

WATER PERMIT NO. 2004-1

Name of Applicant: **Stephen or Connie Sulzbach**

Address: **13240 Lewis Rd, Newell SD 57760**

Phone: **605 456-2403**

Amount of Water Claimed: **1.06 cfs (additional)**

Total Acres: **70 acres**

Source of Water Supply: **runoff from Belle Fourche Irrigation Project**

Water to be used for: **irrigation**

County: **Butte**

Type of Waste Disposal System:

Location: **3 miles south of Newell**

PRIORITY

Date Received: **3-1-2021**

Application/License Fee: **\$ 950**

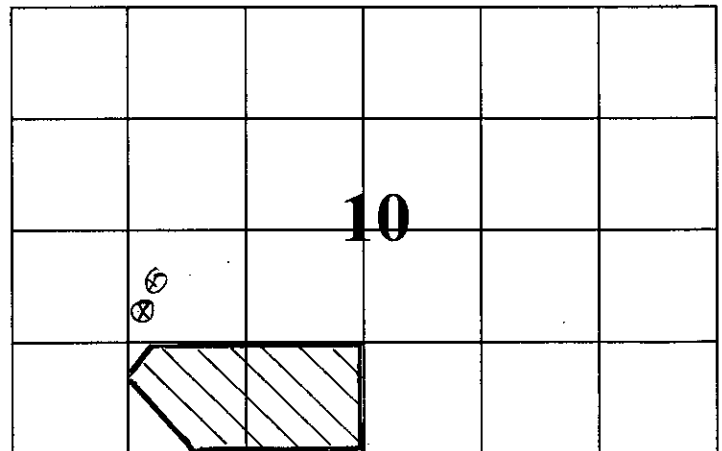
Corrected Application Received:

Period of Annual Use: **May 1 – November 30**

Remarks: **Additional acres and water to Water Right No. 1128-1**

Diversion Point: **NW 1/4 SW 1/4 Sec 10-T8N-R6E**

Land to be Irrigated: **S 1/2 SW 1/4 Sec 10-T8N-R6E**



Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **3-1-21**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2004-1**

Date of first receipt of application March 1, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2004-1 to Stephen or Connie Sulzbach, 13240 Lewis Rd, Newell SD 57760 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. 2004-1 appropriates an additional 1.06 cubic feet of water per second (cfs) and irrigates 70 additional acres to what is currently authorized by Water Right No. 1128-1. Water Right No. 1128-1 appropriates 0.69 cfs from return flows from the Belle Fourche Irrigation Project collected in two storage dams located in the NW 1/4 SW 1/4 Section 10 to irrigate 48 acres located in the N 1/2 SW 1/4 Section 10; all in T8N-R6E. This permit authorizes the diversion of an additional 1.06 cfs of runoff and Project return flows water from the lower existing dam to irrigate an additional 70 acres located in the S 1/2 SW 1/4 Section 10-T8N-R6E. This permit and Water Right No. 1128-1 will authorize a total diversion rate of 1.75 cfs of runoff and Project return flows for irrigation of 118 acres. This site is located approximately 3 miles south of Newell SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – November 30.
3. The date from which applicant may claim right is March 1, 2021.
4. The date of approval of Permit No. 2004-1 is April 12, 2021.
5. One-fifth of the construction is to be completed on or before October 12, 2023.
6. All construction is to be completed on or before April 12, 2026.
7. Water is to be put to beneficial use on or before April 12, 2030.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

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

WATER MANAGEMENT BOARD

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

APR 13 2021
date



Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

(office use only)
No. 2004-1 Hydrologic Unit 10120302
Basin Belle Fourche River
Newspaper Black Hills Pioneer

RECEIVED

MAR 01 2021

WATER RIGHTS
PROGRAM

PAID

MAR - 1 2021

Ck# 3056

Application For Permit To Appropriate Water For Irrigation

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

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
would like the old permit #1128-1 and the new permit
to be for the same 1.75 CFS of water claimed

1. Name of Applicant Stephen or Connie Subbath Phone (605) 456-2403
(check one) ☒ Owner ☐ Tenant/lessee

Mailing Address 13240 Lewis Rd Newell State SD 57760
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 1.75 CFS or 1.06 add 1 cfs **GPM ***AF Total Acreage 70
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Runoff + flow from Belle Fourche Reservoir

4. Location of point of diversion (example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W) County Butte SD
SW 1/4 NW 1/4 SW 1/4 Sec 10 - 8n-6E (dam - lower of the 2 dams listed
on No. 1128-1)

5. County or counties where water will be used Butte

6. Annual period during which water is to be used May - November

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

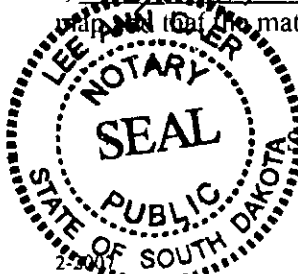
Land Description	Acres	Land Description	Acres
<u>SW 1/4 SW 1/4 - 8T0-8-6</u>	<u>30</u>	<u>SE 1/4 SW 1/4 - 10-8-6</u>	<u>40</u>

8. Give a description of the project. (Attach sheet if more space is needed)
Change from Flood irrigation to a center pivot

STATE OF SOUTH DAKOTA) SS
County of Butte

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Stephen Subbath, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.



Applicant's signature Stephen & Subbath
Subscribed and sworn to before me this 22nd day of February 20 21

LEE ANN GAER
My Commission Expires
March 12, 2025

Lee Ann Gaer
Notary Public signature

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On 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

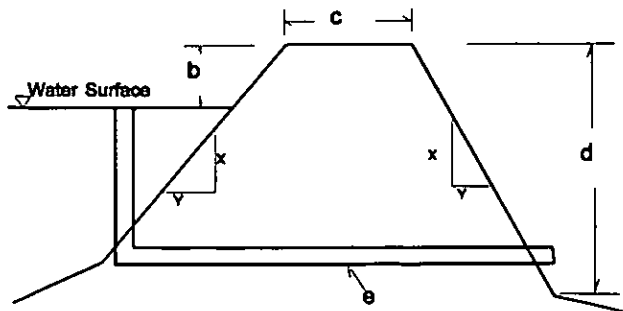
3. Dugout Information

- 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 10" pipe
- f) Secondary Spillway Capacity 18" pipe
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

- Acreage outlined in RED is under the old permit #1128-1.
- Acreage outlined in ORANGE is the area that has allocated water from Belle Fourche Reservoir.
- New permit is for the acreage outlined in ORANGE.

Highly Erodible Land Determination

Customer Name: Stephen Sulzbach

Date: 6/21/2019

Legal Description: Section 10-T8N-R6E

Field Office: Belle Fourche

Agency: NRCS

State and County: Butte, SD

Land Unit: Tract 2105, Field 20



0 500 1,000 2,000 3,000 4,000 Feet

Soil Types

PrD

Stephen Sulzbach





Belle Valley Irrigation

313 Rosander Rd
Vale, SD 57788
jeremy@bellevalleyirrigation.com

605 456 2403

township A
C
lateral

Grower: Steve Sulzbach

Date: 07/15/2020

Farm: System Design 2 : 7/15/2020

Field Name: Field Layout 1 : 7/15/2020

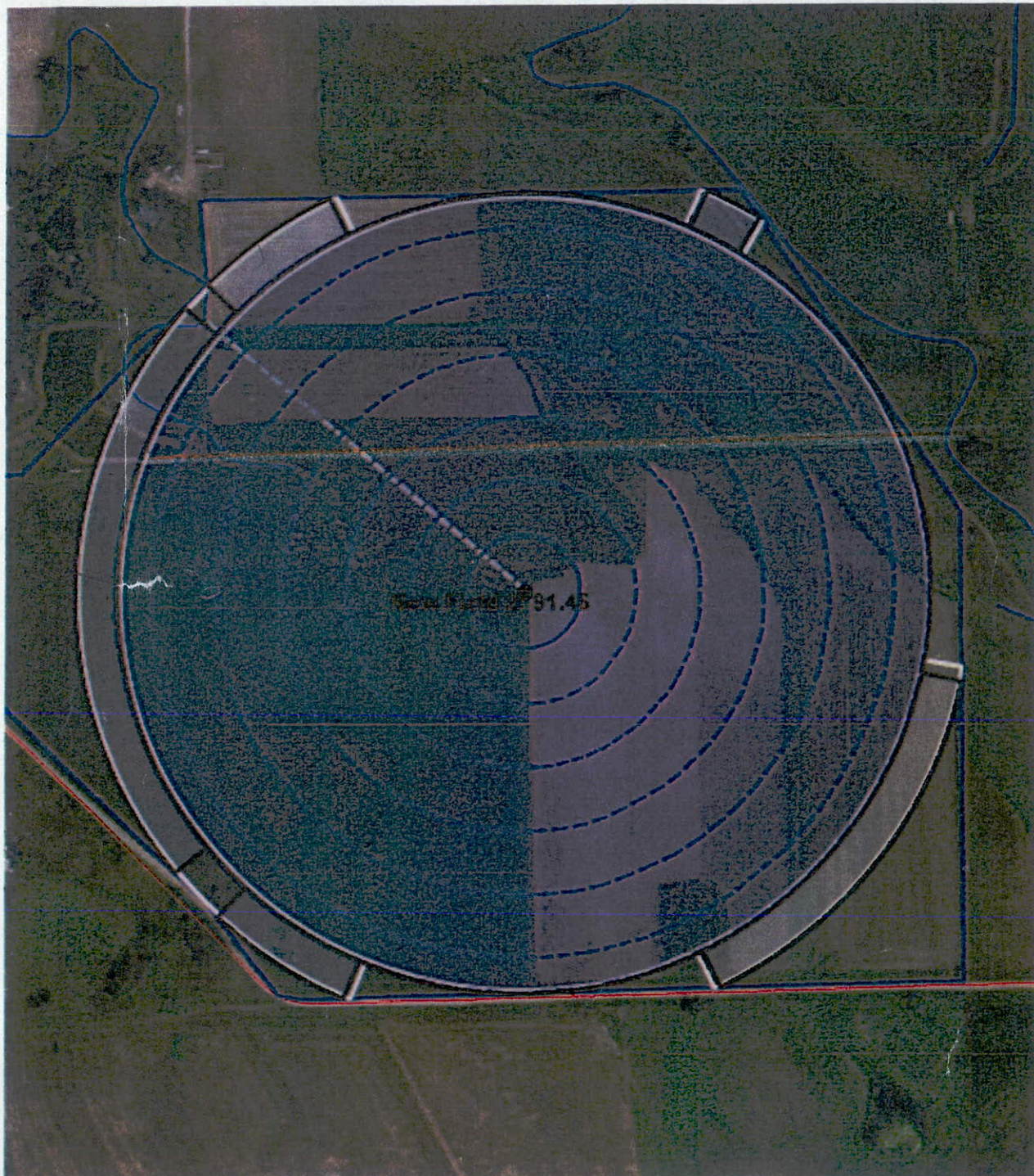
Field Area: 91.62 acres

System Model: E2065

System Length: 985.00 ft

Total Irr. Area: 77.33 acres

Number of Spans: 6



Stephen Sulzbach

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Environment and Natural Resources

Date March 1, 2021

RECEIVED OF Stephen/Connie Sulzbach 13240 Lewis Rd. Newell SD 57760

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

Fee for Application for Permit No. <u>2004-1</u> to Appropriate Water, to construct and to put water to beneficial use	\$750.00
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>2004-1</u>	\$200.00
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	\$950.00

By *Eric Gronlund*
Chief Engineer
um

Water Rights Program - File Documentation

NAME: Stephan Sulzbach

ADDRESS: Newell SD

DATE: 3-1-21

RE: March 1, 2021

COMMENTS:

I called Mr. Sulzbach to clarify what he was requesting on his application. Mr. Sulzbach indicated he was requesting a total of 1.75 cfs. Existing Water Right No. 1128-1 authorizes 0.69 cfs, so this application would be for an additional 1.06 cfs.

Mr. Sulzbach stated he plans to continue flood irrigation of the existing lands authorized by Water Right No. 1128-1 located in the N 1/2 SW 1/4 Section 10-T8N-R6E. The pivot will include some of this area. He is proposing to flood irrigation the corner areas in the S 1/2 SW 1/4 Section 10. As indicated on the application, the 70 new acres are located in the S 1/2 SW 1/4 Section 10.



Karen Schlaak
Water Rights Program

Water Rights Program - DENR

File Documentation

File No. 2004-1

County: Butte

Name of Person: Trisitn Klemetz, Manager Belle Fourche Irrigation District

Address: PP Box 225, Newell SD 57760

Date: 03/16/21 **Telephone:** 605-456-2541

RE: *Runoff from a irrigation district wasteway to the Sulzbach's dam.*

Comments:

Mr. Klementz returned my call concerning the Sulzbach application. He indicated he went out to the Sulzbach farm and looked at the dam. Mr. Klementz said the Irrigation District could control the runoff from the wasteway into the dam so that Sulzbach's were not getting project allocated water.



Mark D Rath

Natural Resources Engineer III

Water Rights Program - DENR

File Documentation

File No. 2004-1

County: Butte

Name of Person: Stephen Sulzbach

Address: 13240 Lewis Rd, Newell SD 57760

Date: 03/17/2021 **Telephone:** 605-456-2403

RE: Clarification of the diversion point for Application No. 2004-1

Comments:

I called Mr. Sulzbach concerning his application. I explained in his application he referenced this new permit would be tied to the existing Water Right No. 1128-1 which had two diversion points located on two separate dams listed in the license. But this application only references a single diversion point. He stated the diversion point will be from the lower of the two dams. He said the upper dam is too shallow to allow a pump to be used so the diversion point for this application is from the lower dam located in SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 10 T8N-R6E.



Mark D Rath

Natural Resources Engineer III



IN REPLY REFER TO:
DK-4000
PRJ-8.10

United States Department of the Interior
BUREAU OF RECLAMATION

Dakotas Area Office
Rapid City Field Office
515 9th St., Room 101
Rapid City, SD 57701

NOV 18 2010



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NOV 22 2010

WATER RIGHTS
PROGRAM

Mr. Clint Pitts
Manager
Belle Fourche Irrigation District
P.O. Box 225
Newell, SD 57760

Subject: Townsite C Lateral, Belle Fourche Irrigation District - Pick Sloan, Belle Fourche Unit
— South Dakota

Dear Mr. Pitts:

Mr. Steven Sulzbach, a private landowner on the Belle Fourche Irrigation District (District), proposes to install a center pivot on his private land and the electrical service for the pivot would cross under Townsite C lateral. The project area is located in the N ½ SW ¼ Township 8 North, Range 6 East, Section 10.

Mr. Sulzbach has a water right from the State of South Dakota (No. 1128-1) that allows him to use excess water from the Townsite C wasteway. The wastewater is diverted through an outlet structure and a concrete chute into a dam, which overflows into a second lower dam, which overflows into Horse Creek approximately 1,200 feet downstream. The proposed pivot will pump water from the upper dam to private land that is not classified but is within the District boundary. At this time, these acres could not be included in the District since the District is at full development considering their existing water right. In emergency situations, water could be pumped from the lower dam.

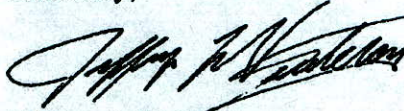
Reclamation consulted with Mr. Mark Rath in the Water Rights Department of the South Dakota Department of Environment and Natural Resources regarding Mr. Sulzbach's water right. Mr. Rath said that everything was in order with the water permit and provided us with the following documents: the original 1982 water right given to Dennis W. Chowen and the 1996 Notice of Transfer of Ownership to Mr. Sulzbach.

The District will have the responsibility to ensure that no water that has been stored in Belle Fourche Dam under Reclamation's water right is used to irrigate this land. This land can only be irrigated with water that is under water right No. 1128-1. Mr. Sulzbach cannot order water for his irrigable land and move it to the dam to be used for irrigation on the land under water right No. 1128-1.

Reclamation will send a Letter of Consent document to Mr. Sulzbach concerning the electrical service crossing at Townsite C Lateral.

If you have any questions, please contact Ginger Wessels at 605-394-9757 extension 3016.

Sincerely,



Jeffrey L. Nettleton
Chief, Facility O&M and Engineering Services

cc: Mr. Mark Rath
DENR Water Rights
523 E Capitol – Foss Bldg.
Pierre, SD 57501

Mr. Steven Sulzbach
13240 Lewis Road
Newell, SD 57760

1128-1



United States Department of the Interior
BUREAU OF RECLAMATION

Dakotas Area Office
Rapid City Field Office
515 9th St., Room 101
Rapid City, SD 57701

DEC - 6 2010



RECEIVED

DEC - 7 2010

WATER RIGHTS
PROGRAM

IN REPLY REFER TO:
DK-4000
WTR 4.10

Mr. Clint Pitts
Manager
Belle Fourche Irrigation District
P.O. Box 225
Newell, SD 57760

Subject: Townsite C Lateral, Belle Fourche Irrigation District - Pick Sloan, Belle Fourche Unit
- South Dakota

Dear Mr. Pitts:

This letter amends the letter on this subject dated November 18, 2010. The fourth paragraph of that letter states:

"The District will have the responsibility to ensure no water that has been stored in Belle Fourche Dam, under Reclamation's water right, is used to irrigate this land. This land can only be irrigated with water that is under water right No. 1128-1. Mr. Sulzbach can not order water for his irrigable land and move it to the dam to be used for irrigation on the land under water right No. 1128-1."

By this letter, this paragraph is amended as follows:

"The District will have the responsibility to ensure that only waste water that results from normal operation of the District's distribution system, or as a by-product of normal irrigation of other authorized irrigable acreage, is used to irrigate the acreage proposed under water right No. 1128-1. Mr. Sulzbach cannot order, over order, intentionally divert or otherwise allow water ordered for authorized irrigable acres to be diverted to the private dam for subsequent use under water right No. 1128-1."

If you have any questions, please feel free to contact Ginger Wessels at 605-394-9757 extension 3016.

Sincerely,

Jeffrey L. Nettleton
Chief, Facility O&M and Engineering Services

cc: Mr. Mark Rath
DENR Water Rights
523 E Capitol - Foss Bldg.
Pierre, SD 57501

Mr. Steven Sulzbach
13240 Lewis Road
Newell, SD 57760



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2004-1, Stephen and Connie Sulzbach**

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. 2004-1, Stephen and Connie Sulzbach, 13240 Lewis Road, Newell SD 57760.

The Chief Engineer is recommending APPROVAL of Application No. 2004-1 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 by-passed. Diversions under this permit are subject to any written orders issued by the Chief Engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
March 22, 2021

NOTE: The quantity of water is dependent upon the amount of water available for capture from the Belle Fourche Irrigation District's waste ditch into the dam. Therefore this is not a reliable source of water and may be subject to periods when there is insufficient water for irrigation.

Please be aware of the Bureau of Reclamation's letter dated December 6, 2010, since it will also be applicable to Water Permit Application No. 2004-1, if approved. The letter states:

The District will have the responsibility to ensure that only waste water that results from normal operation of the District's distribution system, or as a by-product of normal irrigation of other authorized irrigable acreage, is used to irrigate the acreage proposed under Water Right No. 1128-1. Mr Sulzbach cannot order, over order, intentionally divert or otherwise allow water ordered for authorized irrigable acres to be diverted to the private dam for subsequent use under Water Right No. 1128-1.

REPORT ON WATER PERMIT APPLICATION NO. 2004-1

Stephen and Connie Sulzbach

March 17, 2021

Application No. 2004-1, proposes to appropriate 1.06 cubic feet of water per second (cfs) to irrigate 70 additional acres to what is currently authorized by Water Right No. 1128-1. Water Right No. 1128-1 appropriates 0.69 cfs from runoff return flows from the Belle Fourche Irrigation Project collected in two storage dams located in the NW 1/4 SW 1/4 Section 10 to irrigate 48 acres located in the N 1/2 SW 1/4 Section 10: all in T8N-R6E. This application proposes to divert an additional 1.06 cfs of runoff water from one of the existing diversion points located in the SW 1/4 NW 1/4 SW 1/4 Section 10 to irrigate an additional 70 acres located in the S 1/2 SW 1/4 Section 10-T8N-R6E. This application, if approved, and Water Right No. 1128-1 will authorize a total diversion rate of 1.75 cfs for irrigation of 118 acres. This site is located approximately 3 miles south of Newell SD in Butte County.

Review of the Proposed Project and Water Source

Combining the diversion rate and irrigated acres authorized by Water Right No. 1128-1 with the amount requested with this application will allow for a combined diversion of 1.75 cfs and the irrigation of 118 acres. The applicant proposes to install a center pivot capable of irrigating approximately 77 acres. The remaining 41 acres are to be flood irrigated.

The water source for the proposed project is irrigation return flow runoff from a Belle Fourche Irrigation District waste ditch captured in a dam. There is no way to estimate the amount of water available for this project since the amount is dependent upon the amount that flows from the waste ditch into the dam. Based upon personal communication with the manager of the Belle Fourche Irrigation District, the source of water for this project is flow from the waste ditch and the applicant will not be able order District water to discharge to this dam, (BFID. 2021)

Review of Existing Water Rights

Due to the manner the storage dam is laid out relative to the waste canal, no existing water rights/permits will be affected other than the applicant's existing Water Right No. 1128-1.

Conclusions

1. This application proposes to appropriate 1.06 cubic feet of water per second (cfs) to irrigate 70 additional acres to what is currently authorized by Water Right No. 1128-1.

2. Combining the diversion rate and irrigated acres authorized by Water Right No. 1128-1 with the amount requested with this application will allow for a combined diversion of 1.75 cfs and the irrigation of 118 acres.
3. The water source for the proposed project is irrigation return flow runoff from a Belle Fourche Irrigation District waste ditch captured in a dam.
4. The manager of the Belle Fourche Irrigation District indicated the applicant will not be able to order District water to discharge to this dam.
5. Due to the manner the storage dam is laid out relative to the waste canal, no existing water rights/permits will be affected other than the applicant's Water Right No. 1128-1.



Mark D. Rath
Natural Resources Engineer III

References

1. BFID. 2021. Belle Fourche Irrigation District, personal communication with Tristan Klementz, Manager.
2. USGS. 2021. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
3. Water Rights. 2021. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

RECEIVED

APR 06 2021

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. 2004-1

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 March, 2021, and the last publication on the _____ day of _____, _____, that the amount of fees charged for publishing same, to-wit: The sum of \$ 28.64, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me this 1st day of April, 2021

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

NOTICE OF
APPLICATION
NO. 2004-1 to
Appropriate Water

Notice is given that Stephen or Connie Sulzbach, 13240 Lewis Rd, Newell SD 57760 have filed an application for a water permit to appropriate an additional 1.06 cubic feet of water per second (cfs) and to irrigate 70 additional acres to what is currently authorized by Water Right No. 1128-1. Water Right No. 1128-1 appropriates 0.69 cfs from return flows from the Belle Fourche Irrigation Project collected in two storage dams located in the NW 1/4 SW 1/4 Section 10 to irrigate 48 acres located in the N 1/2 SW 1/4 Section 10; all in T8N-R6E. This application proposes to divert an additional 1.06 cfs of runoff and Project return flows water from the lower existing dam to irrigate an additional 70 acres located in the S 1/2 SW 1/4 Section 10-T8N-R6E. This application, if approved, and Water Right No. 1128-1 will authorize a total diversion rate of 1.75 cfs of runoff and Project return flows for irrigation of 118 acres. This site is located approximately 3 miles south of Newell SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2004-1 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 Ron Duvall 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 April 12, 2021.

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.

Published once at the total approximate cost of \$30.03.

#308
Mar 31

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, March 23, 2021 8:15 AM
To: Legals (legals@bhpioneer.com)
Subject: 2004-1, Stephen or Connie Sulzbach
Attachments: 2004-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on March 31, 2021.

Stephen or Connie Sulzbach, 13240 Lewis Rd, Newell SD 57760 (605 456-2403) have 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

Water Rights Program
(605) 773-3352





DENR
SOUTH DAKOTA

**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.**

March 23, 2021

Stephen or Connie Sulzbach
13240 Lewis Rd
Newell SD 57760

Dear Mr. & Mrs. Sulzbach:

Water Permit Application No. 2004-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Black Hills Pioneer printed at Spearfish SD (Ph # 605 642-2761). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the 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 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,

Karen Schlaak

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. 2004-1 to Appropriate Water

Notice is given that Stephen or Connie Sulzbach, 13240 Lewis Rd, Newell SD 57760 have filed an application for a water permit to appropriate an additional 1.06 cubic feet of water per second (cfs) and to irrigate 70 additional acres to what is currently authorized by Water Right No. 1128-1. Water Right No. 1128-1 appropriates 0.69 cfs from return flows from the Belle Fourche Irrigation Project collected in two storage dams located in the NW 1/4 SW 1/4 Section 10 to irrigate 48 acres located in the N 1/2 SW 1/4 Section 10; all in T8N-R6E. This application proposes to divert an additional 1.06 cfs of runoff and Project return flows water from the lower existing dam to irrigate an additional 70 acres located in the S 1/2 SW 1/4 Section 10-T8N-R6E. This application, if approved, and Water Right No. 1128-1 will authorize a total diversion rate of 1.75 cfs of runoff and Project return flows for irrigation of 118 acres. This site is located approximately 3 miles south of Newell SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2004-1 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 Ron Duvall 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 April 12, 2021.

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.

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

APR 19 2021

Stephen or Connie Sulzbach
13240 Lewis Rd
Newell SD 57760

Dear Mr. & Mrs. Sulzbach:

Enclosed is Water Permit No. 2004-1 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,

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

enclosures



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION
Rapid City Field Office
515 Ninth Street, Room 101
Rapid City, SD 57701



2004-1

DK-4000
2.2.4.22

July 7, 2021

Mr. Tristan Clements
Manager
Belle Fourche Irrigation District
P.O. Box 225
Newell, South Dakota 57760

Subject: Townsite C Lateral, Belle Fourche Irrigation District, Pick-Sloan Missouri Basin Program, Cheyenne Division, Belle Fourche Unit, South Dakota

Dear Tristan:

We received a Preliminary Project Description form from Mr. Steven Sulzbach, a private landowner on the Belle Fourche Irrigation District (District). The project area is in the SW1/4 Section 10, Township 8 North, Range 6 East. He would like to install a pivot to irrigate a total of approximately 77 acres.

The northern one-third of the pivot will cover land that isn't classified but is included within the District boundary. It originally was shown as high unclassified ground on the District classification maps. Mr. Sulzbach has a water right from the State of South Dakota (No. 1128-1) that allows him to use excess water from the Townsite C wasteway. The wastewater is diverted through an outlet structure and a concrete chute which flows into a dam, which overflows into Horse Creek approximately 1,200 feet downstream. Wastewater will flow into the dam and the proposed pivot will pump water from the dam.

The southern two-thirds of the pivot will cover land that is classified as Class 3 and 4 irrigable acres, although 14.1 acres under the pivot were designated as Class 6 and high unclassified ground. The District Board has approved exclusion of 14.1 acres from Serials 804 and 805 and has approved inclusion of 14.1 acres in Serial 805 under the pivot. These exclusions/inclusions will be finalized in Fall 2021.

Mr. Sulzbach can only order water for delivery to the dam for 46.8 irrigable acres under the pivot that are assessed in Serial 805. The water order will be based on the irrigation allotment assigned each year by the Board. Once the total annual allotment for 46.8 irrigable acres has been delivered to the dam, Mr. Sulzbach will need to rely on his water rights he has obtained from the State of South Dakota. Mr. Sulzbach has obtained an additional water right from the State of South Dakota (No. 2004-1) which allows use of wastewater to water acres in the S1/2 of SW1/4.

Reclamation consulted with Mr. Mark Rath in the Water Rights Department of the South Dakota Department of Environment and Natural Resources regarding Mr. Sulzbach's water rights. Mr. Rath said that everything was in order with the water permits and provided us with the following documents: No. 1128-1 water right given to Dennis W. Chown, the No. 1128-1 water right Notice of Transfer of Ownership to Mr. Sulzbach and the No. 2004-1 water right.

INTERIOR REGION 5 • MISSOURI BASIN

KANSAS, MONTANA*, NEBRASKA, NORTH DAKOTA, SOUTH DAKOTA

* PARTIAL

The District will have the responsibility to ensure that only wastewater that results from normal operation of the District's distribution system, or as a by-product of normal irrigation of other authorized irrigable acreage, is used to irrigate the acreage proposed under water rights No. 1128-1 and No. 2004-1.

Reclamation will send a Letter of Consent document to Mr. Sulzbach concerning crossings under Townsite C Lateral by the electrical service and private pipeline to the pivot, and for pivot bridges required for crossing Townsite C Lateral.

If you have any questions, please contact Ginger Wessels at 605-519-5547.

Sincerely,

CRYSTAL
LESMEISTER

Digitally signed by
CRYSTAL LESMEISTER
Date: 2021.07.07
10:47:51 -06'00'

Crystal K. Lesmeister
Deputy Manager, Facilities & Engineering

cc: Mr. Mark Rath
DANR Water Rights
523 E Capitol – Foss Bldg.
Pierre, SD 57501

Mr. Steven Sulzbach
13240 Lewis Road
Newell, SD 57760

2004-1
RECEIVED

NOV 19 2021

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate Nov-11-2021

TO: Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181

FROM: Stephen/Connie Sulzbach
(name)

13240 Lewis Rd
(address)

Newell SD 57760
(city, state, zip)

605-456-2403
(phone)

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

Water Permit No. 2004-1 states that the water use system is to be constructed by April 12-2026, and water is to be put to beneficial use by April 12-2030.
(date) (date)

The water use system was completed on Aug 22-2021.
(date)

Applying the water to beneficial use was completed on Sep 1-2021.
(date)

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

Stephen E. Sulzbach
(signature)





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 21, 2021

2004-1

Stephen & Connie Sulzbach
13240 Lewis Rd
Newell SD 57760

Dear Mr. & Mrs. Sulzbach:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system authorized under Water Permit No. 2004-1.

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

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

Sincerely,

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