

1. Considered 1-25 19 78 1618-2
2. Name of Applicant SHANNON COUNTY SCHOOL DISTRICT
3. Post Office Address BATESLAND
4. Amount of Water claimed .06
5. Source of Water supply 400' DEEP WELL
6. Water to be used for SCHOOL USE

Acres to be irrigated _____

7. Water to be diverted and used in SHANNON County
about IN, SE miles of PINE RIDGE

8. Proof of Publication

Received 12-30-77

Not Received _____

9. Application

12 acres
☐ ☒

Approved _____

Subject to _____

Not Approved _____

Action Deferred _____

10. Remarks:

No. 1618-2Map No. 1382.2Water Division No. 2

(Blanks to be Filled by the Engineer for the W. R. C.)

District



APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant Shannon County School District 65-01
 Postoffice address P.O. Box 578 Batesland, State South Dakota 57716
~~If corporation show date and place of incorporation~~
2. Method of accomplishing work (contract, employment of others, or by direct labor) Direct labor
3. Name of diversion work Shannon County School Well Project
4. Amount of water claimed (cubic feet per second) .067
5. Source of water supply Drilled Well
6. Location of point of diversion SE¹/₄ SE¹/₄ SE¹/₄ S.35 ^{T36}R.44 West of 6 pm The well will be located in the central south portion of the above area.
 County Shannon
7. Annual period or periods during which water is to be used Year around
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) School use
9. ~~For irrigation use~~ Total number of acres to be irrigated

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 2 weeks years. Additional time required to complete application of water to the proposed beneficial use N/A years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Bennett County Booster, Martin, S.D.
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.
Submergeible Pump

B. Works proposed to transport water to place of use.
PVC Pipe of 150 psi

C. Works proposed to apply water to beneficial use.
General Piping

Estimated Total Cost \$ 10,000.00

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
 (See instructions concerning preparation.)

STATE OF SOUTH DAKOTA)
) ss.
 County of SHANNON)

I, Shannon County School District 65-01 the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed Shannon County School District 65-01Subscribed and sworn to before me this 31 day of October 1977

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1618-2

SHANNON COUNTY SCHOOL DIST 65-1
(Applicant)

Box 578, BATESLAND
(Post Office Address)

SOUTH DAKOTA 57716
(State)

With the following modifications:

The ~~irrigation~~ well approved under this Permit is located near domestic wells which may obtain water from the same aquifer. The ~~irrigation~~ well owner, under this Permit, shall control his ~~irrigation~~ withdrawals so there is not a reduction of needed water supplies in adequate domestic wells.

Date of first receipt of application NOVEMBER 2, 19 77

Date of return to applicant for correction, amendments or changes required NOVEMBER 2, 19 77

Date of receipt of corrected application NOVEMBER 14, 19 77

Approved JANUARY 25, 19 78, Recorded in Book 19 Page 223

WATER RIGHT PERMIT NO. 1618-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1618-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is NOVEMBER 2, 19 77
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 25, 19 79
3. The whole of said work is to be completed on or before JANUARY 25, 19 80
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 25, 19 80
5. The water appropriated shall be used for the purpose of SCHOOL USE

6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed .07 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for ~~beneficial use~~ USED FOR SCHOOL PURPOSES and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one twentieth (1/20) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before JANUARY 25, 19 80; said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 31ST day of JANUARY, 19 78

WATER RIGHTS COMMISSION

By: John Hatch
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19 _____

Water License Issued _____, 19 _____

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

- (1) Drill Hole, Diameter 14", Depth 400'
- (2) Casing, Type Steel Diameter 8" Thickness
(wood, concrete, steel, etc)
- (3) Perforated Screen.
- Type Stainless Steel, Diameter 8", Length 6'
- (4) Gravel Pack. Thickness 6", Length of gravel pack 400'

E. Dugout Information or Estimates.

- (1) Surface dimensions , Depth

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials Dakota formation, Sandy loam

Depth to top of water bearing material 93'

Depth to bottom of water bearing material 400'

Thickness of water bearing material

Depth to water (ground surface to water level) 93'

- (2) Distance to nearest existing household or livestock watering wells.

On same owner's property None rds. On property owned by others 20 rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Shannon County School District 65-01

Sam Sam
Signature of Applicant

Publish first publication, on or before January 5, 1978

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

December 14, 1977

Notice is hereby given that Shannon Co. School Dist. #65-01 whose post office address is Batesland, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-6-3, 46-6-5, 46-6-6.1, 46-6-10, 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 0.07 cubic feet of water per second of time from ground water through the Shannon Co. School Well, the point of diversion of which is to be located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Project

of Section 35, Twp. 36N Range 44W. Said water to be used for the purpose of providing ~~irrigation on public lands owned by the State of South Dakota~~

water supplies for the Shannon County School District # 65-01.

This Application No. 1618-2 will be considered by the Water Rights Commission at Pierre, South Dakota upon the 25th day of January, 1978 at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

NOTE: Final Proof of Publication must be received by the hearing date for the Commission to take action.

WATER RIGHTS COMMISSION

BETTY WESTLUND
Water Rights Specialist I

cc: Shannon County School District # 65-01, Box 578, Batesland, SD 57716

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Bennett) ss.

I, Mary E. Long hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Bennett County Booster II

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

City of Martin

County of Bennett and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

December 22, 1977

December 29, 1977

Mary E. Long
(Signature)

Owner
(Title)

12-29-77
(Date Signed)

NOTICE OF HEARING
ON APPLICATION
TO APPROPRIATE WATER
NO. 1618-2

Pierre, South Dakota 57501
December 14, 1977

Notice is hereby given that
Shannon Co. School Dist. No.
65-01 whose post office address is
Batesland, South Dakota, has
made an application in ac-
cordance with the provisions of
SDCL 46-1-1 through 46-1-8; 46-2-9
through 46-2-11; 46-2-13; 46-5-1
through 46-5-8; 46-5-10 through
46-5-22; 46-5-41; 46-6-3; 46-6-5;
46-6-6.1; 46-6-10; 46-6-14 and Com-
mission Rules ARSD 52:01:01:01
through 52:01:01:13, for a permit
to appropriate for beneficial use
0.07 cubic feet of water per
second of time from ground
water through the Shannon Co.
School Well, the point of diversion
of which is to be located in the
SE 1/4 SE 1/4 of Section 35, Twp. 36N
Range 44W. Said water to be used
for the purpose of water supplies
for the Shannon County School
District No. 65-01.

This Application No. 1618-2 will
be considered by the Water
Rights Commission at Pierre,
South Dakota upon the 25th day of
January, 1978 at 10 a.m. The
Commission is authorized to
make a determination on this
application at the hearing. All
interested persons may appear
and be heard. Any person who
may be affected by a Commission
decision who desires to present
evidence or cross-examine
witnesses according to SDCL 1-26
may notify the Commission in
writing prior to the hearing or
orally at the hearing.

WATER RIGHTS COMMISSION
Betty Westlund,
Water Rights Specialist I





United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

PINE RIDGE INDIAN AGENCY
PINE RIDGE, SOUTH DAKOTA 57770

IN REPLY REFER TO:
Superintendent's
Office



January 18, 1978

Director
South Dakota Water
Rights Commission
State Capitol Building
Pierre, South Dakota 57501

Dear Sir:

On January 17, 1978, Mr. Adkison contacted the Water Rights Board regarding applications for water rights by Shannon County School District and Erwin Latshaw. Mr. Adkison was informed that the Commission would be holding a meeting at 10:00 a.m. on January 25, 1978 to consider all applications.

It was brought to the attention of the board members that numerous legal statutes and treaty provisions have given the Oglala Sioux Tribe authority over the resources contained within the reservation boundaries and water rights are specifically mentioned in those statutes. The Tribal Council recently passed a resolution denying Shannon County School District access to water in this location. The water required to provide a large school facility would far exceed the water available on this particular school acreage controlled by Shannon County at that location. Surplus water beyond what could be legitimate would be derived from adjoining land and would be diminishing the supply available to Indian landowners. The Oglala Sioux Tribal Council does not wish to be difficult about supplying water to Shannon County School District and would be agreeable to negotiating for water rights at a location more suitable for school construction, specifically the improvement of the present school system instead of a new facility.

I am requesting, on behalf of the Oglala Sioux Tribe, that your decision on granting water rights to anyone within the Pine Ridge Reservation be delayed and further researched by your legal staff.

May we hear from you?

Sincerely yours,

Clyde L. Lynn
Acting Superintendent

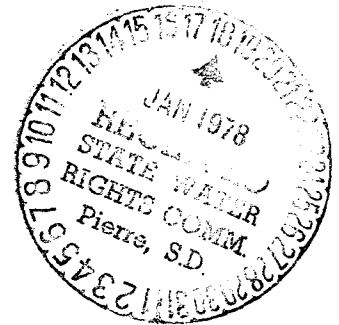




United States Department of the Interior
OFFICE OF THE SOLICITOR

ROOM 211 - FEDERAL BUILDING
P.O. BOX 549
ABERDEEN, SOUTH DAKOTA 57401

January 17, 1978



Ms. Betty Westlund
Water Rights Specialist
Water Rights Commission
Pierre, South Dakota 57501

Dear Ms. Westlund:

The Area Director, Bureau of Indian Affairs, has advised that on January 25, 1978, at 10 o'clock a.m., a hearing will be held by the Water Rights Commission at their office at Pierre, South Dakota on the application of Shannon County School District #65-01, Batesland, South Dakota, for a permit to appropriate for beneficial use 0.07 cubic feet of water per second of time from ground water through the Shannon Co. School Well, the point of diversion of which is to be located in the SE 1/4 SE 1/4 of Sec. 35, T. 36 N., R. 44 W., for the purpose of providing water supplies for the Shannon County School District #65-01.

This letter will serve as our written objection to such application for a permit to appropriate ground water from within the boundaries of the Pine Ridge Indian Reservation. Regardless of the decision in Colorado River Water Conservation District v. United States, 96 S. Ct., 1236, the issuance of such permit would be contrary to established law, which declares that the State lacks jurisdiction with respect to the adjudication of the waters of, or the lands within the exterior boundaries of an Indian Reservation. See 25 U.S.C.A. Sec. 381, Winters v. United States, 207 U.S. 564, 28 S. Ct. 207; United States v. Powers 94 F.2d 783; United States v. McIntire, 101 F.2d 650; and United States v. Alexander, 131 F.2d 359.

In filing this objection to the issuance of such proposed permit and in writing this letter to you, we do not waive our right to challenge the State's jurisdiction by legal action or otherwise and merely intend to call the State's attention to the absence of State jurisdiction in this matter and to the Winter's Doctrine.

In the event your decision is to grant such application, we request that the following paragraph be inserted in such permit:

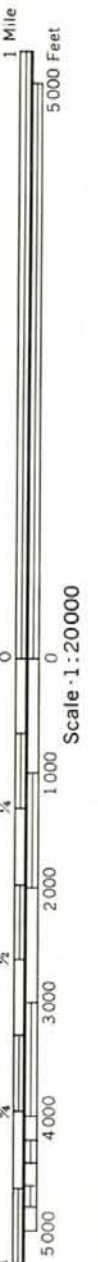
Notice is hereby given that all rights to the use of water granted by this permit are subject and subordinate to the reserved water rights on the Pine Ridge Indian Reservation by the Oglala Sioux Tribe and that the use of water granted by this permit must be curtailed, if necessary to allow utilization of the Indian reserved water rights.

Very truly yours,



Wallace G. Dunker
Field Solicitor

cc: Area Director
Superintendent, Pine Ridge Agency
Parnell Hagen, B.I.A.
Shannon Co. School Dist. #65-01
Box 578, Batesland, SD 57716



SW $\frac{1}{4}$, SE $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 35, Township 36, Range 44

SHANNON COUNTY, SOUTH DAKOTA NO. 163

This map is one of a set compiled in 1968 as part of a soil survey by the Soil Conservation Service, United States Department of Agriculture, Bureau of Indian Affairs, United States Department of the Interior and the South Dakota Agricultural Experiment Station. Land division corners are approximately positioned on this map.

MAP NO 1382.2 APPL NO 1618.2

1618-2
February 2, 2006

2005 South Dakota Water Use Questionnaire

To:

SHANNON COUNTY SCHOOL DIS
PO BOX 109
BATESLAND SD 57716 0109

Address correction requested:

WOLF CREEK School
P.O. Box # 469 Pine Ridge
S.D. 57770

One questionnaire is being provided for each permitted water source. The following information is based on Water Permit/Right No. 1618-2. If you have other permits/rights in the same water source, also include water use under those permits/rights on this questionnaire.

Water Source:	GROUNDWATER	County:	SHANNON
Aquifer:	ARIKAREE GROUP-REDROCK	Pumping Pt. Legal:	SEC 35-T036N-R44W
Management Unit:	NOT APPLICABLE	Type of Water Use:	INSTITUTIONAL

- 1) Please estimate your year 2005 water use from the above water source: 18,250,000 gallons
- 2) If no water use in 2005, please list the reason(s) why in the comments section.

Comments: _____

Contact Person: Wendell Ghost Bear

Telephone No: 867-5174

Questions? Please call Mark Rath or Ron Duvall at 605 773-3352 for assistance.

Thank you for completing the 2005 water use questionnaire.

Water Rights on the Web: www.state.sd.us/denr/wr



RECEIVED

FEB 15 2006

WATER RIGHTS
PROGRAM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

February 17, 2006

1618-2

Wolfcreek School
Wendell GhostBear
PO Box 469
Pine Ridge SD 57770

Dear Mr. GhostBear:

The 2005 SD Water Use Questionnaire which you recently returned to our office indicated a possible ownership/name change for Water Permit No. 1618-2. Enclosed is a partially completed "Notice of Transfer" form for filing an ownership/name change. The water permit is currently listed in the name of Shannon County School District.

The transfer form should be completed, checked over for accuracy and signed by the new owner. Upon completion, return the form to our office with a required filing fee of \$2.50. Please let me know if no change is necessary. It is important for us to keep our records accurate.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

*Wendell called 5/22/06
permit should remain
under Shannon Co. School
Dist.*

enclosures

Water Rights Program - File Documentation

NAME: Wolf Creek School c/o Jace Janis

ADDRESS: Old Wolf Creek School Rd. Pine Ridge, SD 57770

ALT ADDRESS: Shannon/Oglala Lakota School District
206 School St
Batesland, SD 57716

DATE: 7/28/15 **COUNTY:** Oglala Lakota

TELEPHONE: Jace Janis: (605) 441-1377
Shannon/Oglala Lakota School District: (605) 288-1921

RE: Regarding Cancellation of Water Permit No. 1618-2

COMMENTS:

On July 28, 2015 I spoke to Jace Janis who is responsible for the water system at Wolfcreek School in the Shannon/Oglala Lakota School District. During our conversation he informed me (Bracken Capen of the SD Water Rights Program) that the school no longer uses the well authorized under Water Permit No 1618-2 and instead relies on rural water for its water supply. Jace Janis went on to say that the school does not anticipate a change in water supply back to the well and that Water Permit No. 1618-2 could be cancelled.

A handwritten signature in black ink, appearing to read 'Bracken Capen', with a long horizontal flourish extending to the right.

Bracken Capen
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING

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

September 1, 2015

NOTICE OF CANCELLATION

TO: Administration Office, Shannon County School District, 206 School St., PO Box 109,
Batesland SD 57716

Jace Janis, Wolf Creek School, PO Box 469, Pine Ridge SD 57770

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 1618-2

Water Permit No. 1618-2, obtained by the school district in 1977, authorized diversion of ground water (one well) to be used at the Wolf Creek School in Pine Ridge. On July 28, 2015, Bracken Capen with our program spoke with Mr. Janis about the use of the well. Mr. Janis indicated the school is now hooked to rural water and no longer uses the well. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1618-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 1618-2 at 9:00 a.m., October 14, 2015 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate and the actual time of hearing may be later*).

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 1618-2 based upon facts presented at the public hearing. Our records show the school district to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by October 2, 2015. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

September 1, 2015
Shannon County School District
Wolf Creek School
Page 2

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by October 2, 2015.

Prior to October 2, 2015, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 11, 2015.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 1618-2, SHANNON COUNTY SCHOOL DISTRICT

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 1618-2.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment and/or forfeiture.

On July 28, 2015, Bracken Capen spoke with Jace Janis concerning the use of the well as authorized under Water Permit No. 1618-2. Mr. Janis indicated the school was now hooked to rural water and no longer used the well.

RON DUVALL, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
September 1, 2015

Note:

Cancellation of the water permit does not prohibit a new application for this project in the future.

CERTIFICATION

I hereby certify that on September 1, 2015, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated September 1, 2015 regarding cancellations addressed as stated below:

Water Permit No. 1618-2 – Administration Office, Shannon County School Dist., PO Box 109, Batesland SD 57716

Jace Janis, Wolf Creek School, PO Box 469, Pine Ridge SD 57770

Water Permit No. 7165-3 - Paul Buckneberg, 45886 294th St., Centerville SD 57014

Gail Jacobson

Gail Jacobson
Secretary/Water Rights

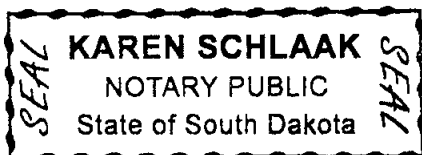
[illegible]

Sworn to, before me, this 15th day of September, 2015.

Karen Inlaak

Karen Schlaak
Notary Public

My Commission expires April 1, 2019



Oglala Lakota County School District 65-1

Dr. Anthony Fairbanks
Superintendent

Coy Sasse
Business Manager



OLCSD Mission
To Strengthen the Lakota Identity and
Values of Students and to Assure Their
Overall Well-Being and Academic Success.

Angle Eagle Bull
Board President

Tom Conroy
Board Vice-President

Richard Zephler
Mike Carlow
Chuck Conroy
Board Members

Ph.# (605) 288-1921

Fx.# (605) 288-1814

P O Box 109, Batesland, South Dakota 57716
www.shannon.ws

RECEIVED
SEP 14 2015
WATER RIGHTS
PROGRAM

Sept. 11, 2015

Dept of Environment & Natural Resources
Jeanne Goodman, Chief Engineer
523 E. Capitol
Pierre, SD 57501-3182

Re: Notice of Cancellation - Permit #1618-2

Dear Ms. Goodman,

This letter is to inform you that the Oglala Lakota School District #65-1 does not want to give up the water permit for the Wolf Creek School.

The water well is in the future plans for the development of the facility. Please take no action on the permit.

Thank you for your assistance.

Sincerely,

Maurice Twiss
Maurice Twiss
Facilities Coordinator

Cc: Dr. Anthony Fairbanks, Superintendent
Oglala Lakota County School District



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

September 15, 2015

Maurice Twiss, Facilities Coordinator
Oglala Lakota County School District 65-1
PO Box 109
Batesland SD 57716-0109

RE: Cancellation Consideration of Water Permit No. 1618-2

Dear Mr. Twiss:

The Water Rights Program has received your letter requesting no action be taken on Water Permit No. 1618-2. The permit was scheduled for hearing in front of the Water Management Board to consider cancellation due to abandonment and/or forfeiture. The issue has been removed from the agenda and will not be heard at this time.

Water Permit No. 1618-2 was obtained by the school district for use of ground water by the Wolf Creek School in Pine Ridge. Under South Dakota Water Law, once a water permit is obtained, the permit holder has 5 years to construct the project and another 4 years to put the water to beneficial use. After that time frame, DENR conducts a field investigation of the water use system for licensing purposes. In the case of Water Permit No. 1618-2, our staff person called to set up a field investigation and was told by Jace Janis the school was hooked to rural water, and the well was no longer used.

Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. This three year period may be waived if legal excuse exists for the years of nonuse. Enclosed are excerpts of the water right laws and Water Management Board Rules dealing with these issues.

It is our understanding from your letter the school did not abandon use of water as authorized under Water Permit No. 1618-2 and wishes to maintain the water permit. With this in mind, we will have the staff engineer contact you to coordinate a time to come out and look at the system for the purpose of conducting a licensing investigation. If the school is hooked to rural water but maintains the well as a backup water supply, a water license can be issued accordingly.

Thank you for contacting us regarding this matter, and we look forward to working with you. If you have any questions, please give us a call at 605 773-3352.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program

enclosure

Statutes:

46-5-36. Abandonment of use of water appurtenant to land - Public water subject to general appropriation. If the owner of the land to which water has become appurtenant abandons the use of such water upon such land, such water shall become public water, subject to general appropriation.

46-5-37. Failure to use beneficially appropriated water - Forfeiture for nonuse - Reversion to public. When any person entitled to the use of appropriated water fails to use beneficially all or any part of such water for the purpose for which it was appropriated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

46-5-37.1. Abandonment or forfeiture of permits or rights - Recommendation of chief engineer for cancellation. Upon the initiative of the chief engineer or upon petition by any interested person and after reasonable notice to the holder of the right or permit, if he can be located, the chief engineer may investigate whether or not a water permit or right has been abandoned or forfeited. After the investigation, the chief engineer may recommend cancellation of the permit or right for reason of abandonment or forfeiture. The recommendation, notice and hearing shall be conducted pursuant to the procedure contained in chapter 46-2A.

46-5-37.2. Exceptions to forfeiture for nonuse. The provisions of 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if the water source is not fully appropriated, if the withdrawal from use does not prevent approval of new permits from the same source, and if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.

Rules:

74:02:01:36. Board authorized to cancel invalid water permits, rights, or vested rights. The board may cancel a water permit, right, or vested right which has become invalid and file a record of the cancellation in the water permit, right, or vested right record.

74:02:01:37. Invalid water permit, right, or vested right defined. A water permit, right, or vested right is invalid if it meets one or more of the following conditions:

- (1) The necessary works were not constructed or the water put to beneficial use within the time limits as provided by statute;
- (2) Use of water has been abandoned as specified in SDCL 46-5-36;
- (3) Use of water has been forfeited for nonuse as specified in SDCL 46-5-37.

74:02:01:37.01. Legal excuse for nonuse of water. Legal excuse for nonuse of water suspends the period of nonuse specified in SDCL 46-5-37. Legal excuses for nonuse of water include but are not limited to the following:

- (1) Unavailability of water to satisfy a permit, right, or vested right;
- (2) Legal proceedings which prevent the use of water;
- (3) Water use under existing climatic conditions would result in a waste of water.