

WATER PERMIT NO. 2007-1

Name of Applicant: Ridge on Lookout Mountain Homeowner's Association

Address: PO Box 1048, Spearfish SD 57783

Phone: 912 622-3804

Amount of Water Claimed: 0.078 cfs (12.3 AF)

Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: water distribution system

County: Lawrence

Type of Waste Disposal System:

Location: 1/2 mile east of Spearfish SD

PRIORITY Date Received: 4-28-21

Application/License Fee: \$ 300

Corrected Application Received: 5-3-21

Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: NW 1/4 NE 1/4 Section 11-T6N-
R2E

Land to be Irrigated: NA

Depth of Well: 945 feet deep

Well Driller: Alexander Drilling Inc.

Remarks:

Type of Map: topo

Prepared by:

Reviewed and the Number Assigned on: 3-5-21

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

			⊗		
			11		

RECEIVED

PAID

APR 28 2021

APR 28 2021

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2007-1</u>	(office use only) Hydrologic Unit <u>10120203</u>	WATER RIGHTS PROGRAM
	Basin <u>Belle Fourche River</u>		
	Newspaper <u>Black Hills Pioneer</u>		

Ck# 632
633

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.)
_____1. Name to Appear on Water Permit RIDGE ON LOOKOUT MOUNTAIN HOMEOWNER'S ASSOCIATIONMailing Address P. O. BOX 1048 SPEARFISH SD 57783
(Address) (City) (State) (Zip Code)Phone 605-645-2118 Mobile 916-622-3804 Email rwfsvx@gmail.com2. Amount of water claimed 0.078 *CFS or 30-35 **GPM and 12.3 ***AF or 4 million Gallons/year
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 MINNEKATA4. Location of point of diversion NW1/4NE1/4, SECTION 11, T6N R2E County LAWRENCE
(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 ☒ NoIf "Yes," where will water be used? NW4NE4 S11 & S2SE4 S2, T6N R2E, LAWRENCE CO., SD
(example - NW1/4 section 12-T104N-R53W)5. County or counties where water will be used LAWRENCE6. Annual period during which water is to be used YEAR Jan 1 - Dec 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)

THIS IS A 21 LOT SUBDIVISION ON LOOKOUT MOUNTAIN. ENGINEERED BY NJS ENGINEERING OF SPEARFISH. POWER, TELEPHONE AND WATER LINES INSTALLED IN 2002. BLACKTOPPED ROADS IN 2006. 945' WELL DRILLED IN 2020 TO MINNEKATA FORMATION. TOPO PLAT ATTACHED.

I, HARLAN A. SCHMIDT

PRES.

, 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.

**SOUTH DAKOTA
WATER PERMIT NO. 2007-1**

Date of first receipt of application April 28, 2021.

Date of return to applicant for corrections, amendments or changes April 28, 2021.

Date of receipt of corrected application May 3, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2007-1 to the Ridge on Lookout Mountain Homeowner's Association, c/o Harlan A Schmidt, PO Box 1048, Spearfish SD 57783 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. 2007-1 appropriates 12.3 acre-feet of water annually at a maximum pump rate of 0.078 cubic feet of water per second from one well completed into the Minnekahta Aquifer (945 feet deep) located in the NW 1/4 NE 1/4 Section 11 for a water distribution system located in the NW 1/4 NE 1/4 Section 11; S 1/2 SE 1/4 Section 2; all in T6N-R2E. This site is located on the east side of Spearfish SD.
2. The water appropriated shall be used for the purpose of a water distribution system and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is April 28, 2021.
5. The date of approval of Permit No. 2007-1 is July 26, 2021.
6. One-fifth of the construction is to be completed on or before January 26, 2024.
7. All construction is to be completed on or before July 26, 2026.
8. Water is to be put to beneficial use on or before July 26, 2030.
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. The well approved under Water Permit No. 2007-1 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals under this Permit shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Minnekahta aquifer.
3. Water Permit No. 2007-1 authorizes a total annual diversion of up to 12.3 acre-feet of water.

WATER MANAGEMENT BOARD

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

AUG 11 2021
date



Supplemental Information

(type or print)

1. Well Information

(check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)

a) If new wells, how many 1 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

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

For either Existing or Proposed Wells:

c) Well Depth (required) 945' Depth to Top of Water Bearing Material 895' Depth to Water from Surface 510'

d) Distance to nearest domestic well on applicant's property NA Property owned by others 3/4THS MILE

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) NA Year Constructed NA

c) Connected to the City of NA Sanitary System

3. Dugout Information

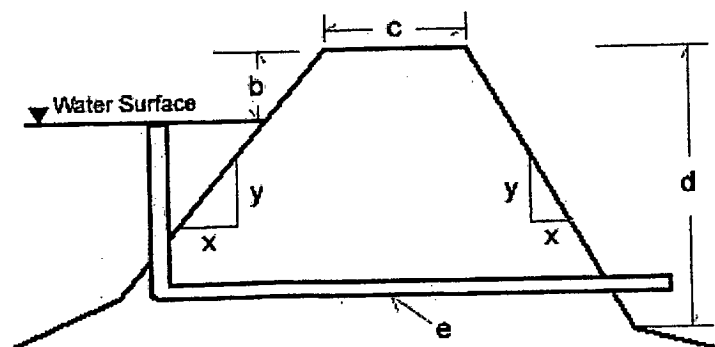
a) Surface Dimensions NA Depth NA

b) Depth to water (ground surface to water level) NA

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

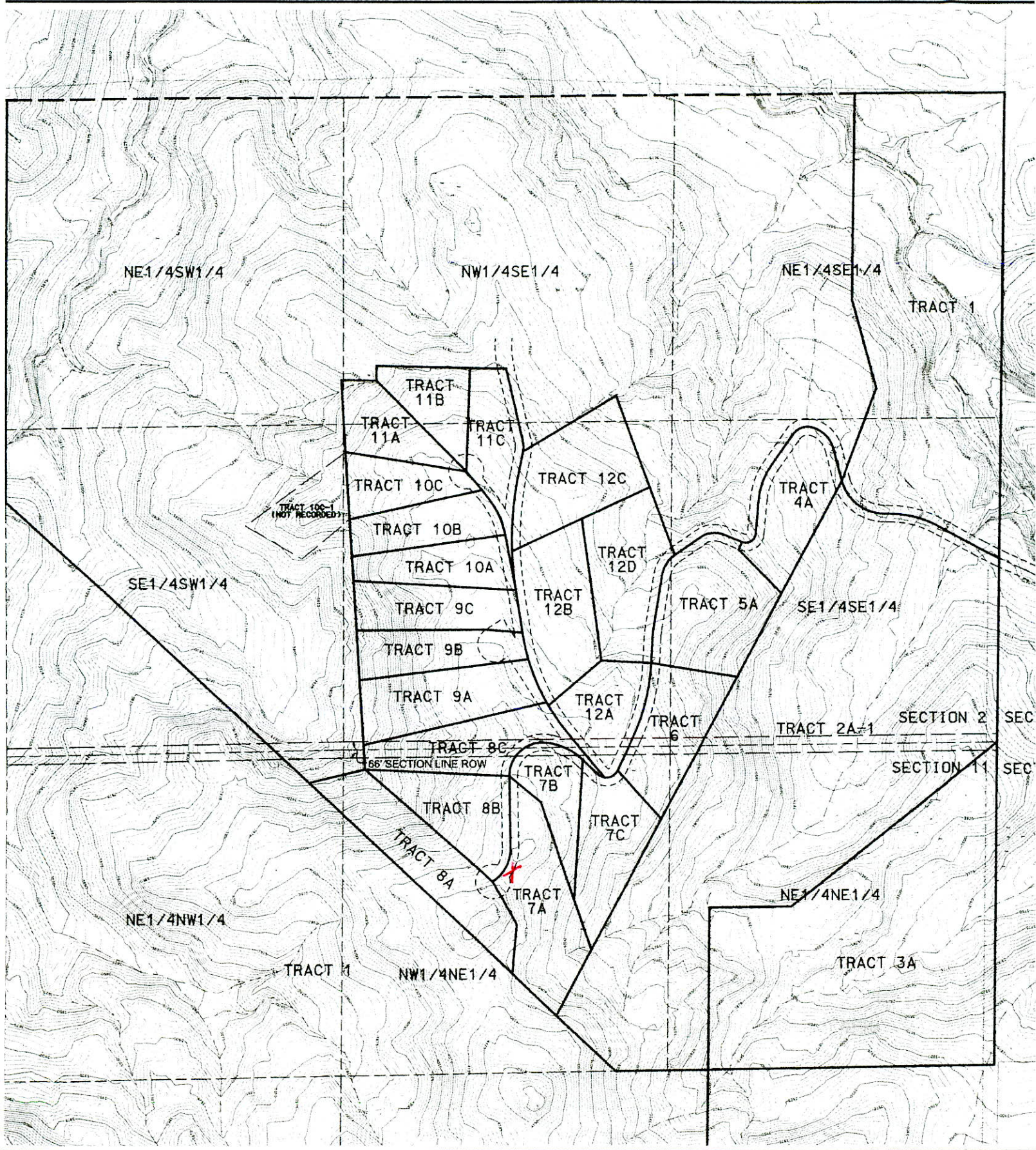
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



Description

Surveyed By: _____ Date: _____

Drawn By: WHM Date: 8-7-2019

Designed By: _____ Date: _____

Checked By: _____ Date: _____

Project Number: L18-16-050 (2386)



**INTERSTATE
ENGINEERING**

Professionals you need, people you trust.

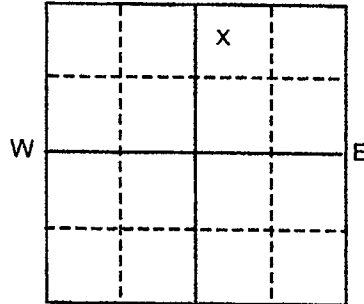
Interstate Engineering, Inc.
 P.O. Box 226
 123 E. Jackson Blvd. Suite 1
 Spearfish, S.D., 57783
 Ph (605) 642-4772
 Fax (605) 642-4773
www.interstateeng.com

Offices in North Dakota, Minnesota, Montana and South Dakota

SOUTH DAKOTA WATER WELL COMPLETION REPORT

Location NW 1/4 NE 1/4 Sec 11 Twp 6N Rg 2ECounty Lawrence

North

Please mark well
location with an "X"

Well Completion Date

7/16/20

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
ft. from 1/4 of a mile from septic (identify source)

PROPOSED USE:

☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Rotary downhole hammer

CASING DATA:

☒ Steel ☐ Plastic ☐ Other
 If other describe 895' of 7" OD T & C steel

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	0.0 FT	945.0 FT	8.58 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Portland II	130	Lb/gal	895.0 Ft	0.0 Ft
w/2% bent		Lb/gal	Ft	Ft

Describe grouting procedure through casing

SCREEN:

☐ Perforated pipe ☐ Manufactured
 Diameter _____ Inches Length _____ Feet
 Material _____
 Slot Size _____ Set From _____ Feet to _____ Feet
 Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? w/chlorine solution☐ No, Why Not?Lab to which water
quality sample sent for analysisWell Owner: The Ridge

Business Name:

Address: 2230 Lookout Vista RoadCity, State, Zip: Spearfish SD 57783

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Sundance	0	300
Spearfish	300	895
Minnekahta 30-35 gpm	895	945

STATIC WATER LEVEL 510.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow 30.0 through _____ Inch pipeControlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: w/air
☐ Bailed
☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 324 and this report is true and accurate.Drilling firm: Alexander Drilling Inc.

Signature of License Representative

Signature of Well Owner or Equitable Property Holder:

Date: _____

STATE OF SOUTH DAKOTA

BEFORE THE SECRETARY OF

THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE
APPLICATION OF

RIDGE ON LOOKOUT MOUNTAIN HOMEOWNER'S ASSOCIATION

STATE OF SOUTH DAKOTA

COUNTY OF LAWRENCE

CERTIFICATION OF

APPLICANT

I, HARLAN A. SCHMIDT, the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

I have read and understand South Dakota Codified Law Section 1-40-27 which provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, including any application by any concentrated swine feeding operation for authorization to operate under a general permit, upon making a specific finding that:

(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner, or resident general manager of the facility for which application has been made:

(a) Has intentionally misrepresented a material fact in applying for a permit;

(b) Has been convicted of a felony or other crime involving moral turpitude;

(c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;

(d) Has had any permit revoked under the environmental laws of any state or the United States; or

(e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or

(2) The application substantially duplicates an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied, if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification, consideration of the application may be suspended and the application may be rejected as provided for under this section.

Applications rejected pursuant to this section constitute final agency action upon that application and may be appealed to circuit court as provided for under chapter 1-26."

I certify pursuant to 1-40-27, that as an applicant, officer, director, partner, or resident general manager of the activity or facility for which the application has been made that I; a) have not intentionally misrepresented a material fact in applying for a permit; b) have not been convicted of a felony or other crime of moral turpitude; c) have not habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage; (d) have not had any permit revoked under the environmental laws of any state or the United States; or e) have not otherwise demonstrated through clear and convincing evidence of previous actions that I lack the necessary good character and competency to reliably carry out the obligations imposed by law upon me. I also certify that this application does not substantially duplicate an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Further;

"I declare and affirm under the penalties of perjury that this claim (petition, application, information) has been examined by me, and to the best of my knowledge and belief, is in all things true and correct."

Dated this 23 day of APRIL, 2021.

RIDGE ON LOOKOUT MOUNTAIN HOMEOWNER'S ASSOCIATION

Applicant (print)

Walter A. Smith, President Walter A. Smith, Pres
Applicant (signature)

Subscribed and sworn before me this _____ day of _____, 20____.

SEE
Notary Public (signature)

My commission expires: _____

*Notarized
Document Attached*

(SEAL)

**PLEASE ATTACH ANY ADDITIONAL INFORMATION NECESSARY TO DISCLOSE ALL FACTS
AND DOCUMENTS PERTAINING TO
SDCL 1-40-27 (1) (a) THROUGH (e).
ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT
AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION**

CALIFORNIA JURAT WITH AFFIANT STATEMENT**GOVERNMENT CODE § 8202**

- ☐ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

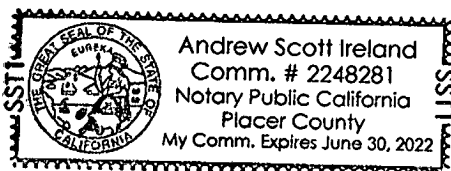
1 _____
2 _____
3 _____
4 _____
5 _____
6 _____

Signature of Document Signer No. 1 Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Placer

Subscribed and sworn to (or affirmed) before me
on this 23rd day of April, 2021,
by Date Month Year
(1) Harlan A. Schmidt
(and (2) _____),
Name(s) of Signer(s)



proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Signature _____
Signature of Notary Public

Seal
Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date April 28, 2021

RECEIVED OF Ba-Ha Trust Harlan Schmidt/Barbara Schmidt Trustees PO Box 1048 Spearfish SD 57783

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

Fee for Application for Permit No. <u>2007-1</u> to Appropriate Water, to construct and to put water to beneficial use	\$100.00
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. _____ after period of seven years.	\$
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2007-1</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	\$300.00

By Iris Gronlund
Chief Engineer
Im



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 28, 2021

Ridge on Lookout Mountain Homeowners Association
c/o Harlan A Schmidt, President
PO Box 1048
Spearfish SD 57783

Dear Mr. Schmidt:

Thank you for submitting the *Application for a Permit to Appropriate Water* in Lawrence County. To complete the application, the following is required.

- On the application Domestic use was marked. This application would be considered a Water Distribution System. Do you agree with making that change on the application?
- The application requests an appropriation of 35 gallons per minute (gpm). In addition to the pump rate, the application needs to include the annual volume in either gallons/year or acre feet/year. In calculating the annual volume, be reasonable but also plan for the maximum annual volume of use from the well at full development. It is unrealistic that 35 gpm will be pumped continuously during an entire year. Therefore, DANR requests identification of an annual volume to be used by the association.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, May 3, 2021 2:00 PM
To: Smitty Schmidt
Subject: RE: [EXT] Re letter of 4.28 to Ridge on Lookout Mtn. HOA

Mr. Schmidt,

I will make the change from domestic use to water distribution system on the application and include the quantity of 4 million gallons per year.

We will contact you when it is time to proceed with the public notice.

No doubt in my mind this would be a beautiful area to have a home 😊

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



From: Smitty Schmidt <rwfsvx@gmail.com>
Sent: Monday, May 3, 2021 12:31 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: [EXT] Re letter of 4.28 to Ridge on Lookout Mtn. HOA

Hello,

Would you like a new application? We are in accord with your suggestion to change the domestic use selection to water distribution system. As for the proposed quantity, it would be about 4 million gallons per year. Usage is uncertain as we are selling lots to some for year around residency and to others for vacation sites.

Thank you for your attention to this application. Come on out. You'd enjoy seeing this. We'll give you a tour.

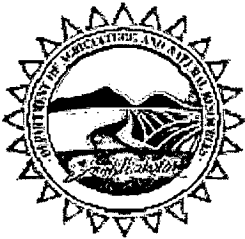
Harlan Schmidt

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 6, 2021 9:38 AM
To: Smitty Schmidt
Subject: Water Permit Application No. 2007-1
Attachments: 1441.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>





**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. 2007-1, Ridge on Lookout Mountain Homeowner's Association**

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. 2007-1, Ridge on Lookout Mountain Homeowner's Association, PO Box 1048, Spearfish SD 57783.

The Chief Engineer is recommending APPROVAL of Application No. 2007-1 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. The well approved under Water Permit No. 2007-1 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals under this Permit shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Minnekahta aquifer.
3. Water Permit No. 2007-1 authorizes a total annual diversion of up to 12.3 acre-feet of water.

See report on application for additional information.

Eric Gronlund, Chief Engineer
July 1, 2021

REPORT TO THE CHIEF ENGINEER
Water Permit Application No. 2007-1
Ridge on Lookout Mountain Homeowner's Association
June 29th, 2021

Water Permit Application No. 2007-1 seeks to appropriate 12.3 acre-feet of water annually at a maximum diversion rate of 0.078 cubic feet per second (cfs) for use in a water distribution system from the Minnekahta aquifer. The water distribution system will serve a subdivision with 21 lots located in the NW ¼ NE ¼ Sec. 11-T6N-R2E and S ½ SE ¼ Sec. 2-T6N-R2E. The well for this application is located in the NW ¼ NE ¼ Sec. 11-T6N-R2E, approximately 1.3 miles northeast of downtown Spearfish, SD.

AQUIFER: Minnekahta (MNKT)

HYDROGEOLOGY

In the Black Hills area, the major aquifers lie within the Deadwood Formation, Madison Limestone, Minnelusa Formation, Minnekahta Limestone, and the Inyan Kara Formation (Driscoll and Carter, 2001). Individually, these aquifers are separated by relatively impermeable layers within the formations or by confining units between the formations. In the case of the Minnekahta Limestone, it is overlain by the Spearfish Formation, a shale unit, and overlies the Opeche Shale. Although these are distinct aquifers that rely on the lateral component of groundwater movement, extremely variable leakage can occur between the aquifers (Driscoll and Carter, 2001).

The Minnekahta Limestone is a grayish-pink, laminated limestone approximately 40 feet thick. From the well log submitted to the Water Rights Program (2021b) for this application, the Minnekahta Limestone was found at a depth of 895 feet with a thickness of 50 feet. At the time of completion (July 16, 2020), the static water level of this well was found at a depth of 510 feet, demonstrating that the aquifer in this location is under confined conditions. In the area of this application, the general direction that the groundwater flows in the Minnekahta aquifer is to the north-northeast; however, structural geology features in the area may locally affect the direction of flow (Strobel et al., 2000).

The Minnekahta aquifer is areally extensive and underlies 15,960,320 acres in western South Dakota with 39,900,800 acre-feet of recoverable water in storage (Allen et al., 1985). In Lawrence County, the Minnekahta aquifer underlies a quarter of the county, with an area of 126,080 acres and 315,200 acre-feet of recoverable water in storage (Allen et al., 1985).

Several springs occur in this general area, with three identified springs located within three miles of the applicant's location (U.S. Geological Survey, 2021). One of these nearby springs is a

large discharge spring identified as “Higgins Gulch Spring” (Klemp, 1995) and is located approximately 2.75 miles northwest of the proposed application. Klemp (1995) analyzed the water chemistry at several large discharge springs in Lawrence County, SD and determined that Higgins Gulch Spring vents Madison type water with very little Minnelusa influence. This spring is located in the Spearfish Formation outcrop, approximately halfway between the outcrops of the Minnekahta Formation and the Inyan Kara Group. For water from the Madison and Minnelusa aquifers to reach the Spearfish Formation, the water would have to travel through the Minnekahta Formation. This same process occurs at many of the major springs in the Black Hills. The path that this water travels through the Minnekahta Formation has not been extensively studied, however many breccia pipes and karst features have been identified in the Minnekahta Formation throughout the Black Hills.

South Dakota Codified Law (SDCL) 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant’s proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will address the availability of unappropriated water and potential for unlawful impairment of existing water rights within the Minnekahta aquifer.

Water Availability

The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.” If the source of the water is older than or stratigraphically lower than the Greenhorn Formation and a water distribution system as defined by SDCL 46-1-6 (17) has applied for a permit, the Board need not take into consideration the balance of aquifer recharge and withdrawal. The Minnekahta aquifer is older and stratigraphically lower than the Greenhorn Formation and this application is for a water distribution system. Although a hydrologic budget is not required, one will be included for informative purposes to the Water Management Board and the Chief Engineer.

Hydrologic Budget

Recharge

Recharge to the Minnekahta aquifer in South Dakota is through infiltration of precipitation where the formation outcrops around the Black Hills. It is also likely the Minnekahta aquifer gains some recharge from upward leakage from the Madison and Minnelusa aquifers. The average annual recharge to the Minnekahta aquifer has not been completely quantified; however, the precipitation component of the recharge from the Black Hills outcrop area in South Dakota was estimated to be 6,500 acre-ft per year by Driscoll and Carter (2001) using data from 1950-

1998. This estimate was only for the Minnekahta aquifer that outcrops in South Dakota, so there may be additional recharge to other parts of the Minnekahta aquifer from precipitation at outcrops in other states.

Discharge

Currently there are 30 water rights/permits appropriating water from the Minnekahta aquifer in South Dakota (Water Rights, 2021a). These are displayed in Table 1, and the water rights/permits that are near the applicant's location are shown in Figure 1. The amount of water that can be expected to be withdrawn can be estimated by assuming water rights/permits limited by an annual volume will pump the entire volume appropriated annually, water rights/permits limited only by diversion rate will pump at the maximum permitted diversion rate 60 percent of the time, and future use permits will eventually be fully developed.

There are a number of domestic wells on file that withdraw water from the Minnekahta aquifer; however, the magnitude of their withdrawals is small (Water Rights, 2021b). The annual quantity of water withdrawn for domestic uses is not considered to be significant to the hydrologic budget of the aquifer.

Report on Water Permit Application No. 2007-1

Table 1: Water rights authorized to withdraw water from the Minnekahta aquifer including estimated annual volume withdrawn (Water Rights, 2021a)

PERMIT NO.	NAME	COUNTY	STATUS	USE	CFS	ACRES	ESTIMATED ANNUAL WITHDRAWALS (AC-FT)
439-1	BILLY J EVANS	LA	LC	IRR	2.22	302.05	**
515-2	BLACK HILLS CORPORATION	PE	LC	IND	0.39	N/A	169.4
647-1	MC GUIGAN DAIRY INC	LA	LC	IRR	0.4	94	**
673-1	DENNY BRENGLE	LA	LC	IRR	0.16	15	**
1118-1	JH & P INVESTMENTS LLC	LA	LC	COM	0.49	N/A	212.6
1129-1	RAND & GAYLA WILLIAMS	LA	LC	COM	0.1	N/A	43.4
1147-2	TNS HOLDINGS II LLC	PE	LC	SHD/COM	0.08	N/A	34.8
1164-1	WESTVIEW SUBDIVISION	LA	LC	SHD	0.06	N/A	26.1
1184-1	DON L SMITH	LA	LC	COM	0.1	N/A	43.4
1194-1	SPEARFISH FAIRGROUND	LA	LC	IND/COM	0.2	N/A	86.9
1265-1	HAROLD R & TAMMY C KARLSON	LA	LC	COM	0.45	N/A	195.5
1336-1	PIEDMONT SENIOR CITIZENS CENTER	MD	LC	INS	0.1	N/A	43.4
1489-1	LEONARD WALES	LA	LC	SHD	0.05	N/A	21.7
1541-1	AUTOMATIC VENDORS INC	MD	LC	COM	0.04	N/A	17.4
1620-1	BETH MATHIS	LA	LC	SHD	0.036	N/A	15.6
1636-1	WAYNE LINDSTAD	LA	LC	COM/DOM	0.39	N/A	169.4
1651-1	STAGEBARN HOUSING CENTER	MD	LC	COM	0.022	N/A	9.6
1681-1	JOHN & CONNIE NIEHAUS	LA	LC	COM/DOM	0.036	N/A	15.6
1704-1	MIKE & DEBIE PALMER	MD	LC	IRR	0.44	11	**
1739-1	SPEARFISH MEADOWS HOMEOWNERS	LA	LC	SHD	0.111	N/A	48.2
1811-1	BUTTE ELECTRIC COOPERATIVE INC	LA	LC	COM	0.011	N/A	4.8
1833-1	HAIAR ENTERPRISE INC	LA	LC	IRR	1.56	166	**
1893-2	WINDMILL TRUCK STOP	PE	LC	COM	0.1	N/A	43.4
1902-1	LOUP LAND DEVELOPMENT	LA	LC	SHD	0.089	N/A	39
1925-1	BOULDER CANYON COUNTRY CLUB	LA	LC	COM	0.03	N/A	13
1976-1	BRAD LALONDE	LA	LC	COM	0.044	N/A	1.0*
2177-2	SUPERIOR TRUCK WASH INC	PE	LC	COM	0.047	N/A	20.4
2190-2	CHURCH OF JESUS CHRIST OF LDS	FR	LC	IRR	0.088	1.5	**
2422-2	HOT SPRINGS SCHOOL DISTRICT	FR	LC	IRR	0.088	6.22	**
2756-2	CHAD GOLLNICK	PE	LC	COM/DOM	0.027	N/A	1.50*
SUMMARY							
30	No. of Water Rights			Non-Irrigation Estimated Annual Withdrawals			1,276.10
				Acres Permitted for Irrigation			595.77
FR = Fall River, LA = Lawrence, MD = Meade, PE = Pennington							
LC = Water Right License							
COM = Commercial, DOM = Domestic, IND = Industrial, INS = Institutional, IRR = Irrigation, SHD = Suburban Housing Development							
* = Limited to an Annual Volume ** = Irrigation Questionnaire							

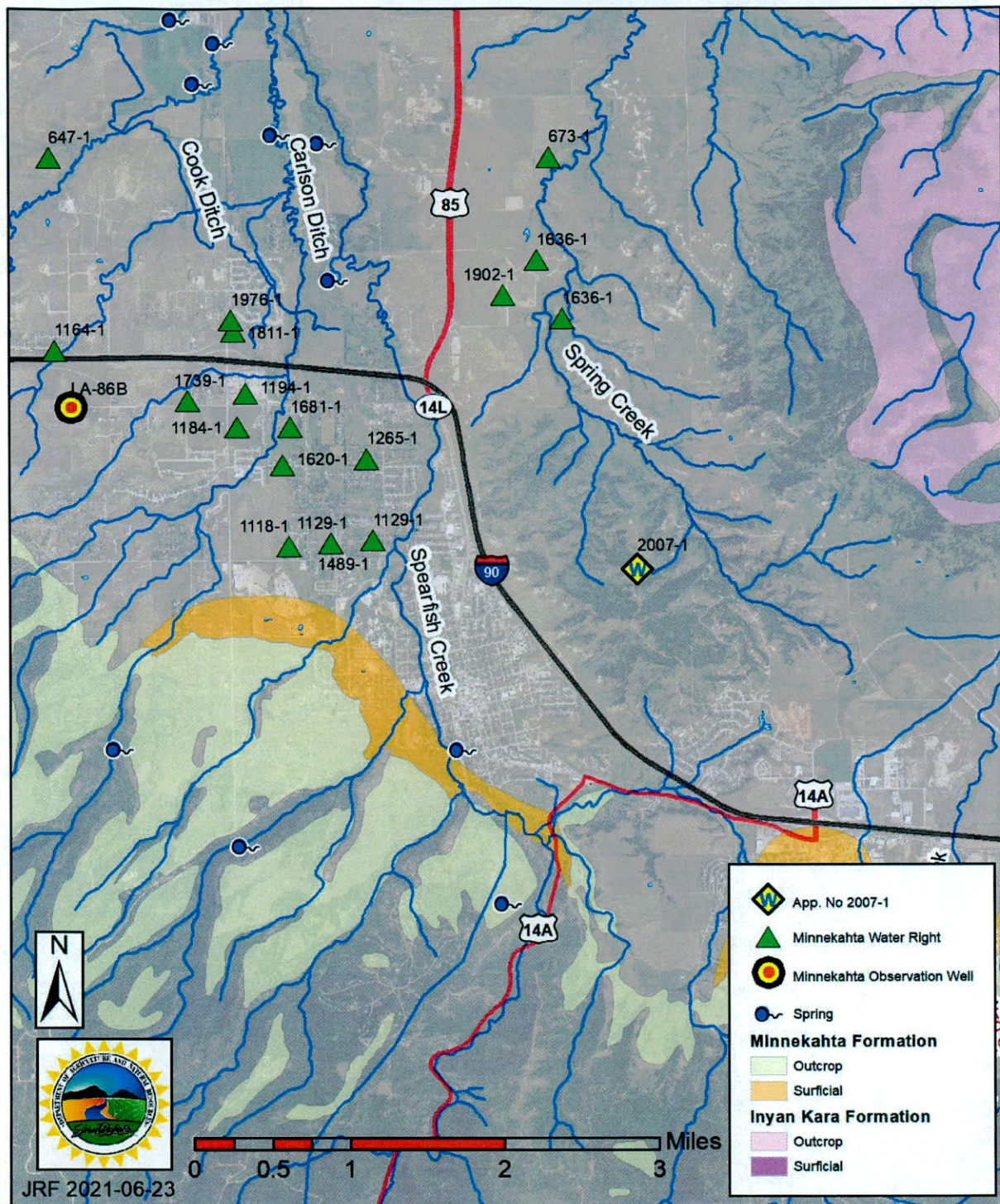


Figure 1: Map showing the location of this application and nearby water rights and observation wells completed into the Minnekahta aquifer. (Carter and Redden, 1999a; Carter and Redden, 1999b; U.S. Geological Survey, 2021; Water Rights, 2021a; Water Rights, 2021c)

Irrigation data from 2020 shows that there were seven water rights/permits that were permitted for irrigation (Water Rights, 2021d). These water rights/permits for irrigation use appropriated 1,768.59 acre-feet of water in 2020; however, the actual usage is much less. Figure 2 shows the acres permitted for irrigation from 1982 to 2020 and the yearly total reported withdrawal for the irrigation permits. The period from 1982 to 2020 was relatively steady in terms of permitted acres for irrigation. The overall average of the permitted acres from 1982 to 2016 is 632 acres. Over this time period, the average reported irrigation withdrawal is 283 acre-feet, with a reported minimum of 55.1 acre-feet and maximum of 451.8 acre-feet.

The estimated withdrawals from the Minnekahta aquifer are 1,276.1 acre-feet per year for non-irrigation uses and 283 acre-feet per year for irrigation, resulting in a total estimated average annual use of 1,559.1 acre-feet per year.

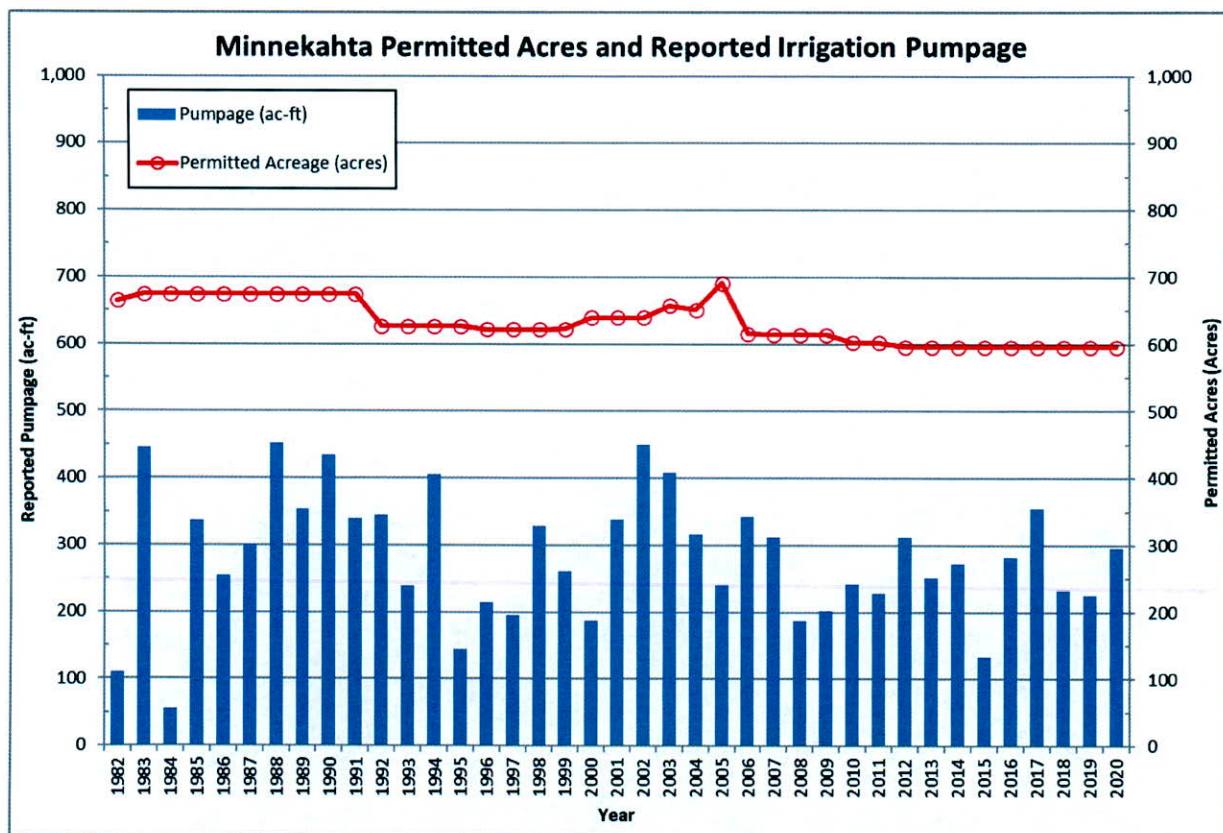


Figure 2: Acres permitted for irrigation and reported irrigation withdrawal from the Minnekahta aquifer (Water Rights 2021a, Water Rights 2021d)

Hydrologic Budget

The estimated annual recharge to the Minnekahta aquifer from precipitation on the outcrop in South Dakota is 6,500 acre-feet per year, and the estimated annual withdrawals is 1,559.1 acre-feet per year. This application, if approved, will increase the estimated average annual

withdrawal from the Minnekahta aquifer in South Dakota by 12.3 acre-feet to approximately 1,571.4 acre-feet per year. These estimates show that discharge is less than recharge, indicating that there is a reasonable probability that unappropriated water is available in the Minnekahta aquifer to support the proposed appropriation.

Observation Well Data

In determining the availability of unappropriated water for a permit application Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated annual recharge.

The Water Rights Program currently maintains four observation wells completed in the Minnekahta aquifer (Water Rights, 2021c). The nearest observation well is LA-86B, located approximately 3.8 miles to the west-northwest of the well location. The hydrograph for LA-86B is shown in Figure 3 and shows that over the period of record, the static water level has fluctuated from 70 to 145 feet below the top of the well casing. The next nearest observation well is LA-94A, located approximately 8.5 miles to the west of the well location. The hydrograph for LA-94A is shown in Figure 4 and shows that the artesian pressure at this well has fluctuated between 65 and 115 feet above the height of the pressure gage port on the well. Both of these observation wells are under confined conditions and are reflective of the Minnekahta aquifer near the outcrop. These two hydrographs show that over their period of record, the artesian head pressure near the area of the observations wells has fluctuated on the order of tens of feet. The natural variation in the Minnekahta aquifer shows that the 12.3 acre-feet per year of water that this application proposes to appropriate is not significant to the overall hydrologic budget of the aquifer. The observation well data indicates that there is a reasonable probability that there is unappropriated water available from the Minnekahta aquifer.

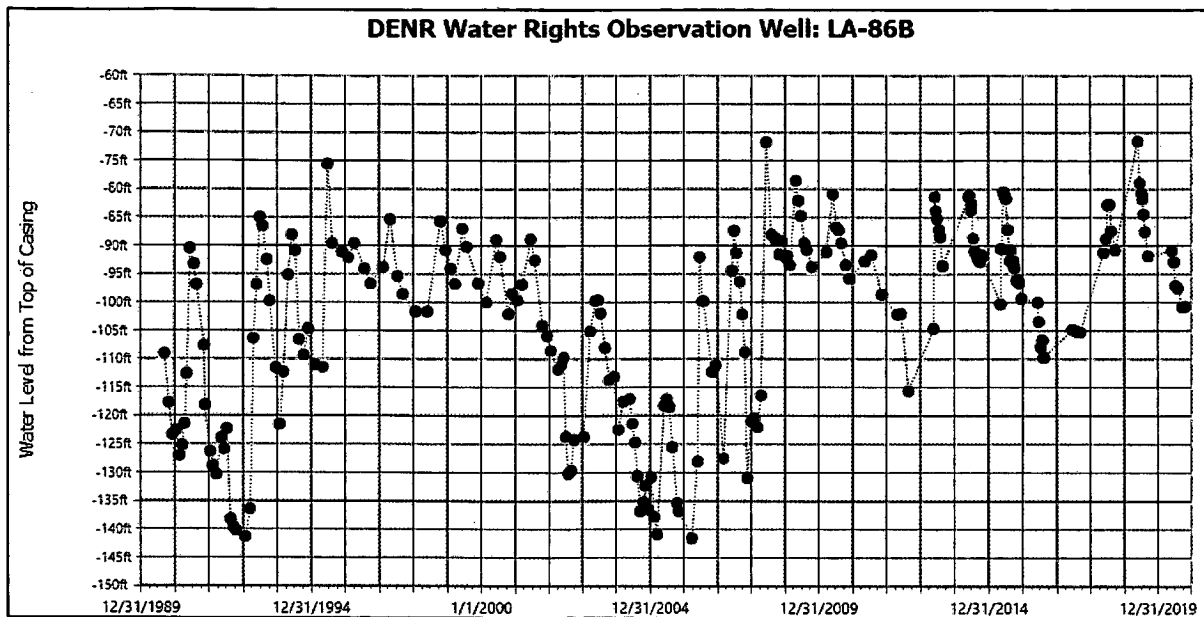


Figure 3: Hydrograph for Observation Well LA-86B (Water Rights, 2021c)

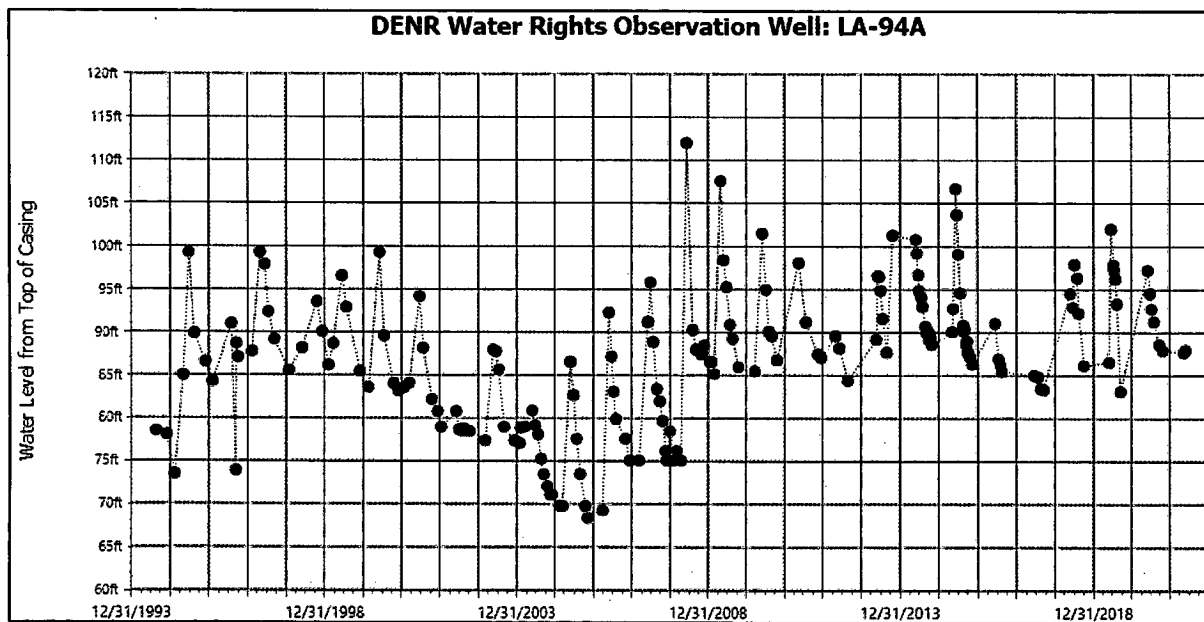


Figure 4: Hydrograph for Observation Well LA-94A (Water Rights, 2021c)

EXISTING WATER RIGHTS

The nearest existing water right/permit completed in the Minnekahta aquifer is located 1.7 miles to the north of the applicant's location (Water Rights, 2021a). This is Water Right No. 1636-1 for Wayne Lindstad and is used for domestic and commercial use at a maximum diversion rate of 0.39 cfs. The next nearest water rights/permits in the Minnekahta aquifer are located approximately 1.75 miles west of the applicant's location. There are several domestic wells on

record with the Water Rights Program within one mile of the applicant's location that are completed into the Minnekahta aquifer (Water Rights, 2021b).

This application is seeking to appropriate 12.3 acre-feet of water annually at a maximum diversion rate of 0.078 cubic feet per second (cfs) (35 gallons per minute). Given the distance to this well and an annual volume limit that falls below the reasonable domestic use volume limit, the drawdown affecting nearby water rights/permits and domestic users as a result of pumping is not expected to be significant.

The Minnekahta aquifer is generally a confined aquifer, and due to the physics of artesian pressure, the drawdown from pumping may extend a considerable distance from the pumped well. The Water Management Board has promulgated rules and regulations pursuant to the criteria and content outlined in SDCL 46-6-6.1 for governing large capacity wells. These rules are found within ARSD chapters 74:02:04 on Well Construction Standards and 74:02:05 on the Regulation of Groundwater Use. These two chapters provide for the regulation of large capacity wells to the degree necessary to maintain an adequate depth of water for prior appropriators and domestic users with adequate wells so water can be produced independent of artesian pressure.

An adequate well as defined in ARSD 74:02:04:20(6):

“A well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet;”

The Water Management Board has consistently recognized that to place water to maximum beneficial use, a certain amount of drawdown may occur. In order to balance interests between large-capacity wells and the delivery of water by artesian pressure, the Water Management Board may require the owner of a large-capacity well to control their withdrawals as to limit the effects of drawdown in confined aquifers; however, the delivery of water using artesian pressure is not guaranteed and existing well owners may have to lower the inlet to their pump.

These potential requirements are laid out in ARSD 74:02:05:03:

“Constraints on withdrawals of water from large-capacity wells. When regulating withdrawals of water from large-capacity wells, the board may require reasonable efforts to maintain sufficient artesian pressure in the aquifer to maintain water supplies in existing individual domestic use wells which are dependent upon artesian pressure, but continuance of artesian pressure at all times will not be assured. The board may restrict water withdrawals from an aquifer by large-capacity wells by limiting drawdown, limiting daily operating periods, reducing the rate of withdrawal based upon priority, or other means by which adverse effects upon the aquifer may be lessened in the degree necessary to conform with this chapter.”

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

CONCLUSIONS

1. Water Permit Application No. 2007-1 proposes to appropriate 12.3 acre-feet of water per year at a maximum diversion rate of 0.078 cfs for use in a water distribution system from a well (945 feet deep) completed in the Minnekahta aquifer.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Minnekahta aquifer.
3. There is a reasonable probability that the diversion proposed by this application will not unlawfully impair adequate wells for existing water rights and domestic users.



John Farmer
SD DANR – Water Rights Program

REFERENCES

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- Strobel, M.L., Galloway, J.M., Hamade, G.R., and Jarrell, G.J., 2000. Potentiometric Surface of the Minnekahta Aquifer in the Black Hills Area, South Dakota. Hydrologic Investigations Atlas HA-745-B, scale 1:100,000. U.S. Geological Survey.
- U.S. Geological Survey, 2021, National Water Information System data available on the World Wide Web (USGS Water Data for the Nation), accessed June 15th, 2021, at <https://maps.waterdata.usgs.gov/mapper/index.html>.
- Water Rights, 2021a. Water Right/Permit Files. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights, 2021b. Well Completion Report Files. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights, 2021c. Observation Well Database. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights, 2021d. Irrigation Questionnaire Database. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

RECEIVED

JUL 26 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. 2007-1

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 15th day of July, 2021, and the last publication on the _____ day of _____, that the amount of fees charged for publishing same, to-wit: The sum of \$ 24.95, 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 23rd day of July, 2021

Ken Jansen

Notary Public, Lawrence County, South Dakota
My commission expires: 7-18-2025

NOTICE OF APPLICATION NO. 2007-1 to Appropriate Water

Notice is given that Ridge on Lookout Mountain Homeowner's Association, c/o Harlan A Schmidt, PO Box 1048, Spearfish SD 57783 has filed an application for a water permit to appropriate 12.3 acre-feet of water annually at a maximum pump rate of 0.078 cubic feet of water per second from one well completed into the Minnekahta Aquifer (945 feet deep) located in the NW 1/4 NE 1/4 Section 11 for a water distribution system located in the NW 1/4 NE 1/4 Section 11; S 1/2 SE 1/4 Section 2; all in T6N-R2E. This site is located on the east side of Spearfish SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2007-1 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 July 26, 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 \$25.87.

#816
Jul 15

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 6, 2021 9:33 AM
To: Black Hills Pioneer Spearfish (legals@bhpioneer.com)
Subject: 2007-1, Ridge on Lookout Mountain
Attachments: 2007-1public.short.docx; FORM8.FRM.doc

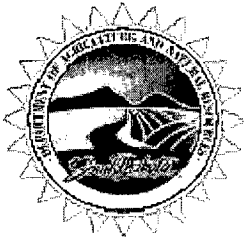
Attached is a notice to be published on July 15, 2021.

Ridge on Lookout Mountain Homeowner's Assoc. c/o Harlan A Schmidt, PO Box 1048, Spearfish SD 57783 (916 622-3804) 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 NEWSPAPER RIGHT AWAY.**

July 6, 2021

Ridge on Lookout Mountain Homeowners Association
c/o Harlan A Schmidt
PO Box 1048
Spearfish SD 57783

Dear Mr. Schmidt:

Water Permit Application No. 2007-1 for water distribution system 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 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,

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. 2007-1 to Appropriate Water

Notice is given that Ridge on Lookout Mountain Homeowner's Association, c/o Harlan A Schmidt, PO Box 1048, Spearfish SD 57783 has filed an application for a water permit to appropriate 12.3 acre-feet of water annually at a maximum pump rate of 0.078 cubic feet of water per second from one well completed into the Minnekahta Aquifer (945 feet deep) located in the NW 1/4 NE 1/4 Section 11 for a water distribution system located in the NW 1/4 NE 1/4 Section 11; S 1/2 SE 1/4 Section 2; all in T6N-R2E. This site is located on the east side of Spearfish SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2007-1 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 July 26, 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.

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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PIERRE SD 57501-3182
danr.sd.gov

AUG 11 2021

Ridge on Lookout Mountain Homeowner's Association
c/o Harlan A Schmidt
PO Box 1048
Spearfish SD 57783

Dear Mr. Schmidt:

Enclosed is Water Permit No. 2007-1 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