

WATER PERMIT NO. 1988A-1

Name of Applicant: Western Construction Inc.

Address: PO Box 771, Rapid City SD 57709

Phone: 605 342-3834

Amount of Water Claimed: no add'l

Total Acres: NA

Source of Water Supply: Belle Fourche River

Water to be used for: industrial use

County: Meade

Type of Waste Disposal System:

Location: 21 miles east of Sturgis

PRIORITY Date Received: 4-4-22

Application/License Fee: \$ 100

Corrected Application Received: 4-6-22

Period of Annual Use: April 1 – October 31

Remarks: change diversion point location

Diversion Point: S 1/2 Sec 32-T5N-R11E

Land to be Irrigated: NA

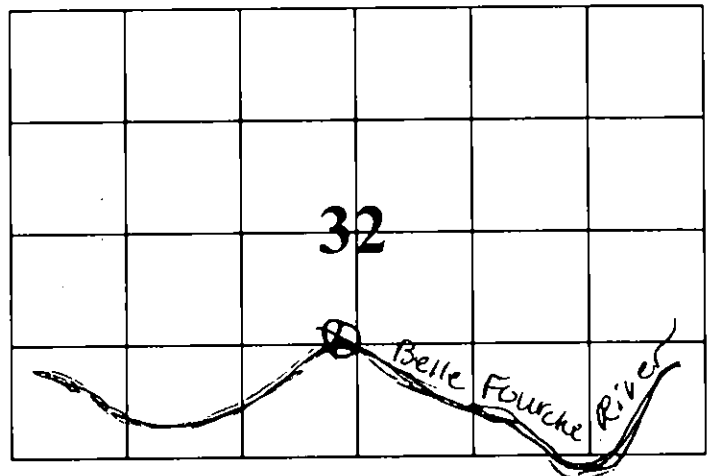
Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:



Reviewed and the Number Assigned on: 4-6-22

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 1988A-1**

Date of first receipt of application April 4, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1988A-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. 1988A-1 amends Water Right No. 1988-1 by changing the location of the diversion point. Water Right 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 NW 1/4 SW 1/4 Section 24-T8N-R6E (Butte County) for industrial use in a sand and gravel washing operation. This permit authorizes moving the diversion point approximately 33 miles to the southeast with the Belle Fourche River diversion point to be located in the S 1/2 Section 32; with water placed to beneficial use in the NW 1/4 Section 32; all in T5N-R11E (Meade County). No increase in the diversion rate or volume of water is authorized by this permit. This site is located approximately 34 miles east of Sturgis 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: April 1 – October 31.
4. The date from which applicant may claim right is April 3, 2019.
5. The date of approval of Permit No. 1988A-1 is May 16, 2022.
6. 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. 1988A-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. 1988A-1 authorizes a total annual diversion of 43.0 acre feet of water from the Belle Fourche River.

(continued)

Water Permit No. 1988A-1
Western Construction Inc.
Page 2

6. Water use at the site authorized by Water Right No. 1988-1 is no longer authorized once operations begin at the site authorized by Permit No. 1988A-1.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

JUN 01 2022
date



APR 04 2022

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>1988A-1</u>	(office use only) Hydrologic Unit <u>10120202</u>
	Basin <u>Belle Fourche R.</u>	
	Newspaper <u>Faith Independent</u>	
	<u>Rapid City Journal</u>	

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. <u>1988-1</u>		

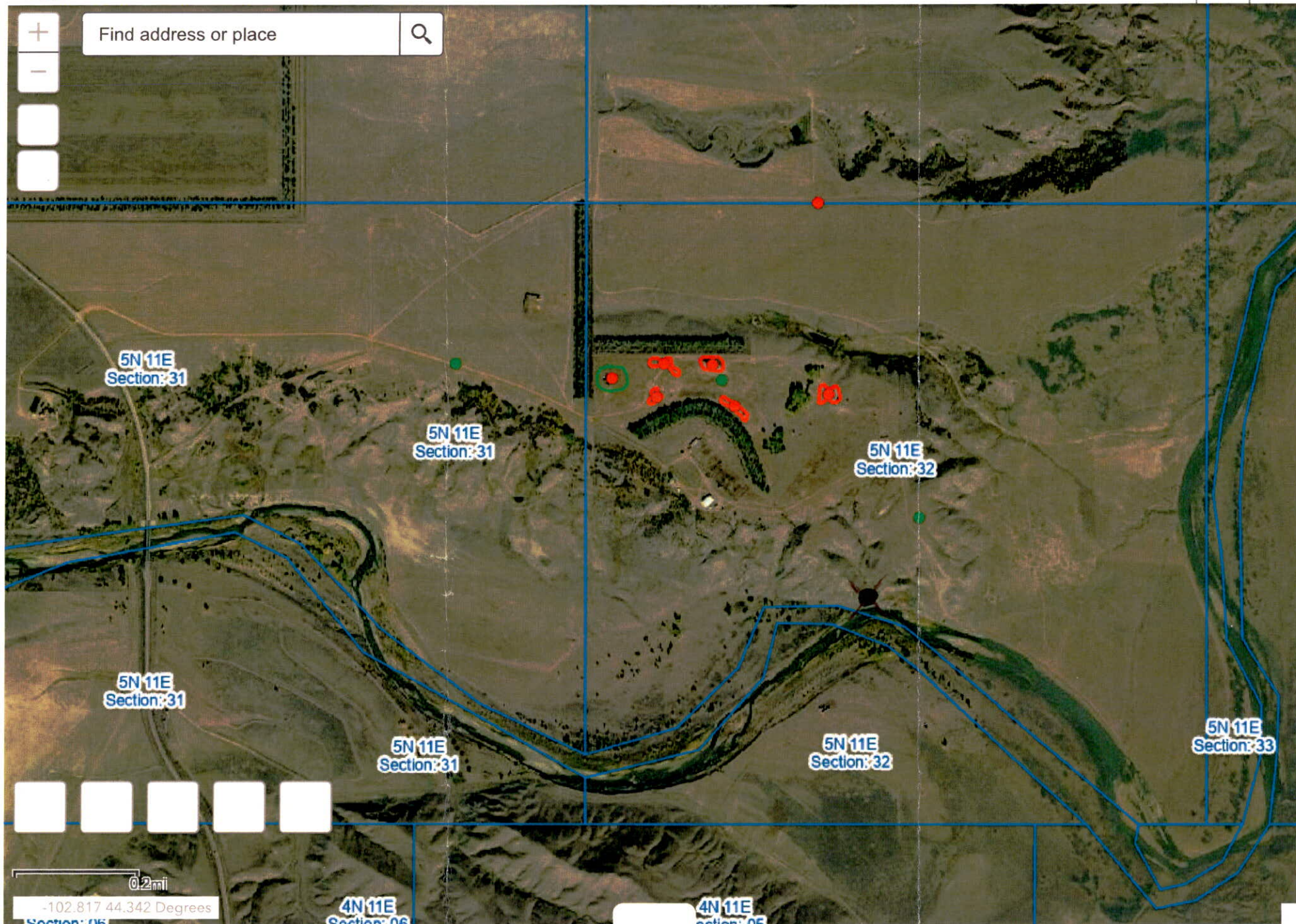
Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
Change diversion point.

- 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
- Amount of water claimed 2.67 *CFS or 1200.0**GPM and 43 ***AF or 14 MM 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
- Source of water supply Belle Fourche River
- Location of point of diversion 1 Pump, S1/2 SEC 32, T5N, R11E 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? NW1/4 Sec 32-T5N-R11E
(example - NW1/4 section 12-T104N-R53W)
- County or counties where water will be used _____
- Annual period during which water is to be used April 1 through October 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

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 86,400.00 gals/working day totaling to 1,900,000 gals/month and a consumptive total of 14,000,000.0 gals during a seven month operating wash season.

I, Thomas E. Lien, Jr. President, 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.



Phillips Pit

Legend
● Pump Location



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, March 31, 2022 3:55 PM
To: Shailesh Patel
Subject: RE: [EXT] Amendment to Water Right 1988-1

The application fee will be \$100.00.
Karen

From: Shailesh Patel <shaileshp@dakotamill.com>
Sent: Thursday, March 31, 2022 3:18 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: FW: [EXT] Amendment to Water Right 1988-1

Hi Eric,
Attached is Water Right application for amending No 1988-1. Attached also are maps showing pump location.
I will mail out a hard copy as well. Please let me know of any changes/ corrections that may be needed.

Thanks for your help.

Shailesh Patel

Duvall, Ron

From: Duvall, Ron
Sent: Wednesday, April 13, 2022 11:07 AM
To: shaileshp@dakotamill.com
Cc: Schlaak, Karen
Subject: Water Permit Application to move Belle Fourche River diversion (pumping) location

Shailesh,

I am looking over the application and it indicates that the water use will be within the area described for the pumping location which is the S1/2 section 32-T5N-R11E. However, based on the map submitted with the application, it appears the water use will be at some areas highlighted with red markings in the NW1/4 section 32. Is that correct? If so, it should be noted on the application and I can make that addition with your permission.

Thank you,

Ron Duvall
Dept. of Agriculture & Natural Resources
Office of Water, Water Rights Program
605.773.3352
danr.sd.gov



DANR
SOUTH DAKOTA

Shailesh called and confirmed that water will be used in the NW1/4 section 32 and the application should be modified to reflect that change

Ron Duvall
4/13/2022

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date April 6, 2022

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>1988A-1</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>100.00</u>
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. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	TOTAL
	\$ <u>100.00</u>

By Eric Gronlund
Chief Engineer
um



530669461

B0078-6942 10/30/2018 4:53PM Rec'd by SD SOS

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

2018
FILING YEAR

ANNUAL REPORT

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1988A-1, Western Construction Inc**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 1988A-1, Western Construction Inc, PO Box 771, Rapid City SD 57709.

The Chief Engineer is recommending APPROVAL of Application No. 1988A-1 because 1) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 2) the proposed use is a beneficial use and 3) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board 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. 1988A-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. 1988A-1 authorizes a total annual diversion of 43.0 acre feet of water from the Belle Fourche River.
6. Water use at the site authorized by Water Right No. 1988-1 is no longer authorized once operations begin at the site authorized by Permit No. 1988A-1.

See report on application for additional information.

Eric Gronlund, Chief Engineer
April 25, 2022

REPORT ON WATER PERMIT APPLICATION NO. 1988A-1

Western Construction Inc.

April 19, 2022

Application No. 1988A-1 proposes to amend Water Right No. 1988-1 by changing the location of the diversion point. Water Right 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 NW 1/4 SW 1/4 Section 24-T8N-R6E (Butte County) for industrial use in a sand and gravel washing operation. This application proposes to move the diversion point approximately 33 miles to the southeast with the Belle Fourche River diversion point to be located in the S 1/2 Section 32 with water placed to beneficial use in the NW1/4 Section 32; all in T5N-R11E (Meade County). No increase in the diversion rate or volume of water is authorized by this application. This site is located approximately 34 miles east of Sturgis SD.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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 domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. However, SDCL 46-2A-12 and 46-5-30.4 allows a water right to be amended to change a point of diversion only if the change does not unlawfully impair existing rights and is for a beneficial use and in the public interest. This report will analyze the available information to make a recommendation to the Chief Engineer on the second criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of the Proposed of the Project

The applicant is proposing to relocate an existing diversion point on the Belle Fourche River located near the town of Vale in southeastern Butte County to be taken at a point downstream on the river in southern Meade County. The water will continue to be used for washing sand and gravel with the intent 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 working 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. This is the same process and projected use as is authorized by Water Right No. 1988-1.

South Dakota Codified Law (SDCL) 46-5-13.1. allows for the change of location of diversion point if the diversion is from the same source of water, no additional water is appropriated.

Review of the Proposed Water Source

The Belle Fourche River headwaters in northeast 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, for an approximate distance of 290 river miles. Included in this stretch is the Belle Fourche Reservoir, which is part of the United States Department of the Interior's Belle Fourche Project. This project was completed in 1914 and includes a diversion dam, storage dam and a system of canals that irrigate 57,068 acres within the Belle Fourche Irrigation District located in southern Butte County in western South Dakota.

The United States Geological Survey (USGS) maintains stream flow gaging stations on the Belle Fourche River near Sturgis, SD (Figure 1). The proposed diversion point for this project is located approximately 22.5 stream miles downstream 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. Large portions of the water in the reach of the river where this industrial project is to be located consists of irrigation return flows coming from the Belle Fourche Irrigation District during the irrigation season. Unlike a typical prairie river with flows peaking in March and April with snow melt and spring rains and then trailing off throughout the summer months into fall, flow in the Belle Fourche River in this reach is affected by irrigation return flows.

The impact of the irrigation return water can be observed in Figure 1, a percentile hydrograph for the USGS Stream Gaging Station No 06437000 Belle Fourche River near Sturgis. The hydrograph of historical percentile data from 1952 to 2021 shows a large increase in the flows during the months of May through September (USGS, 2022). At the 50th percentile, the mean daily flow values are at or above 100 cfs from mid-March until the end of April before drastically increasing to 200 to 250 cfs by mid-May with flows spiking to approximately 300 cfs. At least 220 cfs is available from mid-May until mid-September when flow drops to approximately 180 cfs at the end of September coinciding with the end of the requested period of use. At the 10th percentile, winter flows are 10 to 20 cfs until the beginning of March before increasing to around 40 cfs by mid-May. Flow then increases to around 150 cfs by mid-July and holds until early September before dropping off to around 40 cfs at the end of September.

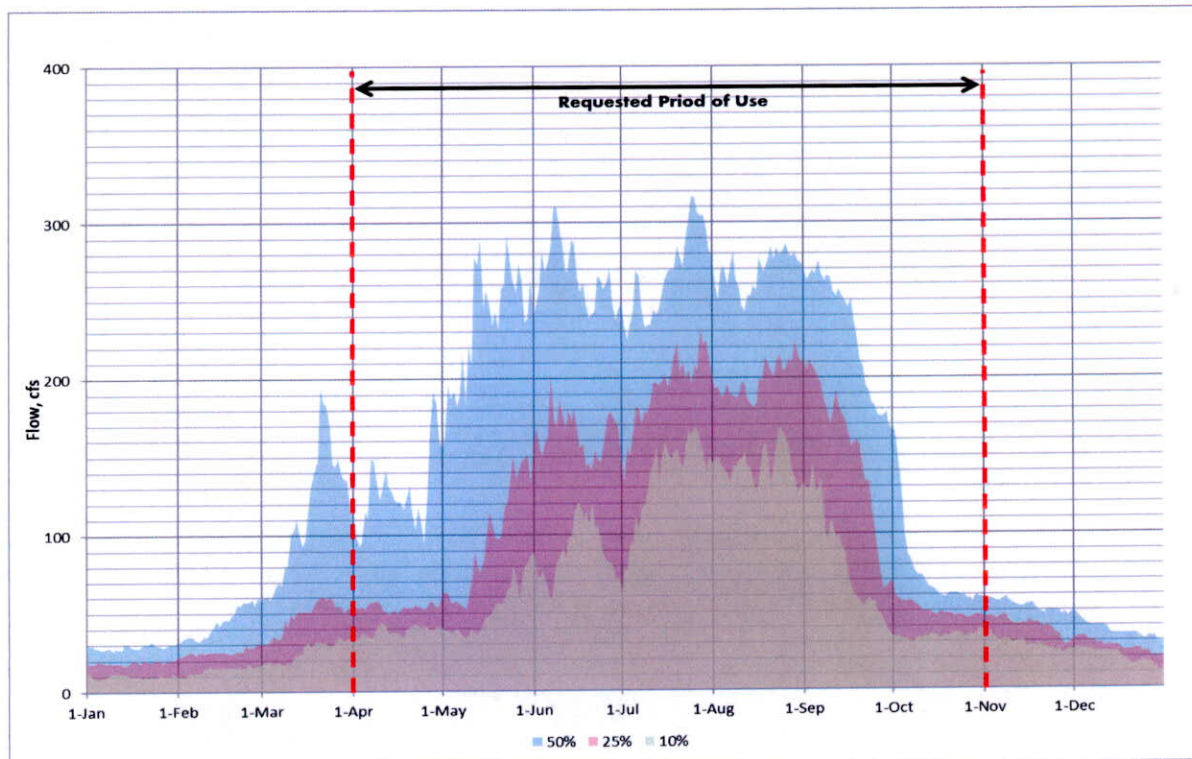


Figure 1. USGS Stream Gaging Station No 06437000 Belle Fourche River near Sturgis, 1953-2021 (USGS. 2022).

The USGS maintains stream flow gaging stations on the Belle Fourche River near Elm Springs, SD. This proposed diversion point is approximately 21.5 stream miles upstream of the Elm Springs gage. Figure 2 shows a percentile hydrograph for the USGS Stream Gaging Station No 06438000 Belle Fourche River near Elm Springs for the period 1953 to 2021 (USGS. 2022). At the 50th percentile, the mean daily flow values are at or above 130 cfs from mid-March until the end of April before increasing to 200 to 350 cfs by mid-May with flows spiking to approximately 300 cfs. At least 220 cfs is available from mid-May until the first part of September when flow drops to approximately 160 cfs at the end of September coinciding with the end of the requested period of use. At the 10th percentile, winter flows are 10 to 20 cfs until the beginning of March before increasing to around 35 cfs by mid-May. Flow then increases to around 130 cfs by mid-July and holds steady until early September before dropping off to around 50 cfs by the end of September.

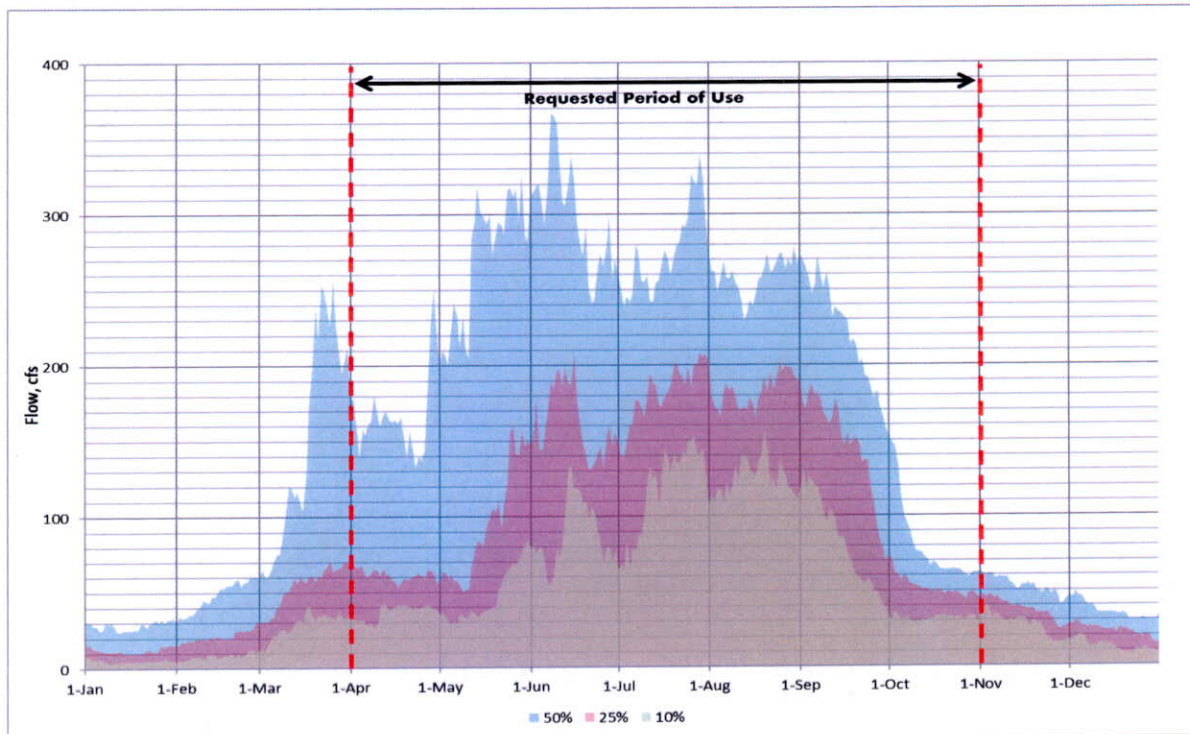


Figure 2. USGS Stream Gaging Station No 06438000 Belle Fourche River near Elm Springs, 1953-2021 (USGS, 2022).

Review of Existing Water Rights

There are 15 existing water rights/permits appropriating 58.53 cfs from Belle Fourche River downstream of this proposed project and the confluence with the Cheyenne River. If this permit is approved, it is not expected to adversely affect existing rights (Water Rights, 2022). In addition, if Application No. 1988A-1 is approved, it will have a priority date that is junior to the existing water rights and will be subject to bypassing low flows to downstream domestic water users and senior water right holders.

Conclusions

1. This application proposes to amend Water Right No. 1988-1 by changing the location of the diversion point.
2. Water Right 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 southeastern Butte County for industrial use in a sand and gravel washing operation.
3. This application proposes to move the diversion point approximately 33 miles downstream on the Belle Fourche River to a point in southern Meade County.
4. SDCL 46-5-13.1. allows for the change of location of diversion point if the diversion is from the same source of water, and no additional water is appropriated.
5. Based upon the existing downstream water rights and historical USGS streamflow data, the change will not unlawfully impair existing rights.



Mark D. Rath
Natural Resources Engineer III

References

1. USGS. 2022. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. Water Rights. 2022. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, April 26, 2022 7:41 AM
To: tlien@dakotamill.com
Subject: Water Permit Application No. 1988A-1
Attachments: 3325.pdf

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

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



RECEIVED

MAY 17 2022

Form 8

OFFICE OF
WATER

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Meade) SS

I, Kris Stocklin-Johnson

certify that the attached printed Notice was taken

from the Faith Independent

printed and published in Faith
County of Meade and

state of South Dakota. The notice was published

in the newspaper on the following date:

May 04, 2022

Cost of Printing \$39.12

Kris Stocklin-Johnson
(Signature)

Editor

(Title)

05/11/2022

(Date Signed)

The Faith Independent • 13

NOTICE OF APPLICATION NO. 1988A-1

Notice is given that Western Construction Inc., c/o Thomas E. Lien Jr., PO Box 771, Rapid City SD 57709 has filed an application to amend Water Right No. 1988-1 by changing the location of the diversion point. Water Right No. 1988-1 appropriates 43 acre-feet of water annually at a maximum pump rate of 2.87 cubic feet of water per second from the Belle Fourche River located in the NW 1/4 SW 1/4 Section 24-T8N-R6E (Butte County) for industrial use in a sand and gravel washing operation. This application proposes to move the diversion point approximately 33 miles to the southeast with the Belle Fourche River diversion point to be located in the S 1/2 Section 32, with water placed to beneficial use in the NW 1/4 Section 32, all in T8N-R11E (Meade County). No increase in the diversion rate or volume of water is authorized by this application. This site is located approximately 34 miles east of Sturgis SD.

Pursuant to SDCL 48-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1988A-1 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 48-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 48-2-9 and 48-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 16, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling. Continued on next page

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Continued from previous page (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 16, 2022.

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.

Published May 4, 2022 at the total approximate cost of \$39.12.

*** Proof of Publication ***

STATE OF SOUTH DAKOTA)

County of Pennington)

S.D. DANR - Ground Water
GROUND WATER PROGRAM
523 E CAPITOL AVE
PIERRE SD 57501

ORDER NUMBER 45789

SS:
RECEIVED

MAY 06 2022

**WATER RIGHTS
PROGRAM**

May 4 L45789

**NOTICE OF APPLICATION
NO. 1988A-1**

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volume of water is authorized by this application. This site is located approximately 34 miles east of Sturgis SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1988A-1 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duval for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 16, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 16, 2022.

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.

(Published once at the total approximate cost of \$74.83)

The undersigned, being duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, a clerk of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, 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 for at least one year prior to the first date of the published notice.

This affidavit is a true and corrected copy of notice which appeared

in said newspaper once each week for one

successive week, the first publication there of being on the

4 day of May, 2022.

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 05/04/2022

TOTAL AD COST: 74.83

FILED ON: 5/4/2022

Subscribed and sworn to before me this

4th day of May, 2022.

Kelly L. Kanaan Notary Public

My commission expires

Jan 17, 2025



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 25, 2022 9:13 AM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 1988A-1, Western Construction Inc.
Attachments: 1988A-1public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 4, 2022.

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

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 25, 2022 9:12 AM
To: 'faithind@faithsd.com'
Subject: 1988A-1, Western Construction Inc.
Attachments: 1988A-1public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 4, 2022.

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
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

April 25, 2022

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

Dear Mr. Lien:

Water Permit Application No. 1988A-1 for industrial use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Rapid City Journal printed at Rapid City (Ph # 605 394-8336) and the Faith Independent printed at Faith (Ph # 605 967-2161). 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 publishers have been instructed to publish your notice. The newspapers have 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,

Karen Schlaak
Water Rights Program
(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. 1988A-1

Notice is given that Western Construction Inc., c/o Thomas E Lien Jr, PO Box 771, Rapid City SD 57709 has filed an application to amend Water Right No. 1988-1 by changing the location of the diversion point. Water Right 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 NW 1/4 SW 1/4 Section 24-T8N-R6E (Butte County) for industrial use in a sand and gravel washing operation. This application proposes to move the diversion point approximately 33 miles to the southeast with the Belle Fourche River diversion point to be located in the S 1/2 Section 32; with water placed to beneficial use in the NW 1/4 Section 32; all in T5N-R11E (Meade County). No increase in the diversion rate or volume of water is authorized by this application. This site is located approximately 34 miles east of Sturgis SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1988A-1 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 16, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 16, 2022.

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.

Published once at the total approximate cost of_



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUN 01 2022

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

Dear Mr. Lien:

Enclosed is Water Permit No. 1988A-1 which amends Water Permit No. 1988-1 by changing the location of the diversion point for your water diversion system.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Sincerely,

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

enclosure