

WATER PERMIT NO. 1988-1

Name of Applicant: Western Construction Inc.

Address: PO Box 771, Rapid City SD 57709

Phone: 605 342-3834

Amount of Water Claimed: 2.67 cfs 43 AF

Total Acres: NA

Source of Water Supply: Belle Fourche River

Water to be used for: industrial use

County: Butte

Type of Waste Disposal System:

Location: 6 miles southeast of Newell

PRIORITY Date Received: 4-3-19

Application/License Fee: \$ 700

Corrected Application Received: 4-9-19

Period of Annual Use: April 1 – October 31

Remarks:

Diversion Point: W 1/2 SW 1/4 Sec 24-T8N-R6E

Land to be Irrigated: NA

Depth of Well: NA

Well Driller:

Remarks:

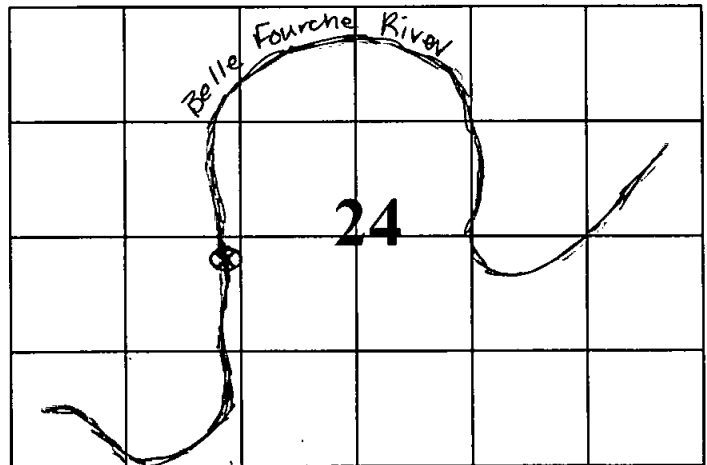
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 4-9-19

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



SDDENR
permits
VALE

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>1988-1</u> (office use only) Hydrologic Unit <u>10120202</u>
	Basin <u>Belle Fourche River</u>
	Newspaper <u>Black Hills Pioneer, Spearfish</u>

PAID

APR 03 2019

Ck# 9463

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 _____	

Type of Application: (check one)

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

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

1. Name to Appear on Water Permit Western Construction, Inc..

Mailing Address P.O. Box 771 Rapid City SD 57709
(Address) (City) (State) (Zip Code)

Phone 605-342-3834 Mobile _____ Email tlien@dakotamill.com

2. Amount of water claimed 2.67 *CFS or 1200.0 **GPM and 43 ***AF or 14 mill 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 Belle Fourche

4. Location of point of diversion 1 pump W1/2SW1/4 Sec 24, T8N, R6E County Butte
(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? _____
(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used _____

6. Annual period during which water is to be used April 1 to October 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)

Washing sand and gravel. Water will be pumped to wash plant and drain into settling pond, and recycled to the wash plant. Approximately 15% of water will be lost which would be replenished from the river at a rate of 86400.0 gals/working day totaling to 1,900,000.0 gals in 22 days /month and a consumptive total of 14,000,000.0 gals during a seven month operating wash season.

RECEIVED

APR 03 2019

WATER RIGHTS
PROGRAM

I, Thomas E. Lien Jr. President, the applicant, certify under

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.

SOUTH DAKOTA
WATER PERMIT NO. 1988-1

Date of first receipt of application April 3, 2019.

Date of return to applicant for corrections, amendments or changes April 3, 2019.

Date of receipt of corrected application April 9, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1988-1 to Western Construction Inc, c/o Thomas E Lien, Jr., PO Box 771, 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. 1988-1 appropriates 43 acre-feet of water annually at a maximum pump rate of 2.67 cubic feet of water per second from the Belle Fourche River located in the W 1/2 SW 1/4 Section 24-T8N-R6E. Water will be diverted to a settling pond and recycled to the wash plant located in the same area as listed above. The sand and gravel wash plant will be located approximately 6 miles southeast of Newell SD.
2. The water appropriated shall be used for the purpose of industrial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 1988-1 is May 28, 2019.
5. The date from which applicant may claim right is April 3, 2019.
6. One-fifth of the construction is to be completed on or before November 28, 2021.
7. All construction is to be completed on or before May 28, 2024.
8. Water is to be put to beneficial use on or before May 28, 2028.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. 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. Once the holding/settling ponds are filled during annual start up, Permit No. 1988-1 authorizes diversion of water from the Belle Fourche River only to the extent necessary to replenish the holding/settling ponds for losses due to evaporation during wash plant operations. Water shall be re-circulated through the holding/settling ponds and reused to minimize the need to make Belle Fourche River diversions.
4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Belle Fourche River.
5. Water Permit No. 1988-1 authorizes a total annual diversion of 43.0 acre feet of water from the Belle Fourche River.

WATER MANAGEMENT BOARD

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

JUN 03 2019

date



Section 24

Write a description for your map.

Legend

- 24
- Feature 2
- SD T8N R6E

Google Earth

2000 ft



diversion
point



Sec 11
T008N
R06E

Sec 12
T008N
R06E

Sec 7
T008N
R07E

Sec 14
T008N
R06E

Sec 13
T008N
R06E

Sec 18
T008N
R07E

Sec 23
T008N
R06E

Sec 24
T008N
R06E

Sec 19
T008N
R07E

Sec 26
T008N
R06E

Sec 25
T008N
R06E

Sec 30
T008N
R07E

Sec 35

Sec 36

Sec 31

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 3, 2019

RECEIVED OF Western Construction, Inc. PO Box 771 Rapid City SD 57709

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

Fee for Application for Permit No. <u>1988-1</u> to Appropriate Water, to construct and to put water to beneficial use	500	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>1988-1</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	700 00

No. **09108**

By Jeanne Goodman
Chief Engineer *vm*



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

April 3, 2019

Western Construction Inc
c/o Thomas E Lien Jr
PO Box 771
Rapid City SD 57709

Dear Mr. Lien:

Thank you for submitting the *Application for a Permit to Appropriate Water* for industrial use for a sand and gravel wash operation to be located in Butte County. In order to complete the application, the following is required.

- A map needs to be submitted that references a government section corner or quarter corner including section, township and range. For your use, I have enclosed a map with those designations. Please mark the Belle Fourche River diversion point location with an "X". Also, outline the area of the wash plant.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosures

Schlaak, Karen

From: Shailesh Patel <shaileshp@dakotamill.com>
Sent: Wednesday, March 20, 2019 2:34 PM
To: Gronlund, Eric
Cc: Schlaak, Karen; McMath, Genny
Subject: RE: [EXT] Water Permit Application
Attachments: Sand Plant Water Permit Application.pdf

Hi Eric,
Attached is the application signed by Thomas E. Lien Jr.

From: Shailesh Patel
Sent: Friday, March 15, 2019 4:40 PM
To: 'Gronlund, Eric'
Cc: Schlaak, Karen; McMath, Genny
Subject: RE: Water Permit Application

Please see the comments on each.

From: Gronlund, Eric [<mailto:Eric.Gronlund@state.sd.us>]
Sent: Friday, March 15, 2019 9:46 AM
To: Shailesh Patel
Cc: Schlaak, Karen; McMath, Genny
Subject: FW: Water Permit Application

Patel:

Under Item 2 – is the 1,200 gpm rate reflect the pump rate from the Belle Fourche river to a pond prior to use for the wash plant OR is the pump rate from the Belle Fourche River at a lesser or higher rate and the 1,200 gpm is reflective of rate from the pond to operate the wash plant? Item No. 2 should be the actual pump rate from the Belle Fourche River. I think that the 1,200 gpm is the proposed rate from the river but just want to make sure. **1200.0 gals is the proposed rate. From river to pond initially, then pond to plant till need to replenish and the cycle continues**

Based on the map, the proposed pump site is in the NW ¼ SW ¼ Section 24-T8N-R6E. You provide a broader legal description being the W ½ SW ¼ of Section 24. Is this to account for possibly moving the pump site slightly south OR is it to reflect that water use (ie. where the wash plant and ponds are located) may occur in the SW ¼ SW ¼ of the section? **The possibility of moving the pump as material excavation progresses.**

You have the application being signed by yourself as Projects Manager. We'd either need a statement of authority that you are authorized to sign on behalf of the corporation or have the registered agent principal officer or director of the corporation sign the application. The previous application was signed by Thomas E Lien Jr. action in his capacity as President of the corporation. **Will send in application with Thomas's signature.**

The application filing fee for 14 million gallons annually is \$700 made payable to the Water Rights Program. Western Construction will also be responsible for the cost of the public notice in the newspapers. That will be between Western Construction and the newspapers when we get to that point. We walk you through it when the application is ready for public notice.

Karen and Genny are included in this email since Karen will be the first to see the application when it is submitted and Genny deals with the temporary permit I believe you'll be filing to complete construction of the project that is carried over from last year.

The comments presented are for the purpose of completing the application. The application will need to be fully reviewed by a staff engineer to determine if water is available and potential impairment to existing rights prior to the Chief Engineer of the Water Rights Program making a recommendation. Then the application will be public noticed as done previously with Western Construction's other water right permit.

Eric

From: Shailesh Patel [<mailto:shaileshp@dakotamill.com>]

Sent: Wednesday, March 13, 2019 4:46 PM

To: Gronlund, Eric

Subject: [EXT] Water Permit Application

Eric,

Attached is the permit application we had discussed.

Let me know what needs to be done or needed please.

Thanks.

Shailesh Patel



P.O. Box 771

Rapid City, SD 57709

Ph: (605) 381-9709

Fax: (605) 342-8435

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, April 09, 2019 1:51 PM
To: 'Shailesh Patel'
Subject: RE: [EXT] Water Permit Application

Yes, I printed the map and it is adequate.
Karen

From: Shailesh Patel [<mailto:shaileshp@dakotamill.com>]
Sent: Tuesday, April 09, 2019 1:33 PM
To: Schlaak, Karen
Subject: FW: [EXT] Water Permit Application

Hi Karen,
The attached application was sent to Eric with the required map. When I sent the final application with payment, forgot to attach the map. Is this map adequate, please let me know.
Thanks.
Shailesh Patel

From: Shailesh Patel
Sent: Wednesday, March 13, 2019 3:46 PM
To: 'Eric.Gronlund@state.sd.us'
Subject: Water Permit Application

Eric,
Attached is the permit application we had discussed.
Let me know what needs to be done or needed please.
Thanks.

Shailesh Patel



P.O. Box 771
Rapid City, SD 57709

Ph: (605) 381-9709
Fax: (605) 342-8435



530669461

ANNUAL REPORT

Secretary of State
500 E. Capitol Ave
Pierre, SD 57501-5070
(605) 773-4845

Domestic Business Corporation
SDCL 59-11-24, 24.1

Please Type or Print Clearly in Ink
Please submit one Original
Make payable to the SECRETARY OF STATE

Filing Fee: \$50

Total Fee: \$50

2018
FILING YEAR

1. Business ID and Name:

DB054052
BUSINESS ID

WESTERN CONSTRUCTION, INC.
BUSINESS NAME

2. The jurisdiction under whose law it is formed **SOUTH DAKOTA**

3. The address of the principal executive office (business address):

Actual Street Address

**2460 DEADWOOD AVENUE
RAPID CITY, SD 57702-0348**

Mailing Address

**2460 DEADWOOD AVENUE
RAPID CITY, SD 57709**

4. The South Dakota Registered Agent's Name:

South Dakota law permits the registered agent to be either (a) a noncommercial registered agent, (b) a commercial registered agent, or (c) an office holder.

(a) The South Dakota Noncommercial Registered Agent's name

Name **BARTON R. BANKS**

Actual Street Address in this State

**224 FOUNDERS PARK DRIVE
RAPID CITY, SD 57702**

Mailing Address in this State

**PO BOX 2340
RAPID CITY, SD 57709-2340**

5. The names and business addresses of its principal officers.

Title	Name	Address
President	THOMAS E LIEN, JR.	2460 DEADWOOD AVENUE, RAPID CITY, SD, 57702
Treasurer	THOMAS E LIEN, JR.	2460 DEADWOOD AVENUE, RAPID CITY, SD, 57702
Secretary	BARTON R BANKS	224 FOUNDERS PARK, RAPID CITY, SD, 57702
Vice President	THOMAS E LIEN, SR	224 FOUNDERS PARK, RAPID CITY, SD, 57702
Vice President	Barton R Banks	P.O.Box 2340, Rapid City, SD 57709

6. The names and business addresses of its directors (governors).

Name	Address
THOMAS E LIEN, JR	PO BOX 2340, RAPID CITY, SD 57709
NICOLE LIEN	P.O. BOX 2340, RAPID CITY, SD 57709
THOMAS E LIEN, SR	P.O. BOX 2340, RAPID CITY, SD 57709
BARTON R BANKS	P.O. BOX 2340, RAPID CITY, SD 57709



7. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.

No person may execute this report knowing it is false in any material respect. Any violation may be subject to a civil and/or criminal penalty (SDCL 47-1A-129; 22-39-36).

10/30/2018

Dated

Email (Optional)

Barton R Banks

Signature of an Authorized Person

Barton R Banks

Printed Name

B0078-6943 10/30/2018 4:53PM Rec'd by SD SOS



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

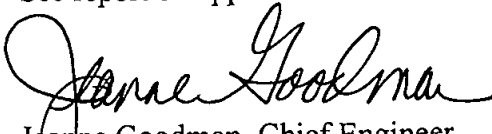
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1988-1**

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. 1988-1, Western Construction Inc., c/o Thomas E Lien Jr., PO Box 771, Rapid City SD 57709.

The Chief Engineer is recommending APPROVAL of Application No. 1988-1 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. 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. Once the holding/settling ponds are filled during annual start up, Permit No. 1988-1 authorizes diversion of water from the Belle Fourche River only to the extent necessary to replenish the holding/settling ponds for losses due to evaporation during wash plant operations. Water shall be re-circulated through the holding/settling ponds and reused to minimize the need to make Belle Fourche River diversions.
4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Belle Fourche River.
5. Water Permit No. 1988-1 authorizes a total annual diversion of 43.0 acre feet of water from the Belle Fourche River.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
May 6, 2019

REPORT ON WATER PERMIT APPLICATION NO. 1988-1

Western Construction Inc.

May 1, 2019

Application No. 1988-1, proposes to appropriate 43 acre-feet of water annually at a maximum pump rate of 2.67 cubic feet of water per second from the Belle Fourche River located in the W 1/2 SW 1/4 Section 24-T8N-R6E. Water will be diverted to a settling pond and recycled to the wash plant located in the same area as listed above for industrial use. The sand and gravel wash plant will be located approximately 6 miles southeast of Newell SD in Butte County.

Review of the Proposed Project and Water Source

The applicant is proposing to use Belle Fourche River water for washing sand and gravel. The applicant intends to pump water to the wash plant which will drain to a settling pond. Water from the settling pond will be recycled and re-used at the wash plant. It is estimated 15% of the water will be lost each day and need to be replenished from the river. The applicant proposes to pump water from the river at a rate of 2.67 cfs (1000 gallons per minute) at a maximum volume of 0.27 acre-feet per day (86,400 gals per day) for approximately 1.5 hours to replenish the water lost during the washing process. The total annual volume proposed to be diverted is 43 acre-feet (14,000,000 gallons) over the 7 month operating wash season which is based upon 22 working days per month.

The source of water for the proposed project is the Belle Fourche River. The Belle Fourche River headwaters in northeastern Wyoming and flows northeast around the northern edge of the Black Hills of South Dakota then east to the Cheyenne River confluence north of Wasta, South Dakota. In this stretch is the Belle Fourche Irrigation District, a US Bureau of Reclamation irrigation project capable of diverting Belle Fourche River flow to an off river reservoir located on Owl Creek. This project was completed in 1914 and includes the Belle Fourche River diversion dam, a storage dam capable of impounding 192,077 acre-feet of storage and irrigating 57,068 acres in southeastern Butte and northwestern Meade counties (US Bureau of Reclamation, 2004). In addition there are numerous tributaries located along the northern flank of the Black Hills that contribute flow to the Belle Fourche River.

United States Geological Survey (USGS) maintains stream flow gaging stations on the Belle Fourche River near Sturgis, SD (Figure 1). This proposed project is located within the external boundaries towards the southeastern end of the Belle Fourche Irrigation District in the river reach 30 miles upstream of the Sturgis gage. This gage is located downstream of several Belle Fourche Irrigation District waste ways and tributaries such as Owl and Horse Creeks (USGS 2019). Large portions of the water in the reach of the river where this irrigation project is located consist of irrigation return flows coming from the Belle Fourche Irrigation District during the irrigation season.

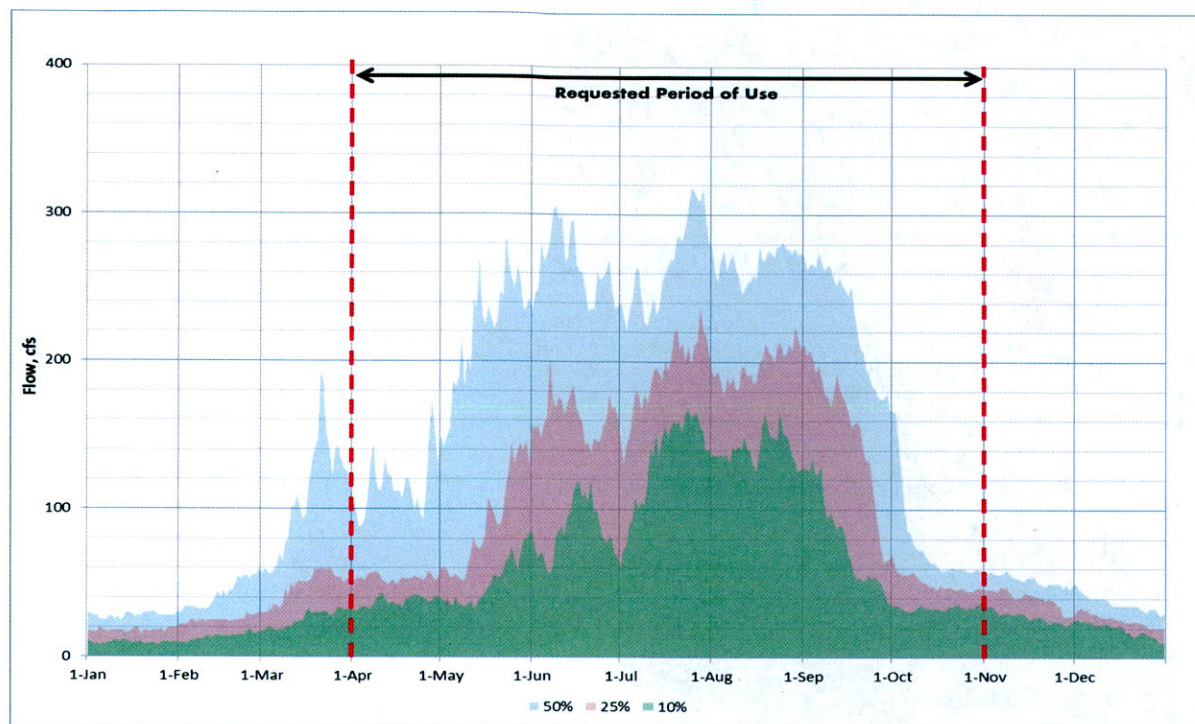


Figure 1. Daily percentile flow hydrographs for the USGS Belle Fourche River near Sturgis, 1953-2018, contributing drainage area 5798 mi² (USGS, 2019).

Unlike a typical prairie river with flows peaking in March and April with snow melt and spring rains then trailing off throughout the summer months into fall, flow in the Belle Fourche River in this reach is affected by irrigation runoff. The impact of the irrigation return water can be observed in Figure 1 with a large increase in the flows during the months of May through September. Because the amount of water or method of irrigation can change from one season to the next, return flows should not be expected to provide a reliable supply of water.

Review of Existing Water Rights

There are 89 existing water rights/permits appropriating 1668.24 cfs from the Belle Fourche River in South Dakota. This includes the US Bureau of Reclamation's water right for the diversion of up to 1440 cfs for use by the Belle Fourche Irrigation District. There are 48 existing water rights/permits appropriating 151.0 cfs from the Belle Fourche River located downstream from this project's diversion point to the confluence with the Cheyenne River (Water Rights, 2019). Except during severe drought conditions in the Belle Fourche River Basin, historical USGS stream flow data indicates that approving this permit likely would not adversely impact existing water rights or domestic water use downstream of this proposed project.

Conclusions

1. This application proposes to appropriate 43 acre-feet of water annually at a maximum pump rate of 2.67 cfs from the Belle Fourche River for a sand and gravel wash plant.
2. The applicant proposes to pump water from the river at a rate of 2.67 cfs (1000 gallons per minute) at a maximum volume of 0.27 acre-feet per day (86,400 gals per day) to replenish the water lost during the washing process.
3. The total annual volume proposed to be diverted is 43 acre-feet (14,000,000 gallons) over the 7 month operating wash season which is based upon 22 working days per month.
4. There are 48 existing water rights/permits appropriating 151.0 cfs from the Belle Fourche River downstream of this proposed project to the confluence with the Cheyenne River.
5. Large portions of the water in the reach of the river where this irrigation project is located consist of irrigation return flows coming from the Belle Fourche Irrigation District during the irrigation season.
6. Approval of this permit likely would not adversely impact existing water rights or domestic water use downstream of this proposed project



Mark D. Rath

Natural Resources Engineer III

References

1. USGS. 2019. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. Water Rights. 2019. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
3. US Bureau of Reclamation, 2004. Final Environmental Assessment and Resources Management Plan – Belle Fourche Reservoir. US Dept. of the Interior, Bureau of Reclamation - Dakotas Area Office: Bismarck, ND and Rapid City, SD

RECEIVED

MAY 24 2019

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

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

Notice of Application
No. 1988-1

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 16th day of May, 2019, and the last publication on the day of , , that the full amount of fees charged for publishing same, to-wit: The sum of \$ 27.27, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

[Signature]
Subscribed and sworn to before me this 21st day of May, 2019

[Signature]
Notary Public, Butte County, South Dakota
My commission expires: 3-21-2023

NOTICE OF APPLICATION NO. 1988-1 to Appropriate Water

Notice is given that Western Construction Inc., c/o Thomas E Lien Jr, PO Box 771, Rapid City SD 57709 has filed an application for a water permit to appropriate 43 acre-feet of water annually at a maximum pump rate of 2.67 cubic feet of water per second from the Belle Fourche River located in the W 1/2 SW 1/4 Section 24-T8N-R6E. Water will be diverted to a settling pond and recycled to the wash plant located in the same area as listed above for industrial use. The sand and gravel wash plant will be located approximately 6 miles southeast of Newell SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1988-1 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. 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 28, 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
\$26.80.

#126
May 16

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, May 06, 2019 11:24 AM
To: Legals (legals@bhpioneer.com)
Subject: 1988-1, Western Construction Inc
Attachments: 1988-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on May 16, 2019.

Western Construction Inc, c/o Thomas E Lien, Jr, PO Box 771, Rapid City SD 57709 (605 342-3834) 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 RIGHT AWAY.**

May 6, 2019

Western Construction Inc
Thomas E Lien Jr
PO Box 771
Rapid City SD 57709

Dear Mr. Lien:

Water Permit Application No. 1988-1 for industrial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Black Hills Pioneer printed at Spearfish SD (Ph # 605 642-2761). 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 newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper 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. 1988-1 to Appropriate Water

Notice is given that Western Construction Inc., c/o Thomas E Lien Jr, PO Box 771, Rapid City SD 57709 has filed an application for a water permit to appropriate 43 acre-feet of water annually at a maximum pump rate of 2.67 cubic feet of water per second from the Belle Fourche River located in the W 1/2 SW 1/4 Section 24-T8N-R6E. Water will be diverted to a settling pond and recycled to the wash plant located in the same area as listed above for industrial use. The sand and gravel wash plant will be located approximately 6 miles southeast of Newell SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1988-1 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. 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 28, 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 _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUN 03 2019

Western Construction Inc
c/o Thomas E Lien, Jr
PO Box 771
Rapid City SD 57709

Dear Mr. Lien:

Enclosed is Water Permit No. 1988-1 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

RECEIVED

JUN 19 2019

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

1988-1

Date 06/14/19TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181FROM: WESTERN CONSTRUCTION, INC.
(name)
P. O. Box 771
(address)
RAPID CITY, SD 57702 605-381-9709
(city, state, zip) (phone) (SHAILESH PATEL)

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.

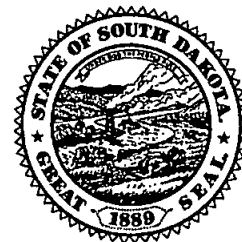
Water Permit No. 1988-1 states that the water use system is to be constructed by 06/10/19, and water is to be put to beneficial use by 06/10/19.
(date) (date)

The water use system was completed on 06/10/19.
(date)

Applying the water to beneficial use was completed on 06/10/19.
(date)

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

Shailesh Patel
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 19, 2019

1988-1

Shailesh Patel
Western Construction Co.
PO Box 771
Rapid City SD 57709-0771

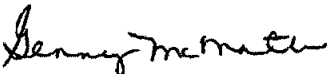
Dear Ms. Patel:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know the water use system authorized under Water Permit No. 1988-1 is completed.

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. 1988-1**

I have this day June 25, 2019 made a thorough examination of the water use system constructed by Western Construction Inc., PO Box 771, Rapid City, SD 57709 of Permit No. 1988-1, bearing the priority of 4/3/2019 authorizing the diversion of 2.67 cu. ft. per second of the waters of the Belle Fourche River for industrial purposes in Butte County.

Inspection contact & relationship to permit holder, if applicable: **John Ogden, operations foreman**
605-381-2143

A. Works used to divert the water:

Pump:

- 1) Make Gorman-Rupp
- 2) Model 06B20-B
- 3) Size 6" suction/discharge
- 4) Capacity 1,200 GPM

Power:

- 1) Source electric
- 2) Horsepower rating 60 hp

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

- 1) Type Flexible hose
- 2) Size 8 inches

C. Works used to apply water to beneficial use:

Belle Fourche water is pumped periodically to the holding/settling pond. Water is then pumped from the pond for use in the gravel washing operation and then returned for settling. The pond is replenished from the river as needed to maintain adequate levels.

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
list any extended period of nonuse: none
- 2) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in **good** condition with the point of diversion located as follows:
2,581' N and 1,054' E of the SW corner Section 24 T8N R6E (44.640827, -103.342323).
2. The works are capable of diverting and conveying to the place of use **2.67** cu. ft. per second of water (1,200 gpm) which is to be used for **industrial** use. Water has been put to beneficial use to the maximum extent as follows for **sand and gravel washing operations**.

The license should be issued for **2.67** cfs .

3. All structures, wells and lands on map: **diversion point only**

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



Steven Quissell
Water Rights Inspector
DENR Water Rights Program

Date Report Completed: **June 28, 2019**



Belle Fourche river diversion pump

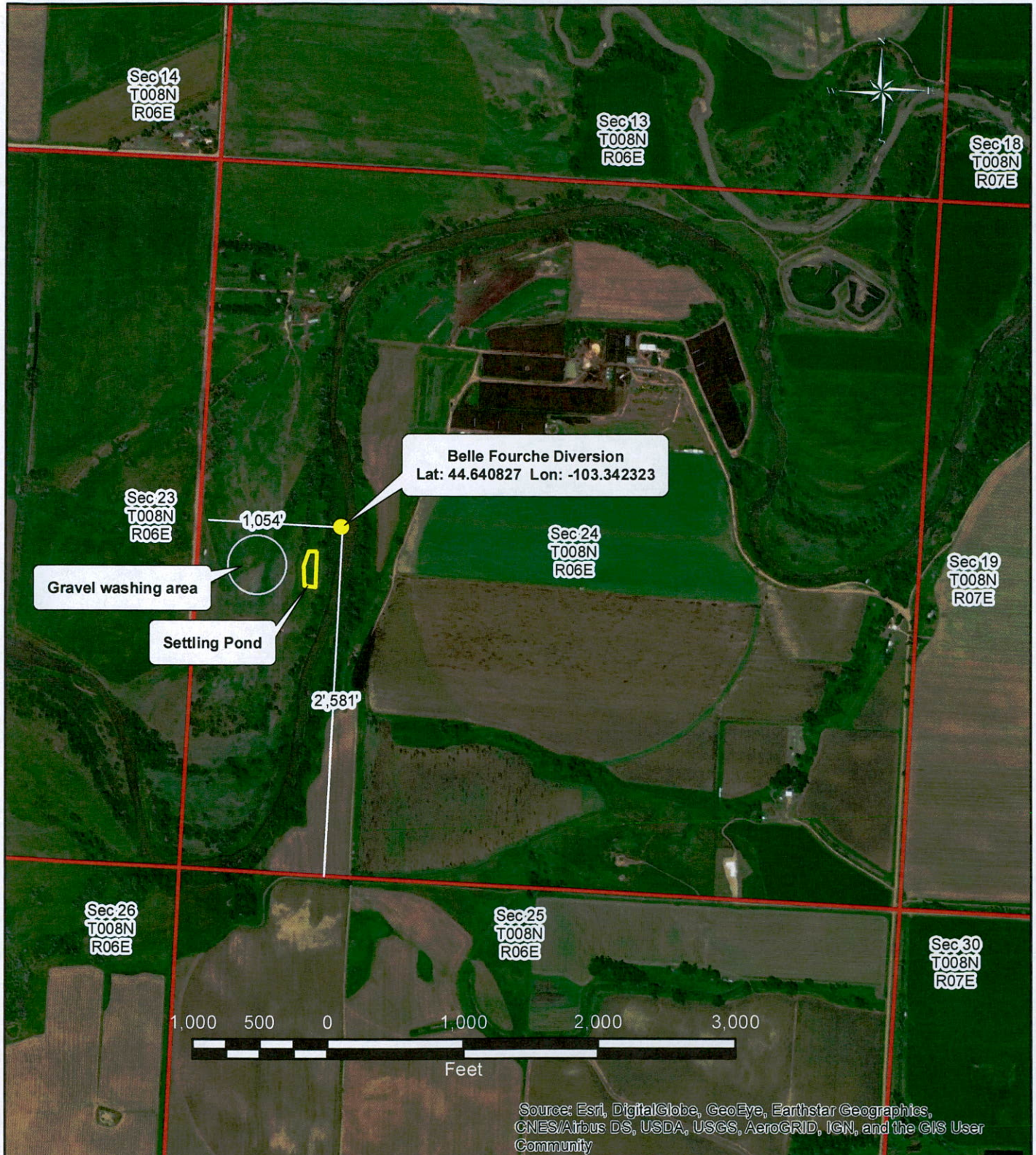


Gravel washing operation



Holding/settling pond

Water Right #1988-1
Western Construction
6/25/2019



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

JUL 12 2019

1988-1

Thomas Lien Jr
Western Construction Inc
PO Box 771
Rapid City SD 57709

Dear Mr. Lien:

Enclosed is Water License No. 1988-1. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1988-1

(1) Western Construction Inc., PO Box 771, Rapid City SD 57709 made Application No. 1988-1, April 3, 2019 for a water permit to appropriate 43 acre feet of water annually at a maximum pump rate of 2.67 cubic feet of water per second from the Belle Fourche River, Butte County, South Dakota for industrial purposes. Permit No. 1988-1, with a priority date of April 3, 2019 was approved May 28, 2019 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 28, 2024 and for the application to beneficial use of water on or before May 28, 2028.

The permit holder submitted a "Notice of Completion of Works and Application of Water to Beneficial Use" on June 19, 2019. The "Notice" indicated the system was completed and water applied to beneficial use on June 10, 2019.

(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 up to 43 acre feet annually with a maximum pump rate of 2.67 cubic feet of water per second for beneficial use. The location of the diversion point on the Belle Fourche River is:

- 2,581'N and 1,054'E of the SW corner of Section 24, T8N, R6E (NW ¼ SW ¼)
Latitude 44.640827, Longitude -103.342323

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use for industrial purposes in a sand and gravel washing plant located approximately 6 miles SE of Newell SD.

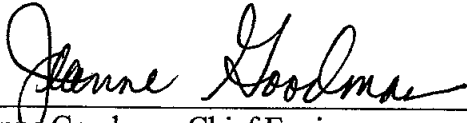
(4) Pursuant to South Dakota Water Law 46-5-30.1 Western Construction Inc., PO Box 771, Rapid City SD 57709 the holder and/or owner of Water Right No. 1988-1 is issued a license to appropriate water, the right to use 2.67 cubic feet of water per second from the Belle Fourche River with a priority date of April 3, 2019 from the location specified in (2) of this license for industrial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1988-1 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.
- Once the holding/settling ponds are filled during annual start up, Water Right No. 1988-1 authorizes diversion of water from the Belle Fourche River only to the extent necessary to replenish the holding/settling ponds for losses due to evaporation during wash plant operations. Water shall be re-circulated through the holding/settling ponds and reused to minimize the need to make Belle Fourche River diversions.

continued

- The Water Right holder shall report to the Chief Engineer annually the amount of water withdrawn from the Belle Fourche River.
- Water Right No. 1988-1 authorizes a total annual diversion of 43.0 acre feet of water from the Belle Fourche River.



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

JUL 12 2019

date

