

1. Considered: Feb. 15, 1984 Water Right No. 1858-2
2. Name of Applicant City of Philip
3. Post Office Address POB 408, Philip 57567
4. Amount of Water Claimed 0.42 (190 GPM) maximum acre feet
5. Source of Water Supply 3730' ~~4888~~' Madison formation well (EXISTING 574-2)
6. Water to be used for GEO & Mun acres to be irrigated
7. County Haakon about 2 miles N of City Limits
8. PROOF OF PUBLICATION: Received 1st 1-20-84 Not Received
- APPLICATION: Approved Feb. 15, 1984 Subject to
- Not Approved Action Deferred

PRIORITY
9-15-83

Dated Received 9/15/83 Application complete-yes x no FEE 250.00

Remarks additional diversion on 574-2

Corrected Application received Period of Annual Use 1/1 - 12/31

WATER
QUALITY

Received yes no APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as application-yes no Remarks N/A

Disapproved Returned

Diversion Point SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 1=T1N-R20E

Land to be irrigated

WELL LOG Driller Licensed - yes no

Depth 3730' deep flowing

(as inspected by M Knecht 6/7/71)

Remarks

1858-2

MAP Map No. 542-2 Map located in Water Right x Map file _____
Type of Map drawn Prepared by FRank Brady pg _____

+++++

REVIEWED This Application was received within 30 days of the date received, accepted as complete, Number assigned and written up for advertisement before the Board on:
10/12/83

Kevin C. Larson
(Signed)

+++++

PROTESTS Letters/Petitions in File - yes _____ no _____ Remarks _____

REMARKS Date
F.F. & C. Final Decision, including F.F. & C. of Law were adopted _____
OF LAW, Date
FINAL Final Decision mailed to parties and/or parties notified that Final Decision was
DECISIONS adopted _____
ETC. Remarks _____



Map No. 1858-2 542-2 Water Division No. 2 BAD RIVER District 10140102
 No. 1858-2
 Above for Office Use

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

Check one of the following:

New ☒ Vested Right ☒ Future Use _____Change in Diversion _____ Additional Diversion ☒

Change in Acreage _____ Additional Acreage _____

1. Name of Applicant CITY OF PHILIP C.M. WEST, Mayor Phone No. 859-2175
 Post Office Address PO Box 408 Philip State SD 57567
 (Street, RR, or Box) (Town) (Zip Code)
 If a 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 _____

4. Amount of water claimed (cubic feet per second) 190 550 gal per min. (0.42 cfs additional) 2cf5. Source of water supply Philip Artesian Well6. Location of point of diversion SWNE¹ NW-1/4 Section 1, T1N, R20E

County _____

7. Annual period or periods during which water is to be used Continuous as water is needed8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) geo-thermal heat9. For irrigation use, Total number of acres to be irrigated 2 Municipal Use - JH

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 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.

11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water Pioneer Review
Philip, SD 57567

12. Principal Features of the Proposed Water Supply System.

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

PUMP

B. Works proposed to transport water to place of use.

MAIN LINE

C. Works proposed to apply water to beneficial use.

CITY DISTRIBUTION SYSTEM

Estimated Total Cost \$ _____

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 Haakon)

I, CITY OF PHILIP C.M. WEST, Mayor 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 C.M. West MayorSubscribed and sworn to before me this 14 day of September, 19 83Lucille Hart

Notary Public (or other qualified officer)

Lucille Hart, Finance Officer

WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 1858-2

City of Philip Box 408 Philip
(Applicant) (Post Office Address)
South Dakota 57567 With the following qualifications.
(State)

The well approved under this Permit shall be valved and the flow reduced to a minimum when not being used. The well shall also be equipped with a pressure gauge and records kept of any pressure fluctuations. Such records shall be available to the Board upon request.

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit, shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

Date of first receipt of application September 15, 1983

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

Date of receipt of corrected application , 19

Approved February 15, 1984, Recorded in Book Page

WATER RIGHT PERMIT NO. 1858-2

The Water Management Board hereby grants and issues this Water Right Permit No. 1858-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is September 15, 1983
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before August 15, 1986
3. The whole of said work is to be completed on or before February 15, 1989
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is February 15, 1993
5. The water appropriated shall be used for the purpose of geothermal & municipal

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 0.42 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 uses served, and ~~if for irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventieth (1/70) 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 February 15, 1993; said water to be used during the following described annual period: January 1 thru December 31

Witness my hand this 15th day of March, 1984

THE WATER MANAGEMENT BOARD

By: John Hatch
Chief Engineer, Water Rights
JOHN HATCH

Certificate of Construction Issued , 19

Water License Issued , 19

RECEIPT

Division of Water Rights

No 4 9378

South Dakota Department of Water and Natural Resources

Pierre, October 11, 1983

RECEIVED OF City of Philip, PO Box 408, Philip, SD 57567

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

Fee for Application for Permit No. 1858-2 to Appropriate Water, to construct works and to put water to beneficial use	250	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.		
Fee for Filing Transfer Form		
Fee for Filing Extension Request		
Fee for Certified Copy of		
Fee for Print Copy of Map		
Fee for Certifying		
Fee for		
(Any Other Work Provided by Law)	Total	250 00

By John Hatch
Chief Engineer JOHN HATCH (ms)

REPORT ON APPLICATION NO. 1858-2

CITY OF PHILIP
DECEMBER 18, 1983

This application proposes to divert an additional 0.42 cfs for geothermal and municipal use from an existing ~~4010~~ foot deep Madison Limestone well. The City of Philip presently has Permit No. 574-2 to use 0.8 cfs from this well which the City allows to flow into Lake Waggoner, their municipal supply. As a result of a June 27, 1983 investigation by Gale Selken, Water Rights Staff, it is apparent the well can be shut in completely. The City and their engineer, William Cook felt it would be dangerous or impossible to shut this well in. After examining our records (Water Rights well Files, 1983) and information on well construction, the Water Rights Division ordered the City to control the well. The well was shut in June 27, 1983 and except for a leaking valve of about 10 gpm this was successful. The engineer estimated the flow at 1500 gpm and a shut in pressure of 120 psi. August 26, 1963, D. Driscoll, Water Rights Division has measured a flow of 1070 gpm from this well. It is not known if the valve was wide open or not. The reported temperature varies from 154°F (Permit No. 574-2) to 158°F (Schoon, 1974).

Aquifer - Madison Limestone

Geology and Aquifer Characteristics

Numerous authors have contributed to the knowledge of the Madison Limestone. The areal extent, thickness and storage estimates are available (see bibliography). Still the aquifer characteristics are basically unknown for the Philip area. In summary, it can be said that the formation is under about 140 psi pressure and yields of 300 to 1500 gpm are possible depending upon permeability of the formation at that point. Well yields from this formation are widely variable. Well Interference is likely, but there is no data to be specific.

The Madison Limestone in this area is a fractured possibly cavernous cream colored limestone about 500 feet thick in this area (Gries, 1977). Rahn presented calculations to predict drawdowns or well interference for select Madison wells in the 1979 Report Ground Water Resources of Western SD, 1979. Although this is useful, I am not sure this is applicable to the Philip situation. The Water Rights Division does not have or monitor any Madison wells in this area.

Review of Existing Water Rights

Permit No.	Permit Holder	Use	Amount	Well Depth
574-2	City of Philip	Municipal	0.8 cfs	4010 feet
1633-2	Haakon Co. School Dist.	Geothermal	0.73 cfs	4260 feet
1691-2	Philip Geothermal Inc.	Geothermal	0.7 cfs	4260 feet

Permits No. 1633-2 and 1691-2 share the same well and use the same water (total authorized diversion is 0.73 cfs). Similarly, this Application No. 1858-2 proposes to share the well drilled under No. 574-2. There is no other Madison well in this area. The nearest permitted Madison well is for the City of Midland approximately 26 miles away. The two Madison wells in the Philip area are approximately two miles apart.

Conclusions

1. There is water available. The wells exist and the volume of flow exists.
2. The water temperature is between 154°F and 158°F.
3. This application would use the heat from the water which the City eventually may use as domestic water. The City cooled this water by discharging into Lake Waggoner. Also, mixing the water with runoff water improved the quality.
4. Interference is likely, but should not be a problem. These wells already exist and no problems have been reported. These are seasonal uses allowing recovery during those months when one or both well may be shut in.
5. This well can be controlled and shut down to the amount of water requested.


JAMES A GOODMAN
Hydrologist

- Cox, E.J., 1962, Artestian Water, Minnelusa and Pahasapa Formations, Spearfish-Belle Fourche Area, SDGS Special Report 19.
- Darton, N.H., 1925, Central Black Hills Folio, South Dakota, USGS, Folio Number 219.
- Gries, J.P. 1977, Geothermal Applications on the Madison (Pahasapa) Aquifer System in South Dakota, Appendix B: NTIS, U.S. Dept of Commerce, Springfield, Virginia, 95p.
- Rahn, P.H. and J.P. Gries, 1974, Large Springs in the Black Hills, South Dakota and Wyoming, SDGS Report of Investigations, No. 107, Vermillion SD.
- Rahn, P.H., 1979, Ground Water Resources of Western South Dakota, U.S. Army Corps, SDSM & T, Project #2533, Rapid City SD.
- Schoon, R.A. and McGregor, D.J., 1974, Geothermal Potentials in South Dakota, SDGS Report of Investigations No. 110, Vermillion, SD.
- Water Rights, 1983, Permit Files, Joe Foss Bldg, Pierre SD Phone 605 773-3352.
- Water Rights, 1983, Artesian Well Files, Joe Foss Bldg, Pierre SD Phone 605 773-3352.

RECOMMENDATION OF CHIEF ENGINEER FOR
WATER PERMIT APPLICATION NO. 1858-2, City of Philip SD

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 1858-2, City of Philip, PO Box 408, Philip SD.

The Chief Engineer is recommending APPROVAL of Application No. 1858-2 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) in the public interest with the following qualifications:

1. The well approved under this Permit shall be valved and the flow reduced to a minimum when not being used. The well shall also be equipped with a pressure gauge and records kept of any pressure fluctuations. Such records shall be available to the Board upon request.
2. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit, shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

The attached report is a part of this recommendation.

A handwritten signature in cursive script, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer
December 27, 1983

Instruction to Newspaper - Publish first publication of the following Notice on or before January 5, 1984 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 1858-2 to Appropriate Water
~~and/or to Amend Water Permit or Water Rights No. _____~~

Notice is hereby given that City of Phillip whose mailing address is
POB 408 Phillip, South Dakota has made an application for a permit

to appropriate an additional 0.42 cubic feet per second from on 3730' deep Madison Formation well. The well is existing under water right No. 574-2, is located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 1, Twp-1N, Range-20E and the additional water is to be used for the purposes of providing water for Geothermal and Municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends Approval of Application No. 1858-2 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Civil Defense Room, basement of Capitol Building, Pierre, South Dakota, February 15, 1984 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the Applicant and the Chief Engineer by February 3, 1984. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; (ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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 the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWRN, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by February 3, 1984.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
County Haakon)

I, Les Ravellette hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Pioneer Review

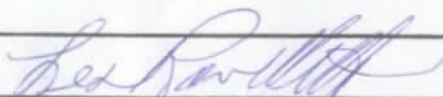
A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

City of Philip

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

Thursday, January 5, 1984

Thursday, January 12, 1984



(Signature)

Publisher

(Title)

January 17, 1984

(Date Signed)

Cost of Printing: \$40.77



NOTICE OF HEARING
on Application No. 1858-2
to Appropriate Water

Notice is hereby given that City of Philip whose mailing address is POB 408 Philip, South Dakota has made an application for a permit to appropriate an additional 0.42 cubic feet per second from on 3730' deep Madison Formation well. The well existing under water right No. 574-2, is located in the SW 1/4 NE 1/4, Section 1, Twp-1N, Range-20E and the additional water is to be used for the purposes of providing water for Geothermal and Municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends Approval of Application No. 1858-2 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

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This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; (ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15;

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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 the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWR, Joe Foss Bldg, Pierre SD (605-773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by February 3, 1984.

(Publish January 5, 12, 1984)

Division of Water Rights
605 773-3352

August 2, 1983

Max Main
618 State
Belle Fourche SD 57717

Dear Mr. Main:

This morning I visited with Mr. Kent Horn concerning a greenhouse operation near Philip, South Dakota. The proposed geothermal system would utilize an existing well owned by the City of Philip. He asked me if any permits would be required to use this well. I told him I would discuss it with our attorney and get in touch with you with an answer. It was decided that in order for Mr. Horn to best protect his interests he should file a permit application to use the city's well. I am enclosing the necessary forms for this. If you have any questions concerning this please contact this office or our attorney Mr. Dan Doyle (605) 773-4075.

Thank you,

KEVIN C LARSON
Water Resources Engineer

KCL:ks

enclosures

Division of Water Rights
605 773-3352

August 16, 1983

Max Main
618 State
Belle Fourche SD 57717

Mr. Main:

On August 2, I spoke with Mr. Kent Horn concerning a greenhouse operation near Philip SD. I indicated to him that any new applications must be completed and received in our office by August 19, 1983. This is necessary if they are to be considered at the October 5 & 6 meeting of the Water Management Board. As of this date we have not received anything from Mr. Horn. If you have any questions, about this please contact this office.

Thank you,

KEVIN C LARSON
Water Resources Engineer

KCL:ks

Ralph A. Kemnitz
Thomas C. Barnett, Jr.

Becky Buhmann
OFFICE MANAGER

LAW OFFICES OF
KEMNITZ & BARNETT
ATTORNEYS AT LAW
P.O. BOX 489
PHILIP, SOUTH DAKOTA 57567
TELEPHONE (605) 859-2540

Wall Office
Telephone
(605) 279-2575

August 23, 1983

Department of Water & Natural
Resources
Division of Water Rights
Joe Foss Building
523 East Capitol
Pierre, SD 57501

Attn: John Hatch, Chief Engineer

Re: City of Philip
Water Right No. 574-2

Dear Mr. Hatch:

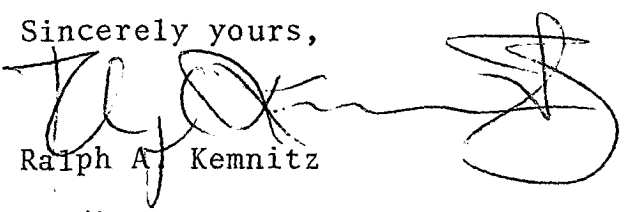
As you know, the City of Philip has the above Water Right relating to its Madison Formation Well located in Northeast Quarter (NE $\frac{1}{4}$) Section 1, T1N, R20E, BHM, and has contracted with Horne Farms LTD for delivery of water from this well for geothermal heating purposes. At this juncture, Mayor Mike West informs me that the existing permit is for 360 gallons per minute only, and that the City will need to apply to increase to 1100 gallons per minute.

May I please inquire as to the appropriate procedure for application for such an increase. Do you have particular forms that you furnish or require? What documentation must accompany such application? Also, what is or would be the usual time frame from time of application to grant or denial of the request?

I'd like to thank you in advance for any assistance you can give me in this regard. Probably I could sit down and spend a couple of hours in the statutes and/or the regulations and have an answer, but I suspect you know these right off the top of your head, dealing with them every day as you do, and seek only to save myself some time and my client some money by this request for information.

Thank you.

Sincerely yours,


Ralph A. Kemnitz

RAK/kw



Water Rights Division
605 773-3352

September 7, 1983

Ralph A. Kemnitz, Attorney
Box 489
Philip SD 57567

Dear Mr. Kemnitz:

This will acknowledge receipt of your letter requesting forms for additional diversion by the City of Philip from the City well located in NE $\frac{1}{4}$ Section 1, T1N, R20E. We have had several discussions with Kent Horne concerning his proposed operation in Philip. He indicated to us that his maximum usage from the well would be 550 gallons per minute. This would only be 190 gpm additional diversion on Permit No. 574-2. Unless the City has some additional needs we will not recommend approval of a permit application for an additional 740 gallons per minute. The new permit application will also carry the qualification that the flow from the well be reduced to a minimum when the well is not in use. I am enclosing the necessary forms to make application for additional diversion. The completed application must be in this office by October 11, 1983 to be considered at the November 30, December 1, 1983 Water Management Board meeting.

Please contact us, if you have additional questions.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division

JH:ks

enclosures

13A
Water Rights Division
605 773-3352

September 19, 1983

C.M. West, Mayor
City of Philip
PO Box 408
Philip SD 57567

Dear Mayor West:

The filing fee for the City of Philip's application for an additional diversion on Water Right No. 574-2 will be \$250.00. The fee must be received by October 10th so it can be advertised for the November 30th Water Management Board meeting.

Sincerely,

BETTY WESTLUND
Water Rights Specialist

BW:ks



1858-2

Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

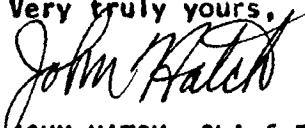
March 15, 1984

City of Philip
PO Box 408
Philip, SD 57567

Dear Sir:

Enclosed herewith is your Water Permit No. 1858-2 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 1858-2.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

WNR-809-5/83



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

May 21, 1986

NOTICE

C.M. West, Mayor
P.O. Box 408
City of Philip
Philip SD 57567

RE: Flowing well located near Lake Waggoner in NE 1/4 SW 1/4
NE 1/4 Section 1, T1N, R20E

Dear Mr. West:

During a routine field investigation, Water Rights Division engineers stopped at Waggoner Lake to check the Madison formation well located just to the west of the lake. They noted that the well was flowing approximately 300 gallons per minute and that the lake was full and water was running over the spillway.

Water Permit No. 1858-2, City of Philip, has the following qualification attached to it:

"The well approved under this permit shall be
valved and the flow reduced to a minimum when
not being used."

By allowing the well to flow without use, the City is in violation of Water Permit No. 1858-2 and State Law.

SDCL 46-6-10 and 46-6-20 authorize the Water Management Board to regulate well construction to prevent the waste of water. SDCL 46-6-14 and 46-6-21 prohibit the waste of water from a flowing artesian well.

The Madison formation well is capable of being shut down and the flow of water controlled to what is actually needed. Therefore, pursuant to SDCL 46-2-18, the City of Philip is ordered to shut down the flow of the well within 60 days.

If you have any questions please contact us.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

John Hatch, Chief Engineer
Water Rights Division

cc: Thomas Barnett Jr. City Attorney
Rhonda Coyle, City Finance Officer
Edward Hansen, Water Superintendent

CERTIFICATION

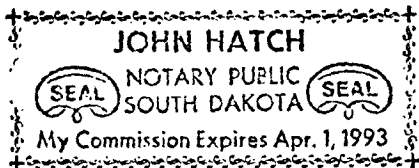
I hereby certify that on May 21, 1986, I have personally deposited with the U.S. Mail postage prepaid envelopes containing a NOTICE concerning a flowing well near Lake Waggoner addressed as shown on the notice, with the carbon copies sent to the same address.

Karen Schlaack

KAREN SCHLAAK
Administrative Aide

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 21st day of May, 1986.



John Gates
Notary Public

MEMORANDUM

TO: City of Philip Water Right Files No. 574-2 and 1858-2
FROM: John Hatch *John Hatch*
SUBJECT: Results of Meeting November 20, 1986

John Smith, Secretary, DWNR, and John Hatch, Chief Engineer, Water Rights Division, DWNR, met in Philip November 20, 1986 with Kent Horne of Horne Farms, Art Kroetch, Mike West, Mayor and representatives of the City Council and County Commission. The purpose of the meeting was to discuss the water requirements for Horne Farms and the City of Philip's Water Rights for a flowing Madison Formation Well.

The City holds Water Rights No. 574-2 (0.8 cfs) and 1858-2 (0.42 cfs), a total of 1.22 cfs (550 gpm) for the Madison well. The City has an August 1, 1983 agreement to supply Horne Farms up to 500 gpm for heating purposes. After August 1983, Horne Farms also began to use a portion of the water for watering plants in its greenhouse. The minimum temperature required within the greenhouse is about 65°F. If the temperature drops below 55°F, the tomato plants go dormant and will not produce additional tomatoes. During the past two years, there has only been 15-20 days each year when heat was not required.

It was agreed at the meeting that DWNR will not require the City to reduce the flow of the well below the 300-500 gpm flow at which the City operates the well. The agreement remains in effect unless DWNR receives complaints that flows are exceeding 550 gpm or the Horne Farms operation changes.

The City of Philip is limited by its water rights to a maximum flow of 550 gpm. Flows above 550 gpm will require a new water permit application.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

December 1, 1986

Kent Horne
Horne Farms, Ltd
Philip SD 57567

Dear Kent:

I am writing to follow up on our meeting in Philip November 20, 1986. Enclosed is a copy of a Memorandum concerning the Madison Formation flowing well that we have placed in the City of Philip Water Rights Files. I believe our meeting in Philip and this file Memorandum will help to prevent future misunderstandings.

Please let me know if I may be of assistance in the future.

Sincerely,

JOHN J SMITH, Secretary
Department of Water and Natural Resources
605 773-3151

cc: Mike West, Mayor
Rhonda Coyle, Finance Officer

Permit No. **1858-2**
Bad River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, **March 25, 1996**, made a thorough examination of the water use system constructed by **the City of Philip of PO Box 408, Philip SD 57567** holder of Permit No. **1858-2**, bearing the priority of **September 15, 1983** authorizing the diversion of **0.42** cu. ft. per second of the waters of **groundwater** for **geothermal and municipal** purposes, in **Haakon** County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

A Madison Aquifer well 4010 feet deep flowing at a restricted rate of 550 gallons per minute with 50-60 psi pressure

B. Works used to transport water to place of use:

Well water flows to a). the water treatment plant building through 123 feet of 6" diameter asbestos cement pipe; and/or b). to the Haakkon County Shop through approximately 300 feet of 2" diameter PVC pipe; and/or c). to a greenhouse through 630 feet of 6" diameter PVC pipe; and/or d). to a cooling pond through approximately 150 feet of 6" diameter PVC pipe; and/or e). to a municipal golf course or to Grindstone Creek through approximately 800 feet of 6" diameter PVC pipe. Return water from treatment plant and from the greenhouse can be transported to the cooling pond through approximately 750 feet of 6" diameter PVC pipe or to the golf course or Grindstone Creek through the pipe described above (see e). Return water from the county shop is transported to the cooling pond through approximately 300 feet of 2" diameter PVC pipe. Overflow Water from the cooling pond is transported to Waggoner Lake through approximately 100 feet of 6" diameter PVC pipe.

C. Works used to apply water to beneficial use:

Well water flows through heat exchangers and is used to heat the Water Treatment Plant, the Greenhouse and the Haakon County Shop. Water from the cooling pond overflows to Lake Waggoner to stabilize the lake level. Discharge from the well is allowed to flow down Grindstone Creek where it is used for livestock water. Water is also used to maintain two ponds which are used as sources to irrigate the municipal golf course. Well water is also used at a commercial fish farm operation housed in the greenhouse.

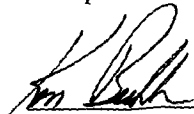
The system is in the following condition **good**. The point of diversion is located **2630' south and 1650' west of the NE corner of Sec. 1, T1N-R20E.** The works are capable of diverting and conveying to the place of use **3.34** cu. ft. per second of water which is to be used for **geothermal and municipal use**. Water has been put to beneficial use to the maximum extent as follows:

geothermal heat source for 3 buildings and a municipal water supply.

the license should be issued for **0.42** cfs.

Applicable permit qualifications have been complied with: **yes**

Exceptions to compliance are: **NA**



Ken Buhler

Natural Resources Engineer
DENR, Water Rights Program

4/9/96

Date

REPORT ON INSPECTION OF PERMIT NO. 1858-2

Other permit(s) associated with the project: 574-2

NAME & ADDRESS OF INSPECTION CONTACT Tom Lesselyoung, City of Phillip, PO Box 408,
Philip SD, 57567 (605) 859-2175

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: City Water Superintendent

NAME & ADDRESS OF PERMIT HOLDER: City of Philip, PO Box 408, Philip SD, 57567

DATE OF INSPECTION: March 25, 1996

DIVERSION POINT LEGAL LOCATION: 2630'S and 1650'W of the NE corner of Sec. 1, T1N-R20E,
(SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 1, T1N-R20E)

WELL INFORMATION:

- 1) Well Drilling Firm: United Exploration Corporation
- 2) No. of Wells one
- 3) Depth(s) 4010 feet
- 4) Well log is available (see Water Right 574-2)

Casing:

- | | |
|--|--|
| 1) Diameter <u>9 5/8"</u> inches | 1) Diameter <u>7</u> inches |
| 2) Length <u>400</u> feet <u>(from 0-400')</u> | 2) Length <u>3375</u> feet <u>(from 400-3775')</u> |
| 3) Type <u>steel</u> | 3) Type <u>steel</u> |

Screen:

- 1) Type Stainless Steel
- 2) Length 231 feet
- 3) Static water level 120+ psi

Pump:

- 1) N/A (Well is a flowing artesian well)

DISTRIBUTION LINES OR CANALS:

Water from the well flows to the water treatment plant, and/or the Haakkon County Shop, and/or a greenhouse where it is used for heating the buildings. Return water from the buildings can be discharged to a cooling pond, to ponds(2) on the golf course, or to Grindstone Creek below Waggoner Lake spillway. Water from the well can also flow directly to the cooling pond. Overflow from the cooling pond goes to Waggoner Lake where it is blended and used for municipal use. Water from the well can also be diverted directly to Grindstone Creek below Waggoner Lake Spillway

- A) 1) Type asbestos cement 2) Size 6 inches 3) Length 123 feet (from well to Plant)
- B) 1) Type PVC 2) Size 6 inches 3) Length 630 feet (from well to greenhouse)
- C) 1) Type PVC 2) Size 6 inches 3) Length approx. 750 feet(return line from greenhouse to cooling pond)
- D) 1) Type PVC 2) Size 6 inches 3) Length approx.100 feet (overflow from cooling pond to dam)
- E) 1) Type PVC 2) Size 6 inches 3) Length approx. 800 feet (to golf course or to bypass to below spillway)
- F) 1) Type PVC 2) Size 2 inches 3) Length approx. 300 feet (to Haakon County Shop)
- G) 1) Type PVC 2) Size 2 inches 3) Length approx. 300 feet (return line from County Shop to cooling pond)
- H) 1) Type PVC 2) Size 6 inches 3) Length 150 feet (from well to cooling pond)

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period na



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

April 30, 1996

1858-2

Kay Reckling, Finance Officer
City of Philip
P.O. Box 408
Philip, SD 57567-0408

Dear Ms. Reckling:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 1858-2, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

JUL 2 1996

1858-2

Kay Reckling, Finance Officer
City of Philip
P.O. Box 408
Philip, SD 57567-0408

Dear Ms. Reckling:

Enclosed is Water License No. 1858-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 414952 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 1858-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

gm
enclosures

STATE OF SOUTH DAKOTA

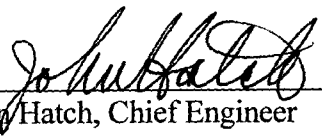
WATER LICENSE NO. 1858-2

(1) The City of Philip of PO Box 408, Philip, SD 57567-0408 made Application No. 1858-2, September 15, 1983 for a water permit to appropriate 0.42 cubic feet of water per second from ground water (one existing well), Haakon County, South Dakota for geothermal and municipal purposes. Permit No. 1858-2, with a priority date of September 15, 1983 was approved February 15, 1984 and issued to the city for diversion of water with construction of the described water supply system to be completed on or before February 15, 1989 and for the application to beneficial use of said water on or before February 15, 1993.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.42 cubic feet of water per second for beneficial use. The location of the diversion point is 2630 feet south and 1650 feet west of the NE corner of Section 1, T1N, R20E (SW 1/4 NE 1/4).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

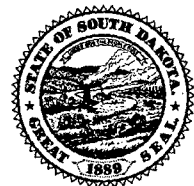
(4) Pursuant to South Dakota Water Law 46-5-30.1 the City of Philip of PO Box 408, Philip, SD 57567-0408 the holder and/or owner of Water Permit No. 1858-2 is issued a license to appropriate water, the right to use 0.42 cubic feet of water per second from ground water (one well) with a priority date of September 15, 1983 from the location specified in (2) of this license, for geothermal and municipal purposes. This license is subject to any limitations or qualifications listed in Water Permit No. 1858-2 and subject to South Dakota State Law.



John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 2 1996

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 24, 2001

Les Wintrode
PO Box 408
Philip SD 57567

Dear Mr. Wintrode:

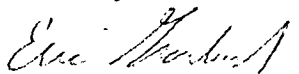
I am writing as a follow-up to your telephone conversation with Garland Erbele regarding the City of Philip's municipal water rights. You indicated a desire to apply for an increase in the authorized diversion rate. Enclosed is a form and instruction sheet for applying to increase the diversion rate.

I conducted a review of the City of Philip's water rights. The city holds Water Right Nos. 574-2 and 1858-2 appropriating a total 1.22 cubic feet of water per second (550 gallons per minute) from the well in question. A copy of these two water rights is enclosed. These water rights are for municipal use from the well. I was unable to find an actual water right for physical diversion of water from Waggoner Lake. However, the historic practice has been for water from the well to be discharged to the lake and then diversions of water taken from the lake to meet municipal use demands. The Dept. of Game, Fish and Parks does hold a recognized vested water right for Waggoner Lake.

I know that in your discussion with Garland you indicated that one of Philip's water rights specifically states a diversion from Waggoner Lake. For some reason my search did not find this water right. Please contact me with the permit number of this water right to divert from the lake.

If you have any questions about the city's current water rights or require assistance in completing the application forms, please feel free to contact me.

Sincerely,


Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 26, 2004

Tom Lesselyoung
Public Works Director
City of Philip
PO Box 408
Philip SD 57567

Dear Mr. Lesselyoung:

You contacted me at the urging of the Drinking Water Program to discuss the city of Philip's water rights. The city of Philip is connected to the West River Lyman Jones rural water system. You indicated that city no longer intends to divert from Lake Waggoner but does plan to use the well for geothermal heating, the fish farm and at the golf course.

The following summarizes the city of Philip's municipal water rights

- Water Right Nos. 574-2 and 1858-2, combined, appropriate 1.22 cubic feet of water per second (550 gpm) from the well.
- Vested Water Right No. 430-2 appropriates 0.43 cubic feet of water per second (193 gpm) from Grindstone Creek and Lake Waggoner.

The historic practice has been for water from the well to be discharged to the lake and then water was diverted from the lake to meet municipal use demands. After being used for geothermal heating, water from the well is returned to a cooling pond or two ponds on the golf course. Water from the well has also been diverted directly to Grindstone Creek below the lake to provide livestock water.

The city can continue to provide water under their water rights from the well for municipal uses such as providing geothermal heating, fish farming and use at the golf course. The well is to be valved and the flow reduced to the amount needed or to a minimum when not being used.

It is my understanding that the physical diversion of water from Lake Waggoner will no longer take place. If that is the case, Vested Water Right No. 430-2 should be cancelled since the diversion of water from the lake has been abandoned. Please let me know if you concur and I will schedule this water right for cancellation.

Finally, the Bad River Rural Water System also holds a water permit from Lake Waggoner. I understand that this system has been served by the city and is now also connected to the West River Lyman Jones system. You indicated that the city's diversion works to the lake have been severed. Logically, this would mean that the Bad River RWS's water permit is also likely subject to cancellation. I have been unable to reach the contact person for them to discuss this issue. Certainly you do not speak for them but I'd appreciate any knowledge you can provide regarding whether my understanding of the status of Bad River's water permit is correct.

Please feel free to contact me and we'll work to get the water rights to accurately reflect the water use taking place.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

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

574-2 + 1858-2

Gronlund, Eric

From: Gronlund, Eric
Sent: Friday, June 02, 2006 9:37 AM
To: 'jfhart@scotchman.com'
Subject: city of Philip / Min-Kota resolution regarding the well

Mayor Hart

I received a copy of your email which asked for DENR's input regarding the city of Philip's lease of the well to Min-kota. A proposed resolution accompanied your email.

As I understand the proposal, the city will retain ownership of the well and lease the well to Min-Kota for 99 years. I believe this constitutes an assignment of the water right to Min-Kota, therefore the water right should then be transferred to Min-Kota. They would then need to amend the water right for their intended commercial use and the other incidental uses (ie. domestic, irrigation).

As owner of the well, the city is responsible for the well should problems occur. This could include plugging in the event of a well failure. This would be costly and very likely exceed the amount of money accrued in the reserve account. Also does the fact that the city is responsible for well repairs and set up this reserve account somehow require the city to ensure a functioning well? This is likely a question for an attorney. Again, if the well fails the city could find itself responsible for providing water. Whether that would be drilling a new well or obtaining another water source.

When I met with representatives of Min-kota a few months back there was also discussion of them needing more water than the 550 gpm authorized by the existing water right. A new water right permit will need to be obtained for any diversion rate greater than 550 gpm.

Mayor Hart, I am not an attorney nor do I have any knowledge of the city's contract negotiations with Min-kota. I just want to make you aware of these potential issues so that the city is fully informed. DENR is supportive of the economic development potential this aquaculture project can bring to the city.

I tried contacting you through city hall so we could talk personally but since I'm unsure whether you got the message I am sending you this email. Please feel free to contact me so we can discuss this further.

Eric Gronlund
 Water Rights Program, DENR
 605 773-3352
eric.gronlund@state.sd.us

06/02/2006

Gronlund, Eric

From: Perkovich, Mike
Sent: Thursday, May 18, 2006 9:09 AM
To: Gronlund, Eric
Subject: FW: Help

Could this be a Water Rights issue? It's not a WRAP issue.

-----Original Message-----

From: Harding, Steve
Sent: Wednesday, May 17, 2006 4:48 PM
To: Perkovich, Mike
Subject: FW: Help

Mike, I received this e-mail. I am assuming you are the Mike he is referring to. If not, could you forward to whomever? This is a value added subfund project in our office, so I have forwarded it to the person responsible in our office. Thanks. STEve.

-----Original Message-----

From: John Hart [mailto:jfhart@scotchman.com]
Sent: Wednesday, May 17, 2006 1:49 PM
To: Harding, Steve
Cc: Monna Van Lint
Subject: Help

Hello Steve,

I need the help of GOED & DENR on a matter concerning the City of Philip. Min-Kota is a business that is proposing building a 6 million dollar plus factory in Philip that will raise and process tilapia fish. The main resource that Min-Kota requires is the hot artesian water from the City of Philip's well. To help with economic development, the City has offered to lease the well to Min-Kota for 99 years in the amount of \$ 600.00 per year. The monies received would be put into a restricted account to help defray maintenance on the well. There are other users/consumers around the well head that use the water for free right now. The City has contemplated entering into the 99 years lease with Min-Kota, while the other users/consumers would enter into a separate contract with Min-Kota at a yearly fee of \$ 600.00, again all monies being put into the restricted account.

I need to know what are your thoughts/concerns are? I also need DENR's input, so if you would forward this email to Mike I would appreciate it.

Here is how resolution 2006-10 reads:

RESOLUTION #2006-10

INTENT TO LEASE PUBLIC PROPERTY

GEO-THERMAL HOT WATER WELL

WHEREAS, the City of Philip, South Dakota, owns a geo-thermal/artesian hot water well located near

05/18/2006

Lake Waggoner in Tract A, a portion of the SW¼NE¼, Section One, Township One North (T 1 N), Range Twenty (R 20); and,

WHEREAS, the City of Philip, South Dakota, intends to enter into a long-term, ninety-nine (99) year lease with Min-Kota Fisheries, Inc. for the purpose of insuring Min-Kota's proposed six million dollar (\$6,000,000) plus expansion plans that will have a very positive economic impact on the community and surrounding areas; and,

WHEREAS, the City's geo-thermal/artesian hot water well currently supplies the City of Philip- Lake Waggoner and City Water Plant Building, Haakon County, Karla Kroetch for Steve Kroetch, Lake Waggoner Golf Course, Gene and Sheryl Michaels and Min-Kota Fisheries, Inc.; and,

WHEREAS, the City's geo-thermal/artesian hot water well provides the above named users' with hot water for the purpose of heating, irrigation, recreation and/or livestock consumption purposes; and,

WHEREAS, Min-Kota Fisheries, Inc. will enter into a contractual agreement with all of the current well water users/consumers to insure and guarantee that they will also be provided their fair and equitable use of the geo-thermal/artesian well water; and,

WHEREAS, the City of Philip, South Dakota, will establish a depreciation reserve account for geo-thermal/artesian water well repairs and maintenance and collect an annual fee of not less than \$600.00 per contracted user via Min-Kota Fisheries, Inc. (an estimated \$3,600.00 per year); and,

WHEREAS, Min-Kota Fisheries, Inc., will in turn, collect an annual payment of \$600.00 from each entity named above with the exception of Haakon County, as Easement #97-254 was entered into on the 29th day of December 1983 for the land that encompasses the well and exempts them from fees; and,

WHEREAS, the City of Philip, South Dakota, will maintain ownership and water rights under water license #574-2 (0.8 cfs) and #1858-2 (0.42 cfs) with a total appropriation of 1.22 cfs (550 gpm) to the geo-thermal/artesian hot water well;

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Philip, South Dakota, that it is the City of Philip's intent, to assist in the promotion of economic development within the community and surrounding areas through Min-Kota Fisheries, Inc.'s proposed expansion, to enter into a ninety-nine (99) year lease for the use of the Geo-Thermal Hot Water Well and its water with Min-Kota Fisheries, Inc., and to insure the existing users will also be provided their fair and equitable use of this natural resource.

Dated this 1st day of May 2006.

/s/John F. Hart, Mayor

Thank you very much.

John F. Hart
Mayor
City of Philip

05/18/2006