

WATER PERMIT NO. 2419-2

Name of Applicant: Birdsall Sand & Gravel

Address: PO Box 767, Rapid City SD 57709

Phone: 605 394-7240

Amount of Water Claimed: 0.222 cfs (100 gpm)

Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: industrial use (sand & gravel wash) and livestock watering County: Stanley

Type of Waste Disposal System: NA

Location: 20 miles southeast of Ft. Pierre

PRIORITY Date Received: 2-1-1999

Fee: \$225.00

Corrected Application Received:

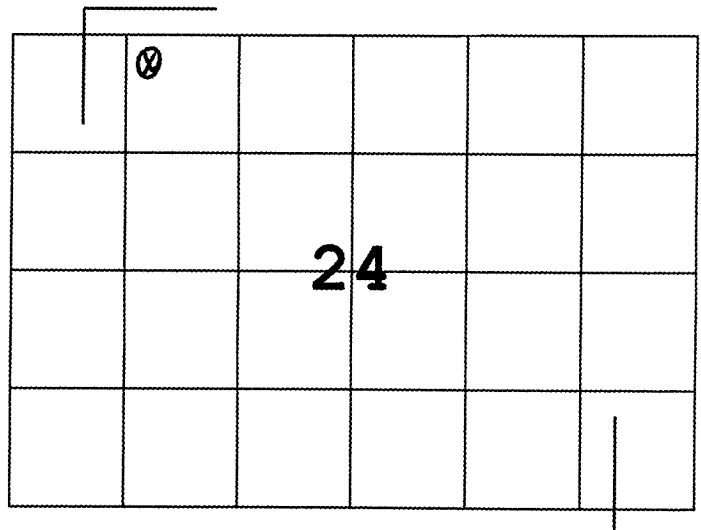
Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: NW ¼ NW ¼

Sec 24-T4N-R33E

Land to be Irrigated: NA



Depth of Well: approximately 1800 feet

Well Driller:

Remarks:

Type of Map: topo

Prepared by: Nathan A Barton, PE

Reviewed and the Number Assigned on: 2-2-1999

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2419-2**

Date of first receipt of application February 1, 1999.

The Water Management Board approved Water Permit Application No. 2419-2 on May 5, 1999 for Birdsall Sand & Gravel, c/o L.C. Mike Vidal, PO Box 767, Rapid City SD 57709 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. 2419-2 appropriates 0.222 cubic feet of water per second (100 gallons per minute) from one well (Inyan Kara Formation) approximately 1800 feet deep located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24-T4N-R33E.
2. The water appropriated shall be used for the purpose of supplying water for a sand and gravel wash operation and livestock and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is February 1, 1999.
5. One-fifth of the construction is to be completed on or before November 5, 2001.
6. All construction is to be completed on or before May 5, 2004.
7. Water is to be put to beneficial use on or before May 5, 2008.
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. 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.
2. The well authorized by Permit No. 2419-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.
3. The well approved under this Permit shall be valved and the flow reduced to the amount needed or to a minimum when not being used. If this well is abandoned or the Permit cancelled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.

WATER MANAGEMENT BOARD

By: _____

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

JUN 3 1999

date



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

(office use only)
No. 2419-2 Hydrologic Unit 10/40/01
Basin Missouri River
Newspaper Capital Journal, Pierre, SD



Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal	☐ Suburban Housing	☐ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☐ Fish & Wildlife	☐ Geothermal Heat
☐ Domestic (over 18 gpm)	☒ Industrial	☒ Other	<u>Agricultural</u>

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____

- Name of Applicant Birdsall Sand & Gravel, div. of Pete Lien & Sons Phone 605-394-7240
(check one) ☐ Owner ☒ Tenant/lessee
Mailing Address PO Box 767, Rapid City State SD, 57709
(Street, RR, or Box) (Zip Code)
- Amount of water claimed 0.222 *CFS or 100 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply groundwater (Inyan Kara aquifer)
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) well located in NW1/4 NW1/4 of
Section 24, T4N, R33E
County Stanley County
- County or counties where water will be used Stanley
- Annual period during which water is to be used year round Jan 1 - Dec 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Well to be constructed and used in new sand and gravel pit. Water will be used for washing of sand and gravel and re-circulated through a series of settling ponds. Secondary use of water is to provide water for stock grazing year round.

STATE OF SOUTH DAKOTA) SS
County of Pennington)

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

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

Signed BY: BIRDSALL SAND & GRAVEL
[Signature]

Subscribed and sworn to before me this 29th day of January 19 99

[Signature]
Notary Public

Supplemental Information

(type or print in ink)

1) Well Information - Proposed Construction See attached water well completion report for nearby well

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material ~ 1700'
- f) Depth to Water (ground surface to water level) ~ 1800'
- g) Distance to nearest existing domestic well: _____ Property is being leased, nearest well under the same property ownership is approximately 1/3 mile.

On applicants property _____ On property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

3. Dugout Information

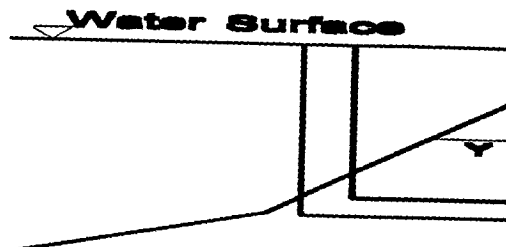
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

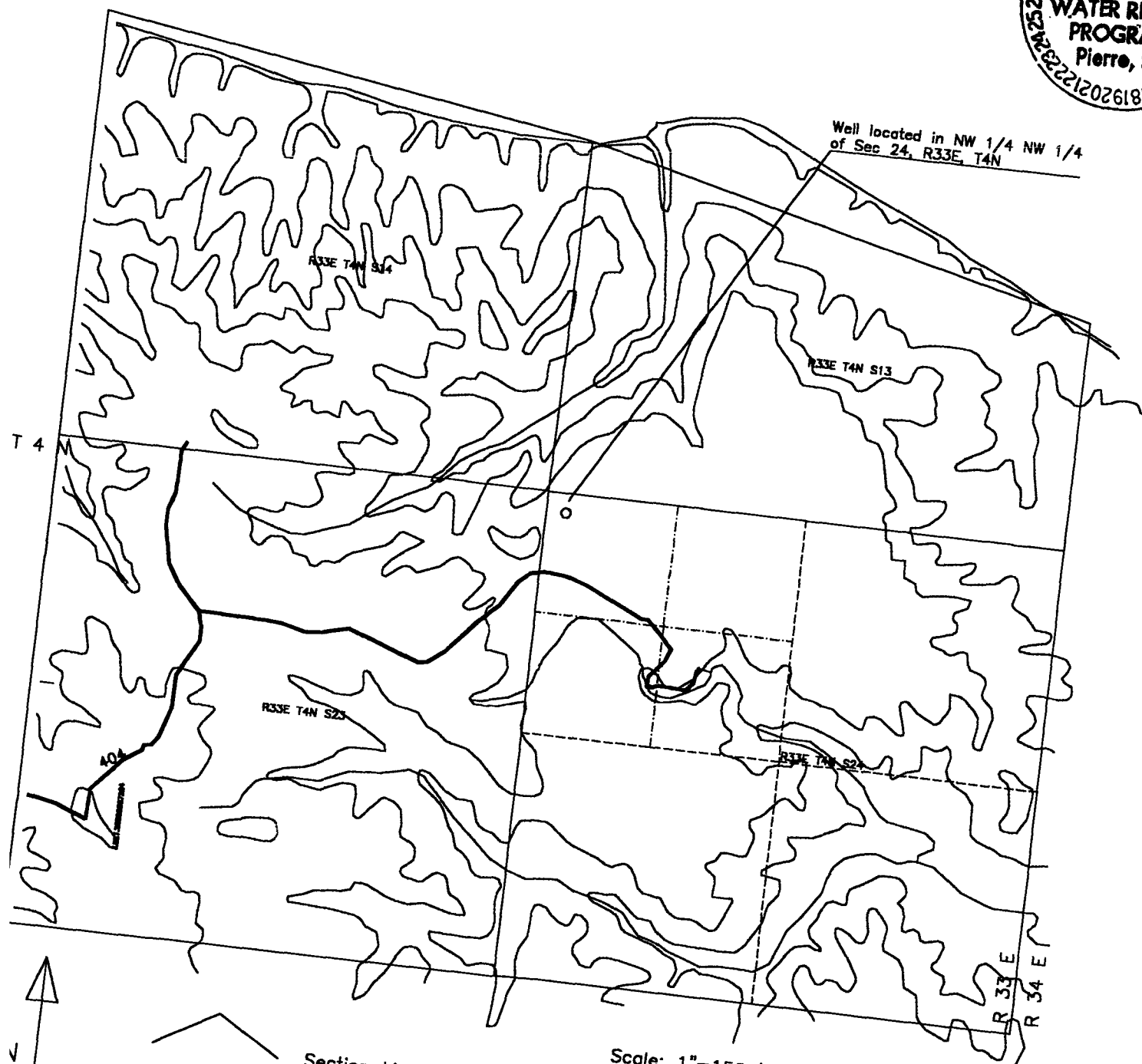
4. Water Storage Dams

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

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

- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres





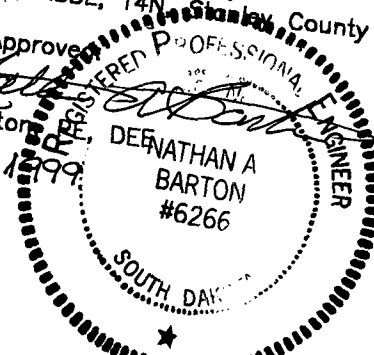
- Section Line
- Quarter Section
- Quarter Quarter
- Roads

Scale: 1"=1500'

Mahutga #1, Birdsall Sand & Gravel,
div of Pete Lien & Sons, Inc.
Well located in NW 1/4, NW 1/4
of Section 24, R33E, T4N, Stanley County

Review and Approve

Nathan A Barton, PE
Date: 28 JAN 1999



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N^o 416030

Pierre, February 1, 1999

RECEIVED OF Birúsalí Sand & Gravel, P.O. Box 767, Rapid City, sD 57709-0767
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. 2419-2 to Appropriate Water, to construct
and to put water to beneficial use _____

225 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. 2419-2 _____

50 00

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

275 00

By _____
Chief Engineer

John Hatch

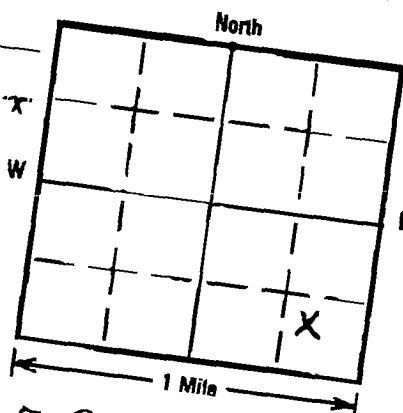
SOUTH DAKOTA WATER WELL COMPLETION REPORT

01

07-92

Location SE 1/4 SE 1/4 Sec 5 Twp 109 Rg 72-78County Hughes

Please mark well location with an "X"

Well Completion Date June 5 95Well Owner: Don Smith

Business Name:

Address: P.O. Box 486
Pierre S.D. 57501

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Yellow clay shale	0	41
Chalk shale	4	360
Green Horn shale	360	420
shale	420	1300
Hard sand shale Bed	1300	1340
monian	1340	1480
Good sand	1480	1572
streaked sand	1572	1700
	1700	1801
	1801	1820
	1820	1910

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? ft. from well in Bedrock (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

- ☒ Steel
☐ Plastic
☒ Other

If other describe 2 in Kopper

PIPEWEIGHT 15 LB/FT DIAMETER 5 IN FROM 0 FT TO 305 FT HOLE DIAMETER 7 1/2 IN
2 LB/FT 2 IN 0 FT 2010 FT 4 1/2 IN
 LB/FT IN FT FT IN

GROUTING DATA

Grout Type Cement No. of Sacks 50 Grout Weight lb./gal From 0 ft To 305 ft
 lb./gal ft

Describe grouting procedure

1 sack cement through 5 in from bottom to topSCREEN: ☒ Perforated pipe ☐ ManufacturedDiameter 2 IN Length 200 FEETMaterial type K copperSlot Size Set From 1810 Feet to 2010 Feet

Other information

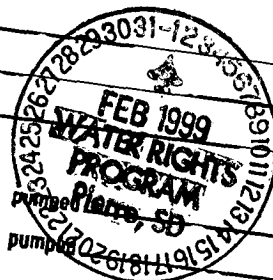
STATIC WATER LEVEL

If flowing: closed in pressure 150 +
 GPM flow 100 through 2 inch pi
 Controlled by ☒ Valve ☐ Reducers ☐ Other
 Reduced Flowrate GPM
 Can well be completely shut in? yes

WELL TEST DATA:

☐ Pumped
☐ Bailed
☐ Other
 Describe:
 Pumping Level Below Land Surface ft. After Hrs. pumped GPM
 ft. After Hrs. pumped GPM
 If pump installed, pump rate GPM

REMARKS



SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

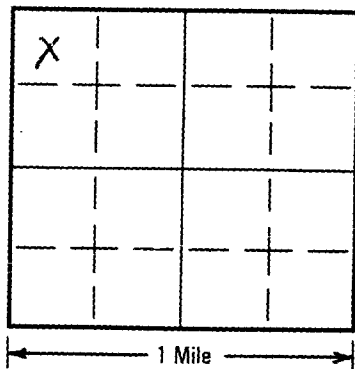
Location NW 1/4 NW 1/4 Sec 24 Twp 4N Rg 33ECounty Stanley

North

W

E

Please mark well location with an "X"



Well Completion Date

8/9/99

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? in field ft. from in field (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

RotaryCASING DATA: ☒ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>15</u> LB/FT	<u>5</u> IN	<u>0</u> FT	<u>310</u> FT	<u>7 1/2</u> IN
<u>2 1/2</u> LB/FT	<u>2 1/2</u> IN	<u>0</u> FT	<u>1660</u> FT	<u>5</u> IN
<u>2</u> LB/FT	<u>2</u> IN	<u>1660</u> FT	<u>1880</u> FT	<u>4 1/2</u> IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>	<u>50</u>	lb./gal	<u>0</u> ft.	<u>310</u> ft.
<u>Vol Clay</u>	<u>45</u>	lb./gal	<u>0</u> ft.	<u>1660</u> ft.

Describe grouting procedure chasingSCREEN: ☒ Perforated pipe ☐ ManufacturedDiameter 2 IN Length 220 FEETMaterial Type K CopperSlot Size 3/32 Set From 1660 Feet to 1880 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☒ YES ☐ NOIf so, what material? RubberDescribe packer(s) and location? chasing @ 1660

DISINFECTION: Was well disinfected upon completion?

____ YES, How: _____

____ NO, Why Not? _____

Laboratory sent to for water quality analysis _____

 Well Owner: Tribe Vinton & Birdsell Sand & Gravel
 Business Name: Birdsell Sand
 Address: 2900 West Chicago
Box 7107 Rapid City 57709

WELL LOG:

DEPTH

FORMATION

FROM

TO

<u>yellow sandy clay</u>	<u>0</u>	<u>90</u>
<u>blue clay</u>	<u>90</u>	<u>135</u>
<u>shale</u>	<u>135</u>	<u>960</u>
<u>greenhorn</u>	<u>960</u>	<u>990</u>
<u>shale</u>	<u>990</u>	<u>1280</u>
<u>Dakota</u>	<u>1280</u>	<u>1615</u>
<u>morison</u>	<u>1615</u>	<u>1710</u>
<u>sand / few shale Buckle</u>	<u>1710</u>	<u>1880</u>

STATIC WATER LEVEL _____ Feet

If flowing: closed in pressure 250 PSIGPM flow 200 through 2 1/2 inch pipeControlled by ☒ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? yes

WELL TEST DATA:

☐ Pumped

Describe: _____

☐ Bailed☐ Other _____

Pumping Level Below Land Surface

____ ft. After _____ Hrs. pumped _____ GPM

____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

This well was drilled under license # 440

And this report is true and accurate.

Drilling firm Bullman Well Drilling

Signature of License Representative:

R. E. Kuehl

Signature of Well Owner or Equitable Property Holder:

Mike Caldwell Gen MGRDate: 11/8/99

BIRDSALL SAND & GRAVEL

TELEPHONE: AC 605/394-7240
FAX 605/394-7246

BOX 767
RAPID CITY, SD 57709-0767
A DIVISION OF PETE LIEN & SONS, INC.

AGGREGATE PLANTS--
Oral, Wasta, Creston & Blunt

READY MIXED CONCRETE PLANTS--
Rapid City, Sturgis, Spearfish, & Lead, SD

CAMPBELL COUNTY CONCRETE--
Gillette, WY



January 27, 1999

Water Rights Program, SD DENR
Joe Foss Building
ATTN: Ron Duvall
523 E. Capitol
Pierre, SD 57501-3181

RE: Water rights application for new well

Dear Mr. Duvall,

Enclosed you will find a completed water rights application for the proposed well that we have spoken about. This well will be located in the NW ¼, NW ¼, Section 24, T4N, R33E of Stanley County. The well will be completed in the Inyan Kara aquifer at an approximate depth of 1800 feet. Because of the depth, no test hole has been dug but a completed water well completion form has been enclosed from a nearby well located in the SE ¼, SE ¼, Section 5, T109N, R77W. This well is located approximately 2 miles SW of the location of the new well. The completion of the new well is not expected to vary greatly from the enclosed completion report.

Birdsall Sand & Gravel will be completing this well on leased land from Mr. Mike Mahutga. Mr. Mahutga has given Birdsall Sand & Gravel permission to install the well. The primary use of the well will be for industrial use in conjunction with a new sand and gravel pit. The water will be used for washing of sand and gravel and dust suppression. The secondary use of the water will be for agricultural and stock watering by Mr. Mahutga.

I have also enclosed a check for \$275.00. This covers the appropriation fee of \$225.00 (as we wish to apply for a water consumption rate of 100 gpm) and the \$50.00 investigative fee as you requested.

If you have any questions please feel free to give me a call.

Sincerely,

Lecia Craft

Lecia Craft

Enclosures

CC: Mike Vidal
Craig Grotenhouse



REPORT ON WATER PERMIT APPLICATION NO. 2419-2
for Birdsall Sand and Gravel
February 24, 1999

Application No. 2419-2 proposes to appropriate 0.222 cfs (100 gpm) from one well approximately 1800 to 1900 feet deep located in the NW 1/4 NW 1/4 of Section 24, T4N-R33E in Stanley County. The water is for industrial use for a sand and gravel operation and for livestock water.

AQUIFER - INYAN KARA (INKR)

The Inyan Kara is composed of 180 feet of fine to medium grained sandstone, siltstone and shale (Hamilton, 1986). The aquifer is confined and under artesian conditions and will free flow at the land surface in this area. The Inyan Kara underlies 973,440 acres and contains an estimated 13.14 million acre feet of recoverable water in storage in Stanley County (Allen, 1984). The aquifer is areally extensive into all the counties surrounding Stanley but does "pinch out" in the subsurface to the east and southeast. Information from a nearby well (located about two miles southwest of this site) indicates the top of the Inyan Kara (Sundance) at about 1801 and extending to a total depth of 1910 feet below land surface. This well had a shut in pressure in excess of 150 psi and was capable of free flowing 100 gpm through a two inch diameter pipe.

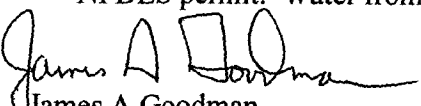
Very little historical water level information is available for the Inyan Kara (Sundance) for this part of South Dakota. Hamilton reports that the potentiometric surface of the Inyan Kara - Sundance aquifer probably has declined 150 to 300 feet since the development of these bedrock aquifers began in the 1880's (Hamilton, 1986).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other existing water permits/rights which obtain water from the Inyan Kara in this area. There is an existing domestic well located about two miles southwest of this application. Diversions from this application will affect water levels in the domestic well but this should not be adverse. Interference is not expected to be a concern.

CONCLUSIONS

1. Water is available from the Inyan Kara aquifer.
2. The aquifer is confined and under artesian conditions at this site. This well is expected to free flow at the land surface. This well must be controlled and maintained so that there is no waste of water.
3. Interference is not a concern. There is a domestic well completed into the Inyan Kara and located about two miles southwest which may be slightly affected. Drawdown created by allowing this permitted well to flow or to be pumped at the requested rate is not expected to significant at the distance between wells.
4. The well authorized by this application must be constructed in accordance with SD Well Construction Standards. For this well, the entire casing must be grouted in pursuant to 74:02:04:28. This well cannot be completed in accordance with 74:02:04:36 because this is an industrial use of water and doesn't fall under this standard.
5. Water will used to wash sand and gravel and will be reused. No discharge from this system can be allowed without a NPDES permit. Water from this well will also be used for livestock watering.


James A Goodman

Natural Resources Engineer

BIBLIOGRAPHY

Allen, J.C., D.L. Iles, A.K. Petres, 1984, Analysis of Groundwater and Streamflow Data Western Dakotas Region of South Dakota, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.

Hamilton, L.J., 1986, Water Resources of Hughes County, South Dakota, Water Resources Investigations Report 84-4195, USGS, Huron, SD, 57350.

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2419-2, Birdsall Sand & Gravel**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2419-2, Birdsall Sand & gravel, div. Of Pete Lien & Sons, c/o L. C. Mike Vidal, PO Box 767, Rapid City SD 57709.

The Chief Engineer is recommending APPROVAL of Application No. 2419-2 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) it is in the public interest with the following qualifications:

1. 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.
2. The well authorized by Permit No. 2419-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.
3. The well approved under this Permit shall be valved and the flow reduced to the amount needed or to a minimum when not being used. If this well is abandoned or the Permit cancelled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.

See report on application for additional information.



JOHN HATCH, Chief Engineer
March 9, 1999



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

March 10, 1999

Birdsall Sand & Gravel
Michael Vidal
P.O. Box 767
Rapid City, SD 57709

Dear Mr. Vidal:

Water Permit Application No. 2419-2 for industrial use (sand & gravel wash), and livestock watering has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Capital Journal printed at Pierre, SD (Ph # (605) 224-7301). For your information, a copy of the notice, the recommendation of the Chief Engineer and a 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 of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

March 10, 1999

Capital Journal
P.O. Box 878
Pierre, SD 57501-0878

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 2419-2 to Appropriate Water to be published twice. Please publish the first notice on March 17, 1999, with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Birdsall Sand & Gravel, Michael Vidal, P.O. Box 767, Rapid City, SD 57709 (Ph # (605) 394-7240).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CU T HERE-----

No. 2419-2

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of March 10, 1999, enclosing Notice of Hearing to Appropriate Water by Application No. 2419-2 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Notice to Newspaper - Publish first Notice on March 17, 1999, with the second publication 7 days later.
The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2419-2 to Appropriate Water

Notice is given that Birdsall Sand & Gravel, Michael Vidal, PO Box 767, Rapid City SD 57709 has filed an application for a water permit to appropriate 0.222 cubic feet of water per second (100 gallons per minute) from one well (Inyan Kara Formation) approximately 1800 feet deep located in the NW ¼ NW ¼ Section 24-T4N-R33E. The water is for industrial use in a sand and gravel wash operation and for livestock water.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2419-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. 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 the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 5, 1999.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hughes) SS

I, Peggy Warner

certify that the attached printed Notice was taken

from the Capital Journal

printed and published in Pierre

County of Hughes and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

March 17, 1999

March 24, 1999

Cost of Printing \$37.96

Peggy Warner
(Signature)

legal representative
(Title)

March 25, 1999
(Date Signed)



NOTICE OF APPLICATION to Appropriate Water

Notice is given that Birdsall Sand & Gravel, Michael Vidal, P.O. Box 767, Rapid City, SD 57709, has filed an application for a water permit to appropriate 0.222 cubic feet of water per second (100 gallons per minute) from one well (Inyan Kara Formation) approximately 1800 feet deep located in the NW 1/4NW 1/4 Section 24-T4N-R33E. The water is for industrial use in a sand and gravel wash operation and for livestock water.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2419-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. 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 the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 5, 1999.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application.

Nettie H. Myers, Secretary
Department of Environment
and Natural Resources

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 2419-2, Birdsall Sand & Gravel

APPLICANT

L. C. Michael Vidal
Birdsall Sand & Gravel
P. O. Box 767
Rapid City SD 57709

PETITIONER

Don Smith
P. O. Box 486
Pierre SD 57501

BIRDSALL SAND & GRAVEL

TELEPHONE: AC 605/394-7240
FAX 605/394-7246

BOX 767
RAPID CITY, SD 57709-0767
A DIVISION OF PETE LIEN & SONS, INC.

AGGREGATE PLANTS—
Oral, Wasta, Creston & Blunt

READY MIXED CONCRETE PLANTS—
Rapid City, Sturgis, Spearfish, & Lead, SD

CAMPBELL COUNTY CONCRETE—
Gillette, WY



March 26, 1999

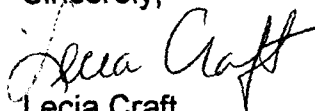
Department of Environmental and Natural Resources
Water Rights Program, Eric Gronlund
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

RE: Affidavit of notice publication, Water Permit Application No 2419-2

Dear Mr. Gronlund,

Enclosed you will find copies of the affidavit of publication furnished to us from the Pierre Capital Journal, in regards to our water permit application No 2419-2. Would you please advise us as the next steps in the application procedure once you have received this.

Sincerely,



Lecia Craft
Environmental Engineer

Enclosures



Water Rights Program
Chief Engineer
Foss Building
523 E. Capitol
Pierre, SD 57501



Attention: Chief Engineer
Application No 2419-2 to Appropriate Water

I am writing in regard to the above listed "Notice of Application to Appropriate Water" by Birdsall Sand and Gravel in our immediate area. We strongly suggest strict controls on water usage and flow. I live about 1 mile from this proposed well. The aquifer in this proposal is to me and my neighbors, vitally important to our livelihood.

We desperately need our wells, with the present gallons-per-minute and the pressure we now have, to remain the same for our domestic/livestock use. Their industrial use, without strict control will definitely affect our water supply and pressure.

My concern is the size of their well and the fact that it will flow 365 days a year, even though their mining will be much less. Historically, Mr. Mahutga's ranch runs 50 cows year round which presently is watered by natural springs. His livestock operation is not large enough to be concerned with the issues that will threaten the surrounding ranching operations such as ours.

Thank you for your consideration in this matter.

Sincerely,

Don L. Smith

cc: Birdsall Sand & Gravel
Attn: Michael Vidal
P.O. Box 767
Rapid City, SD 57709



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 1, 1999

NOTICE

TO: L. C. Michael Vidal
Birdsall Sand & Gravel
P.O. Box 767
Rapid City SD 57709

Don L. Smith
P. O. Box 486
Pierre SD 57501

FROM: John Hatch, Chief Engineer
Water Rights Program
605 773-3352

SUBJECT: Notice of Hearing on Contested Water Permit Application No. 2419-2, Birdsall Sand & Gravel

A petition to Application No. 2419-2 has been filed in response to the Notice of Application to appropriate water published March 17 and 24, 1999, in the Capital Journal. The petition was filed by Don L. Smith.

As specified in the publication notice, Application No. 2419-2 proposes to appropriate 0.222 cubic feet of water per second (100 gallons per minute) from one well (Inyan Kara Formation) approximately 1800 feet deep located in the NW ¼ NW ¼ Section 24-T4N-R33E. The water is for industrial use in a sand and gravel wash operation and for livestock water.

The Water Management Board will conduct a hearing to consider Application No. 2419-2 at 1:30 pm, on May 5, 1999, in the conference room, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The agenda time is an estimate and may be delayed due to prior agenda items.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2419-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on evidence and record of the public hearing.

The May 5, 1999, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by April 26, 1999.

This hearing is an adversary proceeding. Any party of record and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Notice is further given to persons with disabilities that this hearing is being held in a physically accessible place and that interpreter services will be provided, upon request, during the hearing. Please notify Eric Gronlund at (605) 773-3352 by May 5, 1999, if you have special needs for which the department will make arrangements.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-23; 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

C: Diane Best, Assistant Attorney General
Lecia Craft, Environmental Engineer, Birdsall Sand & Gravel

CERTIFICATION

I hereby certify that on April 1, 1999, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 1, 1999, regarding Notice of Hearing on Contested Water Permit Application No. 2419-2, Birdsall Sand & Gravel, addressed as stated below:

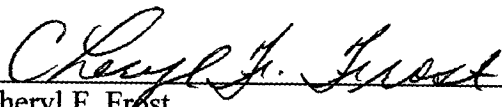
L. C. Michael Vidal, Birdsall Sand & Gravel, P.O. Box 767, Rapid City, SD 57709.

Don L. Smith, P.O. Box 486, Pierre, SD 57501.

Lecia Craft, Environmental Engineer, Birdsall Sand & Gravel, P.O. Box 767, Rapid City, SD 57709.

A copy of the above described Notice was sent Inter-office to:

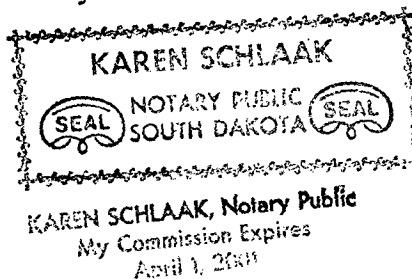
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 2nd day of April, 1999


Notary Public





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 6, 1999

Don L. Smith
P. O. Box 486
Pierre SD 57501

Dear Mr. Smith:

Please find enclosed a copy of the staff report and Chief Engineer's recommendation on Birdsall Sans and Gravel's Water Permit Application No. 2419-2. This is the application that you filed a letter expressing concern over the impact to area wells.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

April 7, 1999

Water Rights Program
John Hatch, Chief Engineer
Foss Building
523 E. Capitol
Pierre, SD 57501



RE: Application #2419-2 to Appropriate Water

Dear Mr. Hatch:

Your hearing date of May 5, 1999, is in conflict with a prior commitment that I have. Therefore, I will be unable to attend the meeting.

I want to clarify that I do not object to the well implementation but, my concern is at the point when Birdsall completes their mining operation, there should be a strict control of water flow thereafter.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in cursive script that reads "Don L. Smith".

Don L. Smith



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 12, 1999

Don L. Smith
P. O. Box 486
Pierre SD 57501

Dear Mr. Smith:

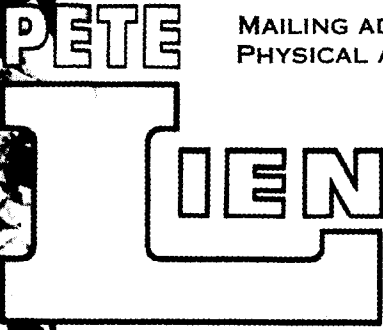
I am in receipt of your letter indicating you will be unable to attend the May 5th hearing on Birdsall Sand & Gravel's water right permit application in Stanley County. Your letter also states that you do not object to the well as long as it is properly controlled. By state law a water permit is limited to the quantity of water reasonably required and does not allow for the waste or unreasonable use of the water.

A copy of the report and recommendation prepared on this application was sent to you previously. Qualification No. 3 on the recommendation specifically requires Birdsall Sand & Gravel to construct the well with a valve and that the flow must be reduced to the amount needed. This means reducing the flow to a minimum when not being used in the sand and gravel operation or for livestock water.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

c: Lecia Craft, Birdsall Sand & Gravel, Box 767, Rapid City SD 57709-0767
Craig Grotenhouse, Pete Lien & Sons, PO Box 440, Rapid City SD 57709



MAILING ADDRESS: P.O. BOX 440 RAPID CITY, SD 57709-0440 PH. 605-342-7224
PHYSICAL ADDRESS: 3401 UNIVERSAL DR. RAPID CITY, SD 57702 FX. 605-342-6979

•PETE LIEN & SONS •BIRDSALL SAND & GRAVEL •COLORADO LIEN CO.
•DAKOTA BLOCK CO. •DAKOTA STEEL & SUPPLY •TRANS COLORADO CONCRETE

PETER C. LIEN
1898 - 1969 FOUNDER
CHAIRMAN - CEO
CHAIRMAN EMERITUS
1960 - 1969

BRUCE H. LIEN
FOUNDER
CHAIRMAN

CHARLES H. LIEN
FOUNDER
PRESIDENT EMERITUS
VICE PRESIDENT

PETER C. LIEN
PRESIDENT
C.O.O.

& Sons, Inc.

April 16, 1999

Mr. John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 577501



**Re: Application No. 2419-2
Birdsall Sand & Gravel
Our File #6-2-98-1A**

Dear Hatch:

Your office forwarded to me a copy of the letter of Don Smith dated April 7, 1999. In that letter Mr. Smith indicated a conflict with the May 5, 1999 hearing date and further that he does "... not object to the well implementation but, my concern is at the point when Birdsall completes their mining operation, there should be a strict control of water flow thereafter."

My purpose in writing is to clarify that I plan to attend the May 5, 1999 hearing unless the hearing is withdrawn and the permit is granted. Birdsall has no objections to the conditions suggested by the DENR.

Please advise on the status of the hearing.

Sincerely,

PETE LIEN & SONS, INC.

A handwritten signature in black ink, appearing to read "Craig D. Grotenhouse".

Craig D. Grotenhouse
General Counsel

CDG/arh

cc: Mr. Mike Vidal
Mr. Don Smith
Ms. Lecia Craft



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

JUN 3 1999

Birdsall Sand & Gravel
%L. C. Mike Vidal
P.O. Box 767
Rapid City, SD 57709

Dear Mr. Vidal:

Enclosed is Water Permit No. 2419-2 authorizing construction of your 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.

Very truly yours,

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

enclosures

BIRDSALL SAND & GRAVEL

TELEPHONE: AC 605/394-7240
FAX 605/394-7246

BOX 767
RAPID CITY, SD 57709-0767
A DIVISION OF PETE LIEN & SONS, INC.

AGGREGATE PLANTS--
Oral, Wasta, Creston & Blunt
READY MIXED CONCRETE PLANTS--
Rapid City, Sturgis, Spearfish, & Lead, SD
CAMPBELL COUNTY CONCRETE --
Gillette, WY



November 8, 1999

SD DENR
Water Rights Program
Eric Gronlund
523 East Capitol
Pierre SD 57501-3181

RE: Inspection of Water Permit No 2419-2

Dear Mr. Gronlund,

Attached is the completed Form 10 as the proposed well in the NW 1/4 NW 1/4 of Section 24, T4N-R33E, Stanley County has been completed. Mr. Mark Shultz of Birdsall Sand & Gravel would be available to accompany the DENR representative on the well inspection. Please contact Mr. Shultz to schedule a time for the inspection at one of the numbers below.

Blunt Sand Plant	605-875-3418
Red's Transit Mix	605-223-2536
Cellular Number	605-222-2797

I have also attached a copy of the South Dakota Water Well Completion Report completed by the well driller. Please note that the well owner and business name on the form is incorrect. The correct owner is Birdsall Sand & Gravel, a division of Pete Lien & Sons, Inc. The address is correct. Would you please make the corrections on the state's copy?

If you have any questions or require any additional information please feel free to contact me at 605-394-7228.

Sincerely,

Lecia Craft
Environmental Engineer
Pete Lien & Sons, Inc.

Attachments



H:\Engineering\SD\104-GWatMahutga\DENR completion rpt.doc

NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE



Date November 2, 1999

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

FROM: Birdsall Sand & Gravel PO Box 767
(name) (address)
Rapid City, SD 57709 605-394-7240
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 2419-2.

Water Permit No. 2419-2 states that the diversion system is to be constructed by May 5, 2004, and that the water is put to beneficial use by
(date)

May 5, 2004
(date)

The diversion system was completed on 8/9/99.
(date)

Applying the water to beneficial use was completed on 10/15/99.
(date)

You may schedule an investigation so that the Water License may be issued.

Lelia Craft, Environmental Engineer
(signature)
Pete Hen & Sons, Inc.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

October 17, 2000

2419-2

Michael Mahutga
4251 Red Rock Canyon Rd
Rapid City, SD 57702

Dear Mr. Mahutga:

This morning I received a "Notice of Transfer of Ownership" form and filing fee from Poches & Lee Law Firm in Ft. Pierre for transferring Water Right No. 2419-2.

The transfer form needs to be signed by you rather than by the old owner. I realize this is contrary to the way most legal forms are but in this case, we need the "new owner's" signature. I am enclosing a partially completed "Notice of Transfer of Ownership" form. Please review the form and make any necessary changes.

If the information contained on the form is correct, please sign it in the presence of a notary. The required filing fee has already been paid and no further fees are necessary.

I am enclosing a postage paid envelope for your convenience in returning the form. If I can answer any questions for you, please give me a call.

Thank you in advance for your help.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 2419-2

Date: 10-18-00



I/We request that Water Right No. 2419-2

formerly owned by: Birdsall Sand and Gravel

be transferred to: (name & address) Michael Mahutga, 4251 Red Rock Canyon Rd, Rapid City, SD 57702

Telephone No. 605 343-1989

Title to the following described land(s)/property has been transferred as described above:

diversion point location: NW 1/4 NW 1/4 Section 24, T4N, R33E

I/We understand that the validity of Water Right No. 2419-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

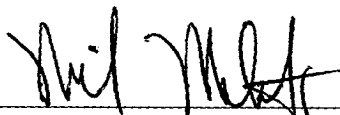
You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

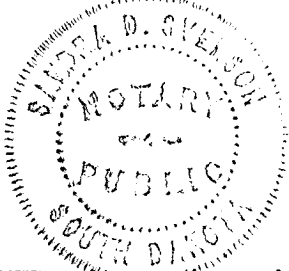
STATE OF SOUTH DAKOTA)

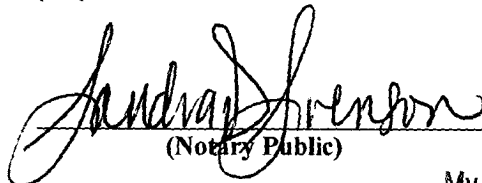
County of Pennington)

I/We MIKE MAHUTGA being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.


(Signed)

Subscribed and sworn to before me this 18th day of October, 2000.




(Notary Public)

My Commission Expires
November 24, 2005

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

P O C H E S & L E E , L L P

CHARLES POCHEs, JR.

Street address: 28 E. Main

Telephone: 605 223-2572

THOMAS E. LEE

Mailing address: PO Box 610
Fort Pierre

Fax: 605 223-9100

Attorneys and Counselors at Law

South Dakota 57532-0610

E-mail: tomlee@sdbar.org

October 16, 2000



Chief Engineer
Water Rights Program
SD Dept. of Environment & Natural Resources
523 E. Capitol Avenue
Pierre, SD 57501-3181

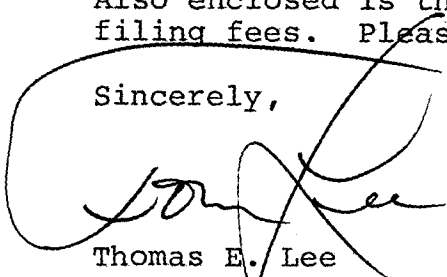
Re: Water permit/right No. 2419

Dear Sir or Madam:

Enclosed is a notice of transfer of ownership regarding the above permit executed by Birdsall Sand & Gravel in favor of my client, Michael Mahutga. Please note that Mr. Mahutga's address is now 4251 Red Rock Canyon Road, Rapid City, SD 57702.

Also enclosed is this office's check for \$2.50 to cover the filing fees. Please call if you have any questions.

Sincerely,


Thomas E. Lee

mm

Enc.

cc: Michael Mahutga

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N^o 416654

Pierre, October 17, 2000

RECEIVED OF Pooches & Lee, LLP, PO Box 610, Ft Pierre, SD 57532-0610
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct
and to put water to beneficial use _____

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 No. 2419-2

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By

Garland Erbele

Chief Engineer

GARLAND ERBELE

(Signature)



October 23, 2000

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

2419-2

Michael Mahutga
4251 Red Rock Canyon Rd
Rapid City, SD 57702

Dear Mr. Mahutga:

Thank you for following up on the transfer of ownership for Water Right No. 2419-2. The transfer has been completed and the water right formerly held by Birdsall Sand and Gravel, is now listed in your name.

I am forwarding the receipt for the filing fee to Thomas Lee with Poches & Lee Law Office.

If I can answer any questions for you, please give me a call.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

c: Thomas E Lee, Poches & Lee, LLP (w/receipt)



Permit No. 2419-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

Report Of Examination Of Works

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

On, **July 7, 2000**, I made a thorough examination of the water use system constructed by **Birdsall Sand and Gravel of Rapid City, SD** holder of Permit No. **2419-2**, bearing the priority date of **February 1, 1999** authorizing the diversion of **0.222 cu. ft. per second** of the waters of **one well for a sand and gravel wash operation and livestock watering purposes**, in **Stanley County**.

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

Works used to apply water to beneficial use:

One valved artesian well 1880' deep in the Inyan Kara Formation. Well pressure 250-300 psi.

The system is in the following condition: **Good**. The point of diversion is located in the **NW¼ NW¼ Section 24 T4N R33E (N44° 17' 50.4" W100° 06' 17.1")**. The works are capable of diverting and conveying to the place of use **0.222 cu. ft. per second** of water.

Donald E. Stroup
Donald E. Stroup
Natural Resources Engineer
DENR, Water Rights Program

7/13/00
Date

REPORT ON INSPECTION OF PERMIT NO. 2419-2

DATE OF INSPECTION: 7/7/2000

Other permit(s) associated with the project: **None**

Contact Person & Address: **Mark Shultz of Birdsall Sand & Gravel**

DIVERSION POINT LEGAL LOCATION: NW¼ NW¼ Section 24 T4N R33E (N44° 17' 50.4" W100° 06' 17.1")

WATER SUPPLY Source: **Artesian Well**

Well Information:

- | | |
|---|--------------------------------------|
| 1) Well Drilling Firm: Pullman Well Drilling | 2) No. of Wells: 1 |
| 3) Depth(s) feet: 1880 | 4) Well log is available: Yes |

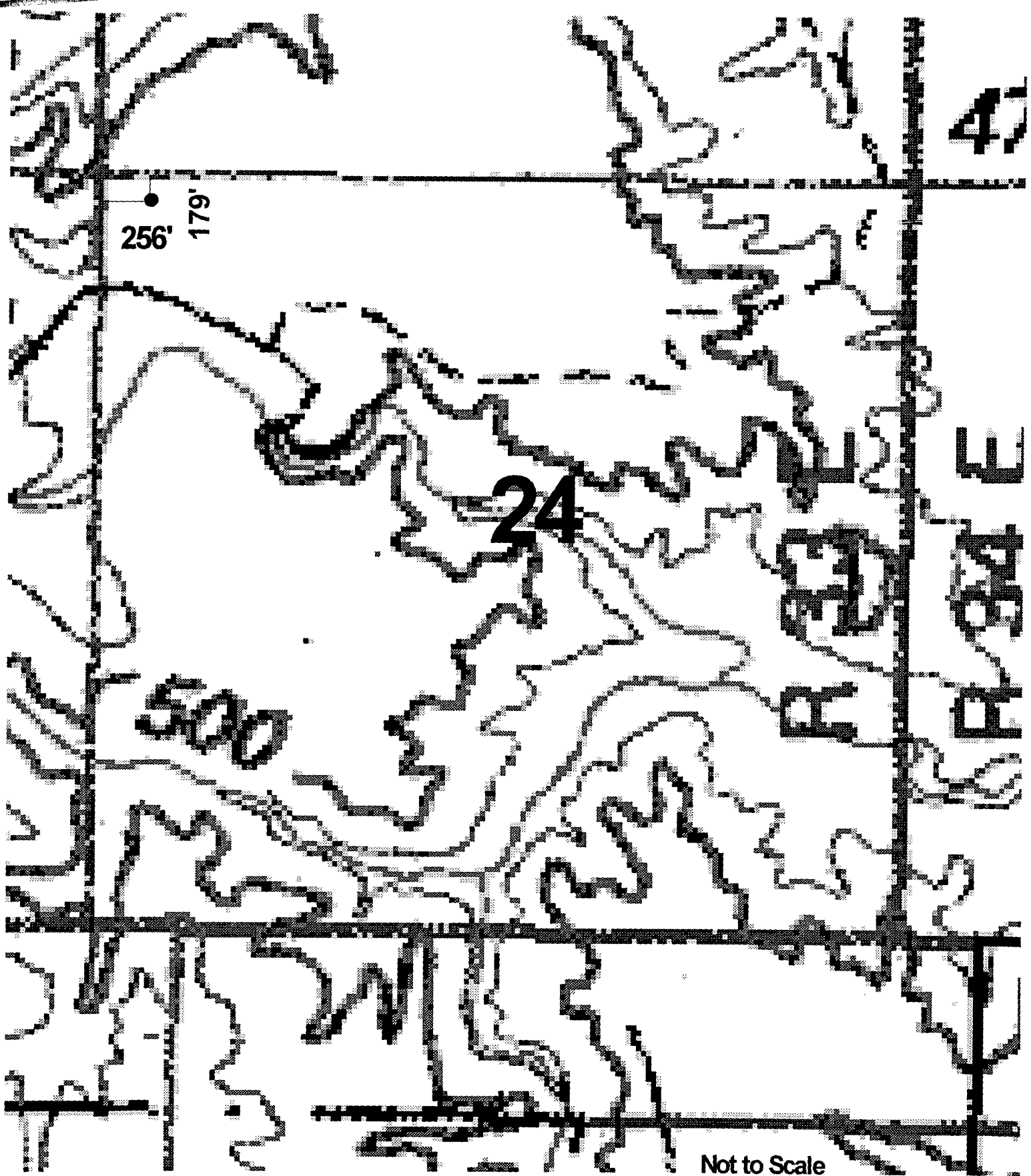
Casing:

Type: **Steel and Plastic**

Diameter & Length: **5 inch Dia. – 310 ft 2.5 inch Dia. – 1660 ft**

Screen:

- | | |
|--|----------------------------|
| 1) Type: Perforated Pipe | 2) Length: 220 feet |
| 3) Static water level: Flowing Artesian Well. 250-300 psi | |



Permit # 2419-2
NW1/4 NW1/4
Section 24 T4N R33E

Donald E. Stroup
Donald E. Stroup
DENR
Natural Resources Engineer

7/10/00
Date

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2419-2

(1) Birdsall Sand and Gravel made Application No. 2419-2, February 1, 1999 for a water permit to divert 0.222 cubic feet of water per second from ground water (one Inyan Kara Formation well), Stanley County, South Dakota for industrial and domestic purposes. Permit No. 2419-2, with a priority date of February 1, 1999 was approved May 5, 1999 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 5, 2004 and for the application to beneficial use of said water on or before May 5, 2008.

On November 10, 1999, the permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*". The "*Notice*" stated that the diversion system was completed on August 9, 1999 and the water placed to beneficial use of October 15, 1999.

(2) It is certified that the permit holder 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 0.222 cubic feet of water per second for beneficial use. The location of the diversion point is 179'S and 256'E of the NW corner of Section 24, T4N, R33E (NW ¼ NW ¼).

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

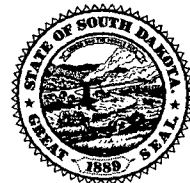
(4) Pursuant to South Dakota Water Law 46-5-30.1 Birdsall Sand and Gravel, PO Box 767, Rapid City, SD 57709-0767 the holder and/or owner of Water Right No. 2419-2 is issued a license to appropriate water, the right to use 0.222 cubic feet of water per second from ground water (one Inyan Kara Formation well) with a priority date of February 1, 1999 from the location specified in (2) of this license. The water is used for domestic use (livestock watering) and industrial use (sand and gravel washing operation). This license is subject to any limitations or qualifications listed in Water Right No. 2419-2 and subject to South Dakota State Law.



Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 02 2000

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 02 2000

2419-2

Birdsall Sand and Gravel
%L. C. Mike Vidal
P.O. Box 767
Rapid City, SD 57709-0767

Dear Mr. Vidal:

Enclosed is Water License No. 2419-2. This is the final water right document completing your process of obtaining a Water Right.

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. 2419-2, 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.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

gm
enclosures