

WATER PERMIT NO. 2043-1

Name of Applicant: **Leon Minor**

Address: **18941 Whitewood Valley Road, Nisland SD 57763**

Phone: **605-490-2522**

Amount of Water Claimed: **No Add'l**

Total Acres: **110**

Source of Water Supply: **Surface**

Water to be used for: **Irrigation**

County: **Butte**

Type of Waste Disposal System:

Location: **Approx. 6 miles southwest of Newell**

PRIORITY Date Received: **01-15-25**

Application/License Fee: **\$950.00**

Corrected Application Received: **02-20-25**

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

Remarks: **Requesting additional acres**

Diversion Point: **NE 1/4 NW 1/4 Sec 17-T8N-R5E**

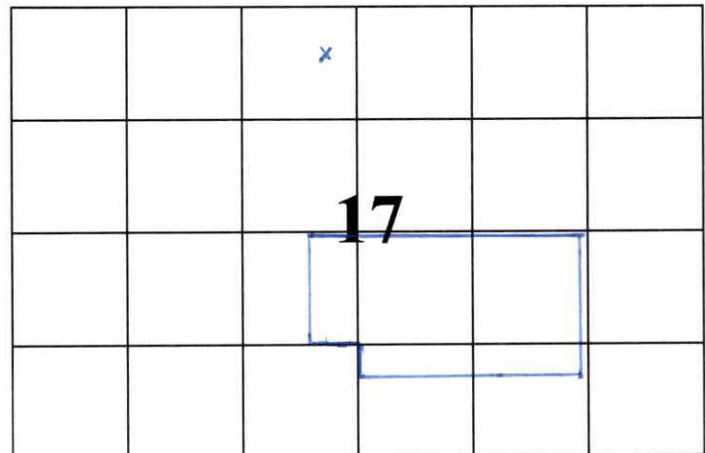
Land to be Irrigated: **NE 1/4 SW 1/4, SE 1/4 Sec
17-T8N-R5E**

Depth of Well:

Well Driller:

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **02-20-25**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 2043-1

Date of first receipt of application January 15, 2025.

Date of return to applicant for corrections, amendments or changes January 16, 2025.

Date of receipt of corrected application February 20, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2043-1 to Leon Minor, 18941 Whitewood Valley Road, Nisland SD 57762, 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. 2043-1 authorizes irrigation of an additional 110 acres from the Belle Fourche River using an existing diversion point authorized by Water Right No. 416-1. Water Right No. 416-1 appropriates 2.66 cubic feet of water per second (cfs) from the Belle Fourche River located in the NE 1/4 NW 1/4 Section 17 for irrigation of 198 acres located in the N 1/2 Section 17; all in T8N-R5E. This permit authorizes irrigation of an additional 110 acres located in the NE 1/4 SW 1/4, SE 1/4 Section 17-T8N-R5E, with no increase in diversion rate from the Belle Fourche River. This permit, and Water Right No. 416-1 will authorize a total of 2.66 cfs for irrigation of a combined total of 308 acres. This site is located approximately seven miles southwest 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: April 1 – November 30.
3. The date from which applicant may claim right is January 15, 2025.
4. The date of approval of Permit No. 2043-1 is May 5, 2025.
5. One-fifth of the construction is to be completed on or before November 5, 2027.
6. All construction is to be completed on or before May 5, 2030.
7. Water is to be put to beneficial use on or before May 5, 2034.
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 rights must be by-passed. Diversions under this Permit shall be in accordance with 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: _____

Mark Mayer, PE
Director of Office of Water
Department of Agriculture and Natural Resources

5/15/25

date



FORM 2: Application for irrigation in South Dakota
(type or print)

RECEIVED

JAN 15 2025

OFFICE OF
WATER

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2043-1</u>	Hydrologic Unit <u>10.20202</u>
	Basin <u>Belle Fourche</u>	
	Newspaper <u>Spearfish Black Hills Pioneer</u>	
	(office use only)	

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.)

1. Name to Appear on Irrigation Permit Leon Minor

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 18941 Whitewood Valley Road, Nisland, South Dakota 57762

(Address)

(City)

(State)

(Zip Code)

Phone (605) 490-2522

Mobile _____

Email _____

2. Amount of water claimed 2.66 ^{No Add'l} *CFS or **GPM ***AF Total Acreage 110
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Belle Fourche River

4. Location of point of diversion NE1/4 NW1/4 Sec17-T8N-R5E

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Butte

5. County or counties where water will be used Butte

6. Annual period during which water is to be used April 1st through November 30th

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
See Attachment 1	308		

8. Give a description of the project. (Attach sheet if more space is needed)

This new application is for water to be used for irrigation of an additional 110 acres located in the S1/2 of Section 17, T8N, R5E, which is in addition to the 198 acres already authorized under permit 416-1. See attachment 1. There is no claim for an additional amount of water in excess to the 2.66 CFS already authorized under Permit 416-1.

I, Leon Minor, 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.

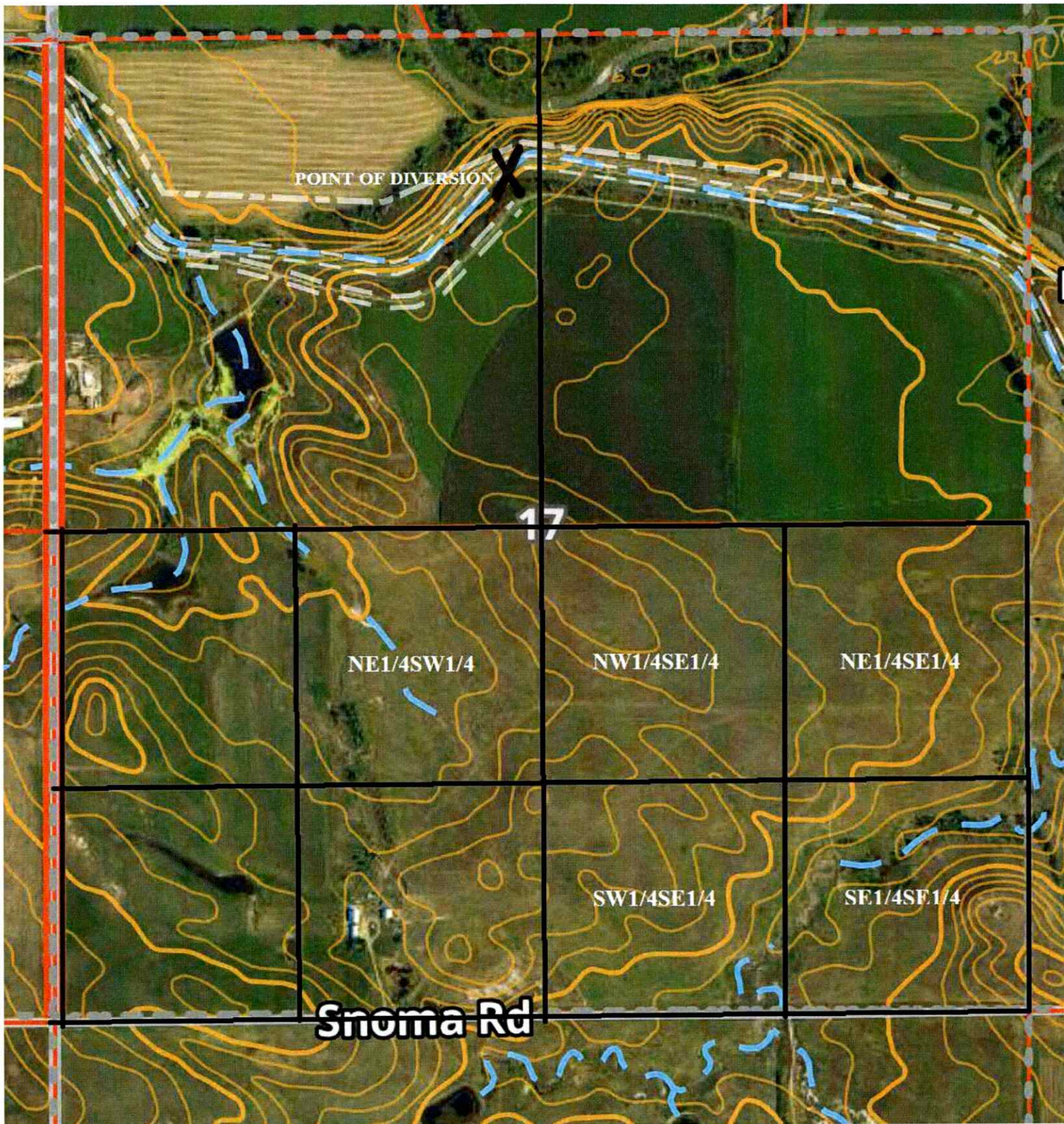
Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

RECEIVED

JAN 15 2025

OFFICE OF
WATER

Map of land to be added to Water Right 416-1
Section 17, T8N, R5E



8N 5E
Section: 07

8N 5E
Section: 08

8N 5E
Section: 09

8N 5E
Section: 18

8N 5E
Section: 17

8N 5E
Section: 16

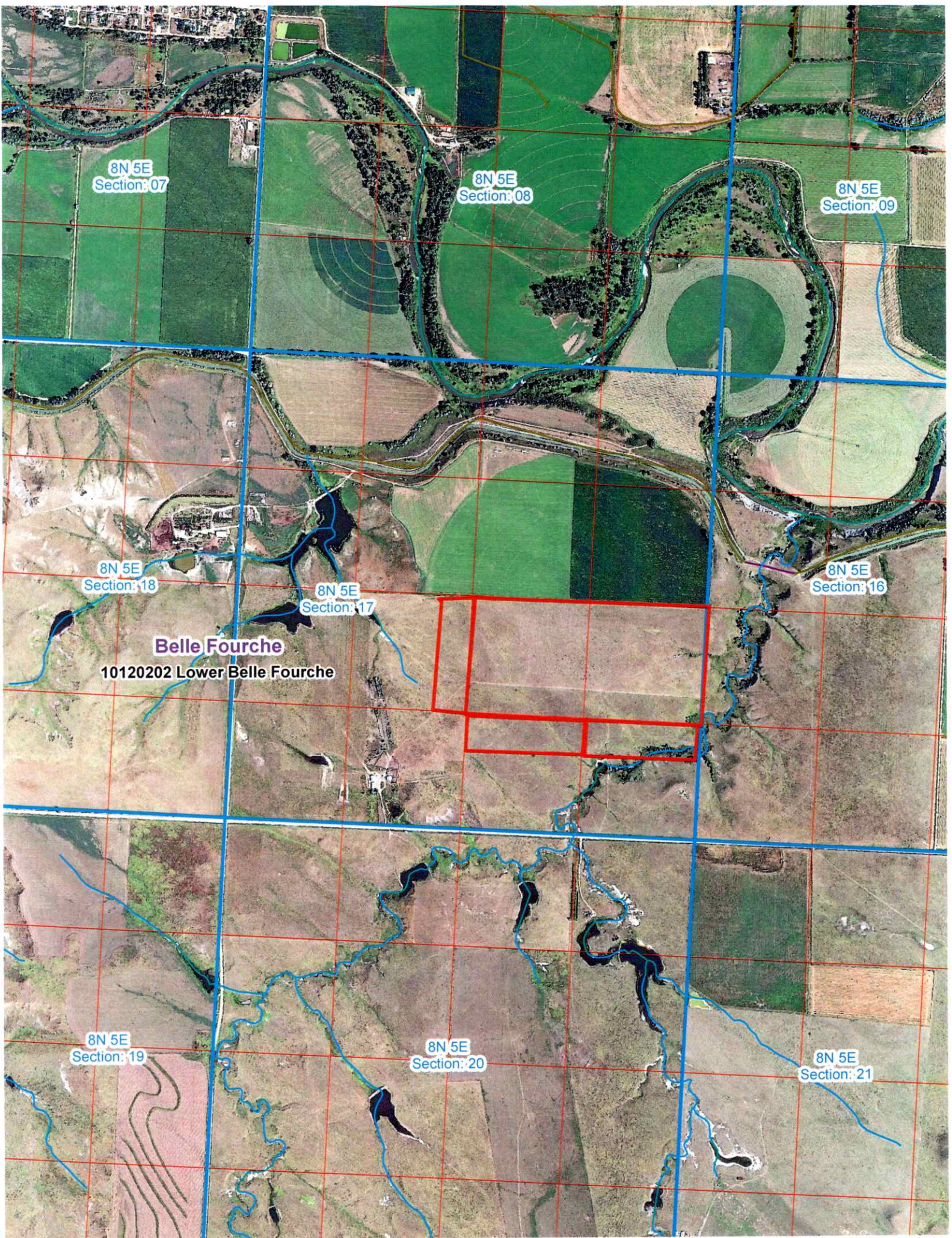
Belle Fourche

10120202 Lower Belle Fourche

8N 5E
Section: 19

8N 5E
Section: 20

8N 5E
Section: 21



ATTACHMENT 1

Legal Subdivision of acres to be irrigated in Sec. 17, T8N, R5 – B.H.M.:

NW1/4NW1/4	- 28 acres
NE1/4NW1/4	- 30 acres
SE1/4NW1/4	- 35 acres
NW1/4NE1/4	- 25 acres
NE1/4NE1/4	- 3 acres
SW1/4NE1/4	- 39 acres
<u>SE1/4NE1/4</u>	<u>- 38 acres</u>
Total Acres:	198 acres

*Already authorized under Permit 416-1

New Land to be Irrigated:

NE1/4SW1/4	- 10 acres
NW1/4SE1/4	- 40 acres
NE1/4SE1/4	- 40 acres
SW1/4SE1/4	- 10 acres
<u>SE1/4SE1/4</u>	<u>- 10 acres</u>
Total Acres:	110 acres

Total Acreage For Permit = 308 acres

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 15th 2025

RECEIVED OF Leon Minor 18941 Whitewood Valley Road Nisland SD 57762

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

Fee for Application for Permit No. <u>2043-1</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>750.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2043-1</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	TOTAL
	\$ <u>950.00</u>

By

Eric Groeland

Chief Engineer

See

Dewell, Amanda

From: Dewell, Amanda
Sent: Thursday, February 20, 2025 1:20 PM
To: John Frederickson
Subject: RE: [EXT] Leon Minor application
Attachments: Permitting Process PDF.pdf

John,

I have received the revised application and sent it on to Rachel Rodriguez, our Program Assistant.

If the permit is approved, Mr. Minor will be allowed 5 years to construct the irrigation system before the permit would be subject to inspection by one of our staff engineers. Inspections are conducted on a county-by-county basis as staff time allows, however, the intervening time between the completion of the irrigation project and the staff inspection has no bearing on the water permit.

I have attached a PDF that outlines the permitting process so Mr. Minor and yourself will have an idea of what to expect and the timeframes in which it will take place.

Please let me know if you have any additional questions or concerns; thank you.

Amanda Dewell
DANR - Water Rights Program
Permitting Administrator
Main Phone: 605 773-3352
Website: danr.sd.gov



From: Lita Eddy <leddy@lynnjackson.com> **On Behalf Of** John Frederickson
Sent: Thursday, February 20, 2025 11:58 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>; John Frederickson <jfrederickson@lynnjackson.com>
Subject: RE: [EXT] Leon Minor application

Amanda,

Please find attached new Application for Permit to Appropriate Water for Irrigation and Attachment #1.

Please have the engineer contact Mr. Minor to schedule viewing of property so that he can be present to provide any assistance that he can and to answer any questions.

Sincerely,



Lita Eddy

Legal Assistant

Lynn, Jackson, Shultz & Lebrun, P.C.

Direct Line: 605-716-0715

W: lynnjackson.com **E:** leddy@lynnjackson.com

Sioux Falls | Rapid City | Belle Fourche

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From: Dewell, Amanda <Amanda.Dewell@state.sd.us>

Sent: Wednesday, February 19, 2025 3:41 PM

To: John Frederickson <jfrederickson@lynnjackson.com>

Subject: Leon Minor application

John,

Thank you for calling the Water Rights Program to discuss your concerns surrounding the pending application for irrigation, submitted on behalf of Leon Minor.

First, I have attached a copy of the application originally submitted, marked up by our program assistant. Please confirm the number of acres being applied for and the name to be listed on the permit. As a reminder, up to 120 acres could be requested w/o an increase in the fees due, allowing for slight over-development.

Second, as discussed, I have attached a few examples of Water Rights issued incorporating original water rights/priority dates, with newly applied for acres. In cases such as these, the irrigated acres are assigned their own priority dates in **(5)** of each license.

If Mr. Minor's application is approved, the original 198 acres authorized by 416-1 would maintain their 1959 priority date, and the new 2025 priority date would be assigned to the acres developed under this "new" application.

I hope this is helpful and look forward to answering any additional questions from you or Mr. Minor.

Amanda Dewell

DANR - Water Rights Program

Permitting Administrator

Main Phone: 605 773-3352

Website: danr.sd.gov



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, February 10, 2025 10:38 AM
To: John Frederickson
Subject: RE: [EXT] Water Permit Application

Good morning,

I am just following up on the email I sent January 21st. Please see below.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: Rodriguez, Rachel
Sent: Tuesday, January 21, 2025 2:39 PM
To: John Frederickson <jfrederickson@lynnjackson.com>
Subject: RE: [EXT] Water Permit Application

Good Afternoon John,

Again, since this is a new application for additional acres. It cannot retain the priority date of 416-1. Only amended applications retain their priority date. It will have a priority date of January 15, 2025. What about the name to appear on the permit? Have you contacted Mr. Minor and he wants to leave as is?

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: John Frederickson <jfrederickson@lynnjackson.com>
Sent: Tuesday, January 21, 2025 2:21 PM

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, January 21, 2025 2:39 PM
To: John Frederickson
Subject: RE: [EXT] Water Permit Application

Good Afternoon John,

Again, since this is a new application for additional acres. It cannot retain the priority date of 416-1. Only amended applications retain their priority date. It will have a priority date of January 15, 2025. What about the name to appear on the permit? Have you contacted Mr. Minor and he wants to leave as is?

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: John Frederickson <jfrederickson@lynnjackson.com>
Sent: Tuesday, January 21, 2025 2:21 PM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Cc: Lita Eddy <leddy@lynnjackson.com>
Subject: RE: [EXT] Water Permit Application

Rachel,

It was a pleasure visiting with you today regarding the Water Permit Application for Leon Minor. As we discussed, and I confirmed with Leon, he is fine with you changes the designation of the Application for Permit to Appropriate Water for Irrigation as a New application and not as an Amendment to Permit 416-1 with the understanding the priority date will be as provided in the original permit 416-1 as of September 23, 1959. In addition, Mr. Minor confirmed the total number of new acres he intends to irrigate is 110 acres bringing the total number of acres to be irrigated under the proposed new permit to 308 acres.

Again , thank you for your help assistance. Should you have any questions please do not hesitate to contact me or Mr. Minor.

Sincerely,
John R. Frederickson
Attorney for Applicant

Rodriguez, Rachel

From: John Frederickson <jfrederickson@lynnjackson.com>
Sent: Tuesday, January 21, 2025 2:21 PM
To: Rodriguez, Rachel
Cc: Lita Eddy
Subject: RE: [EXT] Water Permit Application

Rachel,

It was a pleasure visiting with you today regarding the Water Permit Application for Leon Minor. As we discussed, and I confirmed with Leon, he is fine with you changes the designation of the Application for Permit to Appropriate Water for Irrigation as a New application and not as an Amendment to Permit 416-1 with the understanding the priority date will be as provided in the original permit 416-1 as of September 23, 1959. In addition, Mr. Minor confirmed the total number of new acres he intends to irrigate is 110 acres bringing the total number of acres to be irrigated under the proposed new permit to 308 acres.

Again, thank you for your help assistance. Should you have any questions please do not hesitate to contact me or Mr. Minor.

Sincerely,
John R. Frederickson
Attorney for Applicant



John Frederickson

Attorney

Lynn, Jackson, Shultz & Lebrun, P.C.

Direct Line: 605-722-5262

W: lynnjackson.com **E:** jfrederickson@lynnjackson.com

Sioux Falls | Rapid City | Belle Fourche

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From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Thursday, January 16, 2025 11:19 AM
To: John Frederickson <jfrederickson@lynnjackson.com>
Subject: Water Permit Application

Good morning,

In reviewing the water permit application for Leon Minor, there are a few items that I need clarification on:

- Since this application is for an additional 110 acres, it is considered a new permit application, not an amendment to 416-1. I also noticed that the permit was transferred to Leon Minor in 1998. Would you like to have the name on the water permit to appear as Leon Minor, instead of as it currently reads (Leon Minor (Amended from Greta and Leslie Minor))?

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, January 16, 2025 12:19 PM
To: jfrederickson@lynnjackson.com
Subject: Water Permit Application
Attachments: map.pdf; Permitting Process PDF.pdf

Good morning,

In reviewing the water permit application for Leon Minor, there are a few items that I need clarification on:

- Since this application is for an additional 110 acres, it is considered a new permit application, not an amendment to 416-1. I also noticed that the permit was transferred to Leon Minor in 1998. Would you like to have the name on the water permit to appear as Leon Minor, instead of as it currently reads (Leon Minor (Amended from Greta and Leslie Minor))?
- Based on the map provided, attached is a map of the 110 acres outlined in red, is this correct? If not, please outline the correct proposed acres. The Attachment 1 provided has 110 acres however, the application states "an addition of 160 adjoining acres recently purchased by Leon Minor." If there is a possibility that 160 acres will be irrigated, it is best to round up from 110 to 160 acres, no additional fees would be required. So, when an inspection is done, if the total acres is over 110, then a new permit application would need to be completed.

Please be aware that as a new application, it will take approximately 90 days to complete, see attachment for details. Once I receive your response, I can begin processing the application.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



**LYNN
JACKSON**

ATTORNEYS

RECEIVED

JAN 15 2025

OFFICE OF
WATER

110 N. Minnesota Ave., Suite 400
Sioux Falls, SD 57104
Phone (605) 332-5999 • Fax (605) 332-4249

909 Saint Joseph Street, Suite 800
Rapid City, SD 57701
Phone (605) 342-2592 • Fax (605) 342-5185

10956 SD Highway 34
Belle Fourche, SD 57717
Phone (605) 722-9000 • Fax (605) 722-9001

REPLY TO: Belle Fourche Office
From the offices of John R. Frederickson
e-mail address: jfrederickson@lynnjackson.com
Sender's Direct Line: 605-722-5262

January 9, 2025

Amanda Dewell
South Dakota Department of Agriculture
Agricultural Services Division
523 East Capital Ave
Pierre, SD 57501

Re: Water Right #416-1-Amendment
Our File No. 19614.001

Dear Amanda:

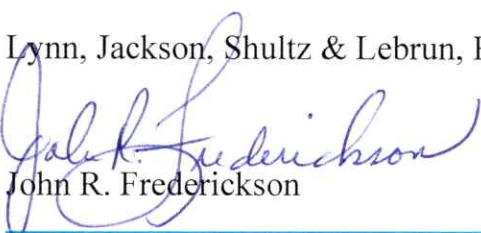
Please find enclosed the application to Amend Permit #416-1 and a check in the amount of \$950 to cover the permit fee. The purpose of the amendment is to include a 110 acre parcel of land adjacent to the permitted area, recently acquired by Mr. Minor. Please note there is no change to the amount of water claimed under the original permit of 2.8 CFS.

In addition, my client would appreciate being notified when the engineer will be out to examine the irrigations work so he can be available to answer any questions. Mr. Minor would also like to confirm when the Water Management Board will be meeting to consider this amendment application because he is planning on farming the property this spring.

Please feel free to contact me with any questions. Thank you for your time and prompt attention to this matter.

Sincerely,

Lynn, Jackson, Shultz & Lebrun, P.C.


John R. Frederickson

Lynn, Jackson, Shultz & Lebrun, P.C.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2043-1, Leon Minor**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 2043-1, Leon Minor, 18941 Whitewood Valley Road, Nisland SD 57762.

The Acting Chief Engineer is recommending APPROVAL of Application No. 2043-1 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. Low flows as needed for downstream domestic use including livestock water and prior rights must be by-passed. Diversions under this Permit shall be in accordance with 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.

Mark Mayer, PE
Director of Office of Water
April 10, 2025

Report to the Chief Engineer
On Water Permit Application No. 2043-1

Leon Minor

April 11, 2025

Water Permit Application No. 2043-1 proposes to irrigate 110 acres from the Belle Fourche River using an existing diversion point authorized by Water Right No. 416-1. Water Right No. 416-1 appropriates 2.66 cubic feet of water per second (cfs) from the Belle Fourche River located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17 for the irrigation of 198 acres located in the N $\frac{1}{2}$ of Section 17; all in T8N-R5E. This application proposes to irrigate an additional 110 acres located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 17-T8N-R5E with no increase in the authorized diversion rate from the Belle Fourche River. If approved, Water Permit Application No. 2043-1 and Water Right No. 416-1 will collectively authorize a total of 2.66 cfs for the irrigation of 308 total acres. The site of interest is located in Butte County approximately seven miles southwest of Newell, SD.

South Dakota Codified Law (SDCL) 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a water permit application. Pursuant to SDCL 46-2A-9, the Chief Engineer needs to consider four criteria when making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board.

This report will analyze the best available information and make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of Water Source

The Belle Fourche River headwaters in northeast Wyoming and flows northeast around the northern edge of the Black Hills of South Dakota then east to the Cheyenne River confluence north of Wasta, SD, for an approximate distance of 290 river miles. Included in this stretch is the Belle Fourche Reservoir, which is part of the US Department of the Interior's Belle Fourche Project. This project was completed in 1914 and includes a diversion dam, storage dam, and a system of canals that deliver irrigation water to approximately 57,062 acres within the Belle Fourche Irrigation District located in southern Butte County in western SD.

The United States Geological Survey (USGS) maintains stream flow gaging stations along various points on the Belle Fourche River to monitor real-time flow information, with gages currently operating near Fruitdale and Sturgis, SD (shown in Figure 1). Water Permit Application No. 2043-1 proposes to irrigate 110 acres from a diversion point located

approximately seventeen river miles downstream of the USGS stream gage on the Belle Fourche River near Fruitdale, SD. This stream gage is located upstream of several Belle Fourche Irrigation District waste ways and tributaries, such as Owl and Horse Creeks. Large portions of the water in the reach of the river where the diversion point for this application is to be located consist of return flows coming from the Belle Fourche Irrigation District during the irrigation season. Unlike a typical prairie river with flows peaking in March and April as a result of snowmelt and spring precipitation, then trailing off throughout the summer into fall, flows in the Belle Fourche River in this reach are supplemented by irrigation return flows. Downstream of the Belle Fourche Irrigation District and several of their waste ways and tributaries is USGS stream gage on the Belle Fourche River near Sturgis, SD, approximately 51 river miles downstream of the proposed diversion point.

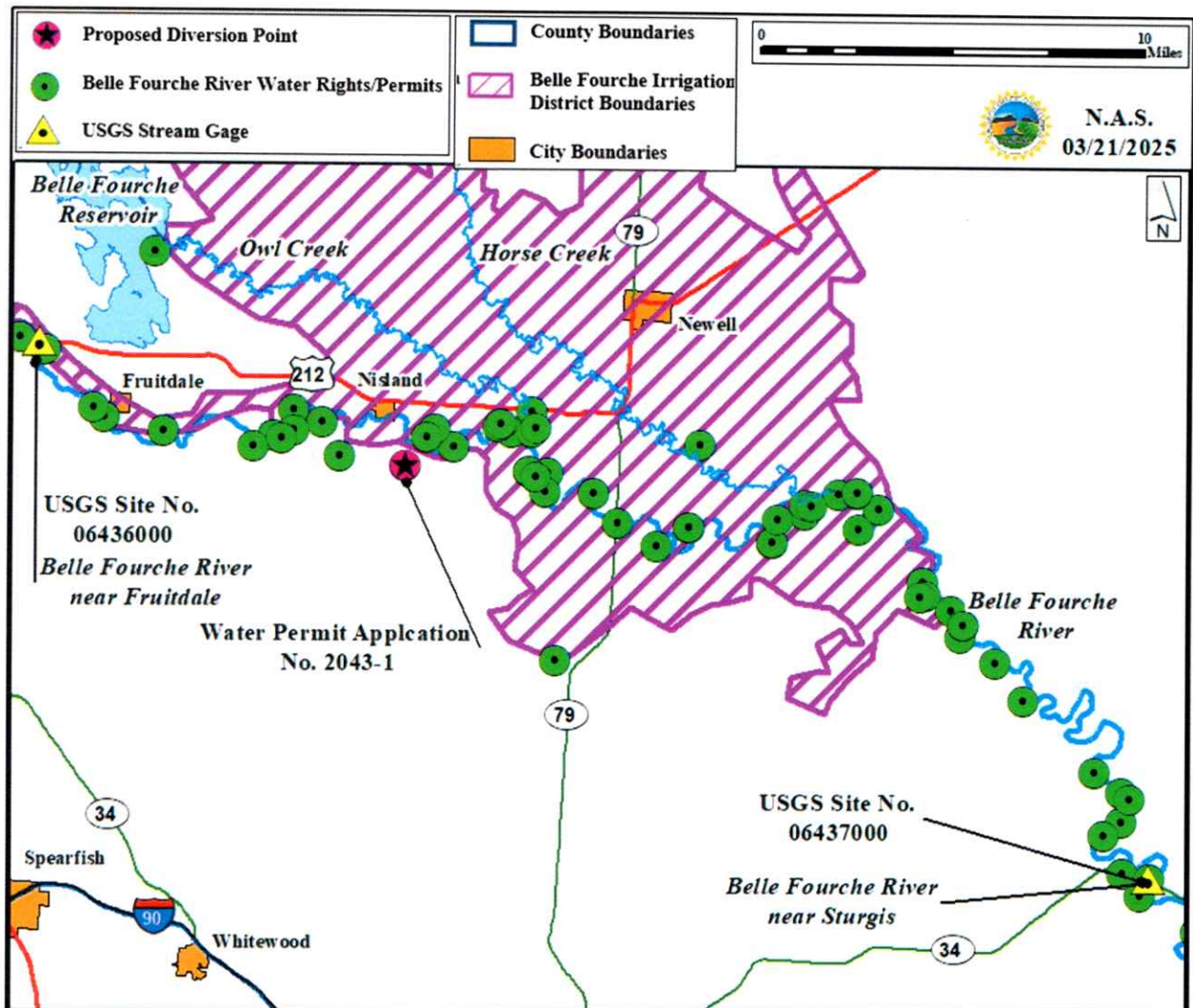


Figure 1. Area Map for Water Permit Application No. 2043-1 including the USGS stream gages on the Belle Fourche River near Fruitdale and Sturgis, and the Belle Fourche Irrigation District Boundaries (USGS, 2025; Water Rights, 2025)

A hydrograph was constructed using the 10th, 25th, and 50th percentile flow data measured at the USGS Stream Gaging Station No. 06436000 on the Belle Fourche River near Fruitdale, SD (Figure 2). The impact of the irrigation return flows can be observed in Figures 2 and 3 as the hydrographs of the historical percentile data from 1953 to 2024 display a large increase in the flow in the river at these gages during the months of May through September (USGS, 2025). The USGS gage near Fruitdale, SD is an example of the flow in the Belle Fourche River before the contribution of runoff water from the Belle Fourche Irrigation District.

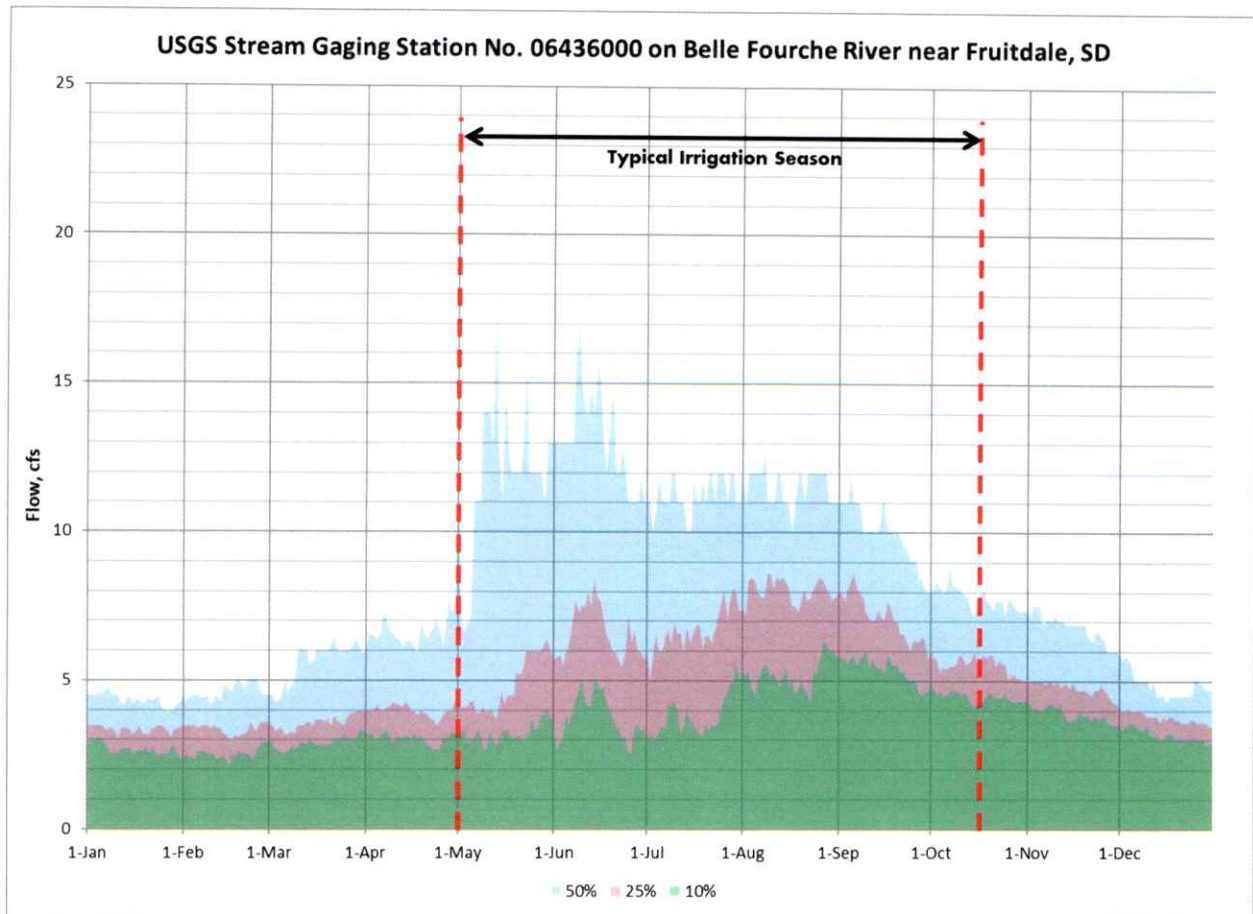


Figure 2. Daily percentile flow hydrographs for the USGS stream gage on Belle Fourche River near Fruitdale, SD, 1953-2024, contributing drainage area: 2,928 sq. miles (USGS, 2025)

The median (50th percentile) hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of two years. The hydrograph displays a slight increase in flow beginning mid-March, due to spring snowmelt, with peaks during spring and early summer rain events, then flow values remaining steady (approximately 5 cfs to 10 cfs) throughout the remainder of the year.

The 25th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of four years. The hydrograph displays a slight increase in flow beginning in April, due to spring snowmelt, with peaks during spring and early summer rain events, then flow values remaining steady (approximately 4 cfs to 8 cfs) through the remainder of the year.

The 10th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of ten years. A similar trend is displayed on this hydrograph when compared to the 25th and 50th percentile hydrographs - an increase in flow values through the spring and summer months before slowly decreasing (approximately 2 cfs to 5 cfs) for the remainder of the year.

USGS Stream Gage No. 06438000 on the Belle Fourche River near Sturgis, SD, is located approximately 51 river miles downstream from the proposed diversion point. A hydrograph was constructed using the 10th, 25th, and 50th percentile flow level data measured at this stream gage (Figure 3). The USGS gage near Sturgis, SD is an example of the flow in the Belle Fourche River after the contribution of runoff water from the Belle Fourche Irrigation District.

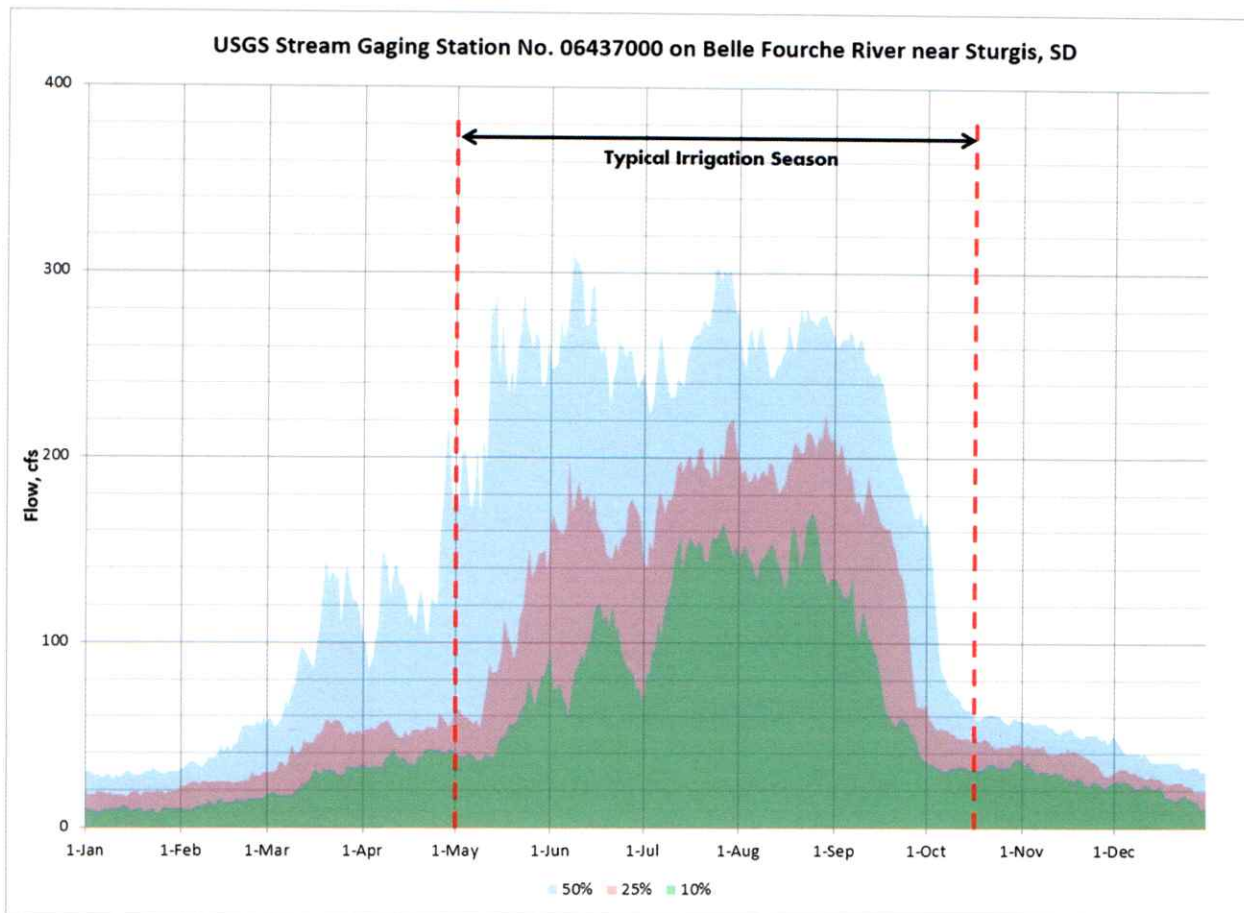


Figure 3. Daily percentile flow hydrographs for the USGS stream gage on Belle Fourche River near Sturgis, SD, 1953-2024, contributing drainage area: 5,792 sq. miles (USGS, 2025)

The median (50th percentile) hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of two years. The hydrograph displays an increase in flow beginning mid-March, due to spring snowmelt, with flow values remaining steady (approximately 100 cfs to 300 cfs) through September and peaking during large rain events. Flow values decrease (below 100 cfs) in early October following the end of the irrigation season and level out to approximately 30 to 50 cfs for the remainder of the year.

The 25th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of four years. The hydrograph displays an increase in flow beginning mid- March, due to spring snowmelt, with a steady flow (approximately 50 to 200 cfs) until the end of September with peaks during spring and summer rain events. Flow values decrease (below 50 cfs) in early October following the end of the irrigation season and level out to approximately 20 to 40 cfs for the remainder of the year.

The 10th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of ten years. A similar trend is displayed on this hydrograph when compared to the 25th and 50th percentile hydrographs - an increase in flow values through the spring and summer months (25 to 170 cfs) before lowering in late September following the end of the irrigation season and remain steady (approximately 10 cfs to 30 cfs) for the remainder of the year.

The hydrographs shown in Figures 2 and 3 show flow data during years when the authorized appropriations are being withdrawn from the river in the upstream stretch before flows reach the USGS gage near Sturgis. Based upon a review of the historical USGS streamflow data, there is reasonable probability there will be water available for this project except under dry climatic conditions.

Review of Existing Water Rights, Discussion, and Recommendation

There are ten existing water rights/permits authorized to appropriate approximately 23.7 cfs from Belle Fourche River between the USGS stream gage located near Fruitdale, SD and the proposed project for Water Permit Application No. 2043-1 (Water Rights, 2025). There are 49 existing water rights/permits (including Water Permit No. 416-1) authorized to appropriate approximately 92.9 cfs from the Belle Fourche River between this proposed project and the USGS stream gage located near Sturgis, SD (Water Rights, 2025). The nearest downstream water right from the proposed diversion point is Water Right No. 865-1 located approximately 0.44 river miles downstream of the proposed diversion point (shown in Figure 1).

If Water Permit Application No. 2043-1 is approved, it will have a priority date that is junior to the existing water rights/permits and will be subject to bypassing low flows to downstream domestic water users and senior water right holders. Additionally, no increase in the diversion rate authorized by Water Permit No. 416-1 is requested. Therefore, if approved, Water Permit Application No. 2043-1 is not expected to unlawfully impair existing domestic water uses and senior water rights/permits.

CONCLUSIONS:

1. Water Permit Application No. 2043-1 proposes to irrigate 110 acres from the Belle Fourche River using an existing diversion point authorized by Water Right No. 416-1. The site of interest is located in Butte County approximately seven miles southwest of Newell, SD.

2. Water Right No. 416-1 appropriates 2.66 cfs from the Belle Fourche River located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17 for the irrigation of 198 acres located in the N $\frac{1}{2}$ of Section 17; all in T8N-R5E. This application proposes to irrigate an additional 110 acres located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 17-T8N-R5E with no increase in the authorized diversion rate from the Belle Fourche River.
3. If approved, Water Permit Application No. 2043-1 and Water Right No. 416-1 will collectively authorize a total of 2.66 cfs for the irrigation of 308 total acres.
4. An analysis of historical flow data for Belle Fourche River demonstrates the river is a reliable source of surface water during normal years.
5. Based upon an assessment of the historical flow data, there is a reasonable probability that unappropriated water is available for the applicant's proposed use during normal years.
6. If approved, this application is subject to Belle Fourche River shut off orders.
7. If drier climatic conditions cause a considerable reduction of flow in the Belle Fourche River, use by the applicant should be restricted to protect downstream domestic use, including livestock watering and senior water rights/permits from unlawful impairment. If this application is approved, it should contain the following qualification:
 - Low flows as needed for downstream domestic use, including livestock watering and senior water rights/permits must be by-passed. Diversions under this Permit shall be in accordance with any written orders by the Chief Engineer.

Nakaila Steen

Nakaila Steen
Natural Resources Engineer II
SD DANR - Water Rights Program

References

- USGS. 2025. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota. Accessed March 17, 2025.
- Water Rights, 2025. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, South Dakota.



**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.**

April 14, 2025

Lynn Jackson Attorneys
c/o John Frederickson
909 Saint Joseph Street, Suite 800
Rapid City SD 57701

RE: Leon Minor – Water Permit Application

Dear Mr. Frederickson:

Water Permit Application No. 2043-1 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 in 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 Acting 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,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Acting 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. 2043-1 to Appropriate Water

Notice is given that Leon Minor, 18941 Whitewood Valley Road, Nisland SD 57762, has filed an application for a water permit to irrigate an additional 110 acres from the Belle Fourche River using an existing diversion point authorized by Water Right No. 416-1. Water Right No. 416-1 appropriates 2.66 cubic feet of water per second (cfs) from the Belle Fourche River located in the NE 1/4 NW 1/4 Section 17 for irrigation of 198 acres located in the N 1/2 Section 17; all in T8N-R5E. This application proposes to irrigate an additional 110 acres located in the NE 1/4 SW 1/4, SE 1/4 Section 17-T8N-R5E, with no increase in diversion rate from the Belle Fourche River. This application, if approved, and Water Right No. 416-1 will authorize a total of 2.66 cfs for irrigation of a combined total of 308 acres. This site is located approximately seven miles southwest of Newell SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 2043-1 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Acting Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 5, 2025.

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

Any interested person may file a comment on the application with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 5, 2025.

If the applicant does not contest the recommendation of the Acting Chief Engineer and no petition to oppose the application is received, the Acting 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.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, April 14, 2025 11:45 AM
To: legals@bhpioneer.com
Subject: Leon Minor - Public Notice
Attachments: 2043-1 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on April 24, 2025.

Leon Minor, 18941 Whitewood Valley Road, Nisland SD 57762, 605-490-2522, 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 Ave, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



RECEIVED

MAY 05 2025

OFFICE OF
WATER

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. 2043-1

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 24th day of April, 2025 and the last publication on the _____ day of _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 43.19, 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.

**NOTICE OF
APPLICATION NO.
2043-1 to
Appropriate Water**

Notice is given that Leon Minor, 18941 White-wood Valley Road, Nisland SD 57762, has filed an application for a water permit to irrigate an additional 110 acres from the Belle Fourche River using an existing diversion point authorized by Water Right No. 416-1. Water Right No. 416-1 appropriates 2.66 cubic feet of water per second (cfs) from the Belle Fourche River located in the NE 1/4 NW 1/4 Section 17 for irrigation of 198 acres located in the N 1/2 Section 17; all in T8N-R5E. This application proposes to irrigate an additional 110 acres located in the NE 1/4 SW 1/4, SE 1/4 Section 17-T8N-R5E, with no increase in diversion rate from the Belle Fourche River. This


Subscribed and sworn to before me this 15th day of May, 2025



Notary Public, Lawrence County, South Dakota

My commission expires: 7-18-2025

application, if approved, and Water Right No. 416-1 will authorize a total of 2.66 cfs for irrigation of a combined total of 308 acres. This site is located approximately seven miles southwest of Newell SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 2043-1 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Acting Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://>

danr.sd.gov/public or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 5, 2025.

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

Any interested person

may file a comment on the application with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 5, 2025.

If the applicant does not contest the recommendation of the Acting Chief Engineer and no petition to oppose the application is received, the Acting 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 \$45.12 and can be viewed free of charge at www.sd-publicnotices.com.

#191
Apr 24

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, April 14, 2025 12:17 PM
To: jfrederickson@lynnjackson.com
Subject: Leon Minor - Public Notice
Attachments: 2043-1 Rec.pdf; 2043-1 Ltr.pdf; 2043-1 PubNotice.pdf

Good afternoon,

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

Let me know if you have questions. Please acknowledge receipt of this email.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

MAY 15 2025

Leon Minor
18941 Whitewood Valley Road
Nisland SD 57762

Dear Mr. Minor:

Enclosed is Water Permit No. 2043-1 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,

Mark Mayer, PE
Director of Office of Water

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 2043-1

Name of Applicant: Leon Minor

Date of Posting: 4/22/2025

Date of Removal: 5/15/2025



Ron Duvall, Engineer III

5/15/2025

Date

Subscribed and sworn to before me, a notary public, this 15th day of May, 2025.



Notary Public - South Dakota
My commission expires: **Rachel Rodriguez**
My Commission Expires
May 16, 2029

(SEAL)

