC: Dean Wink, Landowner

Gronlund, Eric

From: Travis Jones <Travis.Jones@kljeng.com>
Sent: Friday, December 14, 2018 5:49 PM
To: Gronlund, Eric
Cc: Nicole Wallenta
Subject: RE: [EXT] Wilson / Wink water permit applications to amend to include other place of use.

Hello Eric,

As a follow-up to our conversation, please find the following summary regarding the water usage anticipated for the proposed KXL Temporary Workforce Camps. The summary is applicable to both Tom Wilson's and Dean Wink's water rights modification requests.

The maximum peak water usage anticipated for a single camp is estimated to be 60,000 gallons per day (gpd). The estimated average water usage corresponds to approximately a 42 gallons per minute (gpm) withdrawal rate over the course of a 24-hour period. Because we will have onsite storage tanks at the camps, we will not need to withdraw water at a high instantaneous flow rate. The private landowner wells will simply be used to keep the tanks full, so the camp system and/or truck can withdraw water from the storage tanks.

Using the 42 gpm withdrawal rate calculated for peak camp occupancy, it is anticipated that the maximum instantaneous water usage for the camp would be 1.5X the average water usage, which corresponds to approximately 63 gpm. In the case of both the Wilson and Wink water rights, this is less than the allowable instantaneous withdrawal rate. Please keep in mind this is for peak camp occupancy (i.e. 1200 residents per camp); so the total water usage across the life of the camp will be significantly less, as the staffing ramps up and down throughout the construction season.

Assuming a single camp is in operation for nine months out of the year, the estimated water usage in acre-feet is as follows:

- $60,000 \text{ gpd} \times 270 \text{ days} = 16,200,000 \text{ gallons per nine month operation period}$
- $16,200,000 \text{ gallons} / 325,851 \text{ gallons per acre-foot} = 49.7 \text{ acre-feet per nine month operational period}$

There is a chance the construction season could be extended further or there are unforeseen inefficiencies within the camp operations, we'd like to include a ten percent increase in allocation for the camp, which leads to the following:

- $49.7 \text{ acre-feet} \times 1.1 \text{ (10 percent increase)} = 54.7 \text{ acre-feet of water per yearly operational period}$

Each camp has its own individual water source identified; however, on the possibility of an emergency scenario that compromises the supply, we'd also like to allocate an additional 15 percent for hauling and contingency. We envision the circumstances of an emergency scenario to surround the failure of a well pump, which could take several days to repair/replace. If that scenario were to occur, we would need to haul water from other sources (such as the Wink and Wilson wells), only for the duration that it takes to complete the repairs and get the primary source back online. This leads to:

If for any reason the camp cannot meet the water delivery needs necessary for operation, water would likely be sourced from existing private independent water sources within the area. The camp is planned to operate throughout approximately nine months of a twelve month calendar year. Anticipated maximum yearly water usage from the camps in acre-feet can be calculated given the estimated 60,000 gpd usage and an approximated 270 day (roughly 9 month) operational period as follows (where 1 acre foot is equal to 325,851 gallons):

- 49.7 acre-feet x 1.15 (15 percent increase) = 57.2 acre-feet of water per yearly operational period

To summarize, we anticipate a total water allocation for camp consumption to be 63 gpm for a total volume of 57.2 acre-feet per year, to be associated with each water rights modification request. For the Wilson water rights, the camp allocation is a small portion of the overall allocation. There does not appear to be an annual water usage volume associated with the Wink well.

It should be noted that in addition to the water supplied by the Wilson and Wink wells, TransCanada is also in the process of securing agreements with municipalities to serve as a supplemental/emergency water source. While we anticipate the Wink and Wilson wells will be able to serve the camp needs, without any supplement; there will be backup sources, to make sure the consumption does not exceed the limitations of the respective water rights. Similarly, the intent of these water rights modifications is to allow TransCanada to supplement the supplies at all of their camps, so that one of the other camp locations is not unusable should there be a temporary disruption in the primary water supply for the respective camp.

Please let us know if you have any questions regarding the above assessment.

Thanks,

Travis Jones PE



406-247-2915 Direct
406-839-5665 Cell
2611 Gabel Road
Billings, MT 59102-7329
kljeng.com

From: Travis Jones
Sent: Monday, December 10, 2018 3:38 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>; Nicole Wallenta <Nicole.Wallenta@kljeng.com>
Subject: RE: Wilson / Wink water permit applications to amend to include other place of use.

Eric,
My apologies for not providing an update. I've prepared a summary, which we're getting reviewed by TransCanada, prior to submission. I'll send them a reminder to get us their feedback. We'll double-check that we've addressed your comment too.

Thanks,
Travis

From: Gronlund, Eric [<mailto:Eric.Gronlund@state.sd.us>]
Sent: Monday, December 10, 2018 3:30 PM
To: Travis Jones <Travis.Jones@kljeng.com>; Nicole Wallenta <Nicole.Wallenta@kljeng.com>
Subject: Wilson / Wink water permit applications to amend to include other place of use.

Travis / Nikki

Last week we spoke about coming up with an annual acre foot volume that would be used for the temporary man camps for each of these applications. I believe you were working to provide an annual volume for the sites described in the existing permits and, if needed, as a back up supply for the additional man camps described in the application to amend the water right permit.

In doing so, please include a narrative about the circumstance that may occur that would require needing to supply these additional man camps. In other words - why the present anticipated water supply may not be supply the needed amount at the other sites.

Eric Gronlund
Water Rights Program, DENR, South Dakota
605 773-4062 (direct)

REPORT TO THE CHIEF ENGINEER

Water Permit Application No. 1975A-1

Wink Cattle Company

January 22, 2019

Water Permit Application No. 1975A-1 proposes the amendment of Water Right No. 1855-1 and Water Permit No. 1975-1 to allow for additional areas of use. Water Right No. 1855-1 and Water Permit No. 1975-1, combined, appropriate water at a maximum diversion rate of 0.156 cubic feet per second (cfs) for commercial and domestic uses in the area, and a temporary workforce camp to be located in W ½ Section 22 T8N-R17E. The existing well is completed to a depth of 3,385 feet and is located in the NE ¼ NE ¼ of Section 28, T8N-R17E, approximately one mile northwest of Howes, SD.

This proposed permit is seeking to serve as a backup water supply for six other temporary workforce camps with no increase in the diversion rate. These six temporary workforce camps are located in Section 3 T97N-R75W (Tripp County, SD), Section 9 T12N-R12E (Meade County, SD), Section 11 T1N-R20E (Haakon County, SD), Section 25 T19N-R3E (Harding County, SD), Section 15 T7N-R59E (Dawson County, MT), and Section 29 R14N-R54E (Fallon County, MT). This application, if approved, would not authorize any increase in the combined maximum permitted diversion rate of 0.156 cfs authorized by Water Right No. 1855-1 and Water Permit No. 1975-1.

AQUIFER: Inyan Kara (INKR)

South Dakota Codified Law (SDCL) 46-2A-12 and SDCL 46-5-30.4

Pursuant to SDCL 46-2A-12, an existing permit or license may be amended for a change in use, a change in point of diversion, or other change, only if the change does not unlawfully impair existing rights, is for a beneficial use, and in the public interest.

SDCL 46-5-30.4 allows that any water permit or right holder may apply for a change of use of the water, a change of location of the use or other amendment to the permit or right, with irrigation permits or rights subject to the limitations of SDCL 46-5-33 and 46-5-34. The amendment shall retain the priority date of the water permit or right. An amendment of the water right or permit may not increase the pumping rate or increase the volume of water to be withdrawn under the original water permit or right. Additionally, the amendment may not impair existing rights.

This report will address the potential effects on existing water rights in the Inyan Kara aquifer.

Discussion

The amendment of Water Right No. 1855-1 and Water Permit No. 1975-1, if approved, does not increase the combined permitted diversion rate of 0.156 cfs. There is no annual volume limit on Water Right No. 1855-1 or Water Permit No. 1975-1, the limiting rate is the combined permitted diversion rate of 0.156 cfs (70 gallons per minute) from the well. The temporary workforce camps are expected to be in use for 9 months of the year. Typically, non-irrigation water rights/permits that are limited by their diversion rate are estimated to pump 60% of the time. If

the need arises to use the backup water supply as requested by this amendment, the water requirements of supplying additional workforce camps may exceed the 60% pumping estimate. While the permitted diversion rate is not increasing, the actual total volume of water pumped from the well may increase over the estimated use of Water Right No. 1855-1 and Water Permit No. 1975-1. Any increase in the total pumped volume is expected to be minimal and temporary as this proposed amendment is for a backup water supply for temporary workforce camps.

Currently, there are 186 water rights/permits appropriating water from the Inyan Kara aquifer in South Dakota, with one future use permit for the city of New Underwood, SD (Water Rights, 2019a). The nearest existing water right/permit completed in the Inyan Kara aquifer is located approximately 10 miles to the southwest of the applicant's location (Water Rights, 2019a). This is Water Right No. 1856-1 for Arlie Radway and is used for rural water system and domestic uses at a maximum diversion rate of 0.09 cfs (40 gpm). The next nearest water rights/permits in the Inyan Kara aquifer are located approximately 21 and 25 miles away. There are eight water wells on record with the Water Right Program within 10 miles of the applicant's location that have a depth of over 2000 feet. However, the lithologic information on most of these wells is sparse, and it is unknown if they are completed into the Dakota aquifer or the Inyan Kara aquifer (Water Rights, 2019b).

Given the distance to this well and no increase in the diversion rate, the drawdown affecting nearby water rights/permits and domestic users as a result of this proposed amendment is not expected to be significant. The existing well for Water Right No. 1855-1 and Water Permit No. 1975-1 was permitted in 2006 and has been using water without a history of complaints. Therefore, there is a reasonable probability that pumping under this application, if approved, will not unlawfully impair water rights/permits.

The Inyan Kara aquifer is generally an artesian aquifer, and due to the physics of artesian head pressure, the drawdown from pumping may extend a considerable distance from the pumped well. SDCL 46-6-6.1 does not protect artesian head pressure as a means of delivery and the Water Management Board has consistently recognized that to place water to maximum beneficial use, a certain amount of drawdown may occur. In order to balance interests between irrigation use and delivery of water by artesian pressure, the Water Management Board defined an "adversely impacted domestic well" in ARSD 74:02:04:20(7) as:

"a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs"

Depending on the specific characteristics of the Inyan Kara aquifer at the well site proposed by this application, some existing well owners may need to lower their pumps to accommodate for deeper water levels.

CONCLUSIONS

1. Water Permit Application No. 1975A-1 proposes the amendment of Water Right No. 1855-1 and Water Permit No. 1975-1 to allow for additional areas of use.
2. Water Right No. 1855-1 and Water Permit No. 1975-1, combined, appropriate water at a maximum diversion rate of 0.156 cfs from the Inyan Kara aquifer for commercial and domestic uses in the area, and a temporary workforce camp located in W ½ Section 22 T8N-R17E.
3. The proposed additional areas of use are six temporary workforce camps are located in Section 3 T97N-R75W (Tripp County, SD), Section 9 T12N-R12E (Meade County, SD), Section 11 T1N-R20E (Haakon County, SD), Section 25 T19N-R3E (Harding County, SD), Section 15 T7N-R59E (Dawson County, MT), and Section 29 R14N-R54E (Fallon County, MT).
4. Water Permit Application No. 1975A-1 is to serve as a backup water supply for these six additional temporary workforce camps.
5. This application, if approved, does not authorize any increase in the maximum diversion rate of 0.156 cfs (70 gpm) authorized by Water Right No. 1855-1 and Water Permit No. 1975-1, combined.
6. There is a reasonable probability that this application, if approved, will not adversely impact adequate wells for existing water rights and domestic users.



John Farmer
SD DENR – Water Rights Program

REFERENCES

- Water Rights, 2019a. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights, 2019b. Well Completion Report Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



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. 1975A-1, Wink Cattle Company**

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. 1975A-1, Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748.

The Chief Engineer is recommending APPROVAL of Application No. 1975A-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. The well approved under Permit Nos. 1855-1, 1975-1 and 1975A-1 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. The use of water from the wells authorized by Water Permit Nos. 1855-1, 1975-1 and 1975A-1 shall not exceed 57.2 acre feet of water annually for use at temporary workforce camps set forth in Water Permit No. 1975-1 and 1975A-1.
3. The Permit holder shall report the annual volume of water diverted for all uses from the Inyan Kara aquifer. The report shall provide the portion of the annual volume of water diverted for use at the temporary workforce camps. The reporting for workforce camp use is not required once the temporary workforce camps are no longer in place.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
January 22, 2019



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 NEWSPAPERS RIGHT AWAY.**

January 22, 2019

Wink Cattle Company
c/o Dean Wink
PO Box 137
Howes SD 57748

Dear Mr. Wink:

Water Permit Application No. 1975A-1 for backup supply for temporary workforce camps has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the following papers

Winner Advocate, Winner SD 605 842-1481
Faith Independent, Faith SD 605 967-2161
Pioneer Review, Philip SD 605 859-2516
Nation's Center News, Buffalo SD 605 375-3228
Rapid City Journal, Rapid City SD 605 394-8300

You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers 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.

NOTICE OF APPLICATION NO. 1975A-1

Notice is given that Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 has filed an application for a water permit for additional areas of use to Water Right No. 1855-1 and Water Permit No. 1975-1. Water Right No. 1855-1 and Water Permit No. 1975-1 appropriate 0.156 cubic feet of water per second (cfs) from one well completed into the Inyan Kara Aquifer (3,385 feet deep) located in the NE 1/4 NE 1/4 Section 28-T8N-R17E for commercial use, domestic use, and use at a temporary man camp to be located in the W 1/2 Section 22-T8N-R17E. This application proposes to use the above listed well as a backup supply for temporary workforce camps to be located in Section 3-T97N-R75W (Tripp County), Section 9-T12N-R12E (Meade County), Section 11-T1N-R20E (Haakon County), and Section 25-T19N-R3E (Harding County), and two locations Section 15-T7N-R59E and Section 29-T14N-R54E in Dawson and Fallon Counties of Montana. Annual water use for temporary work force camps shall not exceed 57.2 acre-feet of water. This application, if approved, does not authorize any increase in the diversion rate 0.156 cfs authorized by Nos. 1855-1 and 1975-1. This site of the well is approximately one mile northwest of Howes SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1975A-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 February 11, 2019.

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: Tuesday, January 22, 2019 1:18 PM
To: winneradvocate@hotmail.com
Subject: 1975A-1, Wink Cattle Company
Attachments: 1975A-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on January 30, 2019.

Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 (605 490-1410) 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: Tuesday, January 22, 2019 1:19 PM
To: faithind@faithsd.com
Subject: 1975A-1, Wink Cattle Company
Attachments: 1975A-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on January 30, 2019.

Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 (605 490-1410) has been notified to contact you to authorize publication and arrange for payment.

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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: Tuesday, January 22, 2019 1:19 PM
To: newsdesk@pioneer-review.com
Subject: 1975A-1, Wink Cattle Company
Attachments: 1975A-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on January 31, 2019.

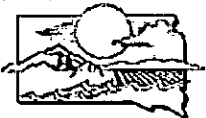
Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 (605 490-1410) has been notified to contact you to authorize publication and arrange for payment.

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: Tuesday, January 22, 2019 1:20 PM
To: Legals (legals@bhpioneer.com)
Subject: 1975A-1, Wink Cattle Company
Attachments: 1975A-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on January 31, 2019 in the Nation's Center News.

Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 (605 490-1410) 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: Tuesday, January 22, 2019 1:21 PM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 1975A-1, Wink Cattle Company
Attachments: 1975A-1public.short.docx; FORM8.FRM.doc

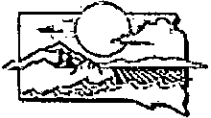
Attached is a notice to be published on January 31, 2019.

Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 (605 490-1410) 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



Gronlund, Eric

From: Gronlund, Eric
Sent: Monday, January 28, 2019 9:17 AM
To: 'Nicole Wallenta'; 'Travis Jones (Travis.Jones@kljeng.com)'
Cc: Schlaak, Karen
Subject: RE: Water permit application to amend Permit No. 1975A-1-1 (adding back-up service to workforce camps)

Nikki / Travis:

Did you forward my January 22nd email to Mr. Wink by email? Or have you been in contact with Mr. Wink to contact the newspapers to authorize publication in the five newspapers?

What we sent to Mr. Wink by US Mail was returned by the Post Office stating "Temporarily Away". Assume that Mr. Wink may winter in a warmer climate or is on an extended vacation.

Trying to find out if authorization was given to publish the notice this week. If not, we'll need to send out again as that date to petition to intervene is based on the publication date.

Thanks - Eric

From: Gronlund, Eric
Sent: Tuesday, January 22, 2019 11:00 AM
To: 'Nicole Wallenta'; 'Travis Jones (Travis.Jones@kljeng.com)'
Cc: Schlaak, Karen
Subject: Water permit application to amend Permit No. 1975A-1-1 (adding back-up service to workforce camps)

Nikki and Travis:

Attached is a scanned version of the cover letter, public notice and report and recommendation on Water Permit Application No. 1975A-1 to amend Wink Cattle Company's current permit to allow was to be used at other workforce camps. A hard copy of this material is being mailed to Mr. Wink by US Mail. I do not have Mr. Wink's email address so please feel free to forward this email to him.

The public notice is sent to each newspaper electronically. Please review the public notice, report and recommendation. If in agreement Mr. Wink or his representative will need to contact each newspaper to authorize publication and arrange for payment. The phone numbers are provided in the cover letter.

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

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

From: Nicole Wallenta [<mailto:Nicole.Wallenta@kljeng.com>]
Sent: Friday, January 11, 2019 10:03 AM
To: Gronlund, Eric
Cc: Travis Jones
Subject: [EXT] Tom Wilson's Email

Hi Eric,

Thanks again for giving me a call back this morning. Here is Tom Wilson's email address: t_wilson32@hotmail.com

Let me know if you need anything else.

Have a great rest of your day!

Thanks,

Nikki

Nikki Wallenta
Environmental
KLJ
651-726-5033 Office
651-895-3660 Cell
370 Wabasha Street North, Suite 300
St. Paul, MN 55102
kljeng.com

Jan 31 L21105807

**NOTICE OF APPLICATION
NO. 1975A-1**

Notice is given that Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 has filed an application for a water permit for additional areas of use to Water Right No. 1855-1 and Water Permit No. 1975-1. Water Right No. 1855-1 and Water Permit No. 1975-1 appropriate 0.156 cubic feet of water per second (cfs) from one well completed into the Inyan Kara Aquifer (3,385 feet deep) located in the NE 1/4 NE 1/4 Section 28-T8N-R17E for commercial use, domestic use, and use at a temporary man camp to be located in the W 1/2 Section 22-T8N-R17E. This application proposes to use the above listed well as a backup supply for temporary workforce camps to be located in Section 3-T97N-R75W (Tripp County), Section 9-T12N-R12E (Meade County), Section 11-T1N-R20E (Haakon County), and Section 25-T19N-R3E (Harding County), and two locations Section 15-T7N-R59E and Section 29-T14N-R54E in Dawson and Fallon Counties of Montana. Annual water use for temporary work force camps shall not exceed 57.2 acre-feet of water. This application, if approved, does not authorize any increase in the diversion rate 0.156 cfs authorized by Nos. 1855-1 and 1975-1. This site of the well is approximately one mile northwest of Howes SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1975A-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 February 11, 2019.

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 \$62.83)

Affidavit of Publication

RECEIVED

FEB 04 2019

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

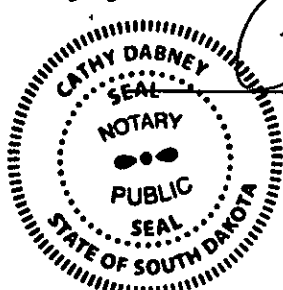
County of Pennington

SS:

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 31st day of Jan 2019 that the fees charged for the publication there of are 62 dollars and 83 cents.

Sheri Sponder

Subscribed and sworn to before me this 31st
day of January, 2019.



Cathy Dabney
Notary public

4-16-2024

My commission expires

AFFIDAVIT OF PUBLICATION

RECEIVED

FEB 04 2019

State of South Dakota, county of Tripp-ss. WATER RIGHTS
PROGRAM

Dan Bechtold

of said county being first duly sworn, on oath says that he
is the Editor of the

WINNER ADVOCATE

a weekly newspaper printed and published at Winner, said
county of Tripp, and has full and personal knowledge of all
the facts herein stated that said newspaper is a legal
newspaper and has a bona fide circulation of at least two
hundred copies weekly and has been published within said
county for fifty-two successive weeks prior to the
publication of the notice herein mentioned, and was
printed wholly or in part in an office maintained at said
place of publication; that the

82 lines @ 1 column X 90%

Application

Winks Cattle Company

a printed copy of which, taken from the paper in which
the same was published, is attached to this sheet, and is
made a part of this affidavit, was published in said
newspaper at least once in each week for 1 week(s), on
the day of each week on which said newspaper was
regularly published to wit:

1-30-19

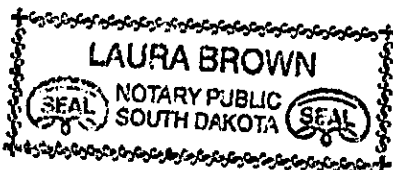
That the full amount of the fees for the publication of the
*annexed notice is \$29.52

Subscribed and sworn to before me this 30th
day of January, 2019

Laura Brown
Notary Public

County of Tripp, South Dakota

My Commission Expires June 20, 2019



NOTICE OF APPLICATION NO. 1975A-1

Notice is given that Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 has filed an application for a water permit for additional areas of use to Water Right No. 1855-1 and Water Permit No. 1975-1. Water Right No. 1855-1 and Water Permit No. 1975-1 appropriate 0.156 cubic feet of water per second (cfs) from one well completed into the Inyan Kara Aquifer (3,385 feet deep) located in the NE 1/4 NE 1/4 Section 28-T8N-R17E for commercial use, domestic use, and use at a temporary man camp to be located in the W 1/2 Section 22-T8N-R17E. This application proposes to use the above listed well as a backup supply for temporary workforce camps to be located in Section 3-T97N-R75W (Tripp County), Section 9-T12N-R12E (Meade County), Section 11-T1N-R20E (Haakon County), and Section 25-T19N-R3E (Harding County), and two locations Section 15-T7N-R59E and Section 29-T14N-R54E in Dawson and Fallon Counties of Montana. Annual water use for temporary work force camps shall not exceed 57.2 acre-feet of water. This application, if approved, does not authorize any increase in the diversion rate 0.156 cfs authorized by Nos. 1855-1 and 1975-1. This site of the well is approximately one mile northwest of Howes SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1975A-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 February 11, 2019.

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. Pub-

lished once at the total approximate cost of \$29.52 (5)

FEB 04 2019

ON APPLICATION 1975A-1

WATER RIGHTS PROGRAM

[illegible]

I, Selma Thorson of said County and State, being duly sworn on oath says: PIONEER REVIEW is a weekly newspaper of general circulation, published in PHILIP, in said County and State and has been such newspaper during the times thereafter mentioned; that the said PIONEER REVIEW 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 bona fide subscribers; that I, the undersigned, am Billing Manager of said newspaper, and have personal knowledge of all facts stated in this affidavit; and that the advertisement headed:

Water Rights Program

Notice of Hearing Application1975A-1

A printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive issues, the first publication being on the 31st day of January, 2019, and the last publication on the 31st day of January, 2019, that \$335⁰⁰ 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.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1975A-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.

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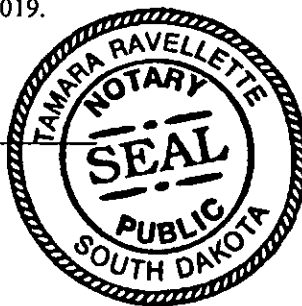
Subscribed and sworn to me before this 31st day of January, 2019.

Tamar Cavallitt

Notary Public, State of South Dakota

My Commission Expires

January 24, 2020



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 January 31, 2019 at the total approximate cost of \$35.42.



RECEIVED

FEB 06 2019

WATER RIGHTS
PROGRAM

NOTICE OF
APPLICATION NO.
1975A-1

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF HARDING:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the NATION'S CENTER NEWS is a legal weekly newspaper of general circulation, printed and published in the City of Buffalo, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice of Application
No. 1975A-1

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 31st day of Jan, 2019, and the last publication on the _____ day of _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 32.34, insures solely to the benefit of the publisher of the NATION'S CENTER NEWS, 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 15th day of Feb, 2019

Jami Allen
Notary Public, Butte County, South Dakota
My commission expires: 3-21-2023

Notice is given that Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 has filed an application for a water permit for additional areas of use to Water Right No. 1855-1 and Water Permit No. 1975-1. Water Right No. 1855-1 and Water Permit No. 1975-1 appropriate 0.156 cubic feet of water per second (cfs) from one well completed into the Inyan Kara Aquifer (3,385 feet deep) located in the NE 1/4 NE 1/4 Section 28-T8N-R17E for commercial use, domestic use, and use at a temporary man camp to be located in the W 1/2 Section 22-T8N-R17E. This application proposes to use the above listed well as a backup supply for temporary workforce camps to be located in Section 3-T97N-R75W (Tripp County), Section 9-T12N-R12E (Meade County), Section 11-T1N-R20E (Haakon County), and Section 25-T19N-R3E (Harding County), and two locations Section 15-T7N-R59E and Section 29-T14N-R54E in Dawson and Fallon Counties of Montana. Annual water use for temporary work force camps shall not exceed 57.2 acre-feet of water. This application, if approved, does not authorize any increase in the diversion rate 0.156 cfs authorized by Nos. 1855-1 and 1975-1. This site of the well is approximately one mile northwest of Howes SD.

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

Published once at the total approximate cost of \$33.26.

#741
Jan 31

PUBLISHER'S AFFIDAVIT OF PUBLICATION

RECEIVED

STATE OF SOUTH DAKOTA

SS

COUNTY OF MEADE

FEB 07 2019

WATER RIGHTS
PROGRAM

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 App. Water Permit - Wink Cattle Co.

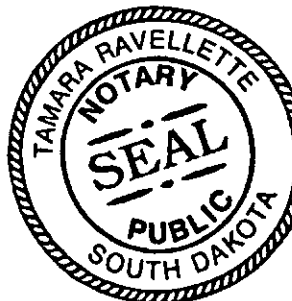
A printed copy of which is hereto attached, was printed and published in said newspaper for one successive issue, the first publication being on the 30th day of January, 2019, and the last publication on the 30th day of January, 2019, that \$31.69 being the full amount of the fee for publication of the 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 30th day of January, 2019.

Tamara Ravellette

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



NOTICE OF
APPLICATION NO.
1975A-1

Notice is given that Wink Cattle Company, c/o Dean Wink, PO Box 137, Howes SD 57748 has filed an application for a water permit for additional areas of use to Water Right No. 1855-1 and Water Permit No. 1975-1. Water Right No. 1855-1 and Water Permit No. 1975-1 appropriate 0.156 cubic feet of water per second (cfs) from one well completed into the Inyan Kara Aquifer (3,385 feet deep) located in the NE 1/4 NE 1/4 Section 28-T8N-R17E for commercial use, domestic use, and use at a temporary man camp to be located in the W 1/2 Section 22-T8N-R17E. This application proposes to use the above listed well as a backup supply for temporary workforce camps to be located in Section 3-T97N-R75W (Tripp County), Section 9-T12N-R12E (Meade County), Section 11-T11N-R20E (Haakon County), and Section 25-T19N-R3E (Harding County), and two locations Section 15-T7N-R59E and Section 29-T14N-R54E in Dawson and Fallon Counties of Montana. Annual water use for temporary work force camps shall not exceed 57.2 acre-feet of water. This application, if approved, does not authorize any increase in the diversion rate 0.156 cfs authorized by Nos. 1855-1 and 1975-1. This site of the well is approximately one mile northwest of Howes SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1975A-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 February 11, 2019.

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 January 30, 2019 at the total
approximate cost of \$31.69.

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WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 1975A-1, WINK
CATTLE COMPANY

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FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND FINAL DECISION

This matter came before the South Dakota Water Management Board for hearing on October 3-4, 2019; October 29-31, 2019; December 17-20, 2019; and January 13-14, 2020. Board members Jim Hutmacher, Rodney Freeman, Jr., Peggy Dixon, Leo Holzbauer, Tim Bjork, and Everett Hoyt were present at the hearing and heard the evidence presented.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On December 3, 2018, Dean Wink, for Wink Cattle Company, submitted an application for a permit to amend existing Water Permit Nos. 1855-1 and 1975-1.
2. Water Permit Application No. 1975A-1 requested that Water Permit Nos. 1855-1 and 1975-1 be amended to allow the water authorized to be diverted by Water Permit Nos. 1855-1 and 1975-1 to be used as a backup water supply for additional temporary construction work camps.

3. Water Permit Nos. 1855-1 and 1975-1, combined, appropriate water from the Inyan Kara aquifer at a maximum diversion rate of 0.156 cubic feet per second (cfs) for commercial and domestic uses and as a water supply for a temporary workforce camp. The existing well is completed to a depth of 3,385 feet and is located in the NE¼NE¼ of Section 28, T8N-R17E, approximately one mile northwest of Howes, SD.

4. The South Dakota Department of Environment and Natural Resources, Water Rights Program ("Water Rights") determined that the Application was complete.

5. John Farmer, a Natural Resources Engineer employed by the Water Rights Program, reviewed the application and authored a report to the Chief Engineer in the ordinary course of his employment duties. Mr. Farmer's review focused on the potential for unlawful impairment of existing water rights in the Inyan Kara aquifer. Mr. Farmer noted that Water Permit Application No. 1975A-1, if approved, does not increase the combined permitted diversion rate of 0.156 cfs. Mr. Farmer reviewed the records of the Water Rights Program and found that there are currently 186 water rights appropriating water from the Inyan Kara aquifer in South Dakota, and one future use permit. Mr. Farmer noted that the nearest water right in the Inyan Kara aquifer was located 10 miles away. Mr. Farmer found that, due to the distance between the well and other domestic wells or water rights, and the lack of increase in requested diversion rate, drawdown at nearby water rights and domestic use well locations

is not expected to be significant. Mr. Farmer concluded that there is a reasonable probability that this application, if approved, will not unlawfully impair existing water rights. Mr. Farmer prepared a report of his findings and conclusions and submitted the same to the Chief Engineer.

6. Chief Engineer Goodman determined that the use of the water as a backup water supply for temporary workforce construction camps, where the water would be used for purposes such as drinking, hygiene, sanitation, etc., would not unlawfully impair existing rights, and would be a beneficial use, and would be in the public interest. Chief Engineer Goodman based this determination on previous decisions of the South Dakota Water Management Board and state law.

7. Chief Engineer Goodman prepared a recommendation to the South Dakota Water Management Board (the "Board" hereinafter). She recommended that the Board grant the permit with the following qualifications:

A. The well approved under Permits Nos. 1855-1, 1975-1 and 1975A-1 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.

B. The use of water from the wells authorized by Water Permits Nos. 1855-1, 1975-1 and 1975A-1 shall not exceed 57.2 acre-feet of water annually for use at temporary workforce camps set forth in Water Permit Nos. 1975-1 and 1975A-1.

C. The Permitholder shall report the annual volume of water diverted for all uses from the Inyan Kara aquifer. The report shall provide the portion of the annual volume of water diverted for use at the temporary workforce camps. The reporting for workforce camp use is not required once the temporary workforce camps are no longer in place.

8. Notice of the application and hearing was timely posted on the Department's website and advertised in the Nation's Center News (Harding County), the Rapid City Journal (Pennington County), the Winner Advocate (Tripp County), the Pioneer Review (Haakon County), and The Faith Independent (Meade County) on January 30 or 31, 2019, pursuant to SDCL §§ 46-2A-4 and 46-2A-23.

9. The following parties timely petitioned for intervention: Dakota Rural Action, Great Plains Tribal Water Alliance, and Yankton Sioux Tribe.

10. At its meeting on July 17, 2019, the Board set a hearing on the Application for October 3-4 and 29-31, 2019. The Board also set for hearing at the same time three water permit applications filed by TransCanada Keystone Pipeline, LP concerning the Cheyenne, White, and Bad rivers, and an application filed by Tom and Lori Wilson, all of which related to water to be used in some way during construction of the proposed Keystone XL Pipeline.

11. The Board held a contested case hearing on all five applications beginning on October 3-4 and continuing on October 29-31. The hearing continued on December 17-20, 2019, January 13, 2020, and concluded on January 14, 2020. Chairman James Hutmacher presided at the hearing, and

was joined by Board members Everett Hoyt, Tim Bjork, Rodney Freeman, Jr., Leo Holzbauer, and Peggy Dixon. David M. McVey, Assistant Attorney General, served as Board Counsel. The Applicant was represented by Matt Naasz. Water Rights was represented by Ann Mines Bailey. The Yankton Sioux Tribe was represented by Thomasina Real Bird, Rebecca Kidder, and Jennifer Baker. Dakota Rural Action was represented by Bruce Ellison and Patricia Handlin. The Great Plains Tribal Water Alliance was represented by Peter Capossela. The hearing was recorded by Carla Bachand, RPR.

12. At the hearing on this matter, Mr. Farmer testified consistent with his report. Mr. Farmer testified that, at the time of the application, there were 186 water rights completed into the Inyan Kara aquifer, with only 46 of those rights located in Meade County and only one other water right located within a ten-mile radius of the diversion point which was subject to this application. Mr. Farmer additionally testified that there are 10 nearby domestic wells on record with Water Rights within a ten-mile radius of the diversion point which are completed at depths greater than 2000 feet, a sufficient depth to be completed into the Inyan Kara aquifer. Mr. Farmer further testified that the nearest domestic well to the diversion point is the Applicant's with the next closest domestic well located approximately 2.5 miles away. Mr. Farmer testified that there are no complaints on file regarding this well or its use. Additionally, the testimony provided that Mr. Farmer performed a Theis equation for the purposes of calculating drawdown. The equation provided that, under the worst-case scenario, approximately one mile away there would be a decline of

80 feet of the approximately 2700 feet of artesian head pressure. Mr. Farmer concluded that this does not constitute an unlawful impairment based upon the definition of adequate well and because artesian head pressure is not protected as a means of delivery of water. The Board finds Mr. Farmer to be a credible expert witness and that these Findings of Fact are supported by the evidence presented, including Mr. Farmer's testimony and the reports and exhibits that he prepared and/or relied upon.

13. Mr. Farmer's conclusion that there is a reasonable probability that this application, if approved, will not unlawfully impair existing water rights was unrefuted.

14. At the hearing on this matter, Chief Engineer Goodman testified consistent with her review of Mr. Farmer's report and her determination regarding beneficial use and public interest. The Board finds Chief Engineer Goodman to be a credible witness and that these Findings of Fact are supported by the testimony of Chief Engineer Goodman.

15. Applicant Dean Wink testified that the amendment would allow the water already authorized to be used by Water Permit Nos. 1855-1 and 1975-1 to be used as a backup water supply for additional temporary work force camps. Mr. Wink testified that water would be used at the construction camps for uses similar to domestic uses such as drinking, hygiene, sanitation, etc. Mr. Wink testified that the use of this water would be beneficial to him, the appropriator, whether the temporary work force camp at which the water is used was located in South Dakota or Montana. Mr. Wink also testified that he has been using

water from this well for years, and that none of his neighbors had ever complained about his use of water. The Board finds Mr. Wink to be a credible witness and that these Findings of Fact are supported by Mr. Wink's testimony.

16. The Chief Engineer testified as to her understanding of the scope of review the Board has used when determining whether the use of water is in the public interest, when they have been called to do so in previous permit applications.

17. Intervenors presented extensive testimony intended to address the beneficial use and public interest component of this Board's inquiry. Intervenors were given broad latitude in their presentation of evidence on this issue. To the extent that the evidence presented by intervenors on this issue was relevant, the Board finds that the evidence presented by intervenors on the topic of beneficial use and public interest does not outweigh the evidence presented that the proposed amendment is for a beneficial use and in the public interest.

18. The Board took judicial notice of Docket HP09-001, in which the South Dakota Public Utilities Commission issued a permit under SDCL § 49-41B-22 for construction and operation of the Keystone XL Pipeline, the PUC concluded that if constructed, the pipeline would not pose an unacceptable threat of serious injury to the environment or to the social and economic conditions of inhabitants or expected inhabitants in the siting area. The PUC also concluded that if constructed, the pipeline would not substantially impair the health, safety, or welfare of the inhabitants in the siting area.

19. Because no oil or diluted bitumen would be flowing through the pipeline during construction, a spill of crude oil or diluted bitumen with the potential to harm the environment could not occur as a result of the uses of water proposed in the Application.

20. The PUC addressed cultural resources in granting a permit for the Keystone XL Pipeline, including Condition 43 requiring that Keystone follow the Unanticipated Discoveries Plan as reviewed by the State Historical Preservation Office and approved by the United States Department of State as part of the Final Supplemental Environmental Impact Statement in January 2014 (the "FSEIS").

21. After considering the testimony of the witnesses and the exhibits received into evidence, the Board finds that the proposed amendment will not unlawfully impair existing rights, is for a beneficial use, and is in the public interest.

22. Any Finding of Fact more properly designated as a Conclusion of Law shall be treated as such.

From the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS OF LAW

1. The Application is complete.
2. Publication of Chief Engineer Goodman's recommendation and Notice of Application was timely and properly made pursuant to SDCL §§ 46-2A-4 and 46-2A-23.

3. The Board has jurisdiction over the Application and the parties pursuant to SDCL Ch. 46-2A.

4. The Chief Engineer recommended granting this application. That recommendation, however, is not binding upon the Board. SDCL § 46-2A-4(8).

5. South Dakota Codified Law, section 46-2A-12 provides:

“an amendment of an existing permit or license may be granted for a change in use, a change in point of diversion or other change only if the change does not unlawfully impair existing rights and is for a beneficial use and in the public interest.”

6. The Applicant bore the burden of proof under SDCL § 46-2A-12. The Applicant met its burden of proof and is entitled to a permit subject to qualifications adopted by the Board.

7. The Board finds that the proposed amendment will not result in an unlawful impairment of an existing water right.

8. The Board finds that the evidence presented by intervenors on the issue of beneficial use and public interest does not outweigh the evidence presented by the Applicant and Water Rights that the proposed amendment is for a beneficial use and in the public interest.

9. Beneficial use is defined in SDCL § 46-1-6(3) as:

“any use of water within or outside the state that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies.”

10. The Board finds that, based on the testimony and exhibits accepted into evidence, the proposed use is a beneficial use.

11. For purposes of making a public interest determination pursuant to SDCL ch. 46-2A, the Board is not bound by the PUC findings.

12. The Board further finds that the proposed use of water as a backup source for a temporary workforce camp to be in the public interest.

13. The waters of the State should be put to beneficial use to the fullest extent of which they are capable. SDCL § 46-1-4.

14. The “public interest” under SDCL § 46-2A-12 is not defined by statute, but in this case the Board broadly considered how use of the water as proposed in the Application would affect the health, safety, and general welfare of the people of the State of South Dakota.

15. The proposed amendment will not unlawfully impair existing rights, is for a beneficial use, and is in the public interest, when qualified.

16. Any Conclusion of Law more properly designated as a Finding of Fact shall be treated as such.

FINAL DECISION

The Applicant and Water Rights both filed complete Proposed Findings of Fact and Conclusions of Law and Decision. The Yankton Sioux Tribe, Great Plains Tribal Water Alliance, and Dakota Rural Action filed a joint limited set of Proposed Findings of Fact and Conclusions of Law which only addressed certain facts proposed by the applicant. In compliance with SDCL § 1-26-25, the Proposed Findings of Fact and Conclusions of Law are accepted, modified, or rejected as follows:

Applicants Proposed Findings of Fact and Conclusions of Law

The proposed facts set forth in paragraphs 1, 3, 4, 10, 11, 14, 15, 16, and 24 are accepted.

The proposed facts set forth in paragraphs 2, 5, 7, 8, 12, 13, 17, 18, 25, 26, and 27 are accepted as modified herein.

The proposed facts set forth in paragraphs 6, 9, 19, 20, 21, 22, 23, and 28 are rejected.

Water Rights Proposed Findings of Fact and Conclusions of Law

The proposed facts set forth in paragraphs 1, 2, 3, 4, 5, 8, 9, 10, 12, 13, 14, 15, and 18 are accepted.

The proposed facts set forth in paragraphs 6, 7, 11, 16, 17, 19, 20, and 21 are accepted as modified herein.

No facts proposed by Water Rights were fully rejected.

Yankton Sioux Tribe, Great Plains Tribal Water Alliance, and Dakota Rural Action filed a joint limited set of Proposed Findings of Fact and Conclusions of Law

All proposed facts were rejected.

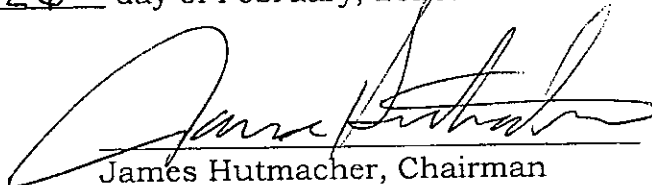
Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 1975A-1 is **GRANTED** with the following qualifications:

1. The well approved under Water Permit Nos. 1855-1, 1975-1, and 1975A-1 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. The use of water from the wells authorized by Water Permit Nos. 1855-1, 1975-1 and 1975A-1 shall not exceed 57.2 acre-feet of water annually for use at temporary workforce camps set forth in Water Permit Nos. 1975-1 and 1975A-1.

3. The permit holder shall report the annual volume of water diverted for all uses from the Inyan Kara aquifer. The permit holder shall also report the portion of the volume of water diverted for use at the temporary workforce camps on a monthly basis and for the twelve months prior. The reporting for workforce camps use is not required once the temporary workforce camps are no longer in place.

Dated this 26 day of February, 2020.



James Hutmacher, Chairman
Water Management Board



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

FEB 28 2020

Matthew E Naasz
Counsel for Wink Cattle Company
PO Box 8045
Rapid City SD 57709

Dear Mr. Naasz:

Enclosed is Water Permit No. 1975A-1 authorizing additional areas of use to Water Right No. 1855-1 and Water Permit No. 1975-1 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 Wink Cattle Company has finished the system and has 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.

Sincerely,

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

enclosures