

2572A-2

WATER PERMIT NO. 2800-2

Name of Applicant: Sheridan Lake Highlands Inc

Address: 23468 Dry Sage Ln, Rapid City SD 57702 Phone: 605 348-3817

Amount of Water Claimed: no add'l cfs Total Acres: NA

Source of Water Supply: groundwater (1 backup supply well)

Water to be used for: suburban housing development use County: Pennington

Type of Waste Disposal System:

Location: along Sheridan Lake Road approximate 6 miles southwest of Rapid City

PRIORITY Date Received: 5-14-19 Application/License Fee: \$ 300

Corrected Application Received:    Period of Annual Use: Jan 1 – Dec 31

Remarks: Backup supply well only

Diversion Point: N 1/2 NW 1/4 Sec 2-T1S-R6E

Land to be Irrigated: NA

Depth of Well: 500 feet deep

Well Driller:

Remarks:

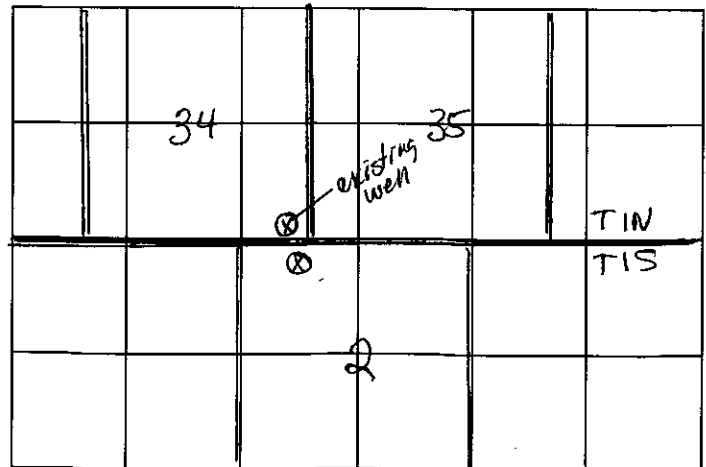
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 5-14-19

By: Karen Schlaak

Notice of Hearing - date to intervene: \_\_\_\_\_



RECEIVED

MAY 14 2019

PAID

MAY 14 2019

Ck# 94764

|                                                                                                         |                                     |                                                      |                         |
|---------------------------------------------------------------------------------------------------------|-------------------------------------|------------------------------------------------------|-------------------------|
| Mail to:<br><br>DENR - Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br>ph. (605) 773-3352 | No. <u>2572A-2</u>                  | (office use only)<br>Hydrologic Unit <u>10120109</u> | WATER RIGHTS<br>PROGRAM |
|                                                                                                         | Basin <u>Upper Cheyenne</u>         |                                                      |                         |
|                                                                                                         | Newspaper <u>Rapid City Journal</u> |                                                      |                         |
|                                                                                                         |                                     |                                                      |                         |

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

### Check use(s) of water:

|                                                            |                                                               |                                          |                                        |
|------------------------------------------------------------|---------------------------------------------------------------|------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Municipal                         | <input checked="" type="checkbox"/> Water Distribution System | <input type="checkbox"/> Recreational    | <input type="checkbox"/> Institutional |
| <input type="checkbox"/> Rural Water System                | <input type="checkbox"/> Commercial                           | <input type="checkbox"/> Fish & Wildlife | <input type="checkbox"/> Geothermal    |
| <input checked="" type="checkbox"/> Domestic (over 18 gpm) | <input type="checkbox"/> Industrial                           | <input type="checkbox"/> Other _____     |                                        |

### Type of Application: (check one)

|                                                                                                |                                                                  |                                                 |
|------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> New                                                                   | <input type="checkbox"/> Vested Right (Use predates Mar 2, 1955) | <input type="checkbox"/> Future Use Reservation |
| <input type="checkbox"/> Place to Beneficial Use Water Reserved by Future Use Permit No. _____ |                                                                  |                                                 |
| <input checked="" type="checkbox"/> Amendment/Correction to Permit No. <u>2572-2</u>           |                                                                  |                                                 |

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

Add diversion point for backup well and area of use

1. Name to Appear on Water Permit Sheridan Lake Highlands, Inc.

Mailing Address 23468 Dry Sage Ln. Rapid City SD 57702  
(Address) (City) (State) (Zip Code)

Phone (605) 348-3817 Mobile \_\_\_\_\_ Email iajzjvancas@gmail.com

2. Amount of water claimed .08 \*CFS or 35 \*\*GPM and \_\_\_\_\_ \*\*\*AF or \_\_\_\_\_ Gallons  
Flow rate and volume are both required. (\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply rock well

4. Location of point of diversion N1/2NW1/4 Section 2, T1S, R6E County Pennington  
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☒ Yes ☐ No

If "Yes," where will water be used? SE1/4SE1/4 Section 34; SW1/4SW1/4 Section 35 T1N R6E BHM;  
(example - NW1/4 section 12-T104N-R53W) N1/2NW1/4 Section 2, T1S, R6E

5. County or counties where water will be used Pennington

6. Annual period during which water is to be used January 1 - December 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Add backup well to water system and add to area of service N1/2NW1/4 Section 2 T1S R6E

I, [Signature] President, the applicant, certify under  
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

**Schlaak, Karen**

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**Subject:** FW: [EXT] Sheridan Lake Highlands

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**From:** Anna Applegate <aapplegate@gpna.com>  
**Sent:** Wednesday, June 10, 2020 10:07 AM  
**To:** Gronlund, Eric <Eric.Gronlund@state.sd.us>  
**Cc:** Matthew Naasz <mnaasz@gpna.com>; skykar78@gmail.com  
**Subject:** RE: [EXT] Sheridan Lake Highlands

Dear Eric,

Nathan Woods is now President and will be signing on behalf of Sheridan Lake Highlands, Inc. The address is:  
13479 Sienna Meadows Lane  
Rapid City, SD 57702

Thank you!



**Anna Applegate**

**Legal Assistant to Talbot J. Wieczorek and Matthew E. Naasz**

Phone: (605) 342-1078 | Fax: (605) 342-9503

506 Sixth Street | P.O. Box 8045 | Rapid City, SD 57709

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Gunderson | Palmer | Nelson | Ashmore | LLP • [www.gpna.com](http://www.gpna.com)

CONFIDENTIALITY NOTICE: This email is confidential or privileged. If you are not the intended recipient, you are hereby notified that any retention or distribution of this communication is strictly prohibited. Please reply to the sender that you have received this message in error, then delete this email.

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**From:** Gronlund, Eric <Eric.Gronlund@state.sd.us>  
**Sent:** Wednesday, June 10, 2020 7:24 AM  
**To:** Matthew Naasz <mnaasz@gpna.com>; Talbot J. Wieczorek <tjw@gpna.com>  
**Cc:** Schlaak, Karen <Karen.Schlaak@state.sd.us>  
**Subject:** Sheridan Lake Highlands

Matt / Talbot

DENR is issuing the Water Permit No. 2572A-2 to Sheridan Lake Highlands for the additional well. When the application was filed it was signed by Angela Vancas as President of the Association with an address of 23468 Dry Sage Lane, Rapid City SD. I believe at one time I heard that Ms. Vancas moved and was no longer the President. If that is true can you provide the current President and the proper address to use?

An electronic copy of the water permit will be sent to you once issued.

Thanks

*Eric Gronlund*

**SOUTH DAKOTA  
WATER PERMIT NO. 2572A-2**

Date of first receipt of application May 14, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2572A-2 to Sheridan Lake Highlands Inc., Nathan Woods, President, 13479 Sienna Meadows Lane, Rapid City SD 57702 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. 2572A-2 authorizes an additional diversion point for a backup well and clarifies area of use. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second from one well completed into the Precambrian Age Crystalline Rock Aquifer located in the SE 1/4 SE 1/4 Section 34-T1N-R6E for suburban housing development use. The permit holder is authorized to construct an additional well into the Precambrian Age Crystalline Rock Aquifer (approximately 500 feet deep) located in the N 1/2 NW 1/4 Section 2-T1S-R6E. This well will serve as a backup supply for the housing development located in the SE 1/4 SE 1/4 Section 34; SW 1/4 SW 1/4 Section 35; all in T1N-R6E and the N 1/2 NW 1/4 Section 2-T1S-R6E. This permit does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City.
2. The water appropriated shall be used for the purpose of water distribution system and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 2572A-2 is May 6, 2020.
5. The date from which applicant may claim right is November 23, 2005.
6. One-fifth of the construction is to be completed on or before November 6, 2022.
7. All construction is to be completed on or before May 6, 2025.
8. Water is to be put to beneficial use on or before May 6, 2029.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. The permit holder shall install a water meter on both wells and shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

**WATER MANAGEMENT BOARD**

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

JUN 10 2020

date



## Supplemental Information

(type or print)

**1. Well Information** (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)

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

b) If existing wells, how many \_\_\_\_\_ Provide copy of log(s), if available. Drilled by \_\_\_\_\_

For either Existing or Proposed Wells:

c) Well Depth (required) 500 Depth to Top of Water Bearing Material unknown Depth to Water from Surface unknown

d) Distance to nearest domestic well on applicant's property none Property owned by others 350 ft. estimated

**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 (e.g. 3 to 1 is a typical slope)

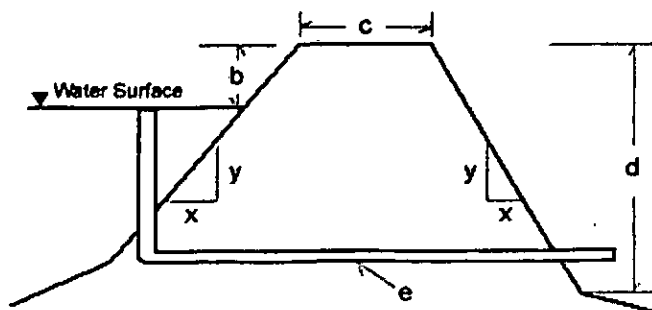
Upstream \_\_\_\_\_

Downstream \_\_\_\_\_

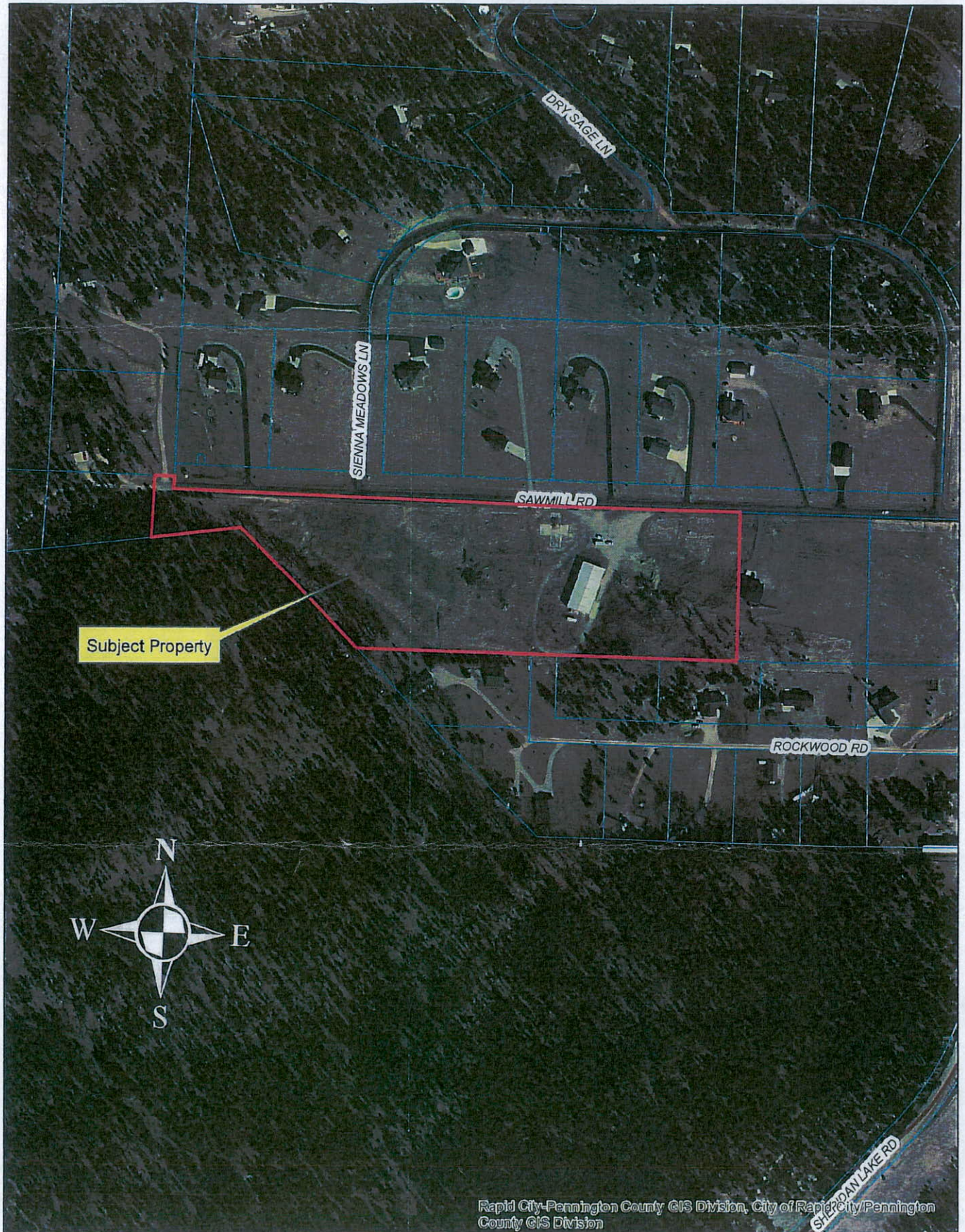
h) Surface Area of Impoundment \_\_\_\_\_

i) Storage \_\_\_\_\_ Acre Feet

j) Drainage Area Above Dam \_\_\_\_\_ Acres



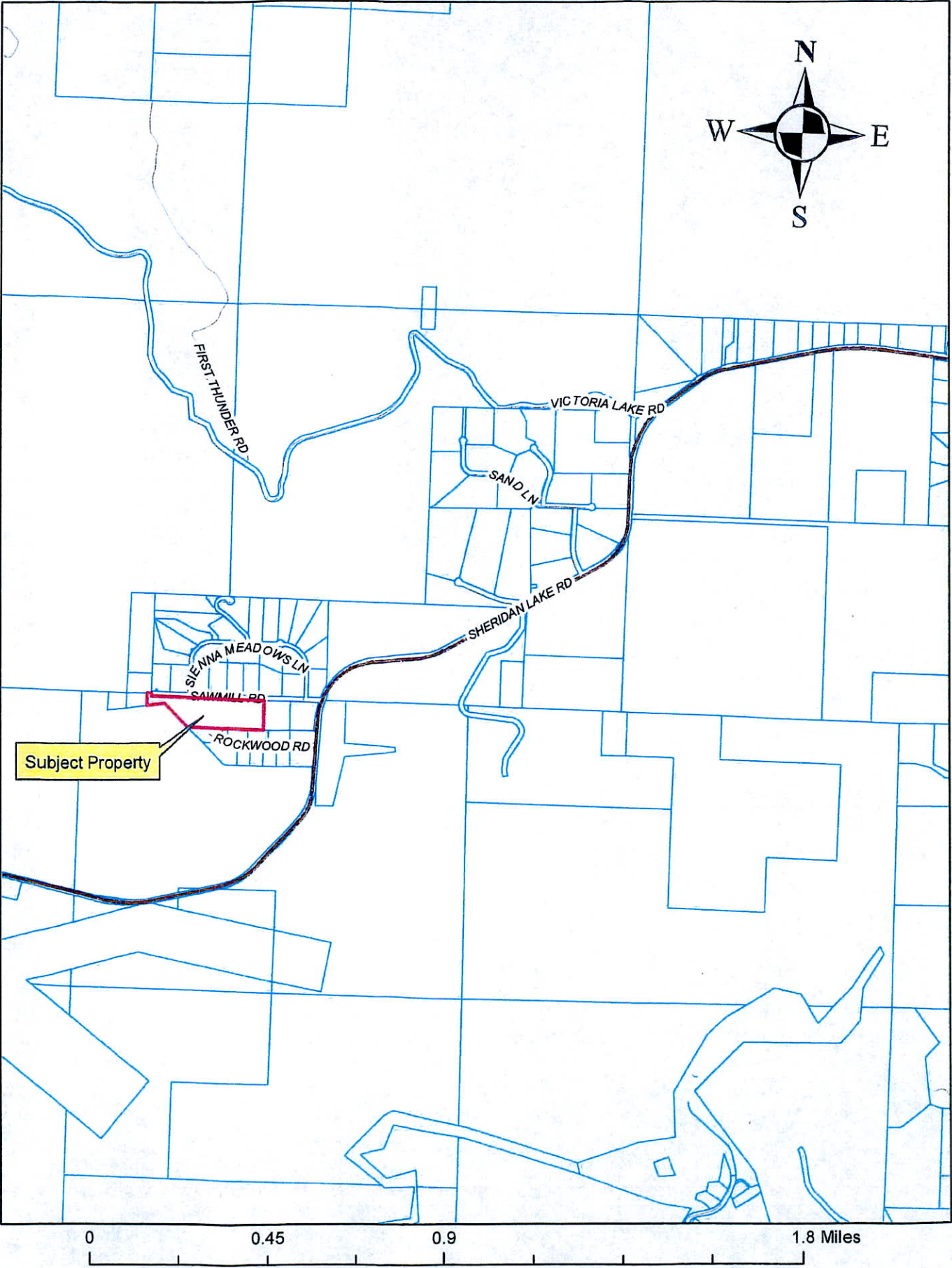
# Sheridan Lake Highlands



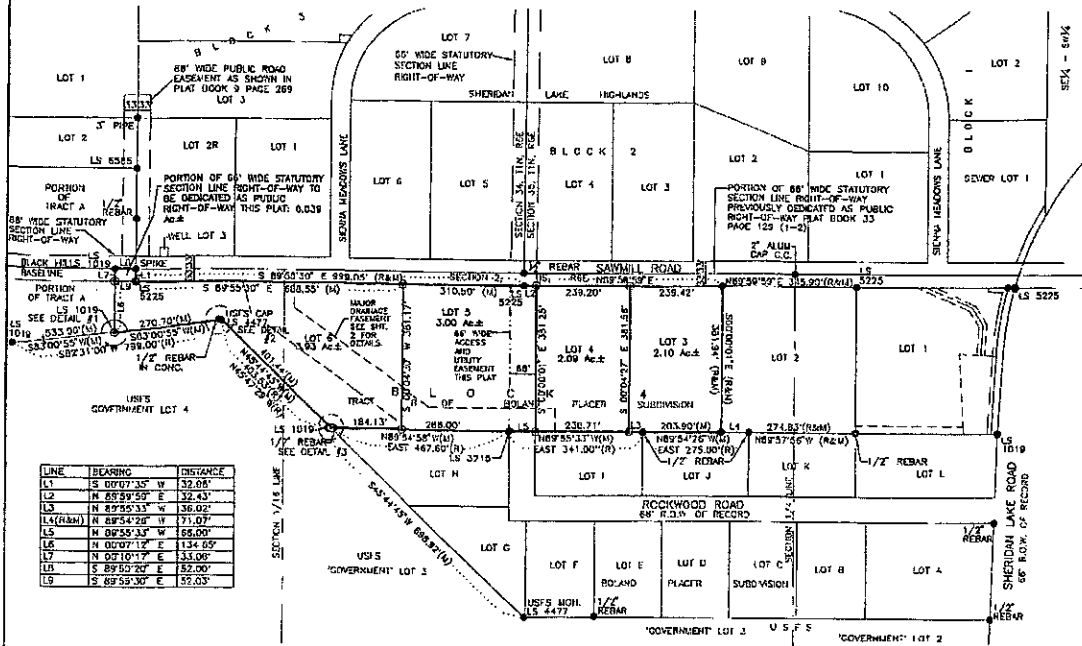
Rapid City-Pennington County GIS Division, City of Rapid City-Pennington County GIS Division

0 0.075 0.15 0.3 Miles

# Sheridan Lake Highlands



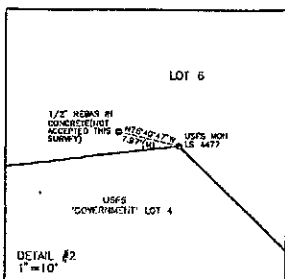
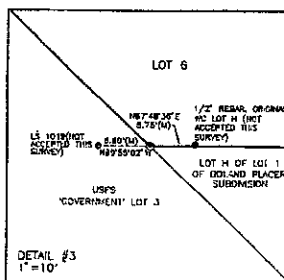
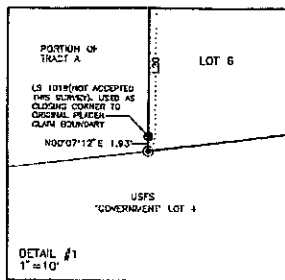
PLAT OF  
**LOTS 3 THROUGH 6 OF BLOCK 4,**  
**SHERIDAN LAKE HIGHLANDS**  
 (formerly Tract B, Boland Placer Subdivision)  
 LOCATED IN "GOVERNMENT" LOTS 3 AND 4,  
 SECTION 2, T1S, R6E, B.H.M.,  
 PENNINGTON COUNTY, SOUTH DAKOTA



AREA OF RIGHT-OF-WAY TO  
 BE DEDICATED TO THE PUBLIC  
 THIS PLAT:  
 0.039 AC.± SAWMILL ROAD

JULY 31, 2015

SCALE: 1" = 200'



**History of Surveys**

Original Survey of the Boland Placer U.S. 1252 was performed June 18, 1898 by U.S. Deputy Mineral Surveyor James Hartgeing.

Survey Plat of Lot 1, of the Boland Placer U.S. 1252 was filed November 4, 1892 by Surveyor Dean R. Neuman in Plat Book 3 Page 171.

Survey Plat of Lots 2-5 of the Boland Placer U.S. 1252 was filed July 12, 1895 by Surveyor Stuart D. Ferguson in Plat Book 9 Page 288. This survey found the original Corner 11 and Corner 12 of the Boland Placer and re-established Corner 10 and set a monument at the location consisting of a 1/2" rebar in a concrete cylinder.

Survey Plat of Tract A, including Lots 2-5 of the Boland Placer U.S. 1252 was filed February 4, 1892 by Surveyor Rodney H. Neuman in Plat Book 11 Page 243.

Survey Plat of Lot 1 of Tract A, of the Boland Placer Subdivision was filed October 22, 1894 by Surveyor James P. Heald in Plat Book 13 Page 223.

Survey Plat of Lots A-E of Lot 1, of the Boland Placer U.S. 1252 was filed September 22, 1896 by Surveyor Rodney H. Neuman in Plat Book 14 Page 222. This plat did not indicate that the original Corner 9 was found as part of the subdivision survey; however, lots A-E were established.

Survey Plat of Tract B, including a portion of Tract A of the Boland Placer Subdivision was filed September 15, 1905 by Surveyor James P. Heald in Plat Book 20 Page 146.

On July 25, 1985 Surveyor Martin A. Pennington performed a survey retracing the original boundary of the Boland Placer U.S. 1252. This survey re-established Corner 8 and Corner 10 of the Boland Placer U.S. 1252 in their original locations based on evidence of the corners and necessary to be created and related in the field notes of the Original Survey. This survey indicated that the 1/2" rebar set in a concrete cylinder as stated and established in Plat Book 3 Page 269 Corner 10 of the Boland Placer U.S. 1252. (See Plat Book 37, Page 4471) This survey also indicated that the 1/2" rebar is 10.8" witness corner as stated and established in Plat Book 14 Page 222 to be 8.75" in distance of 1.551' from the original corner location of Corner 8 at the Boland Placer U.S. 1252. (See Plat Book 37, Page 4470)

**NOTES:**

- ② Denotes set 5/8" rebar with survey cap marked "LS 5225"
- ⊙ Denotes House Survey Monument, no notes
- (R) Denotes Reestablished in previous plat or description
- (M) Denotes Measured in this survey
- CB Denotes Chord Bearing
- CD Denotes Chord Distance

Basis of Bearings: Geodetic North determined by Global Positioning (GPS) Utility and Minor Drainage Easements: 0' on the interior sides of all lot lines, except where major drainage easements exist.

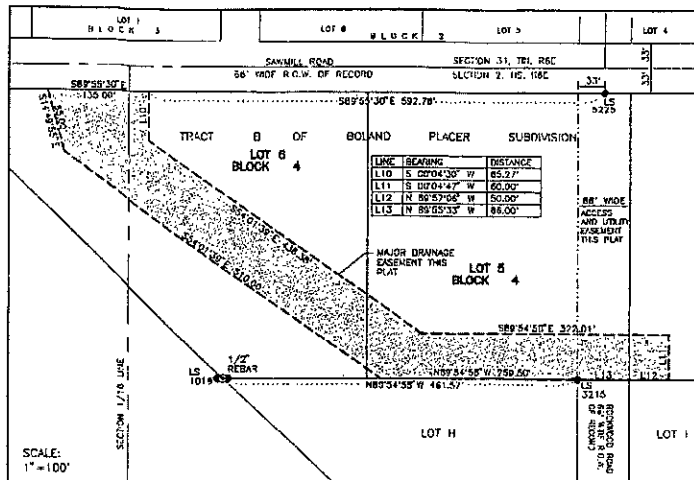
Any major drainage easement shown herein shall be kept free of all obstructions including but not limited to buildings, walls, fences, ledges, trees and shrubs. These easements grant to all public authorities the right to construct, recreate, maintain, inspect, and replace such improvements and structures as it deems expedient to facilitate drainage from any source.

Prior to obtaining a Building Permit on any of the lots, the (2) outside on-site wastewater system areas must be identified with accompanying percolation tests and soil profiles. Soil profiles must show that proper soil exposures can be obtained on surface in State Administrative Rule 74.53(01)13. Percolation tests must meet acceptable rates as shown in State Administrative Rule 74.53(01)13. If the percolation and soil profile information do not meet these requirements, an alternative system approved by the Department of Environment and Natural Resources could be used. As a last resort, Pennington County may approve the use of holding tanks.

Pursuant to SDCL 11-3-8.1 and 11-3-8.2, the developer of the property described within this plat shall be responsible for protecting any waters of the State, including groundwater, located adjacent to or within such platted area from pollution from sources from such subdivision and shall in cooperation of such protection, conform to and follow all regulations of the South Dakota Department of Environment and Natural Resources relating to the same.



PLAT OF  
**LOTS 3 THROUGH 6 OF BLOCK 4,**  
**SHERIDAN LAKE HIGHLANDS**  
 (formerly Tract B, Boland Placer Subdivision)  
 LOCATED IN "GOVERNMENT" LOTS 3 AND 4,  
 SECTION 2, T1S, R6E, B.H.M.,  
 PENNINGTON COUNTY, SOUTH DAKOTA



THE SIDELINES OF THE MAJOR DRAINAGE  
 EASEMENTS SHOWN HEREON ARE TO BE  
 LENGTHENED OR SHORTENED TO CONFORM  
 TO EXISTING EASEMENT LINES,  
 RIGHT-OF-WAY LINES AND/OR PROPERTY  
 LINES.

**CERTIFICATE OF OWNERSHIP**  
 State of South Dakota  
 County of Pennington s.s.

I, Ryan Kelly, do hereby certify that I am a Member of KELLY DEVELOPMENT, LLC, the owner of the land shown and described herein; that the survey was done at my request for the purposes indicated herein; that I do hereby approve the survey and within plot of said land; and that the development of this land shall conform to all existing applicable zoning, subdivision, and erosion and sediment control regulations.

Any land shown on the within plat as dedicated to public right of way is hereby dedicated to public use and public utility use as such, forever, but such dedication shall not be construed to be a donation of the fee of such land.

In witness whereof, we have set our hand and seal.

Owner: KELLY DEVELOPMENT, LLC.

Ryan Kelly, Member

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public, personally appeared Ryan Kelly, known to me to be the person(s) described in the foregoing instrument and acknowledged to me that they signed the same.

Notary Public: \_\_\_\_\_

By Commission Expires: \_\_\_\_\_

**CERTIFICATE OF DIRECTOR OF EQUALIZATION**

I, Director of Equalization of Pennington County, do hereby certify that I have on record in my office a copy of the within described plat.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Director of Equalization of Pennington County

APPROVED: \_\_\_\_\_  
 Director of Equalization of Pennington County

**RESOLUTION BY GOVERNING BOARD**

State of South Dakota  
 County of Pennington s.s.

Auditor of Pennington County, do hereby certify that an official meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the County Commissioners, by resolution did approve the plat as shown and described herein.

Auditor of Pennington County

**CERTIFICATE OF SURVEYOR**  
 State of South Dakota  
 County of Pennington s.s.

I, Jeffrey L. Jank, Registered Land Surveyor No. 11799 in the State of South Dakota, do hereby certify that at the request of the owner(s) listed herein, I have surveyed the tract of land shown, and to the best of my knowledge and belief, the within plat is a representation of said survey. Easements or restrictions of miscellaneous record or private agreements that are not known to me are not shown herein.

In witness whereof, I have hereunto set my hand and seal.

Jeffrey L. Jank, Registered Land Surveyor

Date

**CERTIFICATE OF HIGHWAY OR STREET AUTHORITY**

The location of the proposed lot lines with respect to the Highway or Street as shown herein is hereby approved. Any approaches or access to the Highway or Street will require additional approval.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Highway/Street Authority

**CERTIFICATE OF COUNTY TREASURER**

I, Treasurer of Pennington County, do hereby certify that all taxes which are due upon the within described lands are fully paid according to the records of my office.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Treasurer of Pennington County

**CERTIFICATE OF REGISTER OF DEEDS**

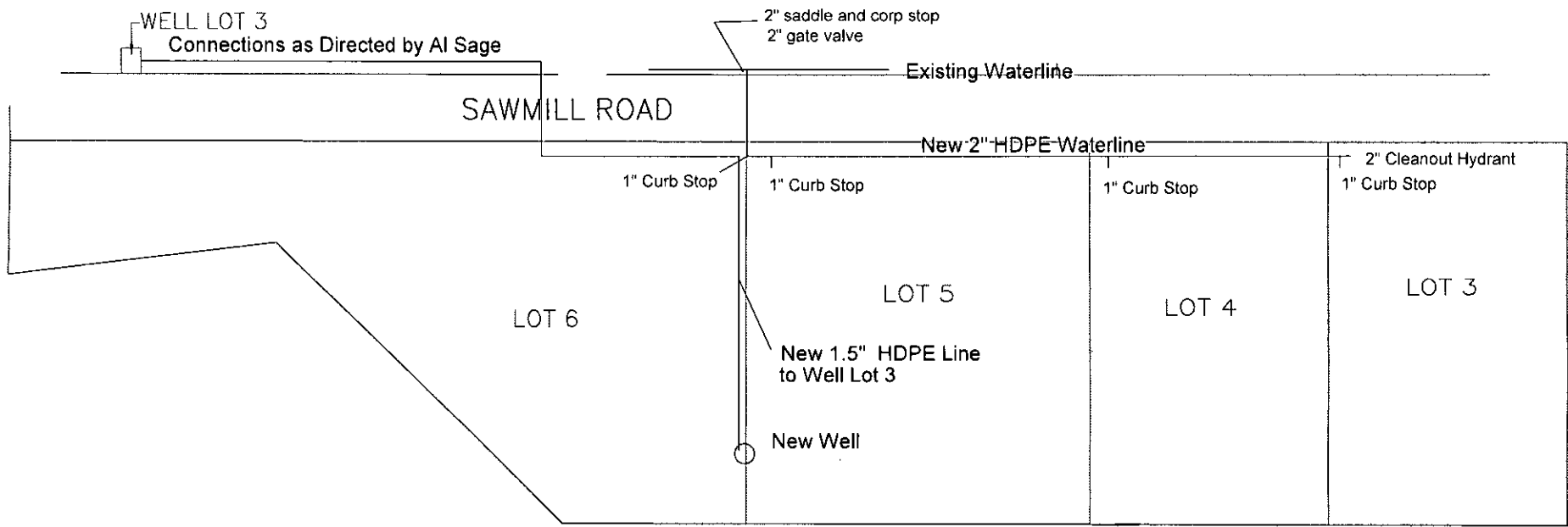
State of South Dakota  
 County of Pennington s.s.

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

In Document No. \_\_\_\_\_

Register of Deeds

SHEET 2 OF 2



# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date May 14, 20 19

RECEIVED OF Gunderson, Palmer, Nelson & Ashmore LLP PO Box 8045 Rapid City SD 57709-8045

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

|                                                                                                                         |       |        |
|-------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>2572A-2</u> to Appropriate Water, to construct and to put water to beneficial use | 100   | 00     |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                            |       |        |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                                  |       |        |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2572A-2</u>            | 200   | 00     |
| Fee for Filing Transfer Form _____                                                                                      |       |        |
| Fee for _____                                                                                                           |       |        |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                                     |       |        |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                                      |       |        |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                                  |       |        |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                               |       |        |
| (Any Other Work Provided by Law)                                                                                        | TOTAL | 300 00 |

No. **09142**

By

Jeannie Goodman  
Chief Engineer  
JMG



530649115

**ANNUAL REPORT**

Secretary of State  
500 E. Capitol Ave  
Pierre, SD 57501-5070  
(605) 773-4845

Domestic Nonprofit Corporation  
SDCL 47-24-6, 59-11-24

**2018**  
FILING YEAR

Please Type or Print Clearly In Ink  
Please submit one Original  
Make payable to the SECRETARY OF STATE

Filing Fee: \$10

Total Fee: \$10

## 1. Business ID and Name:

**NS012977**  
BUSINESS ID

**SHERIDAN LAKE HIGHLANDS, INC.**  
BUSINESS NAME

2. The jurisdiction under whose law it is formed **SOUTH DAKOTA**

## 3. The address of the principal executive office (business address):

Actual Street Address

**23468 DRY SAGE LANE**  
**RAPID CITY, SD 57702-7910**

Mailing Address

**23468 DRY SAGE LANE**  
**RAPID CITY, SD 57702-7910**

## 4. The South Dakota Registered Agent's Name:

South Dakota law permits the registered agent to be either (a) a noncommercial registered agent, (b) a commercial registered agent, or (c) an office holder.

(a) The South Dakota Noncommercial Registered Agent's name

Name **ELAINE KARSKY**

Actual Street Address in this State

**23468 DRY SAGE LANE**  
**RAPID CITY, SD 57702-7910**

Mailing Address in this State

## 5. The names and addresses of its principal officers.

| Title          | Name          | Address                                        |
|----------------|---------------|------------------------------------------------|
| President      | ANGELA VANCAS | 13487 SIENNA MEADOWS LN, RAPID CITY, SD, 57702 |
| Secretary      | ELAINE KARSKY | 23468 DRY SAGE LN, RAPID CITY, SD, 57702       |
| Treasurer      | ELAINE KARSKY | 23468 DRY SAGE LN, RAPID CITY, SD, 57702       |
| Vice President | NATHAN WOODS  | 13479 SIENNA MEADOWS LN, RAPID CITY, SD, 57702 |

## 6. The names and addresses of its directors (governors).

| Name          | Address                                         |
|---------------|-------------------------------------------------|
| ANGELA VANCAS | 13487 SIENNA MEADOWS LANE, RAPID CITY, SD 57702 |
| NATHAN WOODS  | 13479 SIENNA MEADOWS LANE, RAPID CITY, SD 57702 |
| ELAINE KARSKY | 23468 DRY SAGE LANE, RAPID CITY, SD 57702       |

7. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.



No person may execute this report knowing it is false in any material respect. Any violation may be subject to a civil and/or criminal penalty (SDCL 47-1A-129; 22-39-36).

9/25/18  
Dated  
skysr78@gmail.com  
Email (Optional)

Elaine Karsky  
Signature of an Authorized Person  
Elaine Karsky  
Printed Name



RECEIVED

MAY 14 2019

WATER RIGHTS  
PROGRAM

506 Sixth Street  
Post Office Box 8045  
Rapid City, South Dakota 57709  
Main: (605) 342-1078  
Fax: (605) 342-9503

[www.gpna.com](http://www.gpna.com)

Talbot J. Wieczorek  
Email: [tjw@gpna.com](mailto:tjw@gpna.com)  
Direct Dial: (605) 719-3439

May 10, 2019

Jeanne Goodman, Chief Engineer  
DENR Water Rights Program  
Joe Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

Re: Sheridan Lake Highlands, Inc.  
GPNA File No. 13216.0002

Dear Ms. Goodman:

Enclosed you will find an application to modify the permit associated with Water Permit No. 2572-2. This is being submitted, in part, in response to your letter of April 30, 2019. In addition to this submittal, Ryan Kelly with Dean Kelly Construction is submitting an application for a test well permit.

The well being developed will be used as a backup well for the water system serving the homeowners association in an area commonly known as Sheridan Lake Highlands. Sheridan Lake Highlands is not seeking an increase in the appropriated rights. Rather, this well would simply act as a backup to its existing well.

In addition, it appears from the original submission for the water permit, the developer did not include the ground he owned south of Sawmill Road. In that area, he is currently developing four lots that will be added to the Sheridan Lake Highlands system. The enclosed application expands the service area to include these four lots with the application, maps of the area, the new platted lots and a preliminary diagram on how the well will interconnect with the existing system are being provided.

The diagram on how the new well will integrate with the system was prepared by the developer in conjunction with Al Sage of Sage Water Works who is the certified operator of the existing system. It is my understanding the actual location of where the new well will go is different from the preliminary diagram. The new well is now actually on Lot 5 and closer to Sawmill Road. The exact location of the well should be part of the test well application being submitted on behalf of Mr. Kelly.

Offices in Rapid City and Pierre, South Dakota

Attorneys licensed to practice in South Dakota, North Dakota, Nebraska, Minnesota, Wyoming, and Montana

In addition to the application, we have submitted a \$300 check; \$100 for the purposes of submission of the application and \$200 for the licensing of the well. If there is anything else needed from Sheridan Lake Highlands, Inc. or any questions, please let me know.

Sincerely,

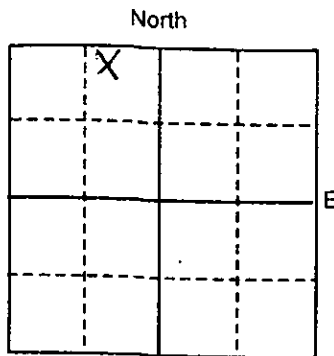


Talbot J. Wiczorek

TJW:sls  
Enclosures  
Cc: Client

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NE 1/4 NW 1/4 Sec 2 Twp 1S Rg 6ECity PenningtonPlease mark well  
location with an "X"

COPY

Well Completion Date

March 19, 2019

1 Mile

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

## PROPOSED USE:

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

## METHOD OF DRILLING:

Rotary downhole hammer

## CASING DATA:

☒ Steel ☐ Plastic ☐ Other
If other describe 44' of 6" schedule 40 steel

| DEPTH   | DIAMETER | FROM    | TO       | HOLE DIAMETER |
|---------|----------|---------|----------|---------------|
| 0.0 FT  | 8.75 IN  | 0.0 FT  | 42.0 FT  | 8.75 IN       |
| 42.0 FT | 6.00 IN  | 42.0 FT | 300.0 FT | 6.00 IN       |

## GROUTING DATA:

| Grout Type  | No. of Sacks | Grout Weight | From    | To      |
|-------------|--------------|--------------|---------|---------|
| Portland II | 4            | Lb/gal       | 42.0 Ft | 10.0 Ft |

Describe grouting procedure  
through trim pipe

## SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter \_\_\_\_\_ Inches Length \_\_\_\_\_ Feet

Material \_\_\_\_\_

Slot Size \_\_\_\_\_ Set From \_\_\_\_\_ Feet to \_\_\_\_\_ Feet

Other information \_\_\_\_\_

## WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material? \_\_\_\_\_

Describe packer(s) and location \_\_\_\_\_

## DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? w/chlorine solution
☐ No, Why Not? \_\_\_\_\_
L \_\_\_\_\_ which water  
quantity sample sent for analysisWell Owner: Ryan Kelley

Business Name: \_\_\_\_\_

Address: 4314 Wonderland Drive HighlandsCity, State, Zip: Rapid City SD 57702

## WELL LOG:

| FORMATION                    | DEPTH |     |
|------------------------------|-------|-----|
|                              | FROM  | TO  |
| Drift                        | 0     | 5   |
| Gravel                       | 5     | 40  |
| Brown Schist fracture 10 gpm | 40    | 110 |
| Hard grey schist             | 110   | 300 |
|                              |       |     |
|                              |       |     |
|                              |       |     |
|                              |       |     |
|                              |       |     |

## STATIC WATER LEVEL

24.0 FEET

If flowing: closed in pressure \_\_\_\_\_ PSI

GPM flow 10.0 through \_\_\_\_\_ Inch pipeControlled by ☐ Valve ☐ Reducers ☐ Other \_\_\_\_\_

Reduced flow rate \_\_\_\_\_ GPM

Can well be completely shut in?

## WELL TEST DATA:

☒ Pumped Describe: w/air
☐ Bailed

☐ Other

Pumping Level Below Land Surface

\_\_\_\_\_ Ft. After \_\_\_\_\_ Hrs. pumped \_\_\_\_\_ GPM

\_\_\_\_\_ Ft. After \_\_\_\_\_ Hrs. pumped \_\_\_\_\_ GPM

If pump installed, pump rate: \_\_\_\_\_ GPM

## REMARKS

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

Signature of License Representative: \_\_\_\_\_

Signature of Well Owner or Equitable Property Holder: \_\_\_\_\_

RECEIVED

JUL 15 2019

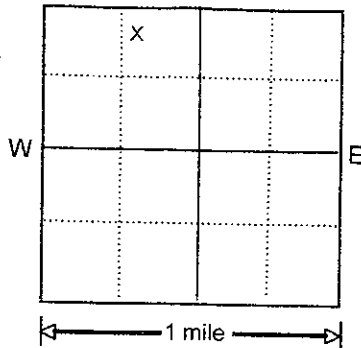
Date: \_\_\_\_\_

WATER RIGHTS  
PROGRAM

## SOUTH DAKOTA WELL REHABILITATION REPORT

Location NE 1/4 NW 1/4 Sec 2 Twp 1S Rg 6ECounty Pennington

North

Please mark well  
location with an "X"

Well owner:

Name

Ryan Kelly

Address

3618 Canyon Lake Drive, Ste. 113City, State, Zip Rapid CitySD 57702Describe original construction if possible.  
(Attach original log if available)

Original log attached

COPY

Rehabilitation Completion Date June 7, 2019

## PROPOSED USE:

☒ Domestic    ☐ Municipal    ☐ Stock  
☐ Irrigation    ☐ Industrial

## Description of condition of well before rehabilitation:

Completed the original well on 3/19/2019. Well was making 10 gpm when drilled. Owner requested to drill 200 additional feet in hopes of picking up more water. When we ran in hole and blew it, it was making 15 gpm. We drilled an 200 more feet. Well continues to make 15 gpm.

## Description of rehabilitation work completed:

Set up on well and drilled from 300-500' using a 6" bit.  
Hard grey schist w/quartz 300'-500'

Recasing information: Material \_\_\_\_\_ Diameter \_\_\_\_\_ Inches Depth \_\_\_\_\_ Feet

Describe screen or perforations \_\_\_\_\_ Screen Location From \_\_\_\_\_ To \_\_\_\_\_  
From \_\_\_\_\_ To \_\_\_\_\_Grout: ☐ YES Describe grouting  
          ☒ NO procedure and grout: :Well Test Data: Specific capacity 15 gpm Static water level 0  
If a flowing well \_\_\_\_\_ GPM Shut in \_\_\_\_\_ PSIThis well rehabilitation was completed under license # 324 and this report is true and accurate.Drilling firm: Alexander Drilling Inc.Signature of Licensed Representative: *Lee Jewell*

Signature of Well Owner: \_\_\_\_\_

Date: \_\_\_\_\_

RECEIVED

JUL 15 2019

WATER RIGHTS  
PROGRAM

## Gronlund, Eric

---

**From:** Gronlund, Eric  
**Sent:** Wednesday, April 03, 2019 9:39 AM  
**To:** 'Daniel McGough'  
**Subject:** RE: [EXT] Permitting of new public well  
**Attachments:** 2572-2Order.pdf

Mr. and Mrs. McGough:

This is follow-up to your email of March 24<sup>th</sup> regarding a well being constructed at Sheridan Lake Highlands. DENR shares your concern regarding this well and the fact that a second well is not authorized by the existing water right held for Sheridan Lake Highlands HOA. At this time DENR is not aware whether the test well proved to be suitable for the HOA to want to pursue connecting the well into their water distribution system. On April 3<sup>rd</sup>, DENR sent the attached order to Mr. Kelly and the President of the HOA to not use the well recently under construction until proper authorization is obtained. If they apply for a new water permit or amendment to their existing water right to authorize a second well, they will need to file an application. Any application will be reviewed, a recommendation made and public noticed with an opportunity for individuals to petition and cause a hearing before the Water Management Board.

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

---

**From:** Daniel McGough [<mailto:daniel.mcough@outlook.com>]  
**Sent:** Sunday, March 24, 2019 6:22 PM  
**To:** Dreis, Erin; Gronlund, Eric  
**Subject:** [EXT] Permitting of new public well

We are extremely concerned about the permitting of a new public well that has been drilled to a depth of 200-300' on Lot 5, Block 4 of Sheridan Lake Highlands, Pennington County. As residents of Boland Placer Subdivision on Rockwood Road, it is only logical that the demand on the limited water supply will be very detrimental to our well and to other residents in our area.

The Pennington County Commissioners had denied the developer permission to drill private wells on each additional four lots he was developing because of limited water resources. The Commissioners stated in open session in 2018 that more wells were not needed in the subdivision and that the well currently serving the existing houses was adequate if reasonable conservation measures were taken by the users.

Our water supply and quality is very important to us. Please make a considered decision that will protect us.

Thank you for your consideration,

Dan and Gloria McGough  
10650 Sheridan Lake Road  
Rapid City, SD 57702  
605-342-8746

Get [Outlook for iOS](#)

## Gronlund, Eric

---

**From:** Gronlund, Eric  
**Sent:** Wednesday, April 03, 2019 9:39 AM  
**To:** 'Darcy Nagel'  
**Subject:** RE: [EXT] Water/Wells Kelly Development Sheridan Lake Highlands Pennington County  
**Attachments:** 2572-2Order.pdf

Mr. and Mrs. Nagel:

This is follow-up to your email of March 24<sup>th</sup> regarding a well being constructed at Sheridan Lake Highlands. DENR shares your concern regarding this well and the fact that a second well is not authorized by the existing water right held for Sheridan Lake Highlands HOA. At this time DENR is not aware whether the test well proved to be suitable for the HOA to want to pursue connecting the well into their water distribution system. On April 3<sup>rd</sup>, DENR sent the attached order to Mr. Kelly and the President of the HOA to not use the well recently under construction until proper authorization is obtained. If they apply for a new water permit or amendment to their existing water right to authorize a second well, they will need to file an application. Any application will be reviewed, a recommendation made and public noticed with an opportunity for individuals to petition and cause a hearing before the Water Management Board.

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

---

**From:** Darcy Nagel [<mailto:djonagel@hotmail.com>]  
**Sent:** Sunday, March 24, 2019 6:49 PM  
**To:** Dreis, Erin; Gronlund, Eric  
**Subject:** [EXT] Water/Wells Kelly Development Sheridan Lake Highlands Pennington County

To Erin Dreis and Eric Gronlund,

We are one of ten homes on Rockwood Road which is the southern boundary of Ryan Kelly's development, Sheridan Lake Highlands. Throughout the years we have expressed our concerns with the number of wells and water usage by the development which we fear will affect our personal wells.

Most recently, on March 5, 2019, the Pennington County Commission approved of Ryan Kelly developing four more lots in Sheridan Lake Highlands. Approval was granted with several conditions including that no additional private wells be drilled. Within days of this approval, Mr. Kelly drilled another well which we are told would be to a depth of 200 to 300 feet.

Several of us have expressed our concerns to the Pennington County Planning & Zoning Department who now have determined this well is not a "private" well as intentions are to connect it to the water supply system that serves most of the houses in Sheridan Lake Highlands. That county agency now refers us to your department for our water concerns, indicating that you are aware of this situation.

We know that you have been involved in this matter in the past and are aware of our past, and ongoing, concerns with our water supply and quality. In our community, most all of our wells serve our individual households and are at the approximate depth of 100 feet, a couple are more. We hope our concerns will be a consideration of your review in this matter.

Although we do not have a home owners association, we are all members of the Rockwood Road District, and can be contacted using the email address [rockwoodroaddistrict@gmail.com](mailto:rockwoodroaddistrict@gmail.com). We would appreciate being kept advised of this water situation.

Thank you for your time and efforts.

Dennis and Darcy Nagel  
13435 Rockwood Rd  
Rapid City, SD 57702  
(605) 343-8570

## Gronlund, Eric

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**From:** Gronlund, Eric  
**Sent:** Wednesday, April 03, 2019 9:39 AM  
**To:** 'Elbert.Johnson@gmail.com'  
**Subject:** RE: [EXT] New Sheridan Lake Highlands Public Well  
**Attachments:** 2572-2Order.pdf

Mr. and Mrs. Johnson:

This is follow-up to your email of March 24<sup>th</sup> regarding a well being constructed at Sheridan Lake Highlands. DENR shares your concern regarding this well and the fact that a second well is not authorized by the existing water right held for Sheridan Lake Highlands HOA. At this time DENR is not aware whether the test well proved to be suitable for the HOA to want to pursue connecting the well into their water distribution system. On April 3<sup>rd</sup>, DENR sent the attached order to Mr. Kelly and the President of the HOA to not use the well recently under construction until proper authorization is obtained. If they apply for a new water permit or amendment to their existing water right to authorize a second well, they will need to file an application. Any application will be reviewed, a recommendation made and public noticed with an opportunity for individuals to petition and cause a hearing before the Water Management Board.

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

**From:** Elbert L. Johnson [<mailto:elbert.johnson@gmail.com>]  
**Sent:** Sunday, March 24, 2019 5:27 PM  
**To:** Dreis, Erin  
**Cc:** Gronlund, Eric  
**Subject:** [EXT] New Sheridan Lake Highlands Public Well

We are extremely concerned about the permitting of a new public well that has been drilled to a depth of 200-300' on Lot 5, Block 4 of Sheridan Lake Highlands, Pennington County. The well is about 300' north of my private residential well located in the Boland Placer Subdivision on Rockwood Road. It is only logical that the demand on the limited water supply will be very detrimental to my well and to other residences located near me. I have been told that the new well may cause me to have to drill a well at least 200' deep. I'm estimating \$8,000-\$10,000 cost to do that and it's an IF that will provide water.

The Pennington County Commissioners had denied the developer permission to drill private wells on each of the additional four lots he was developing because of limited water resources. The Commissioners stated in open session in 2018 that more wells were not needed in the subdivision and that the well currently serving the existing houses was adequate if reasonable conservation measures were taken by users. One practical measure they proposed was to meter water usage instead of allowing unlimited use by occupants.

Our water supply and quality is very important to us. Please make a considered decision that will protect us. Although we are a small development we hope and trust that we will be afforded the same water rights as our larger neighborhood.

Thank you for your consideration,

Elbert & Marian Johnson

13430 Rockwood Road

Rapid City, SD 57702

605 348-5362



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

April 3, 2019

**ORDER**

Ryan Kelly  
Dean Kelly Construction  
3618 Canyon Lake Drive, Suite 113  
Rapid City SD 57702

Angela Vancas, President  
Sheridan Lake Highlands HOA  
23468 Dry Sage Lane  
Rapid City SD 57702

**SUBJECT:** Order Prohibiting Using Recently Constructed Second Well for Sheridan Lake Highlands HOA until Water Right Permit is in Place

Dear Mr. Kelly and Ms. Vancas:

Water Right No. 2572-2 appropriates 0.08 cubic feet of water per second (cfs) [36 gallons per minute – gpm] from one well constructed into Precambrian Age Crystalline Rock to supply the water distribution system at Sheridan Lake Highlands. The water right was transferred from Ryan Kelly to Sheridan Lake Highlands HOA on March 15, 2018.

The Department of Environment and Natural Resources (DENR) received information from Pennington County that Alexander Drilling is in the process of completing a test well to supply Sheridan Lake Highland's water distribution system. Mr. Kelly indicated in a March 19, 2019, email that Alexander Drilling was hired to drill a test well with intent to connect to the water system. It is unclear whether the newly constructed well is intended to be an additional well operated on an alternating basis with the existing well with no increase in the authorized diversion rate or if both wells will be operated at the same time resulting in an increase in the authorized peak diversion rate. Regardless, a second well is not authorized by Water Right No. 2572-2.

In 2006, there was a reduction of needed water supplies in an adequate neighboring domestic well that was attributed to water withdrawals from Sheridan Lake Highlands' existing well. In response, Mr. Kelly limited the diversion from the well to 18 gpm to stay as a domestic user. At some point in time, the conflict between the affected domestic well and Sheridan Lake Highlands' well was reported to be resolved allowing the withdrawal of the originally permitted amount. In 2016, Water License No. 2572-2 was issued for the developed amount of 0.08 cfs (36 gpm). See attached water license.

The construction of the second well has again raised concern from area domestic users and DENR that their wells will be impacted by this second well. Water in the Precambrian Age Crystalline Rock is transmitted to wells from joints, faults, and fractures below the surface. Because water is transmitted to wells in this manner, availability of water is site specific

depending on the inter-connection of the joints, faults and fractures. Withdrawals by a neighboring well in close proximity but not connected by a joint, fault or fracture may not have any impact on the other well, while withdrawal from a well in direct connection to a joint, fault or fracture may cause a reduction of needed water supply to another well located a significant distance away.

Additional water right permitting is necessary prior to this new well being put into service. If this is not a test well and this new well is intended to be used as part of the Sheridan Lake Highlands' water system, Sheridan Lake Highlands HOA must seek approval from DENR. If both wells will be used by Sheridan Lake Highlands in a manner that the combined peak pump rate will exceed 0.08 cfs (36 gpm), a *new water right permit* will need to be obtained for the increased pump rate and the additional well prior to its use. If the additional well does not increase the authorized pump rate, an *amendment* to Water Right No. 2572-2 is needed to authorize the additional well. Enclosed are application forms for both possibilities. Please complete the appropriate application and submit it to this office. Once an application is received it will be reviewed for the purpose of making a recommendation, then public noticed with the ability of citizens to contest the application and cause a hearing before the Water Management Board.

Pursuant to SDCL 46-2-18, the Chief Engineer has the authority to not allow the use of a well to which the user has no legal right. Sheridan Lake Highlands HOA's existing water right does not authorize a second well, and it cannot be used as part of the water distribution system.

**Therefore I am ordering Sheridan Lake Highlands HOA to not use the well recently under construction until proper authorization is obtained.** Please inform the Water Rights Program of you intentions and/or submit the application by April 30, 2019. Failure to obey the order may result in DENR seeking a temporary restraining order or injunction with the court of proper jurisdiction.

If you have any questions, please contact Eric Gronlund at (605) 773-3352.

Sincerely,



Jeanne Goodman, Chief Engineer  
Water Rights Program, DENR

Enclosures

C: Al Sage, 5310 Ebony Place, Piedmont SD 57769  
Mark Mayer, Administrator, Drinking Water Program, DENR  
Alexander Drilling Inc., PO Box 615, Hill City SD 57745-0615

# STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 2572-2

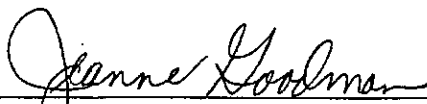
(1) Ryan Kelly, Sheridan Lake Highlands, Rapid City SD made Application No. 2572-2, November 23, 2005 for a water permit to divert 0.10 cubic feet of water per second from three wells-Precambrian Age Crystalline Rock Aquifer, Pennington County, South Dakota for suburban housing development purposes. Permit No. 2572-2, with a priority date of November 23, 2005 was approved January 20, 2006 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before January 20, 2011 and for the application to beneficial use of water on or before January 20, 2015.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 2572-2 is issued a license, bearing a priority date of November 23, 2005 to appropriate 0.08 cubic feet of water per second from one well - Precambrian Age Crystalline Rock Aquifer for suburban housing development purposes at Sheridan Lake Highlands.

The diversion point is located: Well #1 - approximately 37 feet north and 900 feet west of the SE corner of Section 34-T1N-R6E (SE 1/4 SE 1/4).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 2572-2 including the following qualifications:

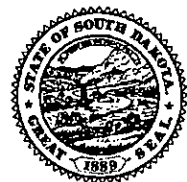
- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- The well authorized by Permit No. 2572-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *The well was drilled by Alexander Drilling Co. in 2006 and deepened in 2013. A copy of the log is on file with the Water Rights Program. All other wells have been abandoned.*
- The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the well.



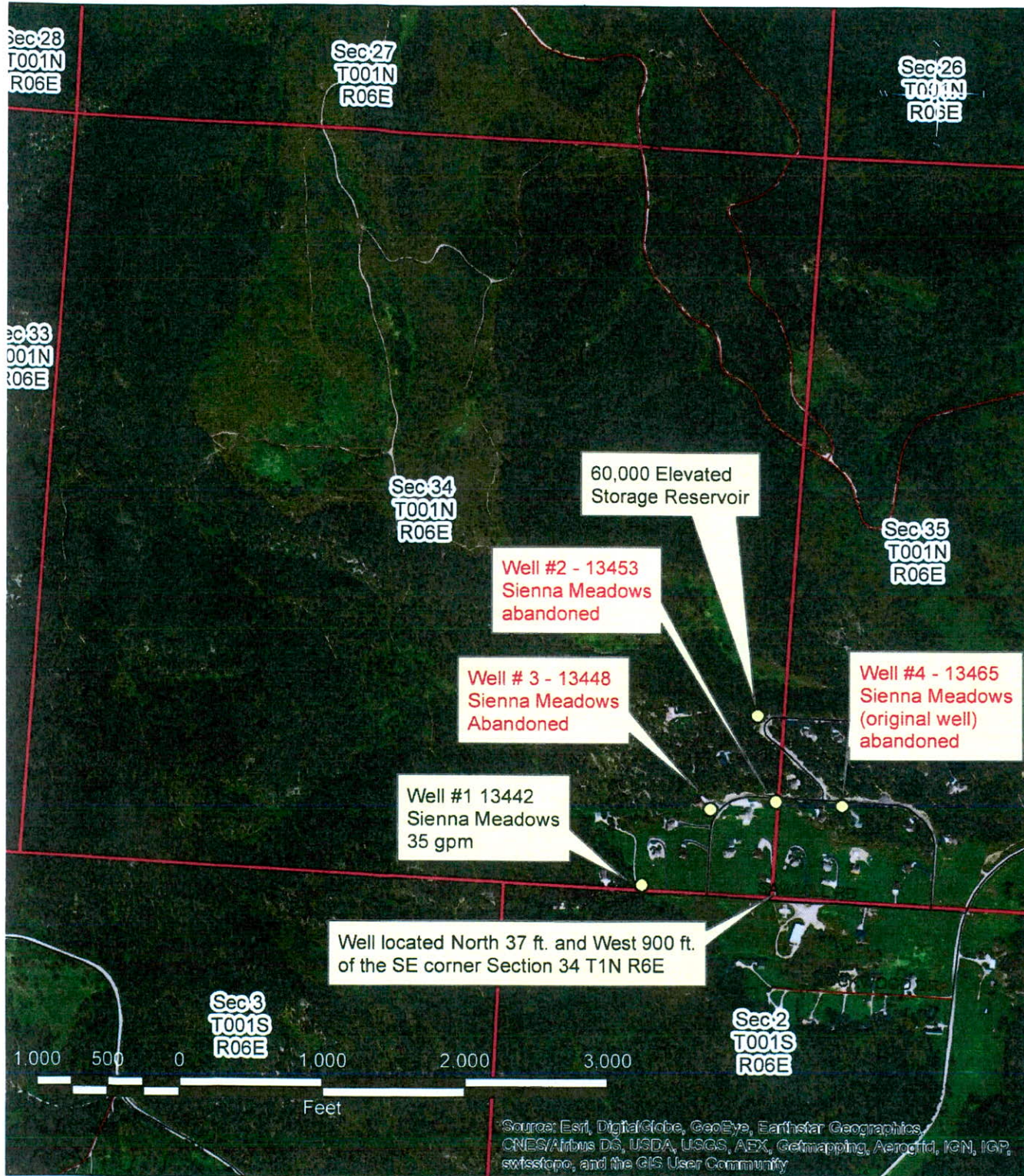
Jeanne Goodman, Chief Engineer  
Water Rights Program  
Department of Environment and Natural Resources

FEB 24 2016

date

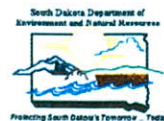


Ryan Kelly  
1/08/2016



*Steven Quissell*

Steven Quissell  
Water Rights Inspector  
ENR Water Rights Program





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 2572A-2**

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. 2572A-2, Sheridan Lake Highlands Inc., 23468 Dry Sage Lane, Rapid City SD 57702.

The Chief Engineer is recommending APPROVAL of Application No. 2572A-2 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

See report on application for additional information.

Jeanne Goodman, Chief Engineer  
July 23, 2019

## **REPORT ON APPLICATION NO. 2572A-2**

For Sheridan Lake Highlands Inc.

July 10, 2019

Sheridan Lake Highlands Inc. has filed Water Permit Application No. 2572A-2 for an additional diversion point for a backup well and to clarify area of use. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second (cfs) from one well completed into the Precambrian Age Crystalline Rock aquifer located in the SE¼ SE¼ Section 34, T1N-R6E for suburban housing development use. The applicant is requesting to construct an additional well into the Precambrian Age Crystalline aquifer (approximately 500 feet deep) located in the N½ NW¼ Section 2, T1N-R6E. This well will serve as a backup supply for the housing development located in the SE¼ SE¼ Section 34; SW¼ SW¼ Section 35; all in T1N-R6E and the N½ NW¼ Section 2, T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City in Pennington County, South Dakota.

### **AQUIFER – Crystalline Rock (CRSL)**

The Precambrian aged crystalline rocks consist primarily of mica schist or phyllite, quartzite, amphibolite, meta-iron formations, and graphitic schist. The Precambrian aged aquifer is not continuous and ground water conditions are controlled mainly by zones of secondary permeability caused by fracturing and weathering (Carter and others, 2003). The distribution, orientation and interconnection of these zones of secondary porosity and permeability are unpredictable, and the aquifer characteristics are site specific and highly variable.

Based on an estimated exposed area of 574,000 acres, water bearing material down to 500 feet, and an effective porosity of one percent, Rahn (1979) estimated the amount of recoverable water in the Crystalline Rock aquifer is 8,600,000 acre-feet.

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

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

### **WATER AVAILABILITY**

The availability of unappropriated water from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older than or stratigraphically lower than the Greenhorn Formation and is used for a water distribution system,



the Board need not take into consideration the balance of aquifer recharge and withdrawal. The Crystalline Rock aquifer is older than the Greenhorn Formation, and the water is for a water distribution system in a suburban housing development, however, water availability in the aquifer will be discussed.

Recharge to the localized crystalline rock aquifer occurs through infiltration of precipitation falling on the outcrop and through streamflow losses when the stages of area streams are higher than groundwater levels. Driscoll and Carter (2001) estimated recharge to the Crystalline Rock aquifers to be equal to withdrawals (3,600 acre-feet per year), however the recharge may likely be much higher to account for stream losses. Driscoll and Carter (2001) also noted that recharge conditions of crystalline rock aquifers are highly transient and have large spatial variability, thus quantification of recharge is not attempted.

Discharge from the aquifer occurs through pumping of wells, evapotranspiration, and seepage to streams. As previously mentioned, the Crystalline Rock aquifer is not a single regional aquifer but rather numerous localized aquifers. There are no studies or information available at this time to attempt delineation of the localized aquifers within the crystalline core area of the Black Hills. However, there are several water rights on file with SD-DENR Water Rights Program that appropriate ground water from the Crystalline Rock aquifer in the vicinity of this application listed in Table 1 (Water Rights, 2019a).

Table 1. Table identifying Water Rights/Permits in the vicinity of this application (Water Rights, 2019a).

| Permit No. | Name                             | Status | Use | Rate (cfs) | Estimated Annual Use (acre-feet/yr) |
|------------|----------------------------------|--------|-----|------------|-------------------------------------|
| 479-2      | ROCKERVILLE GOLD TOWN INC        | LC     | COM | 0.09       | 39.04                               |
| 483-2      | ROCKERVILLE TRADING POST         | LC     | COM | 0.13       | 56.47                               |
| 485-2      | ROCKERVILLE PARK                 | LC     | COM | 0.07       | 30.4                                |
| 2211-2     | PINE HAVEN HERITAGE HOME         | LC     | COM | 0.03       | 13.03                               |
| 2222-2     | STORM MOUNTAIN CENTER            | LC     | REC | 0.04       | 17.38                               |
| 2224-2     | HILLSIDE COUNTRY COTTAGES        | LC     | COM | 0.004      | 1.74                                |
| 2345-2     | ROCKERVILLE ACRES SUB-DIV        | LC     | COM | 0.024      | 10.43                               |
| 2572-2     | SHERIDAN LAKE HIGHLANDS HOA      | LC     | SHD | 0.08       | 34.75                               |
| 2731-2     | HOFFMAN                          | LC     | DOM | 0.1        | 43.44                               |
| 2790-2     | BLUE WING RECREATION CORPORATION | LC     | COM | 0.053      | 23.02                               |

(LC = license, COM = commercial, REC = recreational, SHD = suburban housing development, DOM = domestic)

Various details of the water rights can be seen in Table 1, including an estimate of annual use totaling 269.7 acre-feet per year. The estimated annual use was determined by assuming that: (1) future use permits will be fully developed; (2) appropriations with a specified annual rate limitation will divert to their maximum limit; and (3) appropriations limited by diversion rate only, will be used at 60 percent of full time usage at their maximum diversion rate.

Therefore, when compared to the Driscoll and Carter (2001) average annual recharge estimate of 3,600 acre-feet per year, the average annual use can be expected to be considerably less than the average annual recharge for this localized portion of the Crystalline Rock aquifer. Using the above mentioned assumptions, there is reasonable probability that unappropriated water is available for this appropriation.

### OBSERVATION WELL DATA

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer. The Water Rights Program monitors two observation wells completed into the Crystalline Rock aquifer (Water Rights, 2019b). The hydrograph of CU-86A, located approximately 15 miles southwest, is shown in Figure 1. Due to the distance from the well that is to be used to supply this appropriation and the site specific nature of the aquifer, these observation wells do not describe the local characteristics of the aquifer. However, this data can provide representative general characteristics of the aquifer.

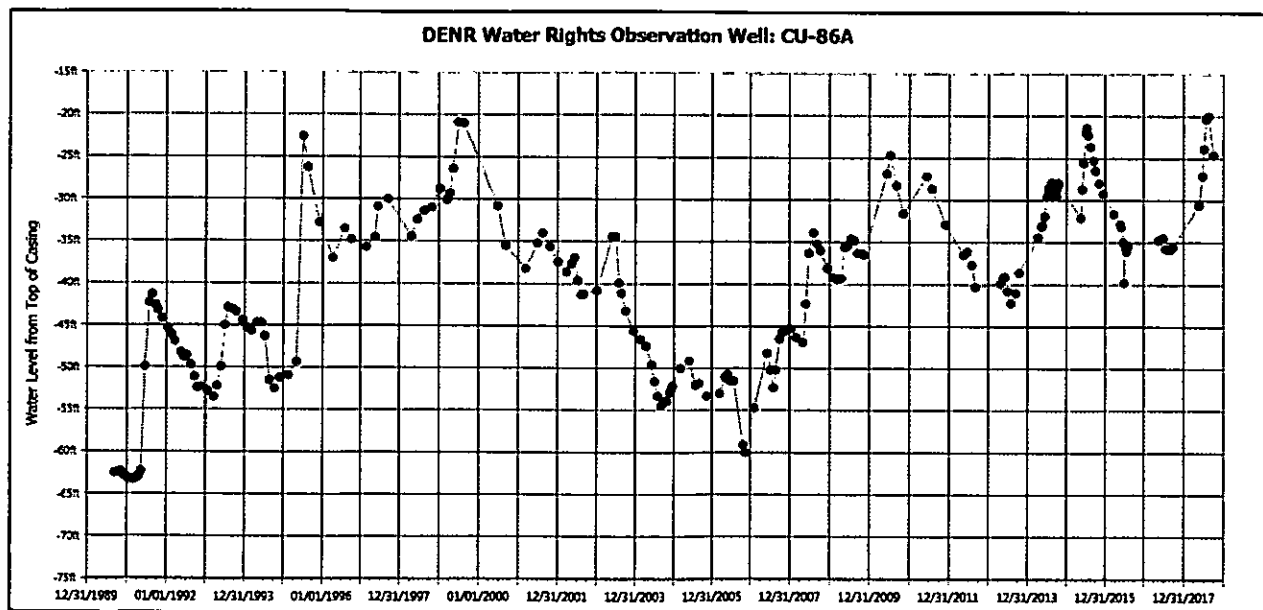


Figure 1. Hydrograph of observation well CU-86A (Water Rights, 2019b).

Water level data from the observation well identifies water level fluctuations of over 40 feet in response to varying climatic conditions, rising during wet years and gradually declining water levels during dry years. In general, the temporal effects of pumping are masked by climatic conditions indicating that additional water is available for well withdrawals to capture. Therefore, this proposed appropriation is not expected to cause withdrawals to exceed recharge in the Crystalline Rock aquifer in the area of the well site.

## **HISTORICAL USE DISCUSSION**

The original well for Sheridan Lake Highlands was constructed in 2006 by Alexander Drilling and deepened in 2013. In 2006, it was reported that there was a reduction of needed water supplies in an adequate neighboring domestic well that was attributed to water withdrawals from Sheridan Lake Highlands' existing well. In response, the applicant limited the diversion from the well to 18 gallons per minute to stay as a domestic user. DENR's understanding was that, at some point in time, the conflict between the affected domestic well and the Sheridan Lake Highlands' well was reported to be resolved allowing the withdrawal of the originally permitted amount. The construction of this most recent well has again raised concern from area domestic users that their wells will be impacted by this second well. Therefore, on April 3, 2019, the DENR-Water Rights Program issued an order prohibiting using the recently constructed second well for Sheridan Lake Highlands until a Water Right Permit is in place. On May 10, 2019, Sheridan Lake Highlands responded to the order with a letter informing the DENR-Water Rights Program that the well is being developed as a backup well for the water system serving Sheridan Lake Highlands. The applicant has also clarified that the additional well will be used on an alternating basis with the existing well and that there is not a request to increase the diversion rate authorized by Water Right No. 2572-2.

## **REVIEW OF EXISTING WATER PERMITS/RIGHTS**

There are several water rights on file with SD-DENR Water Rights Program that appropriate ground water from the Crystalline Rock aquifer in the vicinity of this application, seen in Table 1 and Figure 2 (Water Rights, 2019a). The nearest water right/permit appropriating water from the Crystalline Rock aquifer, not owned by the applicant, is Water Right No. 2371-2 (0.1 cfs for domestic use) located approximately 2½ miles to the southeast of this proposed application.

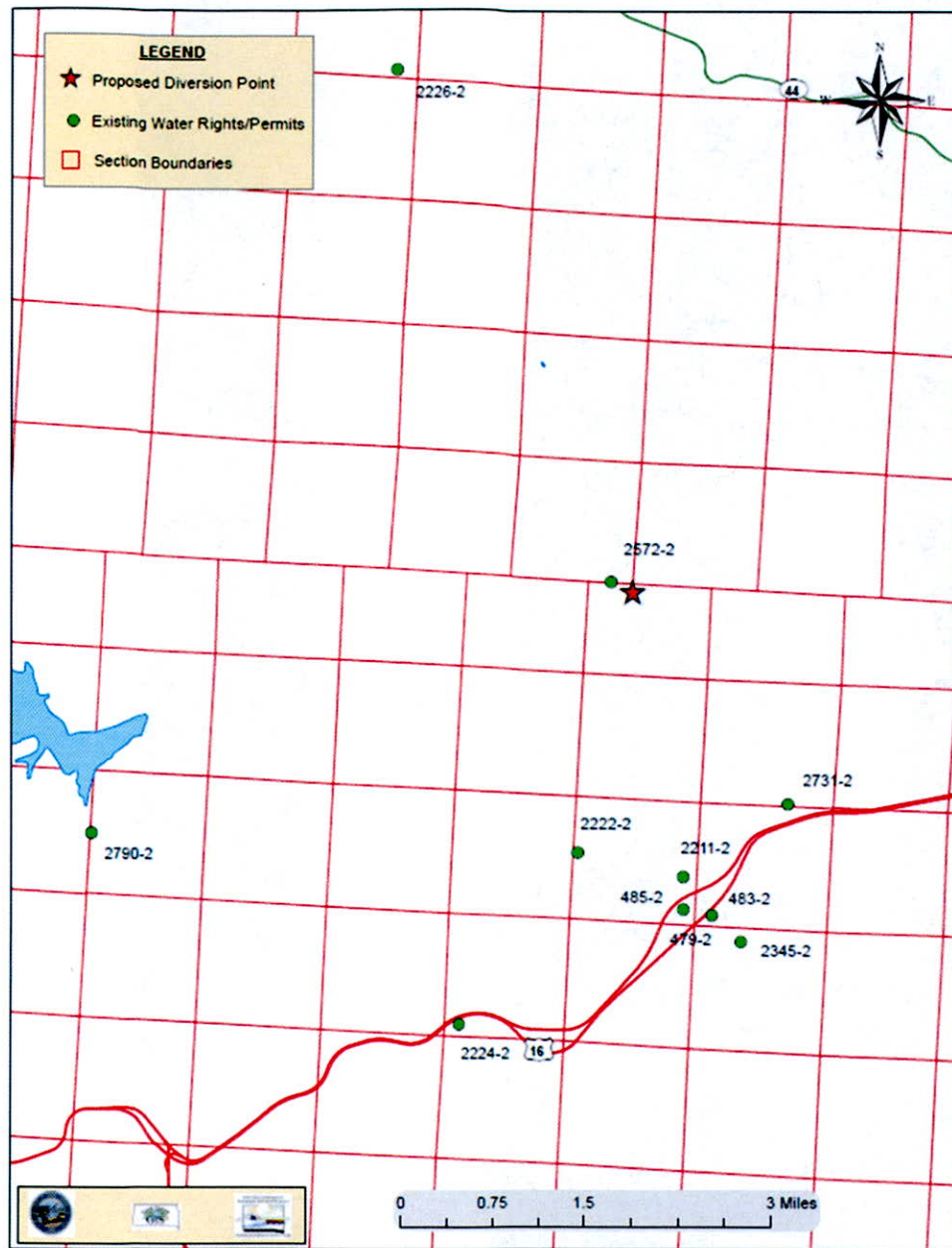


Figure 2. Approximate location of water rights/permits appropriating water from the Crystalline Rock aquifer in the vicinity of this application (Water Rights, 2019a).

In addition to wells supplying appropriative rights, Figure 3 shows a number of domestic use wells on file with the DENR-Water Rights Program that appear to appropriate water from the Crystalline Rock aquifer in the vicinity of this proposed application (Water Rights, 2019c). It should be noted, that the dots on the map are an approximation of actual well locations based on the legal description of the well provided by the well driller. The actual well location may be up to several hundred feet away from the dot shown on the map.



Figure 3. Approximate location of domestic wells appropriating water from the Crystalline Rock aquifer in the vicinity of this application (Water Rights, 2019c).

Pumping groundwater in the Crystalline Rock aquifer will result in water level drawdown, which is dependent on aquifer characteristics in the immediate area of the well site. The effects of drawdown are not necessarily dependent on distance between wells because drawdown is not expected to be uniform in all directions due to fracture flow. The precise drawdown effects at the well sites will depend on aquifer characteristics in the immediate vicinity, and determination of the exact effects would require additional data and testing.

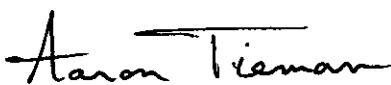
An adequate well as defined by Administrative Rule of South Dakota (ARSD) 74:02:04:20(6) is “a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the

inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near as possible to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.” The Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. Additionally, ARSD 74:02:04:20(7) defines an adversely impacted domestic well and implies that 20 feet of saturated thickness of the aquifer is adequate. However, because the porosity of the crystalline rock is often low and water availability at a given location being linked to the unpredictable occurrence of secondary porosity, 20 feet of saturated thickness may be insufficient for a dependable water source, and wells that meet the definition of an adequate well might not yield sufficient water for a well owner’s needs. If the applicant develops this application, nearby owner may be required to lower their pumps in order to obtain sufficient water. However, this is not an adverse impact as defined by ARSD 74:02:04:20(7).

Water levels in the Crystalline Rock aquifer are also known to vary based on climatic conditions. This variability is demonstrated by observing the hydrograph of Observation Well CU-86A, which shows a range of recorded water levels of approximately 43 feet for the period of record (Figure 1). While the effects of drawdown have not been quantified, water level fluctuations due to pumping are not expected to be significant when compared to natural water level fluctuations in the aquifer. Given the factors listed above, there is reasonable probability that this application can be developed without unlawful impacts to domestic wells and prior water rights/permits.

## CONCLUSIONS

1. Water Permit Application No. 2572A-2 proposes to add a diversion point for backup well and clarify area of use of Water Right No. 2572-2.
2. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second (cfs) from one well completed into the Precambrian Age Crystalline Rock aquifer for suburban housing development use.
3. This proposed application requests the additional well for use as a back-up to the existing well on an alternating basis with no increase in diversion rate authorized by Water Right No. 2572-2, therefore, well interference is not expected to be significant.
4. There is reasonable probability that this proposed application can be developed without unlawful impacts to domestic wells and prior water rights/permits.



Aaron R. Tieman

Natural Resources Engineer

DENR, Water Rights Program

## REFERENCES

- Carter, J., Driscoll, D., Sawyer, J., 2003, Ground Water Resources in the Black Hills Area, South Dakota, U.S. Geological Survey Water-Resources Investigations Report 03-4049, Rapid City, SD, 57701.
- Driscoll, D.G., and Carter, J.M., 2001, Hydrologic Conditions and Budgets for the Black Hills of South Dakota: U.S. Geological Survey Water-Resources Investigations Report 01-4226, 143 p.
- Rahn, P.H., 1979. Groundwater Resources of Western South Dakota. Department of Geology and Geological Engineering, South Dakota School of Mines and Technology, Project #2533. Rapid City, SD.
- Water Right, 2019a, Water Right/Permit Files, SD DENR, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.
- Water Right, 2019b, Observation Well Database, SD DENR, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.
- Water Right, 2019c, Well Completion Report Files, SD DENR, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

[denr.sd.gov](http://denr.sd.gov)

July 23, 2019

Dennis and Darcy Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Dear Mr. and Mrs. Nagel:

Sheridan Lakes Highlands filed a water permit application for an additional well to the current well authorized by Water Right No. 2575-2. The application does not request any increase in the diversion rate authorized by Water Right No. 2572-2.

Please find enclosed the staff report, recommendation and public notice for the application. The notice is to be published in the Rapid City Journal on August 1, 2019, with a date to intervene of August 12, 2019.

This information is being sent to you based on your previous email concerning potential impacts to domestic wells in the area.

Sincerely,

Eric Gronlund

Water Rights Program, DENR

605 773-3352

[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

enclosures



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

[denr.sd.gov](http://denr.sd.gov)

July 23, 2019

Dan and Gloria McGough  
10650 Sheridan Lake Road  
Rapid City SD 57702

Dear Mr. and Mrs. McGough:

Sheridan Lakes Highlands filed a water permit application for an additional well to the current well authorized by Water Right No. 2575-2. The application does not request any increase in the diversion rate authorized by Water Right No. 2572-2.

Please find enclosed the staff report, recommendation and public notice for the application. The notice is to be published in the Rapid City Journal on August 1, 2019, with a date to intervene of August 12, 2019.

This information is being sent to you based on your previous email concerning potential impacts to domestic wells in the area.

Sincerely,

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

Enclosures



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

[denr.sd.gov](http://denr.sd.gov)

July 23, 2019

Elbert and Marian Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dear Mr. and Mrs. Johnson:

Sheridan Lakes Highlands filed a water permit application for an additional well to the current well authorized by Water Right No. 2575-2. The application does not request any increase in the diversion rate authorized by Water Right No. 2572-2.

Please find enclosed the staff report, recommendation and public notice for the application. The notice is to be published in the Rapid City Journal on August 1, 2019, with a date to intervene of August 12, 2019.

This information is being sent to you based on your previous email concerning potential impacts to domestic wells in the area.

Sincerely,

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

Enclosures

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# Affidavit of Publication

RECEIVED

AUG 02 2019

WATER RIGHTS  
PROGRAM

August 1 2019  
NOTICE OF APPLICATION  
NO. 2572A-2

Notice is given that Sheridan Lake Highlands Inc., c/o Angela Vancas, President, 23468 Dry Sage Ln, Rapid City SD 57702 has filed an application for an additional diversion point for a backup well and clarify area of use. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second from one well completed into the Precambrian Age Crystalline Rock Aquifer located in the SE 1/4 SE 1/4 Section 34-T1N-R6E for suburban housing development use. The applicant is requesting to construct an additional well into the Precambrian Age Crystalline Rock Aquifer (approximately 500 feet deep) located in the N 1/2 NW 1/4 Section 2-T1S-R6E. This well will serve as a backup supply for the housing development located in the SE 1/4 SE 1/4 Section 34; SW 1/4 SW 1/4 Section 35; all in T1N-R6E and the N 1/2 NW 1/4 Section 2-T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2572A-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 12, 2019.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Steven M. Pirner, Secretary,  
Department of Environment and  
Natural Resources

(Published once at the total approximate  
cost of \$61.12)

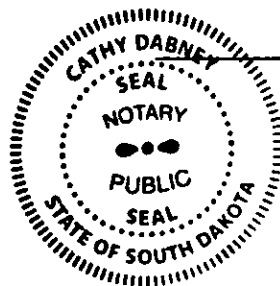
STATE OF SOUTH DAKOTA

County of Pennington SS:

Sheri Sponder being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each day for one successive day, the first publication there of being on the 1st day of Aug 2019 that the fees charged for the publication there of are 61 dollars and 12 cents.

Sheri Sponder

Subscribed and sworn to before me this 1st day of August, 2019.



Cathy Dabney  
Notary public

4-16-2024

My commission expires



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

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

July 23, 2019

Sheridan Lake Highlands Inc  
c/o Angela Vancas, President  
23468 Dry Sage Lane  
Rapid City SD 57702

Dear Ms. Vancas:

Water Permit Application No. 2572A-2 for suburban housing development use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Rapid City Journal (Ph # 605 394-8300). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

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.

## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Tuesday, July 23, 2019 1:15 PM  
**To:** RCY Legals (legals@rapidcityjournal.com)  
**Subject:** 2572A-2, Sheridan Lake Highlands Inc  
**Attachments:** 2572A-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on August 1, 2019.

Sheridan Lake Highlands Inc., c/o Angela Vancas, President, 23468 Dry Sage Lane, Rapid City SD 57702 (605 348-3817) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

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

*Karen Schlaak*

SD DENR, Water Rights Program  
(605) 773-3352



NOTICE OF APPLICATION NO. 2572A-2

Notice is given that Sheridan Lake Highlands Inc., c/o Angela Vancas, President, 23468 Dry Sage Ln, Rapid City SD 57702 has filed an application for an additional diversion point for a backup well and clarify area of use. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second from one well completed into the Precambrian Age Crystalline Rock Aquifer located in the SE 1/4 SE 1/4 Section 34-T1N-R6E for suburban housing development use. The applicant is requesting to construct an additional well into the Precambrian Age Crystalline Rock Aquifer (approximately 500 feet deep) located in the N 1/2 NW 1/4 Section 2-T1S-R6E. This well will serve as a backup supply for the housing development located in the SE 1/4 SE 1/4 Section 34; SW 1/4 SW 1/4 Section 35; all in T1N-R6E and the N 1/2 NW 1/4 Section 2-T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2572A-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 12, 2019.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \_\_\_\_\_.

August 8, 2019

AUG 12 2019

Sheridan Lake Highlands Inc.  
c/o Angela Vancas  
23468 Dry Sage Lane  
Rapid City, SD 57702

Jeanne Goodman  
Chief Engineer  
Water Rights Program  
523 E. Capitol  
Pierre, SD 57501

Eric Gronlund  
Water Rights Program DENR  
523 E. Capitol  
Pierre, SD 57501

WATER RIGHTS  
PROGRAM

RE: Water Right No. 2572A-2

As one of several home owners who live within a few hundred feet of the Sheridan Lake Highlands, I wish to express my concerns for this Development's request for another well in this community. I understand approval is pending. I do believe this approval decision is based on incomplete information:

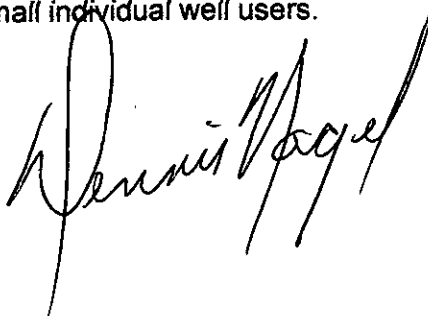
1. Page 2, table 1 of the staff report lists ten permit holders using 270 acre feet of water yearly from the effected Crystalline Rock aquifer. However, I do not believe adequate considerations are made for the hundreds of other individual wells located in the shattered crystalline rock. These unlisted wells use many more additional acre feet of water than just those named as formal water right users in table 1.
2. Page 6, figure 3 of the staff report highlights the various wells in the limited immediate satellite view of this development. It indicates seven or eight wells, six of which are within the development. Having owned property in this area for the past 30 plus years I am aware of at least fifteen additional wells which were not included with this official report/satellite view. I have attached a copy of that satellite view showing the additional wells that I have marked with an X. This is three times the number of wells using water in this consideration.
3. Sheridan Lake Highlands has only recently assumed control of this water system which was previously owned by Ryan Kelly. Some of us have attended various numbers of County permitting meetings throughout the years. In the approximate past year, the County approved the last of the residential lots in the Highlands. I and others witnessed Mr. Kelly advise the Commission that no new wells would be drilled nor were they needed as the existing system was adequate to absorb the additional homes. It would seem that a "back up" well for a system that already provides sufficient water would be or is an unnecessary expense. The county did approve Mr. Kelly's PUD with this as a condition for granting the Developments expansion.

However, this spring a new well was drilled without a county permit. Upon receiving complaints the county passed this issue on to the state DENR, hence the current situation. It would seem that the appropriate permitting for this well should have been obtained prior to its having been drilled. It is only now that proper permitting is sought.

As approval of this new well appears to be a foregone conclusion with the Chief Engineer, I hope these concerns might spark additional consideration and investigation. Although the past couple of years plentiful water has not been an issue, we all know more dry and drought times are ahead. Please consider us small individual well users.

Thank you,

Dennis Nagel  
13435 Rockwood Rd  
Rapid City, SD 57702  
(605) 393-5544



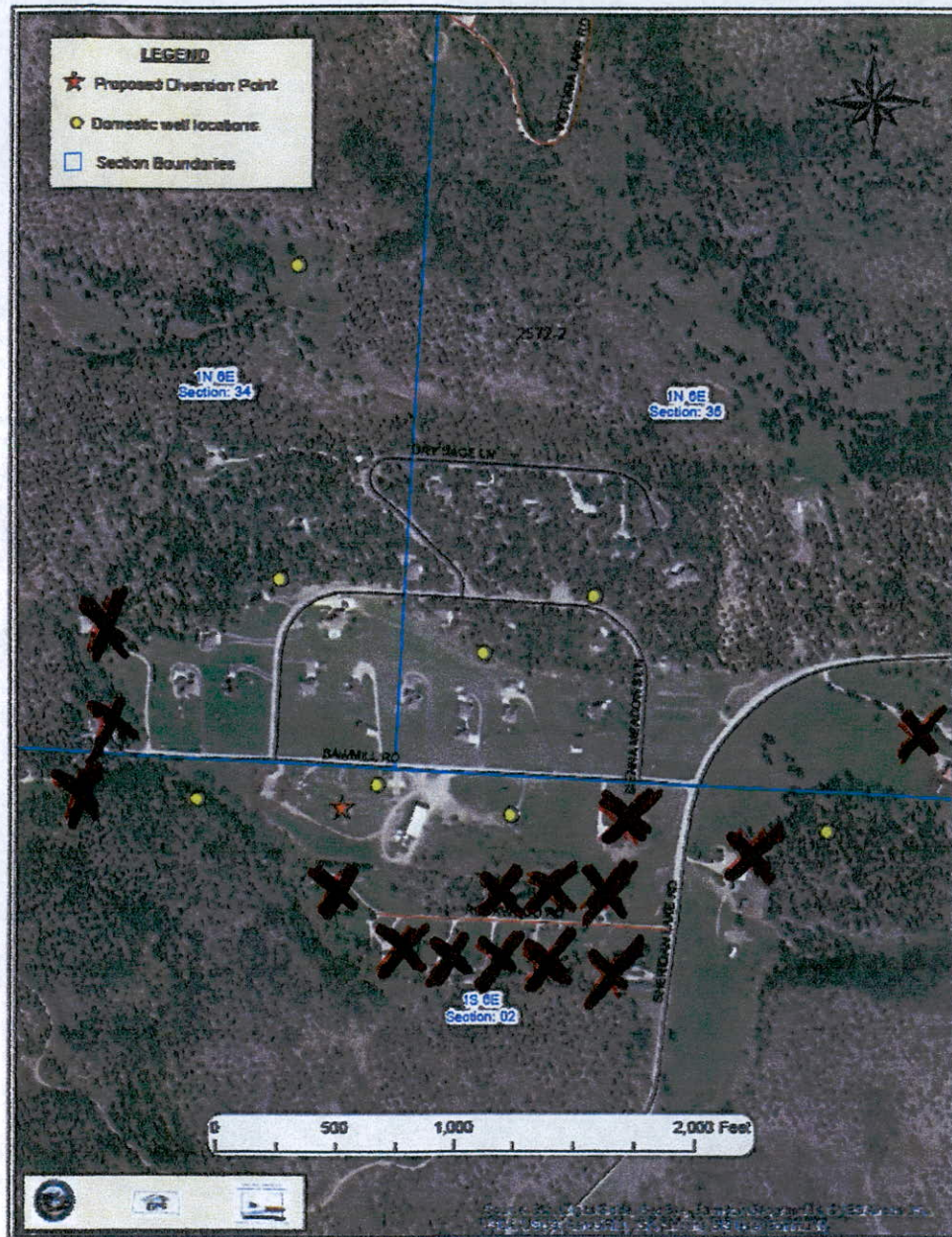


Figure 3. Approximate location of domestic wells appropriating water from the Crystalline Rock aquifer in the vicinity of this application (Water Rights, 2019c).

Pumping groundwater in the Crystalline Rock aquifer will result in water level drawdown, which is dependent on aquifer characteristics in the immediate area of the well site. The effects of drawdown are not necessarily dependent on distance between wells because drawdown is not expected to be uniform in all directions due to fracture flow. The precise drawdown effects at the well sites will depend on aquifer characteristics in the immediate vicinity, and determination of the exact effects would require additional data and testing.

An adequate well as defined by Administrative Rule of South Dakota (ARSD) 74:02:04:20(6) is “a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the

RECEIVED

Elbert L. Johnson

AUG 12 2019

WATER RIGHTS  
PROGRAM

13430 Rockwood Road  
Rapid City, South Dakota 57702

Phone: 605 348-5362

Email: elbert.johnson@gmail.com

August 9, 2019

Jeanne Goodman  
Chief Engineer  
Water Rights Program  
523 E. Capitol  
Pierre, SD 57501

Dear Ms Goodman:

Sheridan Lake Highlands has filed a water permit application for an additional well to the current well authorized by Water Right No. 2572A-2. I am petitioning this application and recommendation as it will severely reduce needed water supplies in adequate domestic wells, including mine, that are located adjacent to Sheridan Lake Highlands. Further, I do not believe that it is in the public interest.

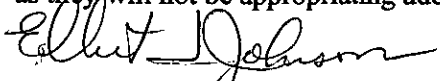
There are several factors that have not been considered in the Application Report. Some of these factors were not available or readily available to the engineer preparing the report.

The localized Crystalline Rock Aquifer under discussion may or may not have any similar characteristics to the hydrograph of CU 86-A as our Aquifer flows in an northwest to southeast direction and terminates shortly past the Boland Placer Subdivision as it flows into the Spring Creek canyon.

The Water Wells Completion Reports, located at <https://apps.sd.gov/nr68welllogs/default>, were apparently used to compile the data of Figure 3. Using this data, it appears that the nearest domestic use well that might be impacted is approximately 800 feet from the Proposed Diversion Point. However, the Reports inaccurately reflect domestic use. The nearest domestic well is actually 330 feet from the new well. There are approximately 14 other wells within a 1,000 feet radius that are not shown in Figure 3. Also, there has been no effort to analyze the cone of depression nor zone of influence that the new well will create. Unquestionably, there will be significant impact on many of these wells.

There seems no valid reason to create this new well for a backup. Assuming a well pump outage, a large storage tank makes it possible for the entire housing area to go without pumping water for several days while hypothetical repairs were being made to the well pump, etc. Having alternating wells for pumping water is void of logic unless there is some reason not of public knowledge.

There is a very reasonable probability that this well is going to have a significant impact on preexisting wells of the Boland Placer Subdivision but will not be of appreciable benefit to Sheridan Lake Highlands as they will not be appropriating additional water. We request disapproval.

  
Elbert L. Johnson

CC: Sheridan Lake Highlands, Inc, C/O Angela Vancas, 23468 Dry Sage Lane, Rapid City, SD 57702  
Eric Gronlund, Water Rights Program, DENR, 523 East Capitol, Pierre, SD 57501



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

August 19, 2019

**NOTICE OF HEARING**

TO: Angela Vancas, President  
Sheridan Lake Highlands Inc  
23468 Dry Sage Lane  
Rapid City SD 57702

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 2572A-2, Sheridan Lake Highlands Inc.

Two petitions were filed in the matter of Water Permit Application No. 2572A-2 in response to the Notice of Application published in the Rapid City Journal. This notice schedules a hearing on Application No. 2572A-2 before the South Dakota Water Management Board.

Water Permit Application No. 2572A-2 propose an additional diversion point for a backup well and clarify area of use. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second from one well completed into the Precambrian Age Crystalline Rock Aquifer located in the SE 1/4 SE 1/4 Section 34-T1N-R6E for suburban housing development use. The applicant is requesting to construct an additional well into the Precambrian Age Crystalline Rock Aquifer (approximately 500 feet deep) located in the N 1/2 NW 1/4 Section 2-T1S-R6E. This well will serve as a backup supply for the housing development located in the SE 1/4 SE 1/4 Section 34; SW 1/4 SW 1/4 Section 35; all in T1N-R6E and the N 1/2 NW 1/4 Section 2-T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2572A-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

The Water Management Board will consider Application No. 2572A-2 at 1:00 PM on Thursday, December 5, 2019, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue,

Pierre SD. The Board will formalize the December meeting date at their October meeting. Parties will be provided written notice if there is a significant change to the hearing time or the meeting location.

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 the application after it reaches a conclusion based on the facts presented at the public hearing.

The December 5, 2019, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by November 22, 2019. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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

Contact Eric Gronlund at the above Chief Engineer's address to request the staff report, recommendation, application or any other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Enclosed is a copy of the report, recommendation, affidavit of publication and the petitions filed in the matter of Water Permit Application No. 2572A-2. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is August 29, 2019. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-

6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

enclosures

c: Ann Mines Bailey, Assistant Attorney General  
Talbot Wieczorek, Gunderson, Palmer, Nelson & Ashmore LLP, PO Box 8045, Rapid City SD 57709

CERTIFICATION

I hereby certify that on August 19, 2018, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated August 19, 2018, regarding notice of hearing for Water Right Permit Application No. 2572A-2, as addressed below:

Angela Vancas, President  
Sheridan Lake Highlands Inc  
23468 Dry Sage Lane  
Rapid City SD 57702

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore LLP  
PO Box 8045  
Rapid City SD 57709

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501



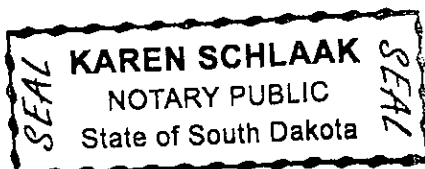
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                          ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 19<sup>th</sup> day of August, 2018



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019<sup>25</sup>



## **REPORT ON APPLICATION NO. 2572A-2**

For Sheridan Lake Highlands Inc.

July 10, 2019

Sheridan Lake Highlands Inc. has filed Water Permit Application No. 2572A-2 for an additional diversion point for a backup well and to clarify area of use. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second (cfs) from one well completed into the Precambrian Age Crystalline Rock aquifer located in the SE¼ SE¼ Section 34, T1N-R6E for suburban housing development use. The applicant is requesting to construct an additional well into the Precambrian Age Crystalline aquifer (approximately 500 feet deep) located in the N½ NW¼ Section 2, T1N-R6E. This well will serve as a backup supply for the housing development located in the SE¼ SE¼ Section 34; SW¼ SW¼ Section 35; all in T1N-R6E and the N½ NW¼ Section 2, T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City in Pennington County, South Dakota.

### **AQUIFER – Crystalline Rock (CRSL)**

The Precambrian aged crystalline rocks consist primarily of mica schist or phyllite, quartzite, amphibolite, meta-iron formations, and graphitic schist. The Precambrian aged aquifer is not continuous and ground water conditions are controlled mainly by zones of secondary permeability caused by fracturing and weathering (Carter and others, 2003). The distribution, orientation and interconnection of these zones of secondary porosity and permeability are unpredictable, and the aquifer characteristics are site specific and highly variable.

Based on an estimated exposed area of 574,000 acres, water bearing material down to 500 feet, and an effective porosity of one percent, Rahn (1979) estimated the amount of recoverable water in the Crystalline Rock aquifer is 8,600,000 acre-feet.

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

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

### **WATER AVAILABILITY**

The availability of unappropriated water from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older than or stratigraphically lower than the Greenhorn Formation and is used for a water distribution system,



the Board need not take into consideration the balance of aquifer recharge and withdrawal. The Crystalline Rock aquifer is older than the Greenhorn Formation, and the water is for a water distribution system in a suburban housing development, however, water availability in the aquifer will be discussed.

Recharge to the localized crystalline rock aquifer occurs through infiltration of precipitation falling on the outcrop and through streamflow losses when the stages of area streams are higher than groundwater levels. Driscoll and Carter (2001) estimated recharge to the Crystalline Rock aquifers to be equal to withdrawals (3,600 acre-feet per year), however the recharge may likely be much higher to account for stream losses. Driscoll and Carter (2001) also noted that recharge conditions of crystalline rock aquifers are highly transient and have large spatial variability, thus quantification of recharge is not attempted.

Discharge from the aquifer occurs through pumping of wells, evapotranspiration, and seepage to streams. As previously mentioned, the Crystalline Rock aquifer is not a single regional aquifer but rather numerous localized aquifers. There are no studies or information available at this time to attempt delineation of the localized aquifers within the crystalline core area of the Black Hills. However, there are several water rights on file with SD-DENR Water Rights Program that appropriate ground water from the Crystalline Rock aquifer in the vicinity of this application listed in Table 1 (Water Rights, 2019a).

Table 1. Table identifying Water Rights/Permits in the vicinity of this application (Water Rights, 2019a).

| Permit No. | Name                             | Status | Use | Rate (cfs) | Estimated Annual Use (acre-feet/yr) |
|------------|----------------------------------|--------|-----|------------|-------------------------------------|
| 479-2      | ROCKERVILLE GOLD TOWN INC        | LC     | COM | 0.09       | 39.04                               |
| 483-2      | ROCKERVILLE TRADING POST         | LC     | COM | 0.13       | 56.47                               |
| 485-2      | ROCKERVILLE PARK                 | LC     | COM | 0.07       | 30.4                                |
| 2211-2     | PINE HAVEN HERITAGE HOME         | LC     | COM | 0.03       | 13.03                               |
| 2222-2     | STORM MOUNTAIN CENTER            | LC     | REC | 0.04       | 17.38                               |
| 2224-2     | HILLSIDE COUNTRY COTTAGES        | LC     | COM | 0.004      | 1.74                                |
| 2345-2     | ROCKERVILLE ACRES SUB-DIV        | LC     | COM | 0.024      | 10.43                               |
| 2572-2     | SHERIDAN LAKE HIGHLANDS HOA      | LC     | SHD | 0.08       | 34.75                               |
| 2731-2     | HOFFMAN                          | LC     | DOM | 0.1        | 43.44                               |
| 2790-2     | BLUE WING RECREATION CORPORATION | LC     | COM | 0.053      | 23.02                               |

(LC = license, COM = commercial, REC = recreational, SHD = suburban housing development, DOM = domestic)

Various details of the water rights can be seen in Table 1, including an estimate of annual use totaling 269.7 acre-feet per year. The estimated annual use was determined by assuming that: (1) future use permits will be fully developed; (2) appropriations with a specified annual rate limitation will divert to their maximum limit; and (3) appropriations limited by diversion rate only, will be used at 60 percent of full time usage at their maximum diversion rate.

Therefore, when compared to the Driscoll and Carter (2001) average annual recharge estimate of 3,600 acre-feet per year, the average annual use can be expected to considerably less than the average annual recharge for this localized portion of the Crystalline Rock aquifer. Using the above mentioned assumptions, there is reasonable probability that unappropriated water is available for this appropriation.

### OBSERVATION WELL DATA

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer. The Water Rights Program monitors two observation wells completed into the Crystalline Rock aquifer (Water Rights, 2019b). The hydrograph of CU-86A, located approximately 15 miles southwest, is shown in Figure 1. Due to the distance from the well that is to be used to supply this appropriation and the site specific nature of the aquifer, these observation wells do not describe the local characteristics of the aquifer. However, this data can provide representative general characteristics of the aquifer.

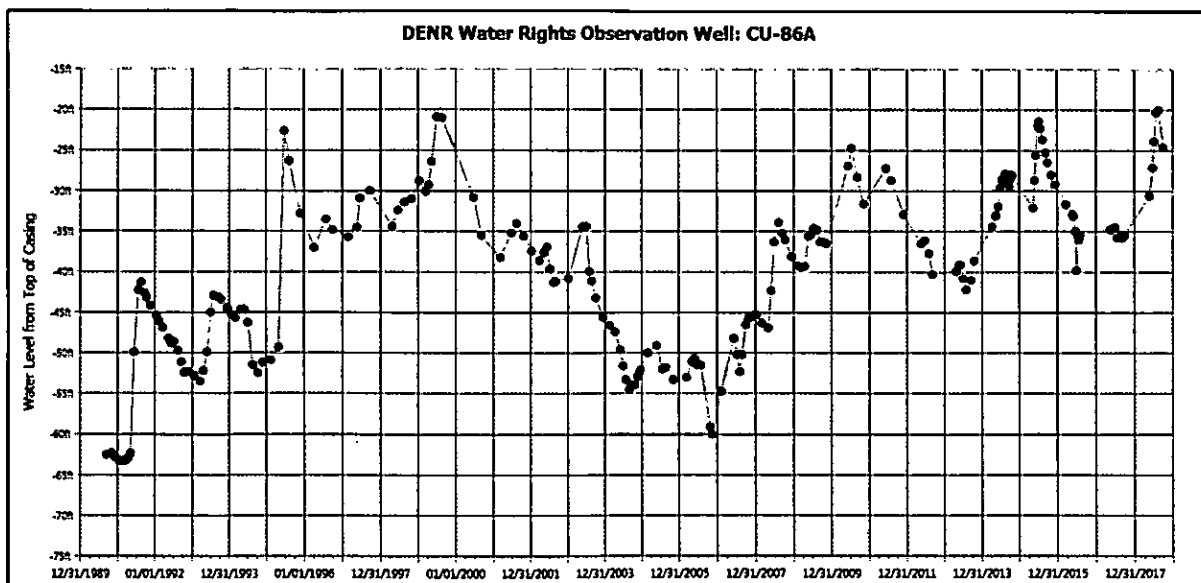


Figure 1. Hydrograph of observation well CU-86A (Water Rights, 2019b).

Water level data from the observation well identifies water level fluctuations of over 40 feet in response to varying climatic conditions, rising during wet years and gradually declining water levels during dry years. In general, the temporal effects of pumping are masked by climatic conditions indicating that additional water is available for well withdrawals to capture. Therefore, this proposed appropriation is not expected to cause withdrawals to exceed recharge in the Crystalline Rock aquifer in the area of the well site.

## **HISTORICAL USE DISCUSSION**

The original well for Sheridan Lake Highlands was constructed in 2006 by Alexander Drilling and deepened in 2013. In 2006, it was reported that there was a reduction of needed water supplies in an adequate neighboring domestic well that was attributed to water withdrawals from Sheridan Lake Highlands' existing well. In response, the applicant limited the diversion from the well to 18 gallons per minute to stay as a domestic user. DENR's understanding was that, at some point in time, the conflict between the affected domestic well and the Sheridan Lake Highlands' well was reported to be resolved allowing the withdrawal of the originally permitted amount. The construction of this most recent well has again raised concern from area domestic users that their wells will be impacted by this second well. Therefore, on April 3, 2019, the DENR-Water Rights Program issued an order prohibiting using the recently constructed second well for Sheridan Lake Highlands until a Water Right Permit is in place. On May 10, 2019, Sheridan Lake Highlands responded to the order with a letter informing the DENR-Water Rights Program that the well is being developed as a backup well for the water system serving Sheridan Lake Highlands. The applicant has also clarified that the additional well will be used on an alternating basis with the existing well and that there is not a request to increase the diversion rate authorized by Water Right No. 2572-2.

## **REVIEW OF EXISTING WATER PERMITS/RIGHTS**

There are several water rights on file with SD-DENR Water Rights Program that appropriate ground water from the Crystalline Rock aquifer in the vicinity of this application, seen in Table 1 and Figure 2 (Water Rights, 2019a). The nearest water right/permit appropriating water from the Crystalline Rock aquifer, not owned by the applicant, is Water Right No. 2371-2 (0.1 cfs for domestic use) located approximately 2½ miles to the southeast of this proposed application.



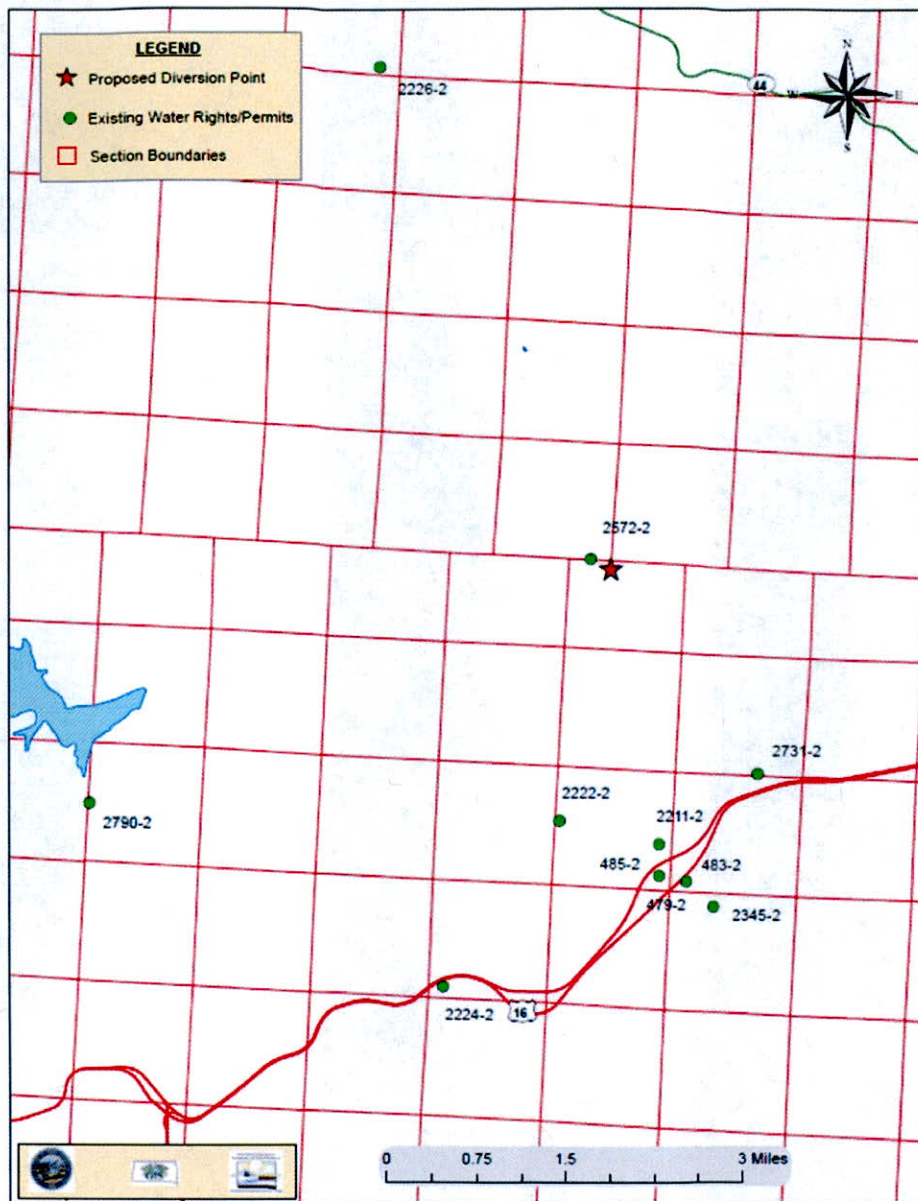


Figure 2. Approximate location of water rights/permits appropriating water from the Crystalline Rock aquifer in the vicinity of this application (Water Rights, 2019a).

In addition to wells supplying appropriative rights, Figure 3 shows a number of domestic use wells on file with the DENR-Water Rights Program that appear to appropriate water from the Crystalline Rock aquifer in the vicinity of this proposed application (Water Rights, 2019c). It should be noted, that the dots on the map are an approximation of actual well locations based on the legal description of the well provided by the well driller. The actual well location may be up to several hundred feet away from the dot shown on the map.

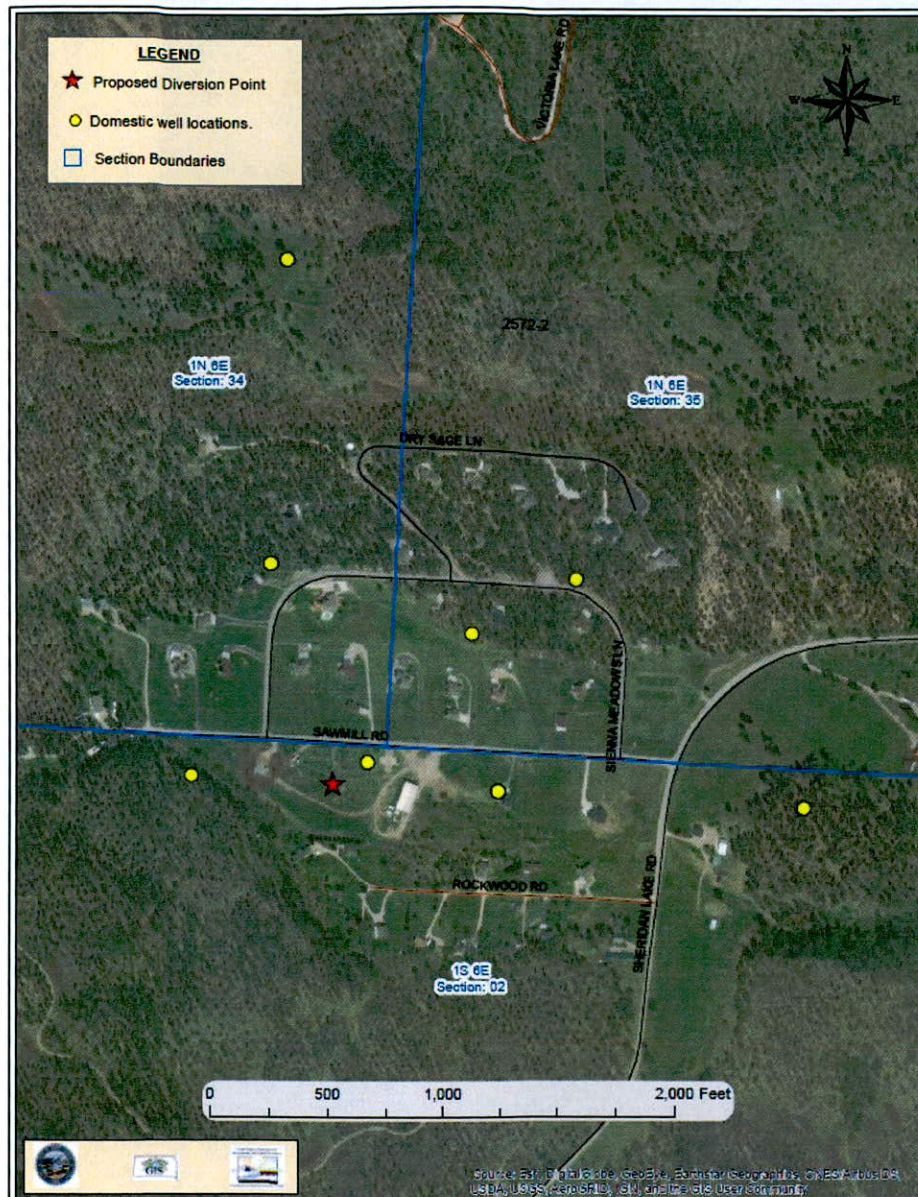


Figure 3. Approximate location of domestic wells appropriating water from the Crystalline Rock aquifer in the vicinity of this application (Water Rights, 2019c).

Pumping groundwater in the Crystalline Rock aquifer will result in water level drawdown, which is dependent on aquifer characteristics in the immediate area of the well site. The effects of drawdown are not necessarily dependent on distance between wells because drawdown is not expected to be uniform in all directions due to fracture flow. The precise drawdown effects at the well sites will depend on aquifer characteristics in the immediate vicinity, and determination of the exact effects would require additional data and testing.

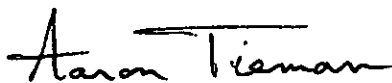
An adequate well as defined by Administrative Rule of South Dakota (ARSD) 74:02:04:20(6) is “a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the

inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near as possible to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet." The Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. Additionally, ARSD 74:02:04:20(7) defines an adversely impacted domestic well and implies that 20 feet of saturated thickness of the aquifer is adequate. However, because the porosity of the crystalline rock is often low and water availability at a given location being linked to the unpredictable occurrence of secondary porosity, 20 feet of saturated thickness may be insufficient for a dependable water source, and wells that meet the definition of an adequate well might not yield sufficient water for a well owner's needs. If the applicant develops this application, nearby owner may be required to lower their pumps in order to obtain sufficient water. However, this is not an adverse impact as defined by ARSD 74:02:04:20(7).

Water levels in the Crystalline Rock aquifer are also known to vary based on climatic conditions. This variability is demonstrated by observing the hydrograph of Observation Well CU-86A, which shows a range of recorded water levels of approximately 43 feet for the period of record (Figure 1). While the effects of drawdown have not been quantified, water level fluctuations due to pumping are not expected to be significant when compared to natural water level fluctuations in the aquifer. Given the factors listed above, there is reasonable probability that this application can be developed without unlawful impacts to domestic wells and prior water rights/permits.

## CONCLUSIONS

1. Water Permit Application No. 2572A-2 proposes to add a diversion point for backup well and clarify area of use of Water Right No. 2572-2.
2. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second (cfs) from one well completed into the Precambrian Age Crystalline Rock aquifer for suburban housing development use.
3. This proposed application requests the additional well for use as a back-up to the existing well on an alternating basis with no increase in diversion rate authorized by Water Right No. 2572-2, therefore, well interference is not expected to be significant.
4. There is reasonable probability that this proposed application can be developed without unlawful impacts to domestic wells and prior water rights/permits.



Aaron R. Tieman

Natural Resources Engineer

DENR, Water Rights Program



## REFERENCES

- Carter, J., Driscoll, D., Sawyer, J., 2003, Ground Water Resources in the Black Hills Area, South Dakota, U.S. Geological Survey Water-Resources Investigations Report 03-4049, Rapid City, SD, 57701.
- Driscoll, D.G., and Carter, J.M., 2001, Hydrologic Conditions and Budgets for the Black Hills of South Dakota: U.S. Geological Survey Water-Resources Investigations Report 01-4226, 143 p.
- Rahn, P.H., 1979. Groundwater Resources of Western South Dakota. Department of Geology and Geological Engineering, South Dakota School of Mines and Technology, Project #2533. Rapid City, SD.
- Water Right, 2019a, Water Right/Permit Files, SD DENR, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.
- Water Right, 2019b, Observation Well Database, SD DENR, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.
- Water Right, 2019c, Well Completion Report Files, SD DENR, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 2572A-2**

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. 2572A-2, Sheridan Lake Highlands Inc., 23468 Dry Sage Lane, Rapid City SD 57702.

The Chief Engineer is recommending APPROVAL of Application No. 2572A-2 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

See report on application for additional information.

Jeanne Goodman, Chief Engineer  
July 23, 2019

# Affidavit of Publication

RECEIVED

AUG 12 2019

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA

County of Pennington

SS:

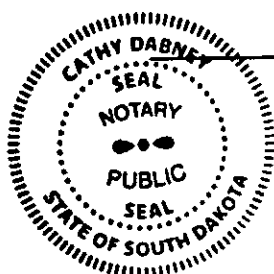
Sheri Sponder being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each day for one successive day the first publication there of being on the 1<sup>st</sup> day of Aug 2019 that the fees charged for the publication there of are 61 dollars and 12 cents.

Sheri Sponder

Subscribed and sworn to before me this 7<sup>th</sup>  
day of August, 2019.

Cathy Dabney  
Notary public

4-16-2024  
My commission expires



August 1 121121210  
NOTICE OF APPLICATION  
NO. 2572A-2

Notice is given that Sheridan Lake Highlands Inc., c/o Angela Vancas, President, 23468 Dry Sage Ln, Rapid City SD 57702 has filed an application for an additional diversion point for a backup well and clarify area of use. Water Right No. 2572-2 authorizes 0.03 cubic feet of water per second from one well completed into the Precambrian Age Crystalline Rock Aquifer located in the SE 1/4 SE 1/4 Section 34-T1N-R6E for suburban housing development use. The applicant is requesting to construct an additional well into the Precambrian Age Crystalline Rock Aquifer (approximately 500 feet deep) located in the N 1/2 NW 1/4 Section 2-T1S-R6E. This well will serve as a backup supply for the housing development located in the SE 1/4 SE 1/4 Section 34; SW 1/4 SW 1/4 Section 35; all in T1N-R6E and the N 1/2 NW 1/4 Section 2-T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2572A-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Grantlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 12, 2019.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Steven M. Pirner, Secretary,  
Department of Environment and  
Natural Resources

(Published once at the total approximate  
cost of \$41.12)

## **Procedure for Hearings before the Water Management Board**

The Water Management Board's function is to regulate and control the development, conservation, and allocation of the use of water according to the principles of beneficial use and priority of appropriation. In this role, the Water Management Board conducts contested case hearings on water right permit applications. This document is intended to acquaint participants in hearings of general procedures before the Board.

The Board is a citizen board consisting of seven members appointed by the Governor. They are from varying backgrounds and locations around the state. The Board has meetings approximately every two months.

South Dakota codified laws (SDCL) and administrative rules (ARSD) govern water rights. The laws and rules may be downloaded at DENR's website at <http://www.state.sd.us/denr/denr.html>. Laws of interest include SDCL Chapters 1-26, 46-1, 46-2, 46-2A, 46-4, 46-5 and 46-6. Administrative rules to review are ARSD 74:02:01.

An individual may represent himself in a contested case before the Board or may be represented by legal counsel. However, an organization, association, partnership, corporation, etc., must be represented by an attorney. Attorneys that intend to participate in the hearing must mail a Notice of Appearance to all other parties. Non-resident attorneys must be able to demonstrate compliance with the requirements set forth SDCL 16-18-2 to practice in South Dakota.

### **Burden of Proof**

The applicant for an permit issued by the Water Management Board has the burden of proving that he is entitled to the permit. The applicant must therefore be prepared to present the permit application and the proposed operation to the Board at a contested case hearing. This burden then switches to the petitioning parties to prove their case. Do not rely on the Department of Environment and Natural Resources (DENR) to carry the burden of proof. Although DENR makes a recommendation to the Board, this recommendation is in no way binding upon the Board. While a DENR expert will present their report and be subject to questioning by the Board and parties on the application, DENR is not an advocate for your position.

SDCL 46-2A-9 sets forth the four criteria that must be present in order to approve an application. They are:

- 1) A reasonable probability that unappropriated water is available for the proposed use;
- 2) The proposed diversion will not unlawfully impair existing rights;
- 3) The use is a beneficial use; and
- 4) The use is in the public interest.

### **Procedure**

You or your legal counsel need to be at the hearing to present your position in a contested case hearing.

The Board Chairman runs the hearing. Address all questions and objections to the Chairman for a ruling. In some instances the Board will appoint a hearing chairman for preside over prehearing conferences and prehearing motions. An attorney from the Attorney General's office is seated with the Board to provide

them legal advice. In addition, the Water Rights Program is represented by legal counsel. This is a legal proceeding so expect to swear an oath to tell the truth when you approach the podium.

Contested case hearing are conducted pursuant to procedures outlined in SDCL ch. 1-26. Only parties of record can participate in the hearing by presenting testimony, calling witnesses or cross examining witnesses. Parties include the applicant and those individuals that have filed a petition as set forth in the public notice. The following procedure is followed:

1. Opening statements (parties may waive their opening statement)
  - a. Applicant
  - b. DENR – DENR will present a brief description of the application
  - c. Petitioners and Intervenors
2. Evidentiary hearing
  - a. Applicant (applicant's opportunity to present testimony and call witnesses)
  - b. DENR – staff present their report and the Chief Engineer's recommendation
  - c. Petitioners and Intervenors (opportunity to present testimony and call witnesses)

Be prepared to explain your position on the application. Although the Board members have a great deal of expertise, don't presume they know anything about your issue before them. If you're the applicant, state what the proposed project is, the location of the project, timelines for completed the project and its benefits. If you are an opponent to the application, explain where you live in proximity to the proposed project and the adverse impact of the proposed project.

Parties may call witnesses on their behalf. The Board oftentimes hears testimony from technical experts, neighbors or other witnesses regarding the proposal. Written endorsements are subject to the hearsay rule at the time of the hearing since the person can not be cross examined. Written comments will usually be allowed only if there is no objection from any other party.

Upon the conclusion of any witness's testimony, Board members may ask questions of the witness and all parties will be afforded an opportunity in an orderly manner to cross examine the witness regarding their testimony. Cross examination is your opportunity to ask questions of the witness related to their direct testimony. It is not the appropriate time for you to provide your testimony.

3. Rebuttal – parties are afforded an opportunity to present testimony rebutting a prior witnesses testimony. Witnesses are again subject to cross examination but only related to their rebuttal testimony.
4. Closing arguments (summation of your position)
  - a. Applicant
  - b. DENR
  - c. Petitioners and Intervenors
5. Board decision. The decision making process occurs in public in front of all concerned and on the record. Normally, the Board limits discussion to its members but may call on witnesses, lawyers or parties to clarify a point. Upon making a verbal decision, the Board will direct

either the prevailing party or Water Rights Program's staff attorney to prepare findings of fact, conclusions of law and Final Decision that will be considered at the Board's next meeting. The findings are a record of the facts considered by the Board. In the event the Board's decision is appealed to court, the findings reflect the facts considered by the Board to arrive at a decision. The non-prevailing party may waive their rights to findings if they are satisfied the Board addressed their concerns or have no intention of appealing the decision.

Although hearings may sometimes be considered informal, it is evidentiary hearing. Lawyers cannot testify or answer factual questions, cross examination is allowed, copies of exhibits must be available for opposing counsel or parties.

#### Ex-parte Communication

It is improper for any party to a pending application or contested case proceeding to contact Board members prior to the hearing. To do so is ex-parte communication with the likely result being the Board member excusing himself from the proceeding. The Board is very careful to avoid even the appearance of discussing a contested case hearing that will come before it. Situations do arise where a party requests to have a Board ruling on a motion prior to the evidentiary hearing. If an applicant or party has an issue he wishes to raise prior to the hearing, please contact the Water Rights Program and they will put you in contact with either the Board's attorney or the Water Rights Program attorney.

#### Exhibits

Exhibits are pictures, maps or documents you wish the Board to consider in conjunction with your testimony. Used effectively, exhibits greatly increase the interest and knowledge of the Board. Please have all exhibits you intend to present marked in advance of the hearing (example – Applicant Exhibit 1, 2 and 3 or Petitioner Exhibit 1, 2 and 3). Provide enough copies of each exhibit for the Board, Water Rights Program, opposing counsel and other parties. The exchange of exhibits by parties prior to the hearing is encouraged. Be aware that someone may object to admission of an exhibit. The Board Chairman will rule whether the exhibit is admissible. All exhibits become part of the record and will not be returned.

#### Transcript

A court reporter is present at all contested case hearings. A party wishing to have a transcript of the hearing should make their own arrangement with the court reporter. DENR will tape the proceeding and will prepare minutes of the hearing.

#### Appeal of Board's Decision

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days from when the signed findings of fact, conclusions of law and final decision is mailed to parties. The notice of appeal must be in accordance with procedures established in SDCL 1-26-31.

The best advice is to come to the hearing prepared! If you have question regarding the hearing process, please contact Eric Gronlund, Water Rights Program at (605) 773-3352.



## Summary of South Dakota Water Laws and Rules

Prepared by Water Rights Program

May 2013

## DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

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<http://denr.sd.gov/wr>

The following is a summary of South Dakota water laws and rules. This summary is provided as a service of the Water Rights Program, Department of Environment and Natural Resources for the purpose of introducing the public to the water rights laws of South Dakota. The actual text of the laws and rules may be viewed at <http://denr.sd.gov/des/wr/laws.aspx>.

**PLEASE NOTE:** This summary is not a substitute for the South Dakota Codified Laws or Administrative Rules of South Dakota and is not intended to serve as legal advice. In the event there is a difference in interpretation between this document and South Dakota Codified Law and/or Administrative Rule, the law and/or rule controls.

### ADMINISTRATIVE OVERVIEW

- 1) Water in South Dakota is owned by the people of the state and not by private individuals. The right to use water may be obtained under State Law.

Reference: SDCL 46-1-1, 46-1-3, and 46-5-5.

- 2) South Dakota water rights are administered by a system commonly called the "Doctrine of Prior Appropriation." This means the first in time (senior priority) is the first in right, except for individual domestic use. Priority is established based on the date of filing the application. Uses of water developed prior to or under development as of March 2, 1955 (surface water) or February 28, 1955 (ground water) may qualify for a vested water right depending on the type of use involved.

Reference: SDCL 46-1-9, 46-2A-9, 46-2A-12, 46-4-1, 46-4-2, 46-5-4, 46-5-7, 46-5-8, 46-5-34, 46-5-34.1, and 46-6-3.

- 3) Domestic use of water takes precedence over appropriative rights.

Reference: SDCL 46-1-5, 46-1-6(7), and 46-1-6(14).

- 4) The seven member Water Management Board regulates water use, approves and denies permits, validates vested rights, cancels water right permits or rights, establishes ordinary high and low water marks for lakes as well as setting lake outlet elevations.

Reference: SDCL 1-40-15, 43-17-21, 43-17-23 thru 43-17-25, 43-17-28, 46-2-9, 46-2-11, 46-2A-7, 46-2A-8, 46-2A-16, 46-4-2, and 46-5-8.1.

### DOMESTIC WATER USE – no permit needed

- 1) The following domestic uses do not require a water right permit:

- a. Domestic use of water from other than a common water distribution system that does not exceed 25,920 gallons per day (which is 18 gpm pumped 24 hours per day) or a peak diversion rate of 25 gallons per minute (gpm) for:

1. Individual farm or ranch use including livestock water;
2. Individual household use for drinking, washing, sanitary, culinary, and other ordinary household purposes; and
3. Irrigation of a noncommercial family garden, trees, lawn, shrubbery, or orchard that is no larger in area than one acre. Lawn, tree, and garden watering within a city, town, or from other common water distribution systems is covered by the system water right.

Note: Drip irrigation systems for noncommercial purposes and not exceeding 18 gpm do not need to be permitted even if the irrigated area exceeds one acre.

- b. Water use from other than a common water distribution system that does not exceed 18 gallons per minute (gpm) for:
  1. Schools, parks and other public recreation areas;
  2. Geothermal heating or cooling of a single household. Most heat pump installations for household heating and cooling should not require more than 5 to 10 gpm; and
  3. Noncommercial on-farm alcohol production.

Reference: SDCL 46-1-6(7), 46-5-50 thru 46-5-52. Water Management Board Rules 74:02:01:01 and 74:02:01:03.

## **WATER RIGHT PERMITTING**

- 1) Except for the previously described domestic water uses and water distribution systems (e.g. towns, rural water systems, subdivisions, and mobile home parks) that do not pump more than 18 gpm, all uses of water require a water right permit pursuant to procedures in SDCL Chapter 46-2A. Water uses supplied from a water distribution system do not need a separate permit. Examples of uses which require a permit are:
  - a. Cities, towns, rural water systems, mobile home parks, subdivisions, and other common water distribution systems that pump more than 18 gpm. Those systems not pumping more than 18 gpm that may expand and increase pumping above 18 gpm, should obtain a water right permit to establish a priority date.
 

Note: Certain water distribution systems that do not pump more than 18 gpm may still be subject to compliance with Safe Drinking Water Standards. SDCL Chapter 34A-3A. Water Management Board Rules Chapter 74:04:05.
  - b. Domestic use for farm, ranch, household, and livestock use from other than a common water distribution system in excess of either 25,920 gallons per day (18 gpm continuously for a day) or 25 gpm (peak rate).
  - c. Any well that is allowed to flow more than 18 gpm.
  - d. Any dam or dugout on a dry draw or nonnavigable watercourse impounding more than 25 acre feet.
  - e. Any dam constructed for any purpose on a stream considered navigable.
  - f. Irrigation of more than one acre.
  - g. Commercial use, even less than 18 gpm, when supplied from other than a common water distribution system to a truckstop, tourist attraction, eating, drinking, or lodging establishment, commercial campground and any other business. An existing business without a water right has no right to the use of water. The commercial user without a water right is not entitled to receive protection in the event of well

interference by a new or future user who has a water right. The new user with a water right will have the senior priority over an existing user without a water right.

- h. Industrial, manufacturing, gravel washing and mining uses when supplied by other than a common water distribution system. Temporary water permits may be issued for temporary, short term projects. See Temporary Water Permitting.
- i. Geothermal use of any amount of water from other than a common water distribution system, for businesses, churches, schools, or any other building, except for individual homes using 18 gpm or less.
- j. Any use by a school, park, rest area or other public recreation area in excess of 18 gpm when supplied by other than a common water distribution system.
- k. Any use by a hospital, nursing home or church when supplied by other than a common water distribution system.

Fees for permit applications are set by SDCL 46-2-13(2).

Depending on the type of use involved a person who applied water to a beneficial use for works constructed prior to or under construction as of March 2, 1955 (surface water) or February 28, 1955 (ground water), may qualify for a vested right pursuant to SDCL 46-1-9 or 46-6-1, if that vested water right has not been forfeited or abandoned. Vested water right claims may be filed or the chief engineer may require vested water right claims to be filed pursuant to SDCL 46-5-49 or 46-6-2.

Reference: SDCL 46-1-3, 46-1-6(3), 46-1-9, 46-1-15, 46-5-1.1, 46-5-6.2 thru 46-5-6.8, 46-5-8.2, 46-5-9, 46-5-10, 46-5-49 and 46-6-2. Water Management Board Rules ARSD 74:02:01:03.

2) Criteria for granting a water right permit as set forth in SDCL 46-2A-9:

- a. Water must be available for the proposed use.

The water source, whether surface or ground water, needs to be capable of supporting the proposed water use. For ground water, the average annual use from the water source may not exceed the average estimated annual recharge with some limited exceptions – please refer to “WELLS, Ground Water Management” for additional details.

- b. The proposed diversion can be developed without unlawful impairment of existing rights.

Existing rights, including domestic uses of water, may not be unlawfully impaired regardless of whether the proposed source is surface or ground water. In order for a well to be protected it must meet the definition of an “adequate” well – please refer to “WELLS, Well Construction” for additional details.

- c. The use of water must be a beneficial use.

Beneficial use is the use of water that is reasonable and useful and beneficial to the owner and consistent with the best utilization of water supplies. In general, beneficial uses of water include, but are not limited to: 1) domestic, 2) municipal, 3) rural water system, 4) irrigation, 5) suburban housing, 6) commercial, 7) industrial, 8) recreation, 9) fish and wildlife, and 10) institutional.

- d. The use of water must be in the public interest.

Public interest is not specifically defined in water rights law and is a determination made by the Board based on testimony at the time of hearing. In making a public interest determination, the Board may recognize that some issues are within the jurisdiction of local, state and federal entities.

## **WATER RIGHT PERMIT ADMINISTRATION**

- 1) After approval of a water right permit, the permit owner has five years to complete any construction. The owner then has an additional four years to put the water to beneficial use.

A water right permit may be amended to extend the time for completion of construction or the time to put the water to beneficial use. The extension may be granted on account of delays due to physical or engineering difficulties, due to operation of law, or due to exigent circumstances identified by the Water Management Board. An application to amend a permit to extend the time for construction or the time to put the water to use needs to be made prior to expiration of the time period to be extended.

Reference: SDCL 46-2A-1(2), 46-2A-8, and 46-5-26.

- 2) An existing water right permit or right may be amended. Amendment examples are: to change the use of water, to change place of use, to extend time for construction beyond five years, to change diversion points or to add diversion points. An amendment can not be granted to increase the rate of diversion or volume of water appropriated under the original permit or if an existing water right will be impaired. An application to increase the rate of diversion or volume of water will be treated as a new application and will be assigned a new priority date.

The location of an existing diversion point may be moved or additional diversion points may be added without application or publication, if:

- a. The water source remains unchanged;
- b. No additional water is appropriated;
- c. If for irrigation purposes, no new land is irrigated; and
- d. The Chief Engineer makes a finding that the potential for interference with existing diversions is not increased.

Reference: SDCL 46-2A-1(2), 46-2A-12, 46-5-13.1, 46-5-30.4, and 46-5-31.

- 3) Notice of any sale, grant, lease, conveyance or other transfer of an application, permit, or license to appropriate water must be filed with the Chief Engineer of the Water Rights Program within 90 days. No assignment is binding, except upon the parties thereto, unless filed for record in the Water Rights Program.

Reference: SDCL 46-5-30.3 and 46-5-32.

- 4) Water right permits can be cancelled for nonconstruction. However, the Board may reinstate any water right permit with a priority date after March 31, 1977, within three years after expiration of the original construction period if unappropriated water is available. A new priority date is assigned to a reinstated permit. A water right permit or right can be lost for any of the following three reasons:

- a. Abandonment - The water right permit or right owner has no intent to use water and abandons its use. Once a water right permit or right is abandoned, it can not be reclaimed under the original permit or right.

- b. Forfeiture - Occurs by operation of law if water is not used for a three year period without legal excuse. A "legal excuse" would include, generally, the lack of water, but may include other reasons. Once a water right permit or right is forfeited, it can not be reclaimed under the original permit or right.
- c. A third violation of a condition of a water right permit or right.

Reference: SDCL 46-1-12, 46-2A-8.1, 46-5-36, 46-5-37, and 46-5-37.1. Water Management Board rules ARSD 74:02:01:36 thru 74:02:01:41.

## **FUTURE USE PERMITTING**

- 1) The following entities may reserve water for expected future needs pursuant to procedures in SDCL 46-2A:
  - a. State institution;
  - b. Municipality as defined in SDCL 9-1-1;
  - c. The South Dakota conservancy district or water development districts as defined in SDCL 46A-2-4;
  - d. Water user district as defined in SDCL 46A-9-2;
  - e. Nonprofit rural water supply company as defined in SDCL 10-36A-1;
  - f. Sanitary district as defined in SDCL Chapter 34A-5;
  - g. Irrigation district as defined in SDCL 46A-4; or
  - h. Water project district as defined in SDCL Chapter 46A-18.

Approval of an application to appropriate water for future use is a reservation of a definite amount of water with a specific priority date. A future use permit does not grant authority to construct works or put the water to beneficial use. An additional application is required to construct works and put reserved water to beneficial use. The fee for a future use application is 10% of the usual fee for an application to construct works and put water to beneficial use.

Future use permits are subject to review by the Water Management Board every seven years. If the future use permit is allowed to remain in effect after the seven year review, an additional 10% fee is required.

Reference: SDCL 46-2-13(2), 46-5-38, and 46-5-38.1.

## **FLOOD CONTROL PERMITTING**

- 1) Flood control permits are required pursuant to SDCL 46-2A for facilities constructed on a watercourse to control flooding. Emergency facilities may be constructed without a permit. However, the Chief Engineer of the Water Rights Program must be promptly notified. Flood control permits are not required for flood control facilities constructed on dry draws.

Reference: SDCL 46-2A-11, 46-5-47, and 46-5-48.

## **TEMPORARY WATER PERMITTING**

- 1) Temporary water permits may be issued by the Chief Engineer when limited amounts of public water are needed on a temporary basis. For example, permission may be granted to use water for highway and other construction projects and exploration drilling. A temporary permit is not valid after December 31 of the year in which the permit was issued and, under certain circumstances, a temporary permit may be rescinded. In

addition, a temporary permit is temporary permission to use public water and does not grant any right of priority for the temporary use.

Temporary permits may be granted to use water from either public or privately owned sources of water. Approval of a temporary permit does not grant trespass rights to access the water. Water may be obtained from municipalities and other permitted water distribution systems without a temporary permit.

Reference: SDCL 46-5-40.1. Water Management Board Rules ARSD 74:02:01:32 thru 74:02:01:34.02.

## WELLS

### 1) Ground Water Management

- a. An adversely impacted domestic well is a well in which the pump intake is at least 20 feet below the top of the aquifer or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water from the well owner's needs.

Reference: Water Management Board Rules ARSD 74:02:04:20(7)

- b. South Dakota water laws do not allow the "mining" of ground water. "Mining" occurs when the average quantity of water pumped annually from a ground water aquifer exceeds the estimated average annual recharge to the aquifer. There are a few areas in South Dakota where additional water right permits are not being approved for this reason. A limited exception to "no mining" is made by SDCL 46-6-3.1 for water distribution systems. The Water Rights Program maintains more than 1,500 observation wells to monitor ground water levels.

Reference: SDCL 46-2-14 and 46-6-3.1.

- c. South Dakota water law does not protect artesian head pressure as a means of diversion. In other words, a well owner is not necessarily guaranteed that water from a flowing well or from a pump placement that relies on head pressure will always be available. A pump must be capable of being placed 20 feet into the aquifer or set as near to the bottom of the aquifer as practical if the aquifer is less than 20 feet thick.

### 2) Well Construction

- a. All wells must be completed in accordance with South Dakota Well Construction Standards. A well driller must be licensed to drill water wells in South Dakota. The driller is required by law to file a copy of a well completion report with the Water Rights Program within 30 days of completion of each well.

Reference: 46-2A-13, 46-6-9, and 46-6-11. Water Management Board Rules ARSD Chapter 74:02:04

- b. Any person who performs work for compensation in the repair of wells or as a well pump installer must obtain either a well driller's license or a well pump installer's license.

Reference: 46-2A-13 and 46-6-9.2.

- c. An adequate well is defined as a well constructed to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.

Reference: Water Management Board Rules ARSD 74:02:04:20(6)

3) Well Owner Responsibilities

- a. The owner or equitable property holder is responsible for the well from the time the licensed well driller successfully completes the well in compliance with the Well Construction Standards ARSD Chapter 74:02:04. The owner shall keep the well capped or covered, in good repair, and in a sanitary condition.

Reference: Water Management Board Rules ARSD 74:02:04:74

- b. All flowing wells must be controlled by the owner to produce only the amount of water needed and to prevent waste of water.

Reference: SDCL 46-2-18, 46-6-10, 46-6-14, 46-6-20, 46-6-21, 46-6-29, and 46-6-30. Water Management Board Rules ARSD 74:02:04:74.

- c. When the owner of an existing well constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Other abandoned wells must also be plugged. If an old well is not to be abandoned or will be used, the well must still be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

Reference: SDCL 46-6-18 and 46-6-27.

**DAMS OR DUGOUTS**

- 1) Dams or dugouts of any-size on a navigable watercourse or storing greater than 25 acre feet of water located on a dry draw or on a nonnavigable watercourse require a water right permit.

Reference: SDCL 46-4-1 and Water Management Board Rules ARSD 74:02:01:03.

- 2) Dams or dugouts storing 25 acre feet or less of water located on a dry draw or on a nonnavigable watercourse can be constructed without a water right permit provided a location notice is filed. However, the dam may not be constructed if it changes the course of the water, interferes with water rights, or wrongfully floods land owned by others.

Reference: SDCL 46-4-1.1, 46-4-3 and 46-5-2.

- 3) The owner of a dam or dugout storing 25 acre feet or less on a dry draw must file a location notice with the county Register of Deeds and the Water Management Board to avail the owner of the rights provided in SDCL Chapter 46-4 including establishment of a priority date. The \$50.00 filing fee is set by SDCL 46-2-13(1).

Reference: SDCL 46-4-3 thru 46-4-6.

- 4) The Board may not enforce limitations on domestic use of water from dry draw dams except in response to a written complaint from a person claiming interference with water permits or rights on the same watercourse.

Reference: SDCL 46-2-22

- 5) Water Management Board Safety of Dams Rules Chapter 74:02:08 apply to dams that are 25 feet or more in height (top of dam) or that store 50 acre-feet or more of water (maximum storage to top of dam.)

Reference: Water Management Board Safety of Dams Rule ARSD 74:02:08:01(7).

- 6) Beaver dams - No person owning land through which a watercourse passes may prohibit the removal of obstructions built by beavers in a watercourse, if the beavers have obstructed or interfered with the flow of water through the watercourse in a manner that floods land belonging to others or impairs existing water rights.

Reference: SDCL 46-5-1.2.

#### **ORDINARY HIGH/LOW WATER MARKS AND LAKE OUTLET ELEVATIONS**

- 1) The Water Management Board establishes ordinary high water marks (OHWM), ordinary low water marks (OLWM) and lake outlet elevations for public lakes.

State law provides that all navigable rivers and lakes are public highways within 50 feet landward from the water's nearest edge, provided that the outer boundary of such public highway may not expand beyond the OHWM and may not contract within the OLWM. Thus, the public has the right to use a strip of land up to 50 feet wide below the OHWM beginning at the water's edge or the OLWM. Further, while the public may use the 50 foot strip of land for only "public" purposes, the private adjoining landowner may use the land for any purpose not inconsistent with the rights of the public.

The meander line is a survey line and is usually not a property line nor is the title of an adjacent landowner limited to the meander line, except when the land title conveyance clearly states that the meander line is the property line. Subject to the preceding exception, the meander line defines neither the boundary of a lake or stream nor the extent of land area owned by the adjacent landowner. The meander line was established during early government surveys and used to determine the acres of land subject to sale.

Reference: SDCL 43-17-1 thru 43-17-4, and 43-17-20 thru 43-17-30.

## Gronlund, Eric

---

**From:** Talbot J. Wiczorek <tjw@gpna.com>  
**Sent:** Tuesday, August 20, 2019 6:44 PM  
**To:** Gronlund, Eric  
**Cc:** Mines Bailey, Ann; Sheila L. Smyle  
**Subject:** RE: [EXT] Water Permit Application No. 2572A-2, Sheridan Lake Highlands Inc. -- Petitions

Dear Eric:

You might recall you raised getting a pump test done when we first discussed this matter a couple of months ago. At that time, I told you I did not think it was affordable as I was estimating it would be well over \$10,000 to get any type of pump test done and this is a small development, only 25 houses before adding these last 4 lots. The homeowners have leveraged up to take over the system from the developer as it was a problematic system when the developer was in control. Still, after receiving your latest email, per your suggestion in our call back in May I called Mitch Kannenberg as a possible person to do the pump test. Mitch puts the bottom low end of any kind of pump test at \$20,000 and this would not include a full report and likely not include any monitoring of any other wells. He said a \$30,000 cost would be more realistic and neither of these quotes include any cost for a well driller they would have to be brought in to help do the pump test.

As you know, in our first conversation I raised the question of whether a pump test made sense in this situation. It is a limited purpose well, it will not increase the diversion rate, only be a backup to an existing well, and the diversion rate is already a permitted rate at the existing well site. Moreover, the existing well site is not that far away. This well is most likely to be used in a situation where you have a failure on the other well due to mechanical issues or line breaks. This usage will be temporary in nature

Frankly, if these small water systems are going to have to start doing pump tests to obtain permits I am going to have to rethink about how I advise them. In this situation, the Association could have simply advocated for all these houses to have their own domestic wells adding four more domestic wells in the area and avoided the need to amend the permit. These home owners are trying to improve the area by having these homes added to the system. Still, a small system like this can not cost justify a pump test to add on four houses. This Association has already put thousands of dollars in expenses and time to try to rescue this system that the developer had permitted but was failing all these houses. The system simply can not afford this kind of cost and, therefore, will not be doing it.

Talbot J. Wiczorek  
Gunderson Palmer Nelson and Ashmore  
Phone (605) 342-1078 Fax (605) 342-9503  
506 Sixth Street – P.O. Box 8045 – Rapid City, SD 57709

---

**From:** Gronlund, Eric <Eric.Gronlund@state.sd.us>  
**Sent:** Monday, August 12, 2019 8:48 AM  
**To:** Talbot J. Wiczorek <tjw@gpna.com>  
**Cc:** Mines Bailey, Ann <Ann.MinesBailey@state.sd.us>  
**Subject:** Water Permit Application No. 2572A-2, Sheridan Lake Highlands Inc. -- Petitions

Mr. Wiczorek:

The attached two petitions were received in response to the public notice for Water Permit Application No. 2572A-2. The date to intervene is August 12<sup>th</sup> so it is possible additional petitions postmarked today will be received.

You mentioned early on possibly reaching out to the neighboring domestic well owners in hopes of working this out. Sheridan Lake Highlands was also contemplating a test pump of this second well to determine the extent, if any, pumping may have on neighboring wells. I am uncertain whether either was done.

DENR will wait to see if more petitions are received. Then notice will be sent to Sheridan Lake Highlands and those that filed petitions. Due to the TransCanada matters dominating the Water Management Board's October agenda, this application will likely not be scheduled until the December meeting.

I am sending this presuming you still represent Sheridan Lake Highlands. If that is not correct, please let me know. Ann Mines Bailey is counsel for the Water Rights Program and I have included her in this email.

*Eric Gronlund*  
*Water Rights Program, DENR*  
605 773-3352  
[eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us)

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SEP 06 2019

WATER RIGHTS  
PROGRAM

Talbot J. Wiczorek  
Email: [tjw@gpna.com](mailto:tjw@gpna.com)  
Direct Dial: (605) 719-3439

September 4, 2019

Elbert L. Johnson  
13430 Rockwood Road  
Rapid City, SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City, SD 57702

Re: Sheridan Lake Highlands, Inc.  
GPNA File No. 13216.0002

Dear Gentlemen:

I am writing both of you as you have filed objections to Sheridan Lake Highlands, Inc.'s application Water Permit No. 2572A-2, to put in place a backup well and clarify scope of water permit. In reviewing your objections and then talking with the State employees and the Board members of the Sheridan Lake Highlands Homeowners Association, I thought that a letter to you coming from me might clarify a couple of issues and address your objections.

First and foremost, I want to make clear that this is not a new water permit. Sheridan Lake Highlands already has a water permit that allows it at its existing well site to pump 30 gpm. No matter the outcome of this proceeding, that 30 gpm will stay in place. This application does not seek to increase the amount of water Sheridan Lake Highlands can withdraw. This is commonly called a "diversion rate." All it does is allow Sheridan Lake Highlands, if there is a failure for mechanical reasons or other reasons of its existing well, to temporarily use this well site to access its already existing water right. In other words, the permit will not add to the amount of water that can be taken by Sheridan Lake Highlands; usage is still capped at 30 gpm. All this permit would allow is that water can be pulled from the backup well during the time the primary well was down and clarify these lots can be served.

In Mr. Nagel's letter, he questions whether a backup well is necessary for the system and whether it is an unnecessary expense. Mr. Johnson also questions the reason to create a backup well and states that if "assuming a well pump outage, a large storage tank makes it possible for the entire housing development to go without pumping water for several days while hypothetical repairs are being made to the well pump, etc." While I appreciate this belief, it is not correct. The storage is not sufficient for the housing development for several days. Furthermore, having a backup water source is recommended for any water system of this size.

It is true that wells can be out for several days if not longer depending on what the mechanical issue might be or the well failure issue might be. In these situations, having a backup water source is essential. Also, while Mr. Kelly argued to the County Commission that he should not have to install

Offices in Rapid City and Pierre, South Dakota

Attorneys licensed to practice in South Dakota, North Dakota, Nebraska, Minnesota, Wyoming, and Montana

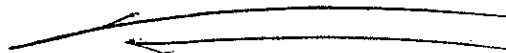
the backup well as the water system was complete, (as pointed out by Mr. Nagel) even though it was contrary to what the engineer's opinions had been given to him, he also argued he should be able to sink individual wells for these properties. If individual wells were sunk for these properties, they would be able to divert up to 19 gpm without any monitoring and without the need of getting a water permit from the State. These individual wells that Kelly wanted to sink would not be monitored by Sheridan Lake Highlands as they would be simple domestic wells and could use significantly more water. Sheridan Lake Highlands thought that it is better for all the other wells in the area to have a centralized system and put these houses on a centralized system rather than let them sink individual wells. Rest assured, Sheridan Lake Highlands has been frustrated by working with Mr. Kelly on various levels. Yet, Sheridan Lake Highlands has continued to try to work with him to make sure the regional water system would be sufficient to provide these four houses rather than having individual wells put in place. It is for the protection of the entire area and not just the Sheridan Lake homeowners that the backup well was pursued.

There is also a second component to this pending amendment to the permit. That second component is to make clear under the law that these new houses can use the community system. Currently, the permit that Mr. Kelly originally obtained that Sheridan Lake Highlands now controls, does not include these lots. The petition seeks to amend the permit to include these lots for the benefit of the region to hookup these lots to the central water system rather than have them pursue their own domestic wells. A denial of the amendment can result in Sheridan Lake Highlands not being able to provide water to these lots and the owners of the lots will have to sink their own private wells.

Finally, State restrictions on pulling from the backup well are the same as they are for the existing well. Those will not change and you have the same protections under State law if you start having troubles with your wells if the permit is amended as it exists today. Frankly, the bigger risk is that these new houses are required now to put in their own domestic wells because the amendment is not allowed or, in the future, there are issues with having no backup for Sheridan Lake Highlands and individuals begin putting in their own wells in place due to the central system's unreliability.

Again, I am providing this letter to address the issues and concerns you have raised. Sheridan Lake Highlands would appreciate, if upon reviewing this information you are willing to withdraw your objection, that you contact me and I can assist you in communicating the change to the State. If you desire to first talk to representatives of the Sheridan Lake Highlands Board, they are willing to set up a time to meet.

Sincerely,



Talbot J. Wiczorek

TJW:sls

Cc: Client

Eric Gronlund, SD DENR

October 18, 2019

Eric Gronlund  
S.D. DENR  
523 E. Capitol  
Pierre, SD 57501

Jeanne Goodman  
Water Rights Program  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501-3182

RECEIVED

OCT 21 2019

WATER RIGHTS  
PROGRAM

RE: Water Permit Application No. 2572A-2; Sheridan Lake Highlands, Ryan Kelly (developer)

Dear Water Rights Officials:

As we are all aware, the S.D. Water Rights Management Board is scheduled to address the above well and water usage permits at the December 2019 meeting.

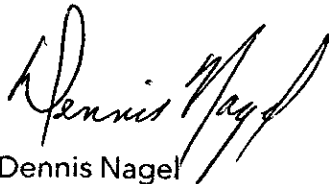
The in-question new well was drilled this spring without any permits. Upon complaint, Pennington County referred this matter to your department, the history of which has been previously documented. I am one of the concerned neighbors whose small well I fear might be compromised in the future.

As per my prior letter and attachments of August 8, 2019, I am aware of approximately fifteen additional individual wells that, in addition to the six wells indicated in your staff report, are located in an approximate 2000 foot radius of the already drilled "back up" well. This new "backup" well was completed this summer, and since this pending permit, it appears all lines connecting this well with the main well and four additional building lots are also now completed. If this water right permit is still pending actual approval is this "backup" well and line installation appropriate?

We are aware that the Water Rights staff engineer has or will be recommending approval of Application No. 2572A-2, but I was under the impression that the formal action was to occur at the December Board meeting. Has there been some type of green light or informal approval that would have encouraged the time, effort and expense of this yet pending, but now completed, unpermitted well and water lines? Can you please enlighten me?

Please include this communique with my former letter in the Board member packets for their consideration.

Thanking you again for addressing this matter.



Dennis Nagel

13435 Rockwood Rd, Rapid City, SD 57702



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

[denr.sd.gov](http://denr.sd.gov)

October 21, 2019

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Dear Mr. Nagel:

We received your letter regarding the status of Water Permit Application No. 2572A-2 filed by Sheridan Lake Highland Inc. The application remains pending before the Water Management Board and has not been approved. The Board will set their December meeting date at their upcoming October 29 – 31, 2019, meeting. Once the Water Rights Program get direction from the Board regarding scheduling for the December meeting, notice will be sent to all parties regarding the date, time and location of the hearing on Application No. 2572A-2.

Sincerely,

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us)



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
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PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

November 7, 2019

NOTICE

TO: Angela Vancas, President  
Sheridan Lake Highlands Inc  
23468 Dry Sage Lane  
Rapid City SD 57702

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Notice Scheduling Hearing on Water Permit Application No. 2572A-2, Sheridan Lake Highlands Inc.

Water Permit Application No. 2572A-2 proposes an additional diversion point for a backup well and clarify area of use. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second from one well completed into the Precambrian Age Crystalline Rock Aquifer located in the SE 1/4 SE 1/4 Section 34-T1N-R6E for suburban housing development use. The applicant is requesting to construct an additional well into the Precambrian Age Crystalline Rock Aquifer (approximately 500 feet deep) located in the N 1/2 NW 1/4 Section 2-T1S-R6E. This well will serve as a backup supply for the housing development located in the SE 1/4 SE 1/4 Section 34; SW 1/4 SW 1/4 Section 35; all in T1N-R6E and the N 1/2 NW 1/4 Section 2-T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City.

**The Water Management Board will conduct a hearing to consider Application No. 2572A-2 at 11:00 AM (Central Time), on Tuesday, December 3, 2019, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.** The time is an estimate and may be delayed due to prior items on the agenda. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Enclosed is a supplemental report on Application No. 2572A-2 authored by Adam Mathiowetz, Water Rights Program staff engineer.

Applicable provisions of the notice of hearing dated August 19, 2019, and the public notice in the Rapid City Journal published August 1, 2019, still apply.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

enclosure

c: Ann Mines Bailey, Assistant Attorney General  
Talbot Wiczorek, Gunderson, Palmer, Nelson & Ashmore LLP, PO Box 8045, Rapid City SD  
57709

CERTIFICATION

I hereby certify that on November 7, 2019, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated November 7, 2019, regarding scheduling of the hearing for Water Right Permit Application No. 2572A-2, as addressed below:

Angela Vancas, President  
Sheridan Lake Highlands Inc  
23468 Dry Sage Lane  
Rapid City SD 57702

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore LLP  
PO Box 8045  
Rapid City SD 57709

Sent Inter-office to:

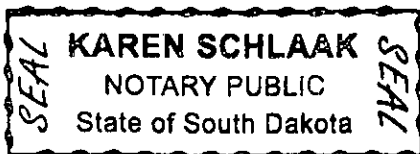
Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                          ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 7<sup>th</sup> day of November, 2019.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019



SUPPLEMENTAL REPORT TO THE CHIEF ENGINEER  
ON  
WATER PERMIT APPLICATION NO. 2572A-2  
SHERIDAN LAKE HIGHLANDS INC  
NOVEMBER 6, 2019

Water Permit Application No. 2572A-2 proposes to add an additional diversion point for a backup well and clarify area of use for Water Right No. 2572-2. Water Right No. 2572-2 authorizes the diversion of water at a maximum rate of 0.08 cubic feet of water per second (cfs) from one well completed into the Precambrian aged Crystalline Rock aquifer (Crystalline Rock aquifer) from a well located in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Sec. 34-T1N-R6E for use by a suburban housing development. The applicant is requesting permission to use a new well 300 feet deep completed into the Crystalline Rock aquifer located in the NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  Sec. 2-T1S-R6E. The new well will serve as a backup supply for the housing development located in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Sec. 34; SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Sec. 35; all in T1N-R6E and N  $\frac{1}{2}$  NW  $\frac{1}{4}$  Sec. 2-T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City.

A report regarding this application was previously written by Tieman (2019). Since that time, Tieman has left the employ of DENR. This report serves as a review of the application by the author and to note one error from Tieman's (2019) original report. The conclusions in this report agree with the conclusions drawn in Tieman's (2019) report.

**CORRECTION FOR TIEMAN's (2019) REPORT**

On Page 1, paragraph 1, line 6 where it states "...Section 2, T1N-...", it should instead read "...Section 2, T1S-...". This correction is for a typo.

**AQUIFER: Crystalline Rock (CRSL)**

The crystalline rock in the area of this application consists of Metagraywacke (Lester and Rahn, 2001; Redden et al, 2016), a siliceous mica schist with impure quartzite (Martin et al, 2004). The crystalline rock is generally exposed at surface except where covered by localized gravel deposits and alluvium along stream beds (Lester and Rahn, 2001; Redden et al, 2016). The Crystalline Rock aquifer consists of numerous, localized aquifers in the Precambrian aged core of the Black Hills where extensive fractures or weathering zones allow for the transmission of water (Driscoll and Carter, 2001). The crystalline rocks that comprise the aquifer have very low primary porosity so water movement in the aquifer is along fractures, joints, and faults, which are called secondary porosity (Rahn, 1979). The distribution of secondary porosity features is uneven and unpredictable. Therefore, local aquifer characteristics are site specific and highly variable. Based on an estimated exposed area of 574,000 acres, water bearing material to a depth of 500 feet, and an effective porosity of one percent, Rahn (1979) estimated the amount of recoverable water in storage in the Crystalline Rock aquifer in western South Dakota to be 2,900,000 acre-feet.

Due to the unpredictable nature of secondary porosity and the very low primary porosity of crystalline rock, it is very difficult to determine if the aquifer is under confined or unconfined conditions. Depending on exactly at what depth the secondary porosity was encountered in the well bore and the water level in the well compared to the secondary porosity features, the well may

change from acting as a confined well to an unconfined well at various water levels that are not comparable to adjacent wells completed into the same aquifer.

The well completion report for the well the applicant intends to use indicated “Drift” from 0 to 5 feet below ground surface (bgs), “Gravel” from 5 to 40 feet bgs, “Brown Schist fracture 10 gpm” from 40 to 110 feet bgs, and “Hard grey schist” from 110 to 300 feet bgs. The static water level at the time of completion in March 2019 was 24 feet bgs.

### **SOUTH DAKOTA CODIFIED LAW (SDCL) 46-2A-9**

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

### **WATER AVAILABILITY**

This application proposes to appropriate water from the Crystalline Rock aquifer. The probability of unappropriated water available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires:

“No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.”

The Crystalline Rock aquifer is stratigraphically lower/older than the Greenhorn Formation, and the applicant is a water distribution system as defined in SDCL 46-1-6(17). Furthermore, this application seeks only to add an additional diversion point and clarify the area of use of the water. Therefore, a comparison of average annual recharge and average annual withdrawals from the Crystalline Rock aquifer is not required. However, information regarding local withdrawals from the Crystalline Rock aquifer is provided for informational purposes.

### **Hydrologic Budget**

#### *Recharge*

The Crystalline Rock aquifer is recharged through the infiltration of precipitation and streamflow losses (Driscoll and Carter, 2001). Driscoll and Carter (2001) estimated the recharge to the entirety of the Crystalline Rock aquifers within the core of the Black Hills to be equal to withdrawals, 3,600 acre-feet per year (ac-ft/yr). Driscoll and Carter (2001) noted the actual recharge to the Crystalline Rock aquifers must be much larger than estimated to account for discharge to streams. Additionally, Driscoll and Carter (2001) stated, in regard to the Crystalline Rock aquifers, “Recharge conditions are highly transient and have large spatial variability; thus, quantification is

not attempted.”. Furthermore, data is not available to attempt delineation of the localized Crystalline Rock aquifer. Therefore, there is no average annual recharge estimate available for the localized Crystalline Rock aquifer the applicant proposes to use.

#### *Discharge*

Discharge from the Crystalline Rock aquifer is through pumping of wells (Water Rights, 2019c and 2019d), seepage to streams (Driscoll and Carter, 2001), and evapotranspiration where the static water level of the aquifer is near ground surface. Except for the well for Water Right No. 2572-2, which this application is proposed to serve as a backup, the nearest water right/permit authorizing a well to withdraw water from the Crystalline Rock aquifer is Water Right No. 2222-2 for Storm Mountain Center. Water Right No. 2572-2 is limited to a maximum instantaneous diversion rate of 0.08 cfs (35 gallons per minute) and is required to report the annual pumpage under that permit. Water Right No. 2572-2 was permitted in 2006 and began reporting annual total volume pumped in 2007. Table 1 shows the reported annual volume pumped under Water Right No. 2572-2

Table 1- Annual reported pumpage under Water Right No. 2572-2 (Water Rights, 2019a)

| <b>Year</b> | <b>Pumpage (ac-ft)</b> |
|-------------|------------------------|
| 2018        | 6.2                    |
| 2017        | 7.1                    |
| 2016        | 9                      |
| 2015        | 10                     |
| 2014        | 12                     |
| 2013        | 4                      |
| 2012        | 4                      |
| 2011        | 4                      |
| 2010        | 4                      |
| 2009        | 4                      |
| 2008        | 2.4                    |
| 2007        | 5                      |
| <b>Min</b>  | <b>2.4</b>             |
| <b>Max</b>  | <b>12</b>              |
| <b>Avg.</b> | <b>6.0</b>             |

This application, if approved, does not request any additional diversion rate authority. Therefore, no additional volume of water is requested. While the average annual pumpage under Water Right No. 2572-2 and this application may change as users are connected to or disconnected from the system, Water Right No. 2572-2 already appropriates the water this application would use.

#### **Observation Well Data**

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

The DENR-Water Rights Program maintains two observation wells that have historically been considered completed into the Crystalline Rock aquifer in western South Dakota (Water Rights,

2019b). Observation well CU-86A is located approximately 18.8 miles southwest and observation well PE-95D is located approximately 1.3 miles northeast of the well the applicant proposes to use. While observation well PE-95D is close to the area of this application, review of the construction of PE-95D determined the observation well is open to both the Deadwood Formation and the crystalline rock (Kilts, 2018). Both the Deadwood Formation and the crystalline rock can be aquifers at that location (Water Rights, 2019b and 2019d; Williamson et al, 2000). An examination of the water level data over the entire period of record of PE-95D determined the water levels appear to be more similar to the Deadwood aquifer than to the Crystalline Rock aquifer (Kilts, 2018; Strobel et al, 2000; Water Rights, 2019b and 2019d). Furthermore, the drilling records for PE-95D do not note encountering any large secondary porosity features (fractures, significant changes in water inflow or loss of water during drilling, etc.) in the crystalline rock portion of the borehole during drilling. Therefore, it is uncertain how representative observation well PE-95D is of either the Deadwood or Crystalline Rock aquifers. Subsequently, only observation well CU-86A will be considered in this report. Figure 1 shows the hydrograph for observation well CU-86A.

The hydrograph for CU-86A shows the water level responds well to climatic conditions. Rising during wetter periods and declining during drier periods. The water level has fluctuated 45 feet over the period of record in response to climatic conditions. An examination of the hydrograph shows that any effects caused by pumping on the water level of CU-86A are masked by the climatic conditions indicating the changes in water level are dominated by natural conditions, recharge to and natural discharge from the aquifer. While CU-86A is not that close to the area of the Crystalline Rock aquifer the applicant proposes to use, water level data does show the Crystalline Rock aquifer receives recharge. Furthermore, there are no indications there are portions of the Crystalline Rock aquifer where average annual withdrawals are exceeding average annual discharge despite increased development of that aquifer (Water Rights, 2019b; 2019d; 2019e). The commentary from Driscoll and Carter (2001) regarding how the recharge to the Crystalline Rock aquifer must be much greater than the estimated 5 cfs (3,600 ac-ft/yr) to account for the groundwater discharge that contributes base flow to many streams is well supported by the hydrograph for observation well CU-86A, which shows the water level generally rising over its period of record.

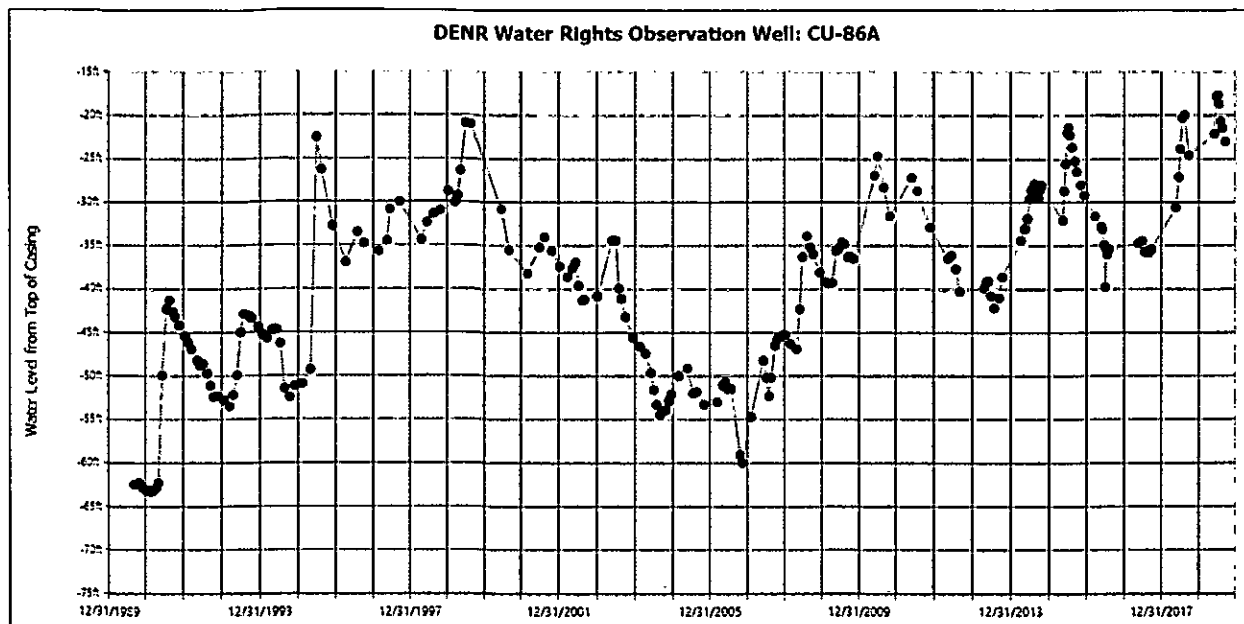


Figure 1- Hydrograph of Crystalline Rock aquifer observation well CU-86A (Water Rights, 2019b)

### EFFECTS ON EXISTING WATER RIGHTS

As previously stated, the nearest well authorized by a water right/permit to withdraw water from the Crystalline Rock aquifer is approximately 2.2 miles south of the well this application proposes to use (Water Rights, 2019c). At that distance with the limited diversion rate authorized by Water Right No. 2572-2 that would apply to this application, if approved, and considering the physics of water movement through the Crystalline Rock aquifer, there is a reasonable probability this application could be developed without impacting existing appropriative users of the Crystalline Rock aquifer.

Figure 2 shows the approximate locations of wells on record with the DENR-Water Rights Program. The DENR-Water Rights Program Well Completion Report Database maps well completion reports submitted to the Water Rights Program based on the legal description provided by the driller on the well completion report and places a point at the approximate center of the location provided. For example, a well with a legal location of the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  Sec. 28 would by default map to the approximate center of that 40-acre parcel. When multiple wells share the small general legal location, the wells are mapped by default at a common location, for example the 6 wells at the legal location of NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  Sec. 2-T1S-R6E are mapped at the point identified as "H" shown in Figure 2. Several well records in the area of this application have better location information, because the exact location was determined as part of a permitting inspection or was submitted as part of a water permit application. Table 2 lists the well completion reports shown in Figure 2. There are likely more domestic wells in the area of the application that are not on record with the DENR-Water Rights Program.

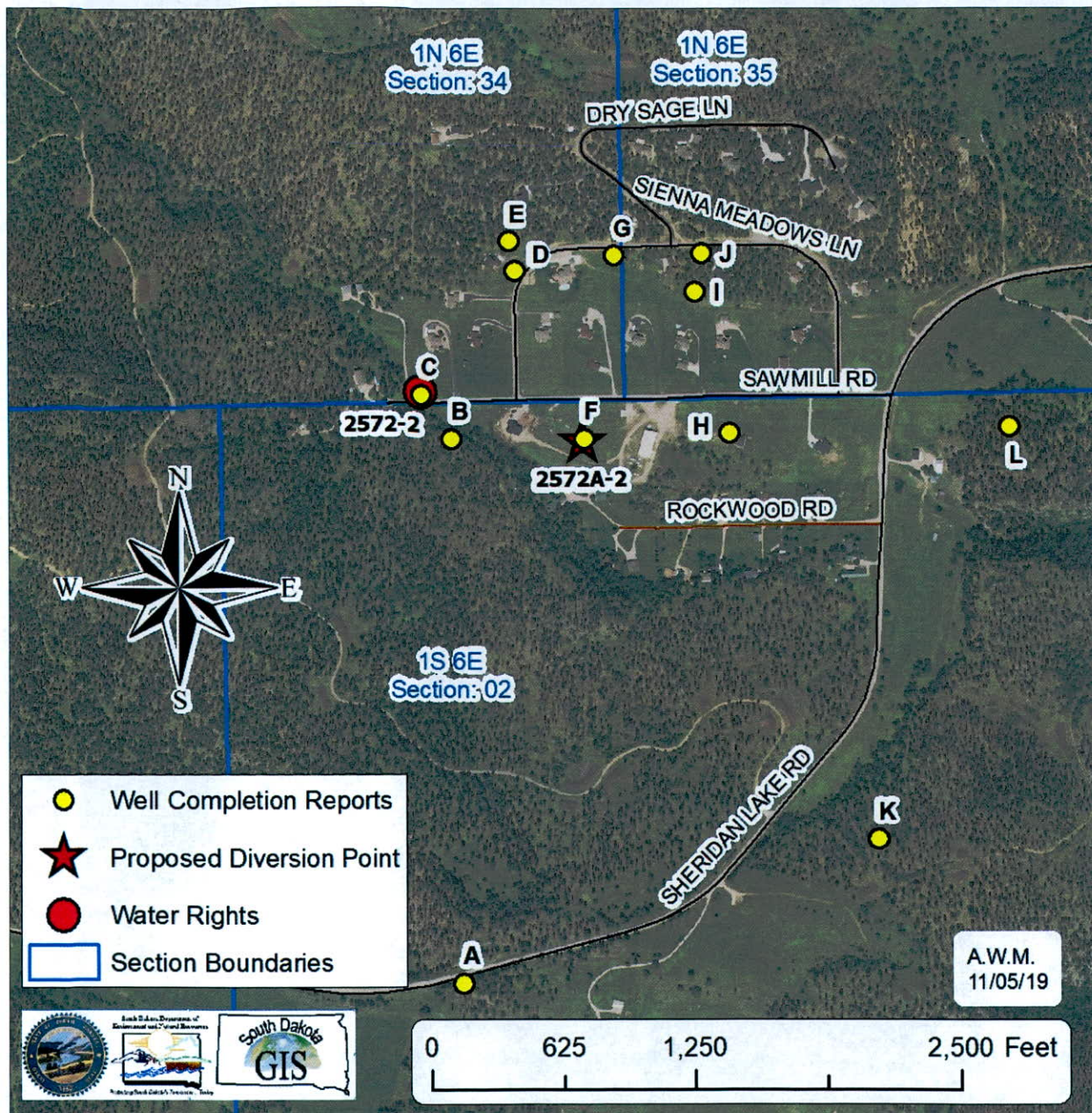


Figure 2- Well completion reports on file with the DENR-Water Rights program mapped within approximately 0.5 miles of the well Application No. 2572A-2 proposes to use (Water Rights, 2019d)

Table 2- Well completion reports shown in Figure 2 (Water Rights, 2019d)

| LOCATION | NAME                        | WELL<br>COMP.<br>DATE | WELL<br>TYPE | DEPTH | PERMIT<br>NO. | COMMENT                                          | AQUIFER |
|----------|-----------------------------|-----------------------|--------------|-------|---------------|--------------------------------------------------|---------|
| A        | VINCE ZARRELLA              | 03/08/91              | DOM          | 140   |               |                                                  | CRSL    |
| B        | WILFRED REDDER              | 05/29/95              | DOM          | 106   |               |                                                  | CRSL    |
| C        | DEAN KELLEY<br>CONSTRUCTION | 06/06/06              | DOM          | 160   | 2572-2        | In Use                                           | CRSL    |
| D        | ROBERT HAMM                 | 03/10/94              | DOM          | 125   | 2572-2        | Abandoned<br>based on<br>licensing<br>inspection | CRSL    |
| E        | WALT CANNON                 | 04/16/08              | REH          | 500   |               |                                                  | CRSL    |
| F        | RYAN KELLY                  | 03/19/19              | DOM          | 500   | 2572A-2       |                                                  | CRSL    |
| G        | DEAN KELLEY<br>CONSTRUCTION | 06/02/06              | DOM          | 300   | 2572-2        | Not<br>Developed                                 | CRSL    |
| H        | SEAN HOGARD                 | 07/11/14              | DOM          | 73    |               |                                                  | CRSL    |
| H        | WARREN<br>JOHNSON           | 09/21/77              | DOM          | 65    |               |                                                  | CRSL    |
| H        | JIM BUCHLI                  | 10/20/99              | DOM          | 143   |               |                                                  | CRSL    |
| H        | BRUCE NASH                  | 06/08/94              | DOM          | 125   |               |                                                  | CRSL    |
| H        | DONALD HAMM                 | 03/22/90              | DOM          | 200   |               |                                                  | CRSL    |
| H        | GARY HAMM                   | 06/22/89              | DOM          | 150   |               |                                                  | CRSL    |
| I        | DEAN KELLEY<br>CONSTRUCTION | 05/12/16              | DOM          | 100   |               |                                                  | CRSL    |
| J        | DEAN KELLEY<br>CONSTRUCTION | 06/26/06              | DOM          | 500   | 2572-2        | Abandoned<br>based on<br>licensing<br>inspection | CRSL    |
| K        | WARREN<br>JOHNSON           | 03/26/91              | DOM          | 183   |               |                                                  | CRSL    |
| L        | WARREN<br>JOHNSON           | 05/08/97              | DOM          | 108   |               |                                                  | CRSL    |
| L        | GARY MC KINNON              | 06/22/05              | DOM          | 125   |               |                                                  | CRSL    |

DOM= Domestic, REH= Rehabilitated, CRSL= Crystalline Rock

The Water Management Board has defined an adequate well in Administrative Rule of South Dakota (ARSD) 74:02:4:20(6) as:

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

In the past the Water Management Board has recognized that to place water to maximum beneficial use, a certain amount of drawdown may occur. To protect domestic users, the Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs”.

For most aquifers, the placement of the pump intake 20 feet below the top of the aquifer is sufficient for domestic wells. However, for wells completed into the Crystalline Rock aquifer 20 feet of saturated aquifer thickness may not be sufficient for a dependable water supply. This is due to the low porosity of the crystalline rock and the unpredictable occurrence of secondary porosity. Thus, wells that meet the definition of an adequate well and therefore should be easily protected by the definition of an adversely impacted domestic well may not yield sufficient water for a well owner’s needs while still being adequate under the rule.

The precise drawdown effects caused by pumping a well cannot be determined without conducting an aquifer pumping test. Water levels in the Crystalline Rock aquifer are known to vary greater than 40 feet as a result of climatic conditions as shown in Figure 1. There has not been a history of well interference for wells completed into the Crystalline Rock aquifer in Pennington County (Water Rights, 2019e), except for the initial development of Water Right No. 2572-2 which is discussed below.

After the initial approval of Water Right No. 2572-2 and the beginning of pumping, it was reported there was a reduction of needed water supplies in an adequate neighboring domestic well that was attributed to withdrawals from the well authorized under Water Right No. 2572-2. In response, the diversion rate for the well supplying Water Right No. 2572-2 was reduced to 18 gpm to stay under the reasonable domestic use limitation set forth in SDCL 46-5-8. It is the Water Rights Program’s understanding the issue between the domestic well and the well authorized by Water Right No. 2572-2 was resolved sometime before January 2009 (Water Rights, 2019c).

The construction of the well the applicant intends to use for this application in March 2019 renewed concerns in the area regarding water supplies. On April 3, 2019, the Chief Engineer of the DENR-Water Rights Program issued an order to Sheridan Lake Highlands HOA, the applicant, and Ryan Kelly prohibiting use of the recently constructed well until the proper authorization is obtained. A letter was received by the Water Rights Program from counsel for Sheridan Lake Highlands, Inc. on May 10, 2019. The letter clarified the well constructed in March 2019 was to serve as a backup well and to be used on an alternating basis with the well authorized under Water Right No. 2572-2 with no increase to the already authorized diversion rate.

While the location for the well this application proposes to use is closer to more existing domestic wells than the well authorized by Water Right No. 2572-2 based on the information in the Water Rights Program Well Completion Report Database, consideration of the above factors and the fact that South Dakota Water Law protects domestic use from adequate wells before appropriative use means there is a reasonable probability this proposed diversion can be developed without unlawfully impairing existing users with adequate wells. If this application is approved, a qualification requiring the applicant to control their withdrawals so there is not a reduction of

needed water supplies in adequate domestic wells or in adequate wells that have prior water rights should be included.

#### **CONCLUSIONS:**

1. Water Permit Application No. 2572A-2 proposes to add an additional well as a backup supply and clarify the area of use of water that is authorized for appropriation by Water Right No. 2572-2.
2. Water Right No. 2572-2 authorizes the appropriation of water from the Crystalline Rock aquifer at a maximum instantaneous diversion rate of 0.08 cfs (35 gpm).
3. This report agrees with the conclusions of the original report by Tieman (2019) regarding Water Permit Application No. 2572A-2.
4. The Crystalline Rock is stratigraphically lower/older than the Greenhorn Formation and the applicant is a water distribution system. Therefore, no review of the availability of unappropriated water is required.
5. There is a reasonable probability this proposed diversion can be made without unlawfully impairing existing users.



Adam Mathiowetz, PE  
SD DENR-Water Rights Program

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- Water Rights. 2019c. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2019d. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
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NOV 18 2019

WATER RIGHTS  
PROGRAM

Elbert L. Johnson

---

13430 Rockwood Road ~ Rapid City, South Dakota 57702  
Home Phone: 605 348-5362 ~ Email: Elbert.johnson@gmail.com

November 12, 2019

Department of Environment & Natural Resources  
Ms Jeanne Goodman, Chief Engineer  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

Subject: Hearing on Water Permit Application No. 2572A-2

Dear Ms Goodman:

I am requesting an automatic delay of the hearing scheduled for December 3, 2019.

Sincerely,

  
Elbert L. Johnson



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

November 19, 2019

**NOTICE**

TO: Angela Vancas, President  
Sheridan Lake Highlands Inc  
23468 Dry Sage Lane  
Rapid City SD 57702

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Automatic Delay of Hearing on Water Permit Application No. 2572A-2, Sheridan Lake Highlands Inc.

Petitions of opposition were filed in response to the public notice for Water Permit Application No. 2572A-2 filed by Sheridan Lake Highlands Inc. Notices dated August 19, 2019, and November 7, 2019, were sent to parties scheduling a December hearing before the Water Management Board on Application No. 2572A-2. Specifically, the November 7<sup>th</sup> notice formally scheduled the hearing for December 3, 2019. In response to these notices, petitioner Elbert Johnson filed formal request (copy enclosed) for postponement of the December 3, 2019, hearing date on the application. Therefore, the hearing on Application No. 2572A-2 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on December 3, 2019.

The hearing to consider Application No. 2572A-2 is tentatively scheduled for the March 4 – 5, 2020, Water Management Board meeting. The Board will formalize their next meeting date at the December 3<sup>rd</sup> meeting. Future notice of the time and place of the hearing for Application No. 2572A-2 will be provided to all parties of record.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

enclosure

c: Ann Mines Bailey, Assistant Attorney General  
Talbot Wiczorek, Gunderson, Palmer, Nelson & Ashmore LLP, PO Box 8045, Rapid City SD 57709

# CERTIFICATION

I hereby certify that on November 19, 2019, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated November 19, 2019, regarding automatic delay of the December 3<sup>rd</sup> hearing for Water Right Permit Application No. 2572A-2, as addressed below:

Angela Vancas, President  
Sheridan Lake Highlands Inc  
23468 Dry Sage Lane  
Rapid City SD 57702

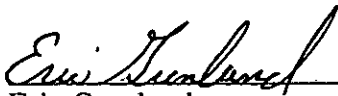
Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Talbot Wiczorek  
Gunderson, Palmer, Nelson & Ashmore LLP  
PO Box 8045  
Rapid City SD 57709

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501



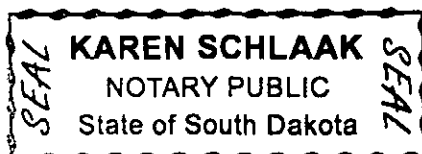
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                              ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 19<sup>th</sup> day of November, 2025.



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 23, 2020

denr.sd.gov

NOTICE

TO: Angela Vancas, President  
Sheridan Lake Highlands Inc  
23468 Dry Sage Lane  
Rapid City SD 57702

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program 

SUBJECT: Scheduling Hearing on Water Permit Application No. 2572A-2, Sheridan Lake Highlands Inc.

Water Permit Application No. 2572A-2 proposes an additional diversion point for a backup well and clarify area of use. Water Right No. 2572-2 authorizes 0.08 cubic feet of water per second from one well completed into the Precambrian Age Crystalline Rock Aquifer located in the SE 1/4 SE 1/4 Section 34-T1N-R6E for suburban housing development use. The applicant is requesting authorization for an additional well into the Precambrian Age Crystalline Rock Aquifer (approximately 500 feet deep) located in the N 1/2 NW 1/4 Section 2-T1S-R6E. This well will serve as a backup supply for the housing development located in the SE 1/4 SE 1/4 Section 34; SW 1/4 SW 1/4 Section 35; all in T1N-R6E and the N 1/2 NW 1/4 Section 2-T1S-R6E. This application, if approved, does not authorize any increase in the developed diversion rate. The housing development is located along Sheridan Lake Road approximately 3 miles southwest of Rapid City.

**The Water Management Board will conduct a hearing to consider Application No. 2572A-2 at 10:30 AM (Central Time), on Wednesday, February 26, 2020, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.** The time is an estimate and may be delayed due to prior items on the agenda. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Applicable provisions of the notices dated August 19, 2019 and November 19, 2019, and the public notice in the Rapid City Journal published August 1, 2019, still apply.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

c: Ann Mines Bailey, Assistant Attorney General  
Talbot Wiczorek, Gunderson, Palmer, Nelson & Ashmore, PO Box 8045, Rapid City SD 57709

# CERTIFICATION

I hereby certify that on January 23, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated January 23, 2020, regarding scheduling of the hearing for Water Right Permit Application No. 2572A-2, as addressed below:

Angela Vancas, President  
Sheridan Lake Highlands Inc  
23468 Dry Sage Lane  
Rapid City SD 57702

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore LLP  
PO Box 8045  
Rapid City SD 57709

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501



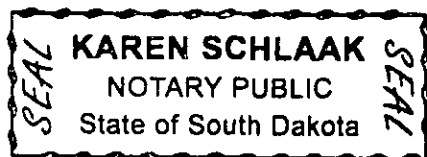
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                          ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 23 day of January, 2020.



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025





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FEB 26 2020

WATER RIGHTS  
PROGRAM

506 Sixth Street  
Post Office Box 8045  
Rapid City, South Dakota 57709  
Main: (605) 342-1078  
Fax: (605) 342-9503

www.gpna.com

February 24, 2020

Talbot J. Wiczorek  
Email: tjw@gpna.com  
Direct Dial: (605) 719-3439

VIA EMAIL & U.S. MAIL

Eric Gronlund  
Department of Environment and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501  
Eric.gronlund@state.sd.us

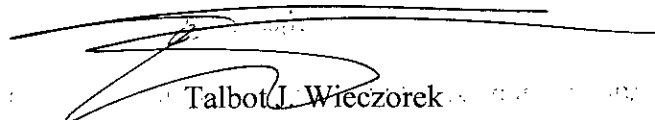
Re: Sheridan Lake Highlands, Inc. Water Permit Application No. 2572A-2  
GPNA File No. 13216.0002

Dear Mr. Gronlund:

As a supplement to the above described permit application, I am providing an Affidavit dated February 24, 2020, from the Secretary and Treasurer of Sheridan Lake Highlands Homeowners Association providing background on this matter. I have asked this to be placed in the application file in support of the application. The original Affidavit is being mailed in today's mail.

Matthew Naasz with this office will be appearing as attorney on behalf of Sheridan Lake Highlands, Inc. at the hearing set for Wednesday. I will be out of the office tomorrow so if there is something you need on this file or any further information, please contact Mr. Naasz.

Sincerely,



Talbot J. Wiczorek

TJW:aa

cc: Ann Mines Bailey (via email)  
Elbert L. Johnson (via email)

Dennis Nagel (via U.S. mail)  
Client (via email)  
Enclosure

Offices in Rapid City and Pierre, South Dakota

Attorneys licensed to practice in South Dakota, North Dakota, Nebraska, Wyoming, and Montana

**BEFORE THE WATER MANAGEMENT BOARD  
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

IN RE APPLICATION OF  
SHERIDAN LAKE HIGHLANDS  
INC. TO AMEND WATER PERMIT  
NO. 2572A-2

**AFFIDAVIT OF ELAINE KARSKY  
IN SUPPORT TO AMEND WATER  
PERMIT NO. 2572A-2**

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FEB 26 2020  
WATER RIGHTS  
PROGRAM**

Elaine Karsky, being first duly sworn on oath, deposes and states:

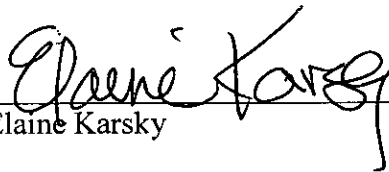
1. I am the Secretary/Treasurer of Sheridan Lake Highlands, Inc. Sheridan Lake Highlands Inc. is a non-profit corporation Homeowners Association (Association) formed by the homeowners in the area to aide with the enforcement of covenants and primarily to take over the water system that had been developed by Ryan Kelly, the developer of the subdivision.
2. Mr. Kelly began the development in approximately 2006 according to our information. As the homes were being built out, there were continued issues with the water. It finally got so bad, that homeowners were complaining to the State of South Dakota and the Association was advised that it would be best if it could buy the water system and take over the management from the developer.
3. What ensued was the need for the Association to collect enough money to hire an attorney and professionals in an attempt to force the developer to sell the property and to come up with a way to buy the water system.

4. Through extensive work, thousands of volunteer hours of the Association Board of Directors and extensive negotiations, the Association was finally able to buy the water system in August of 2017 using financing from a local bank.
5. The financing from the local bank was short term but it provided the Association the time necessary to establish itself as a non-profit corporation providing water service so that it qualified for long term financing through the State of South Dakota. The Association was able to then replace the bank financing with state financing in September of 2018.
6. While the Association purchased the water system, Mr. Kelly did not go away. He still owned land south of Sawmill Road. His remaining property south of the road had been platted into one larger lot. However, Mr. Kelly approached the Pennington County about splitting the land into four separate house lots.
7. The Association opposed the splitting of lots but when it became clear that Pennington County was going to allow the lot split to go forward the Association decided to prevent all these lots from sinking individual wells that the Association would make an agreement to provide water to the four lots being developed conditioned on the developer, Mr. Kelly, drilling a backup well. The Association had been looking for a backup well as the Associations' engineer recommended it would be appropriate to have a backup well in case issues arose with its current well.
8. The Association believed that Mr. Kelly would simply sink individual wells as that is what he did for the two lots east of where the four new lots were to be placed. Because of this, the Association believes it would be better for everyone in the area to not have additional individual wells put in place that would actually have the right to appropriate

more water than what the Associations' permitted use is and have no monitoring system and not be professionally regulated by a certified operator.

9. The Association has spent a large amount of money that is raised from the homeowners to try to correct what the developer created. Significant volunteer time by members of the homeowners and funds raised from individual homeowners have gone to try to repair and upgrade the system for the benefit of not only the people in the Association but the people around it.
10. If the water permit application for the back-up well is not approved, or is approved with conditions, the Association has no obligation to hook up these four lots and does not plan on doing so.

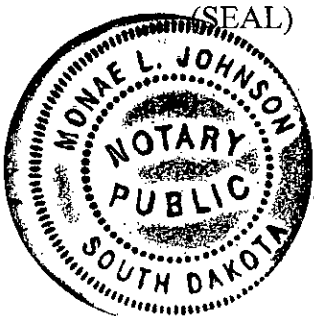
Dated this 24<sup>th</sup> day of February, 2020.

  
Elaine Karsky

Subscribed and sworn to before me on February 24, 2020.

  
Notary Public – South Dakota  
My Commission Expires:

My Commission Expires  
July 23, 2021





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

March 12, 2020

**NOTICE**

TO: Matthew Naasz and Talbot Wiczorek Elbert Johnson  
Gunderson, Palmer, Nelson & Ashmore LLP 13430 Rockwood Road  
PO Box 8045 Rapid City SD 57702  
Rapid City SD 57709

FROM: Eric Gronlund, Chief Engineer  
Water Rights Program

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed counsel for the Water Rights Program to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of the approval of Water Permit Application No. 2572A-2, Sheridan Lake Highlands, Inc.

The Board will consider adoption of Findings of Fact, Conclusions of Law and Final Decision at 8:30 AM, on Wednesday, May 6, 2020, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD.

The Board requested that the proposed Findings of Fact, Conclusions of Law and Final Decision be mailed to each Board member and parties of record by April 10, 2020. Written objections or comments in support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law and Final Decision are to be mailed to each Board member, the Board attorney, and other parties of record by April 20, 2020. A mailing list is enclosed. Board counsel requests that the draft findings or alternative findings be provided in both a PDF format and a WORD format file via email to David.McVey@state.sd.us.

At the Board's discretion, oral arguments in opposition or support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law and Final Decision may be made at the May 6, 2020, meeting. The evidentiary hearing was completed February 26, 2020. No additional testimony will be received on May 6, 2020.

If you have questions about the findings process, please contact Ann Mines-Bailey at (605) 773-3215.

Enclosure

C: Ann Mines Bailey, Water Rights Program Counsel  
David McVey, Water Management Board Counsel

## **WATER MANAGEMENT BOARD MEMBERS**

Chad Comes  
116 W Center  
Madison SD 57042

Leo Holzbauer-**Secretary**  
PO Box 877  
Wagner SD 57380

Rodney Freeman Jr-**Pre Hearing Officer**  
PO Box 176  
Huron SD 57350

Peggy Dixon  
3311 Hogan Court  
Rapid City SD 57702

Jim Hutmacher-**Chairman**  
802 E 7<sup>th</sup> Street  
Oacoma SD 57365

Tim Bjork-**Vice Chairman**  
112 W Oak St  
Pierre SD 57501

### **Board Attorney**

David McVey  
Office of Attorney General  
George S Mickelson Criminal Justice Center  
1302 E Hwy 14 Suite 1  
Pierre, SD 57501

### **Water Rights Program**

Dept of Environment and Natural Resources  
Eric Gronlund, Chief Engineer  
Water Rights Program  
523 East Capitol Ave  
Pierre, SD 57501

### **Staff Attorney**

Ann Mines-Bailey  
Office of Attorney General  
Natural Resources Section  
George Mickelson Criminal Justice Center  
1302 E Hwy 14, Suite 1  
Pierre, SD 57501

# CERTIFICATION

I hereby certify that on March 12, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 12, 2020, regarding preparation of findings of fact, conclusion of law and final decision for Water Right Permit Application No. 2572A-2, as addressed below:

Matthew Naasz and Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore LLP  
PO Box 8045  
Rapid City SD 57709

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

David McVey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501



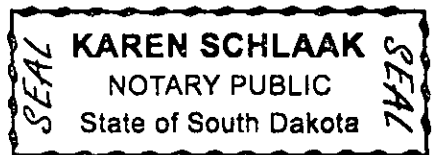
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                                  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 12<sup>th</sup> day of March, 2020.



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025





**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

**JASON R. RAVNSBORG**  
ATTORNEY GENERAL

**RECEIVED**

**APR 09 2020**

**WATER RIGHTS  
PROGRAM**

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

April 8, 2020

Matthew E. Naasz and Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore  
P.O. Box 8045  
Rapid City, SD 57709

Elbert Johnson  
13430 Rockwood Road  
Rapid City, SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City, SD 57702

Chad Comes  
116 West Center  
Madison, SD 57042

Rodney Freeman Jr-Pre-Hearing Officer  
P.O. Box 176  
Huron, SD 57350

Leo Holzbauer-Secretary  
P.O. Box 877  
Wagner, SD 57380

Peggy Dixon  
3311 Hogan Court  
Rapid City, SD 57702

Tim Bjork-Vice Chairman  
112 West Oak Street  
Pierre, SD 57501

Jim Hutmacher-Chairman  
802 East 7th Street  
Oacoma, SD 57365

David M. McVey  
Assistant Attorney General  
Counsel for Water Management Board  
1302 East Highway 14, Suite 1  
Pierre, SD 57501  
(Hand-delivered hard copy and emailed Word)

Re: *In the Matter Water Application No. 2572A-2, Sheridan Lake Highlands, Inc.*

To Whom it May Concern:

Enclosed please find a copy of Chief Engineer's Proposed Findings of Fact, Conclusions of Law, and Final Decision. Pursuant to the Board's Order, objections to the Proposed Findings of Fact, Conclusions of Law, and Final decision are due April 20, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann F. Mines Bailey".  
Ann F. Mines Bailey  
Assistant Attorney General

AFM/mb  
Enclosures  
cc w/enc: Ron Duvall, DENR Water Rights Program

RECEIVED

APR 09 2020

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WATER RIGHTS PROGRAM

WATER MANAGEMENT BOARD

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|                               |   |                            |
|-------------------------------|---|----------------------------|
| IN THE MATTER OF WATER        | ) | CHIEF ENGINEER'S           |
| APPLICATION NO. 2572A-2,      | ) | PROPOSED FINDINGS OF FACT, |
| SHERIDAN LAKE HIGHLANDS, INC. | ) | CONCLUSIONS OF LAW, AND    |
|                               | ) | FINAL DECISION             |

---

This matter came before the South Dakota Water Management Board for hearing on February 26, 2020. Board members James Hutmacher, Tim Bjork, Rodney Freeman, Chad Comes, Leo Holzbauer, and Ev Hoyt, were present at the hearing and heard the evidence presented. Sheridan Lake Highlands, Inc. was represented by Matt Naasz. Intervenor Elbert L. Johnson appeared at the hearing pro se. Ann F. Mines Bailey represented the DENR Water Rights Program and the Chief Engineer. Intervenor Dennis Nagel did not appear.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On May 14, 2019, Water Rights received Water Permit Application No. 2572A-2 on behalf of Sheridan Lake Highlands HOA to amend its existing water permit. The amendment seeks to add an additional diversion point for a backup well for an existing water distribution system for a suburban housing development and to add an additional area of service.

2. The additional diversion point proposed is an existing well located at the N½NW¼, Section 2, T1S-R6E, in Pennington County. The well is completed into the Precambrian aged Crystalline Rock aquifer with a diversion rate of 0.08 cubic feet of water per second (cfs).

3. The Chief Engineer, Jeanne Goodman, recommended approval of the application subject to the permit including three specified qualifications.

Those qualifications are as follows:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

4. Notice of the application and hearing was timely advertised on August 1, 2019, in the Rapid City Journal (Pennington County).

5. DENR received timely petitions to intervene from the following Elbert L. Johnson and Dennis Nagel.

6. The matter was initially scheduled to be heard by the Water Management Board during its December 2019 meeting; however, an automatic delay was requested, and the hearing was rescheduled for the next regular Board meeting.

7. Water Permit Application No. 2575A-2 is an amendment to an existing water permit and is governed by SDCL § 46-2A-12 and requires a finding by the Board that there is a reasonable probability the proposed amendment would not impair existing rights, that the amendment is for a beneficial use and is in the public interest.

8. DENR witness, Adam Mathiowetz, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Crystalline Rock aquifer, and reviewed the information obtained from observations wells completed into the Crystalline Rock aquifer, as well as current water right/permit files and well completion reports for the aquifer.

9. In this area, the Crystalline Rock aquifer consist of numerous, localized aquifers in the Precambrian aged core of the Black Hills. It is made up of Metagraywacke, which is siliceous mica schist with impure quartzite. The aquifer has very low primary porosity. Water movement in the aquifer occurs through fractures, joints and faults within the aquifer material. This secondary porosity is very uneven and unpredictable. The aquifer is estimated to contain approximately 2,900,000 acre-feet of recoverable water in storage in western South Dakota.

10. Mr. Mathiowetz testified recharge to the Crystalline Rock aquifer occurs mainly through infiltration of precipitation and streamflow losses.

11. There are two observation wells in the Crystalline Rock aquifer. One of the wells is open to both the Deadwood Formation as well as the Crystalline Rock aquifer and was therefore not relied upon when reviewing this

application. The other observation well, CU-86A, is located approximately 18.8 miles from the proposed diversion point. The data from this observation well demonstrates that the aquifer responds to climatic trends, recharging during wet periods and declining during dry periods. The observation well data demonstrates that the effects from pumping are temporal and are masked by climatic conditions. In fact, the data demonstrates an upward trend.

12. Mr. Mathiowetz additionally testified that there are two existing water rights in the Crystalline Rock aquifer located approximately two miles from the proposed diversion site. Mr. Mathiowetz opined that at that distance, and given the relatively low diversion rate, there is a reasonable probability that the proposed amendment would not unlawfully impair existing water rights.

13. Additionally, there are approximately fifteen domestic wells within a half-mile radius of the propose diversion site. Mr. Mathiowetz concluded that based upon the limited diversion rate, the nature of the well being a backup source only, and that there is little history of well interference in that area, there is a reasonable probability that amendment would not result in an unlawful impairment of existing rights.

14. Mr. Mathiowetz testified that there is only one complaint of well interference in this area on record. The complaint was made by one of the residents of this suburban housing development alleging that the use of well permitted by Water Permit No. 2572-2 was interfering with her domestic well. The records available to Mr. Mathiowetz did not provide detail about the complaint or how the complaint was resolved. Rather the documentation

provides only acknowledgement of the complaint, an indication that permit holder was instructed to reduce withdrawals to 18 gpm, and later an acknowledgement that a resolution to the complaint was reached allowing the withdrawal of the originally permitted amount.

15. Mr. Mathiowetz further testified as to the general location of the requested additional area to be serviced under the proposed amendment. The area is comprised of approximately three additional housing lots which are part of the suburban housing development.

16. The Board finds Mr. Mathiowetz to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Mathiowetz's testimony and the reports and exhibits which he prepared and/or relied upon.

17. The Board also received the testimony of Linda Kelly. Ms. Kelly was the individual who made the complaint regarding the well permitted under Water Permit No. 2572-2. Ms. Kelly testified that she had concerns from the beginning of the development regarding the availability of water. Ms. Kelly testified that she was not aware that the well permitted under Water Permit No. 2572-2 was allowed to resume pumping its full permitted diversion rate. She further expressed that the issues with her well had not been resolved. Ms. Kelly also testified that she had not filed any additional complaints with Water Rights because she assumed diversion of water from the well was within the domestic use criteria for a water distribution system of 18 gallons per minute.

18. The Board also received the testimony of Elbert Johnson. Mr. Johnson testified that he lives near the proposed backup well and proposed additional area of use. He further testified that he has a private well on his lot upon which he relies for his domestic use. Mr. Johnson testified that the proposed backup well is located right next to his lot. Mr. Johnson further testified that he has concerns about the potential interference that the proposed backup may have with his domestic well.

19. The Board further finds that granting this application would not unlawfully impair existing water rights.

20. The Board further finds that the proposed use of the water for use in a water distribution system for a suburban housing development constitutes beneficial use.

21. The Board further finds that placing the water to this beneficial use is in the public interest.

22. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL § 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-12.

5. The Board concludes that Sheridan Lake Highlands, Inc. has satisfied each of the factors set forth in SDCL § 46-2A-12.

6. SDCL § 46-2A-12 provides that an amendment may be granted if the change does not result in the unlawful impairment of existing rights and is for a beneficial use and in the public interest. Each of these factors must be met and the amendment must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first requirement of SDCL § 46-2A-12 is that the amendment may not unlawfully impair existing water rights. The proposed amendment can be developed without unlawful impairment of existing rights.

8. The second element in SDCL § 46-2A-12 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The amendment is for a beneficial use.

9. The third requirement of SDCL § 46-2A-12 concerns the public interest. The proposed use of the water must be "consistent with the interests

of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for a water distribution system to supply a suburban housing development is in the public interest.

10. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

#### FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8284-3 is granted with the following qualifications:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. The permit holder shall install a water meter on both wells and shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

Dated this \_\_\_\_ day of May, 2020.

BY THE BOARD:

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South Dakota Water Management Board

pld\_afm (mb)

RECEIVED

APR 09 2020

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS  
PROGRAM

WATER MANAGEMENT BOARD

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IN THE MATTER WATER )  
APPLICATION NO. 2572A-2, ) CERTIFICATE OF SERVICE  
SHERIDAN LAKE HIGHLANDS, INC. )

---

The undersigned hereby certifies that true and correct copies of the Chief Engineer's Proposed Findings of Fact, Conclusions of Law, and Final Decision in the above matter were served by U.S. mail, first class, postage prepaid, upon the following on this 8th day of April 2020:

Matthew E. Naasz and Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore  
P.O. Box 8045  
Rapid City, SD 57709

Elbert Johnson  
13430 Rockwood Road  
Rapid City, SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City, SD 57702

Chad Comes  
116 West Center  
Madison, SD 57042

Rodney Freeman Jr-Pre-Hearing Officer  
P.O. Box 176  
Huron, SD 57350

Leo Holzbauer-Secretary  
P.O. Box 877  
Wagner, SD 57380

Peggy Dixon  
3311 Hogan Court  
Rapid City, SD 57702

Tim Bjork-Vice Chairman  
112 West Oak Street  
Pierre, SD 57501

Jim Hutmacher-Chairman  
802 East 7th Street  
Oacoma, SD 57365

David M. McVey  
Assistant Attorney General  
Counsel for Water Management Board  
1302 East Highway 14, Suite 1  
Pierre, SD 57501  
*(Hand-delivered hard copy and emailed Word)*

And on the same date, the original was filed with:

Ron Duvall  
DENR Water Rights Program  
Joe Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

  
Ann F. Mines Bailey  
Assistant Attorney General



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

April 23, 2020

NOTICE

TO: Matthew Naasz and Talbot Wieczorek Elbert Johnson  
Gunderson, Palmer, Nelson & Ashmore LLP 13430 Rockwood Road  
PO Box 8045 Rapid City SD 57702  
Rapid City SD 57709

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

FROM: Eric Gronlund, Chief Engineer   
Water Rights Program

SUBJECT: Consideration of Findings of Fact, Conclusions of Law and Final Decision

Due to the Covid-19 pandemic, the Water Management Board meeting scheduled for May 6, 2020, will now be conducted via remote conference and NOT in the Floyd Matthew Training Center in Pierre SD. The agenda time remains unchanged at 8:30 AM central time for Board consideration of Findings of Fact, Conclusions of Law and Final Decision.

There are two options to participate:

- Option 1.** Audio only by calling 605-679-7263, then enter conference ID 100 780 985# when prompted.
- Option 2.** Audio/visual via the internet using Microsoft Teams. To be seen and heard requires a device equipped with a camera and microphone or you can watch only and use Option 1 to participate by audio. No software install is necessary, the recommended web browser to use is either Microsoft Edge (not Internet Explorer) or Google Chrome. To participate, find the link to join at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106> and then navigate to the May 6 meeting.

At the Board's discretion, oral arguments in opposition or support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law and Final Decision may be made at the May 6, 2020, meeting. The evidentiary hearing was completed February 26, 2020. No additional testimony will be received on May 6, 2020.

If you have questions about the findings process, please contact Ann Mines Bailey at (605) 773-3215.

C: Ann Mines Bailey, Water Rights Program Counsel

CERTIFICATION

I hereby certify that on April 23, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 23, 2020, regarding consideration of findings of fact, conclusion of law and final decision for Water Right Permit Application No. 2572A-2, as addressed below:

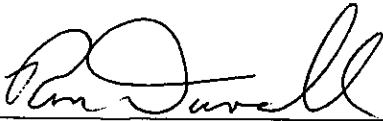
Matthew Naasz and Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore LLP  
PO Box 8045  
Rapid City SD 57709

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501



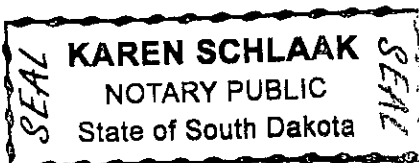
Ron Duvall  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                              ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 24<sup>th</sup> day of April, 2020.



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025



APR 22 2020

WATER RIGHTS  
PROGRAM

**BEFORE THE WATER MANAGEMENT BOARD  
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

IN RE APPLICATION OF )  
SHERIDAN LAKE HIGHLANDS )  
INC. TO AMEND WATER PERMIT )  
NO. 2572A-2 )  
)  
)  
)  
)  
)  
)

**APPLICANTS OBJECTIONS TO  
PROPOSED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW  
AND FINAL DECISION**

COMES NOW the Applicant, Sheridan Lake Highlands Inc., by and through their undersigned counsel and hereby responds to Chief Engineer's Proposed Findings of Fact and Conclusions of Law and Final Decision.

**OBJECTIONS TO FINDINGS OF FACT**

1. The Applicant objects to **Proposed Findings of Fact Number 1** as the finding is incomplete. Applicant believes the four (4) lots being added to the service area should be specifically articulated. Applicant requests the following sentence be added to the end of **Proposed Findings of Fact Number 1**: "The additional area of service as set forth in the application are four (4) lots legally described as: "Lots 3 through 6 of block 4 Sheridan Lake Highlands, Section 2, Township 1 South, Range 6 East, Pennington County, SD.

2. The Applicant objects to **Proposed Findings of Fact Number 15**. The requested additional area of service is comprised of four (4) additional housing lots which are part of the suburban housing development. Applicant requests finding of fact No. 15 be restated as follows "Mr. Mathiowetz further testified as to the general location of the requested additional area to be serviced under the proposed amendment. The area is comprised of four (4) additional housing lots which are part of the suburban housing development."

Respectfully submitted this 20<sup>th</sup> day of April, 2020.

By: /s/ Matthew E. Naasz

Matthew E. Naasz  
506 Sixth Street  
P.O. Box 8045  
Rapid City, SD 57709  
Telephone: (605) 342-1078  
Telefax: (605) 342-9503  
E-mail: [mnaasz@gpna.com](mailto:mnaasz@gpna.com)

### CERTIFICATE OF SERVICE

I hereby certify on April 20, 2020, a true and correct copy of **APPLICANTS OBJECTIONS TO PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW AND FINAL DECISION** was served upon the following individuals in the manner set forth below:

Sent by U.S. Mail

Dennis Nagel  
13435 Rockwood Road  
Rapid City, SD 57702

Elbert Johnson  
13430 Rockwood Road  
Rapid City, SD 57702

Rodney Freeman  
Jr-Pre-Hearing Officer  
P.O. Box 176  
Huron, SD 57350

Chad Comes  
116 West Center  
Madison, SD 57042

Peggy Dixon  
3311 Hogan Court  
Rapid City, SD 57702

Leo Holzhauer-Secretary  
P.O. Box 877  
Wagner, SD 57380

Jim Hutmacher-Chairman  
802 East 7th Street  
Oacoma, SD 57365

Tim Bjork-Vice Chairman  
112 West Oak Street  
Pierre, SD 57501

Sent By Email

David M. McVey  
Assistant Attorney General  
Counsel for Water Management Board  
1302 East Highway 14, Suite 1  
Pierre, SD 57501  
*Sent via email to*  
*David.McVey@state.sd.us*

Ann Mines Bailey  
Assistant Attorney General  
Water Rights Program  
1302 East Highway 14, Suite 1  
Pierre, SD 57501  
*Sent via email to*  
*Ann.MinesBailey@state.sd.us*

And on the same date, the original was filed with:

Ron Duvall  
DENR Water Rights Program Joe Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501  
*Sent via email to Ron.Duvall@state.sd.us*

By: /s/ Matthew E. Naasz  
Matthew E. Naasz



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

April 29, 2020

NOTICE

TO: Matthew Naasz and Talbot Wieczorek Elbert Johnson  
Gunderson, Palmer, Nelson & Ashmore LLP 13430 Rockwood Road  
PO Box 8045 Rapid City SD 57702  
Rapid City SD 57709

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

FROM: Eric Gronlund, Chief Engineer   
Water Rights Program

SUBJECT: Findings of Fact, Conclusions of Law and Final Decision

Enclosed please find a set of Findings of Fact, Conclusions of Law and Final Decision prepared by David McVey, board legal counsel. These findings, conclusions, and final decision will be considered by the Water Management Board on May 6, 2020, at 8:30 AM central time as scheduled in the April 23, 2020, notice which you were provided. Please refer to provisions detailed in the April 23 notice concerning how to participate in the remote conference hearing and all other provisions of that notice apply as well.

If you have questions about the findings process, please contact Ann Mines Bailey at (605) 773-3215.

C: Water Management Board Members  
Ann Mines Bailey, Water Rights Program Counsel

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
WATER MANAGEMENT BOARD

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|                               |   |                         |
|-------------------------------|---|-------------------------|
| IN THE MATTER OF WATER        | ) | FINDINGS OF FACT,       |
| APPLICATION NO. 2572A-2,      | ) | CONCLUSIONS OF LAW, AND |
| SHERIDAN LAKE HIGHLANDS, INC. | ) | FINAL DECISION          |
|                               | ) |                         |

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This matter came before the South Dakota Water Management Board for hearing on February 26, 2020. Board members James Hutmacher, Tim Bjork, Rodney Freeman, Chad Comes, Leo Holzbauer, and Ev Hoyt, were present at the hearing and heard the evidence presented. Sheridan Lake Highlands, Inc. was represented by Matt Naasz. Intervenor Elbert L. Johnson appeared at the hearing pro se. Ann F. Mines Bailey represented the DENR Water Rights Program and the Chief Engineer. Intervenor Dennis Nagel did not appear.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On May 14, 2019, Water Rights received Water Permit Application No. 2572A-2 on behalf of Sheridan Lake Highlands HOA to amend its existing water permit. The amendment seeks to add an additional diversion point for a backup well for an existing water distribution system for a suburban housing development and to add an additional area of service. The additional area of service as set forth in the application are four (4) lots legally

described as: "Lots 3 through 6 of block 4 Sheridan Lake Highlands, Section 2, Township 1 South, Range 6 East, Pennington County, SD.

2. The additional diversion point proposed is an existing well located at the N $\frac{1}{2}$ NW $\frac{1}{4}$ , Section 2, T1S-R6E, in Pennington County. The well is completed into the Precambrian aged Crystalline Rock aquifer with a diversion rate of 0.08 cubic feet of water per second (cfs).

3. The Chief Engineer, Jeanne Goodman, recommended approval of the application subject to the permit including three specified qualifications.

Those qualifications are as follows:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

4. Notice of the application and hearing was timely advertised on August 1, 2019, in the Rapid City Journal (Pennington County).

5. DENR received timely petitions to intervene from the following Elbert L. Johnson and Dennis Nagel.

6. The matter was initially scheduled to be heard by the Water Management Board during its December 2019 meeting; however, an automatic

delay was requested, and the hearing was rescheduled for the next regular Board meeting.

7. Water Permit Application No. 2575A-2 is an amendment to an existing water permit and is governed by SDCL § 46-2A-12 and requires a finding by the Board that there is a reasonable probability the proposed amendment would not impair existing rights, that the amendment is for a beneficial use and is in the public interest.

8. DENR witness, Adam Mathiowetz, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Crystalline Rock aquifer, and reviewed the information obtained from observations wells completed into the Crystalline Rock aquifer, as well as current water right/permit files and well completion reports for the aquifer.

9. In this area, the Crystalline Rock aquifer consist of numerous, localized aquifers in the Precambrian aged core of the Black Hills. It is made up of Metagraywacke, which is siliceous mica schist with impure quartzite. The aquifer has very low primary porosity. Water movement in the aquifer occurs through fractures, joints and faults within the aquifer material. This secondary porosity is very uneven and unpredictable. The aquifer is estimated to contain approximately 2,900,000 acre-feet of recoverable water in storage in western South Dakota.

10. Mr. Mathiowetz testified recharge to the Crystalline Rock aquifer occurs mainly through infiltration of precipitation and streamflow losses.

11. There are two observation wells in the Crystalline Rock aquifer. One of the wells is open to both the Deadwood Formation as well as the Crystalline Rock aquifer and was therefore not relied upon when reviewing this application. The other observation well, CU-86A, is located approximately 18.8 miles from the proposed diversion point. The data from this observation well demonstrates that the aquifer responds to climatic trends, recharging during wet periods and declining during dry periods. The observation well data demonstrates that the effects from pumping are temporal and are masked by climatic conditions. In fact, the data demonstrates an upward trend.

12. Mr. Mathiowetz additionally testified that there are two existing water rights in the Crystalline Rock aquifer located approximately two miles from the proposed diversion site. Mr. Mathiowetz opined that at that distance, and given the relatively low diversion rate, there is a reasonable probability that the proposed amendment would not unlawfully impair existing water rights.

13. Additionally, there are approximately fifteen domestic wells within a half-mile radius of the propose diversion site. Mr. Mathiowetz concluded that based upon the limited diversion rate, the nature of the well being a backup source only, and that there is little history of well interference in that area, there is a reasonable probability that amendment would not result in an unlawful impairment of existing rights.

14. Mr. Mathiowetz testified that there is only one complaint of well interference in this area on record. The complaint was made by one of the residents of this suburban housing development alleging that the use of well

permitted by Water Permit No. 2572-2 was interfering with her domestic well. The records available to Mr. Mathiowetz did not provide detail about the complaint or how the complaint was resolved. Rather the documentation provides only acknowledgement of the complaint, an indication that permit holder was instructed to reduce withdrawals to 18 gpm, and later an acknowledgement that a resolution to the complaint was reached allowing the withdrawal of the originally permitted amount.

15. Mr. Mathiowetz further testified as to the general location of the requested additional area to be serviced under the proposed amendment. The area is comprised of four (4) additional housing lots which are part of the suburban housing development.

16. The Board finds Mr. Mathiowetz to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Mathiowetz's testimony and the reports and exhibits which he prepared and/or relied upon.

17. The Board also received the testimony of Linda Kelly. Ms. Kelly was the individual who made the complaint regarding the well permitted under Water Permit No. 2572-2. Ms. Kelly testified that she had concerns from the beginning of the development regarding the availability of water. Ms. Kelly testified that she was not aware that the well permitted under Water Permit No. 2572-2 was allowed to resume pumping its full permitted diversion rate. She further expressed that the issues with her well had not been resolved. Ms. Kelly also testified that she had not filed any additional complaints with Water

Rights because she assumed diversion of water from the well was within the domestic use criteria for a water distribution system of 18 gallons per minute.

18. The Board also received the testimony of Elbert Johnson. Mr. Johnson testified that he lives near the proposed backup well and proposed additional area of use. He further testified that he has a private well on his lot upon which he relies for his domestic use. Mr. Johnson testified that the proposed backup well is located right next to his lot. Mr. Johnson further testified that he has concerns about the potential interference that the proposed backup may have with his domestic well.

19. The Board further finds that granting this application would not unlawfully impair existing water rights.

20. The Board further finds that the proposed use of the water for use in a water distribution system for a suburban housing development constitutes beneficial use.

21. The Board further finds that placing the water to this beneficial use is in the public interest.

22. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL § 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-12.

5. The Board concludes that Sheridan Lake Highlands, Inc. has satisfied each of the factors set forth in SDCL § 46-2A-12.

6. SDCL § 46-2A-12 provides that an amendment may be granted if the change does not result in the unlawful impairment of existing rights and is for a beneficial use and in the public interest. Each of these factors must be met and the amendment must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first requirement of SDCL § 46-2A-12 is that the amendment may not unlawfully impair existing water rights. The proposed amendment can be developed without unlawful impairment of existing rights.

8. The second element in SDCL § 46-2A-12 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public

in the best utilization of water supplies under SDCL § 46-1-6(3). The amendment is for a beneficial use.

9. The third requirement of SDCL § 46-2A-12 concerns the public interest. The proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for a water distribution system to supply a suburban housing development is in the public interest.

10. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

#### FINAL DECISION

Water Rights filed Proposed Findings of Fact and Conclusions of Law and Decision and the Applicant filed limited objections and proposed alternate findings of fact. In compliance with SDCL § 1-26-25, the Proposed Findings of Fact and Conclusions of Law are accepted, modified, or rejected as follows:

##### Water Rights proposed Findings of Fact

The proposed facts set forth in paragraphs 2-14 and 16-22 are accepted.

The proposed facts set forth in paragraphs 1 and 15 are accepted as modified herein.

##### Applicant's alternative proposed Findings of Fact

The alternate proposed facts set forth in paragraphs 1 and 15 are accepted.

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8284-3 is granted with the following qualifications:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. The permit holder shall install a water meter on both wells and shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

Dated this 6th day of May, 2020.

BY THE BOARD:

---

South Dakota Water Management Board

CERTIFICATION

I hereby certify that on April 29, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 29, 2020, regarding consideration of findings of fact, conclusion of law and final decision for Water Right Permit Application No. 2572A-2 and a copy of the finding, conclusions, and final decision as drafted by David McVey, board counsel, as addressed below:

Matthew Naasz and Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore LLP  
PO Box 8045  
Rapid City SD 57709

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Chad Comes  
116 W Center  
Madison SD 57042

Leo Holzbauer  
PO Box 64  
Delmont SD 57330

Rodney Freeman, Jr.  
PO Box 176  
Huron SD 57350-0176

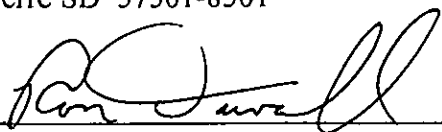
Peggy Dixon  
3311 Hogan Court  
Rapid City SD 57702

Jim Hutmacher  
802 East 7<sup>th</sup> St  
Oacoma SD 57365

Tim Bjork  
223 Enchantment Dr  
Rapid City SD 57701

Sent Inter-office to:

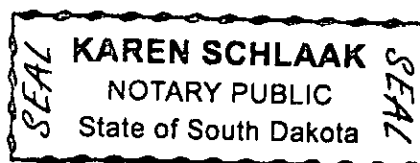
Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
\_\_\_\_\_  
Ron Duvall  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                          )   SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 29<sup>th</sup> day of April, 2020.

  
\_\_\_\_\_  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

May 14, 2020

**NOTICE**

TO: Matthew Naasz and Talbot Wieczorek Elbert Johnson  
Gunderson, Palmer, Nelson & Ashmore LLP 13430 Rockwood Road  
PO Box 8045 Rapid City SD 57702  
Rapid City SD 57709

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

FROM: Eric Gronlund, Chief Engineer *Eric S. Gronlund*  
Water Rights Program

SUBJECT: Adoption of Findings of Fact, Conclusions of Law and Final Decision in the matter of  
Water Permit Application No. 2572A-2, Sheridan Lake Highlands, Inc.

This is to notify you that the Water Management Board's Ruling and the Final Decision, including Findings of Fact and Conclusions of Law, were adopted May 6, 2020, by the Water Management Board in the matter of Water Permit Application No. 2572A-2, Sheridan Lake Highlands, Inc. The signed Findings of Fact, Conclusions of Law, and Final Decision are enclosed.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosure

c: David McVey, Water Management Board Counsel  
Ann Mines Bailey, Water Rights Program Counsel

# CERTIFICATION

I hereby certify that on May 14, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 14, 2020, regarding adoption of findings of fact, conclusion of law and final decision for Water Right Permit Application No. 2572A-2 by the Water Management Board at a hearing conducted on May 6, 2020, as addressed below:

Matthew Naasz and Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore LLP  
PO Box 8045  
Rapid City SD 57709

Elbert Johnson  
13430 Rockwood Road  
Rapid City SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City SD 57702

Sent Inter-office to:

David McVey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

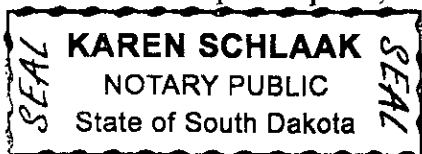
Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
\_\_\_\_\_  
Ron Duvall  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                          ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 14<sup>th</sup> day of May, 2020.

  
\_\_\_\_\_  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025



STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
WATER MANAGEMENT BOARD

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|                               |   |                         |
|-------------------------------|---|-------------------------|
| IN THE MATTER OF WATER        | ) | FINDINGS OF FACT,       |
| APPLICATION NO. 2572A-2,      | ) | CONCLUSIONS OF LAW, AND |
| SHERIDAN LAKE HIGHLANDS, INC. | ) | FINAL DECISION          |
|                               | ) |                         |

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This matter came before the South Dakota Water Management Board for hearing on February 26, 2020. Board members James Hutmacher, Tim Bjork, Rodney Freeman, Chad Comes, Leo Holzbauer, and Ev Hoyt, were present at the hearing and heard the evidence presented. Sheridan Lake Highlands, Inc. was represented by Matt Naasz. Intervenor Elbert L. Johnson appeared at the hearing pro se. Ann F. Mines Bailey represented the DENR Water Rights Program and the Chief Engineer. Intervenor Dennis Nagel did not appear.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On May 14, 2019, Water Rights received Water Permit Application No. 2572A-2 on behalf of Sheridan Lake Highlands HOA to amend its existing water permit. The amendment seeks to add an additional diversion point for a backup well for an existing water distribution system for a suburban housing development and to add an additional area of service. The additional area of service as set forth in the application are four (4) lots legally

described as: "Lots 3 through 6 of block 4 Sheridan Lake Highlands, Section 2, Township 1 South, Range 6 East, Pennington County, SD.

2. The additional diversion point proposed is an existing well located at the N $\frac{1}{2}$ NW $\frac{1}{4}$ , Section 2, T1S-R6E, in Pennington County. The well is completed into the Precambrian aged Crystalline Rock aquifer with a diversion rate of 0.08 cubic feet of water per second (cfs).

3. The Chief Engineer, Jeanne Goodman, recommended approval of the application subject to the permit including three specified qualifications.

Those qualifications are as follows:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

4. Notice of the application and hearing was timely advertised on August 1, 2019, in the Rapid City Journal (Pennington County).

5. DENR received timely petitions to intervene from the following Elbert L. Johnson and Dennis Nagel.

6. The matter was initially scheduled to be heard by the Water Management Board during its December 2019 meeting; however, an automatic

delay was requested, and the hearing was rescheduled for the next regular Board meeting.

7. Water Permit Application No. 2575A-2 is an amendment to an existing water permit and is governed by SDCL § 46-2A-12 and requires a finding by the Board that there is a reasonable probability the proposed amendment would not impair existing rights, that the amendment is for a beneficial use and is in the public interest.

8. DENR witness, Adam Mathiowetz, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Crystalline Rock aquifer, and reviewed the information obtained from observations wells completed into the Crystalline Rock aquifer, as well as current water right/permit files and well completion reports for the aquifer.

9. In this area, the Crystalline Rock aquifer consist of numerous, localized aquifers in the Precambrian aged core of the Black Hills. It is made up of Metagraywacke, which is siliceous mica schist with impure quartzite. The aquifer has very low primary porosity. Water movement in the aquifer occurs through fractures, joints and faults within the aquifer material. This secondary porosity is very uneven and unpredictable. The aquifer is estimated to contain approximately 2,900,000 acre-feet of recoverable water in storage in western South Dakota.

10. Mr. Mathiowetz testified recharge to the Crystalline Rock aquifer occurs mainly through infiltration of precipitation and streamflow losses.

11. There are two observation wells in the Crystalline Rock aquifer. One of the wells is open to both the Deadwood Formation as well as the Crystalline Rock aquifer and was therefore not relied upon when reviewing this application. The other observation well, CU-86A, is located approximately 18.8 miles from the proposed diversion point. The data from this observation well demonstrates that the aquifer responds to climatic trends, recharging during wet periods and declining during dry periods. The observation well data demonstrates that the effects from pumping are temporal and are masked by climatic conditions. In fact, the data demonstrates an upward trend.

12. Mr. Mathiowetz additionally testified that there are two existing water rights in the Crystalline Rock aquifer located approximately two miles from the proposed diversion site. Mr. Mathiowetz opined that at that distance, and given the relatively low diversion rate, there is a reasonable probability that the proposed amendment would not unlawfully impair existing water rights.

13. Additionally, there are approximately fifteen domestic wells within a half-mile radius of the proposed diversion site. Mr. Mathiowetz concluded that based upon the limited diversion rate, the nature of the well being a backup source only, and that there is little history of well interference in that area, there is a reasonable probability that amendment would not result in an unlawful impairment of existing rights.

14. Mr. Mathiowetz testified that there is only one complaint of well interference in this area on record. The complaint was made by one of the residents of this suburban housing development alleging that the use of well

permitted by Water Permit No. 2572-2 was interfering with her domestic well. The records available to Mr. Mathiowetz did not provide detail about the complaint or how the complaint was resolved. Rather the documentation provides only acknowledgement of the complaint, an indication that permit holder was instructed to reduce withdrawals to 18 gpm, and later an acknowledgement that a resolution to the complaint was reached allowing the withdrawal of the originally permitted amount.

15. Mr. Mathiowetz further testified as to the general location of the requested additional area to be serviced under the proposed amendment. The area is comprised of four (4) additional housing lots which are part of the suburban housing development.

16. The Board finds Mr. Mathiowetz to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Mathiowetz's testimony and the reports and exhibits which he prepared and/or relied upon.

17. The Board also received the testimony of Linda Kelly. Ms. Kelly was the individual who made the complaint regarding the well permitted under Water Permit No. 2572-2. Ms. Kelly testified that she had concerns from the beginning of the development regarding the availability of water. Ms. Kelly testified that she was not aware that the well permitted under Water Permit No. 2572-2 was allowed to resume pumping its full permitted diversion rate. She further expressed that the issues with her well had not been resolved. Ms. Kelly also testified that she had not filed any additional complaints with Water

Rights because she assumed diversion of water from the well was within the domestic use criteria for a water distribution system of 18 gallons per minute.

18. The Board also received the testimony of Elbert Johnson. Mr. Johnson testified that he lives near the proposed backup well and proposed additional area of use. He further testified that he has a private well on his lot upon which he relies for his domestic use. Mr. Johnson testified that the proposed backup well is located right next to his lot. Mr. Johnson further testified that he has concerns about the potential interference that the proposed backup may have with his domestic well.

19. The Board further finds that granting this application would not unlawfully impair existing water rights.

20. The Board further finds that the proposed use of the water for use in a water distribution system for a suburban housing development constitutes beneficial use.

21. The Board further finds that placing the water to this beneficial use is in the public interest.

22. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following  
Conclusions of Law:

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL § 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-12.

5. The Board concludes that Sheridan Lake Highlands, Inc. has satisfied each of the factors set forth in SDCL § 46-2A-12.

6. SDCL § 46-2A-12 provides that an amendment may be granted if the change does not result in the unlawful impairment of existing rights and is for a beneficial use and in the public interest. Each of these factors must be met and the amendment must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first requirement of SDCL § 46-2A-12 is that the amendment may not unlawfully impair existing water rights. The proposed amendment can be developed without unlawful impairment of existing rights.

8. The second element in SDCL § 46-2A-12 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public

in the best utilization of water supplies under SDCL § 46-1-6(3). The amendment is for a beneficial use.

9. The third requirement of SDCL § 46-2A-12 concerns the public interest. The proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for a water distribution system to supply a suburban housing development is in the public interest.

10. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

#### FINAL DECISION

Water Rights filed Proposed Findings of Fact and Conclusions of Law and Decision and the Applicant filed limited objections and proposed alternate findings of fact. In compliance with SDCL § 1-26-25, the Proposed Findings of Fact and Conclusions of Law are accepted, modified, or rejected as follows:

##### Water Rights proposed Findings of Fact

The proposed facts set forth in paragraphs 2-14 and 16-22 are accepted.

The proposed facts set forth in paragraphs 1 and 15 are accepted as modified herein.

##### Applicant's alternative proposed Findings of Fact

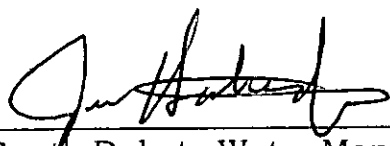
The alternate proposed facts set forth in paragraphs 1 and 15 are accepted.

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 2572A-2 is granted with the following qualifications:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, ARSD Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to ARSD Section 74:02:04:28.
3. The permit holder shall install a water meter on both wells and shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

Dated this 6th day of May, 2020.

BY THE BOARD:

  
\_\_\_\_\_  
South Dakota Water Management Board

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

**RECEIVED**

**MAY 15 2020**

**WATER RIGHTS  
PROGRAM**

**JASON R. RAVNSBORG**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

May 14, 2020

Matthew E. Naasz and Talbot Wieczorek  
Gunderson, Palmer, Nelson & Ashmore  
P.O. Box 8045  
Rapid City, SD 57709

Elbert Johnson  
13430 Rockwood Road  
Rapid City, SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City, SD 57702

Tim Bjork-Vice Chaiman  
112 West Oak Street  
Pierre, SD 57501

David M. McVey  
Assistant Attorney General  
Counsel for Water Management Board  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

Re: *In the Matter Water Application No. 2572A-2, Sheridan Lake Highlands, Inc.*

To Whom it May Concern:

Enclosed please find a copy of Notice of Entry of Findings of Fact, Conclusions of Law, and Final Decision.

Sincerely,

  
Ann F. Mines Bailey  
Assistant Attorney General

AFM/mb  
Enclosures  
cc w/enc: Ron Duvall, DENR Water Rights Program

RECEIVED

MAY 15 2020

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

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|                               |   |                         |
|-------------------------------|---|-------------------------|
| IN THE MATTER OF WATER        | ) | NOTICE OF ENTRY OF      |
| APPLICATION NO. 2572A-2,      | ) | FINDINGS OF FACT,       |
| SHERIDAN LAKE HIGHLANDS, INC. | ) | CONCLUSIONS OF LAW, AND |
|                               | ) | FINAL DECISION          |

---

TO: Sheridan Lake Highlands, Inc., by and through its counsel Matthew E. Naasz and Talbot Wieczorek, Dennis Nagel, and Elbert Johnson:

NOTICE IS HEREBY GIVEN that on the 6th day of May, 2020, the South Dakota Water Management Board entered its Findings of Fact, Conclusions of Law, and Final Decision in the above-entitled matter, copies of which is attached hereto and incorporated herein as if fully set out.

Dated this 15th day of May, 2020.

  
Ann F. Mines Bailey  
Assistant Attorney General  
Attorney General's Office  
1302 E. Highway 14, Suite 1  
Pierre, S.D. 57501  
Tel: (605)-773-3215

RECEIVED

MAY 15 2020

WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

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|                               |   |                         |
|-------------------------------|---|-------------------------|
| IN THE MATTER OF WATER        | ) | FINDINGS OF FACT,       |
| APPLICATION NO. 2572A-2,      | ) | CONCLUSIONS OF LAW, AND |
| SHERIDAN LAKE HIGHLANDS, INC. | ) | FINAL DECISION          |
|                               | ) |                         |

---

This matter came before the South Dakota Water Management Board for hearing on February 26, 2020. Board members James Hutmacher, Tim Bjork, Rodney Freeman, Chad Comes, Leo Holzbauer, and Ev Hoyt, were present at the hearing and heard the evidence presented. Sheridan Lake Highlands, Inc. was represented by Matt Naasz. Intervenor Elbert L. Johnson appeared at the hearing pro se. Ann F. Mines Bailey represented the DENR Water Rights Program and the Chief Engineer. Intervenor Dennis Nagel did not appear.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On May 14, 2019, Water Rights received Water Permit Application No. 2572A-2 on behalf of Sheridan Lake Highlands HOA to amend its existing water permit. The amendment seeks to add an additional diversion point for a backup well for an existing water distribution system for a suburban housing development and to add an additional area of service. The additional area of service as set forth in the application are four (4) lots legally

described as: "Lots 3 through 6 of block 4 Sheridan Lake Highlands, Section 2, Township 1 South, Range 6 East, Pennington County, SD.

2. The additional diversion point proposed is an existing well located at the N½NW¼, Section 2, T1S-R6E, in Pennington County. The well is completed into the Precambrian aged Crystalline Rock aquifer with a diversion rate of 0.08 cubic feet of water per second (cfs).

3. The Chief Engineer, Jeanne Goodman, recommended approval of the application subject to the permit including three specified qualifications.

Those qualifications are as follows:

1. The wells approved under Water Right No. 2572-2 and 2572A-2 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 additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

4. Notice of the application and hearing was timely advertised on August 1, 2019, in the Rapid City Journal (Pennington County).

5. DENR received timely petitions to intervene from the following Elbert L. Johnson and Dennis Nagel.

6. The matter was initially scheduled to be heard by the Water Management Board during its December 2019 meeting; however, an automatic

delay was requested, and the hearing was rescheduled for the next regular Board meeting.

7. Water Permit Application No. 2575A-2 is an amendment to an existing water permit and is governed by SDCL § 46-2A-12 and requires a finding by the Board that there is a reasonable probability the proposed amendment would not impair existing rights, that the amendment is for a beneficial use and is in the public interest.

8. DENR witness, Adam Mathiowetz, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Crystalline Rock aquifer, and reviewed the information obtained from observations wells completed into the Crystalline Rock aquifer, as well as current water right/permit files and well completion reports for the aquifer.

9. In this area, the Crystalline Rock aquifer consist of numerous, localized aquifers in the Precambrian aged core of the Black Hills. It is made up of Metagraywacke, which is siliceous mica schist with impure quartzite. The aquifer has very low primary porosity. Water movement in the aquifer occurs through fractures, joints and faults within the aquifer material. This secondary porosity is very uneven and unpredictable. The aquifer is estimated to contain approximately 2,900,000 acre-feet of recoverable water in storage in western South Dakota.

10. Mr. Mathiowetz testified recharge to the Crystalline Rock aquifer occurs mainly through infiltration of precipitation and streamflow losses.

11. There are two observation wells in the Crystalline Rock aquifer. One of the wells is open to both the Deadwood Formation as well as the Crystalline Rock aquifer and was therefore not relied upon when reviewing this application. The other observation well, CU-86A, is located approximately 18.8 miles from the proposed diversion point. The data from this observation well demonstrates that the aquifer responds to climatic trends, recharging during wet periods and declining during dry periods. The observation well data demonstrates that the effects from pumping are temporal and are masked by climatic conditions. In fact, the data demonstrates an upward trend.

12. Mr. Mathiowetz additionally testified that there are two existing water rights in the Crystalline Rock aquifer located approximately two miles from the proposed diversion site. Mr. Mathiowetz opined that at that distance, and given the relatively low diversion rate, there is a reasonable probability that the proposed amendment would not unlawfully impair existing water rights.

13. Additionally, there are approximately fifteen domestic wells within a half-mile radius of the propose diversion site. Mr. Mathiowetz concluded that based upon the limited diversion rate, the nature of the well being a backup source only, and that there is little history of well interference in that area, there is a reasonable probability that amendment would not result in an unlawful impairment of existing rights.

14. Mr. Mathiowetz testified that there is only one complaint of well interference in this area on record. The complaint was made by one of the residents of this suburban housing development alleging that the use of well

permitted by Water Permit No. 2572-2 was interfering with her domestic well. The records available to Mr. Mathiowetz did not provide detail about the complaint or how the complaint was resolved. Rather the documentation provides only acknowledgement of the complaint, an indication that permit holder was instructed to reduce withdrawals to 18 gpm, and later an acknowledgement that a resolution to the complaint was reached allowing the withdrawal of the originally permitted amount.

15. Mr. Mathiowetz further testified as to the general location of the requested additional area to be serviced under the proposed amendment. The area is comprised of four (4) additional housing lots which are part of the suburban housing development.

16. The Board finds Mr. Mathiowetz to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Mathiowetz's testimony and the reports and exhibits which he prepared and/or relied upon.

17. The Board also received the testimony of Linda Kelly. Ms. Kelly was the individual who made the complaint regarding the well permitted under Water Permit No. 2572-2. Ms. Kelly testified that she had concerns from the beginning of the development regarding the availability of water. Ms. Kelly testified that she was not aware that the well permitted under Water Permit No. 2572-2 was allowed to resume pumping its full permitted diversion rate. She further expressed that the issues with her well had not been resolved. Ms. Kelly also testified that she had not filed any additional complaints with Water

Rights because she assumed diversion of water from the well was within the domestic use criteria for a water distribution system of 18 gallons per minute.

18. The Board also received the testimony of Elbert Johnson. Mr. Johnson testified that he lives near the proposed backup well and proposed additional area of use. He further testified that he has a private well on his lot upon which he relies for his domestic use. Mr. Johnson testified that the proposed backup well is located right next to his lot. Mr. Johnson further testified that he has concerns about the potential interference that the proposed backup may have with his domestic well.

19. The Board further finds that granting this application would not unlawfully impair existing water rights.

20. The Board further finds that the proposed use of the water for use in a water distribution system for a suburban housing development constitutes beneficial use.

21. The Board further finds that placing the water to this beneficial use is in the public interest.

22. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL § 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-12.

5. The Board concludes that Sheridan Lake Highlands, Inc. has satisfied each of the factors set forth in SDCL § 46-2A-12.

6. SDCL § 46-2A-12 provides that an amendment may be granted if the change does not result in the unlawful impairment of existing rights and is for a beneficial use and in the public interest. Each of these factors must be met and the amendment must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first requirement of SDCL § 46-2A-12 is that the amendment may not unlawfully impair existing water rights. The proposed amendment can be developed without unlawful impairment of existing rights.

8. The second element in SDCL § 46-2A-12 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public

in the best utilization of water supplies under SDCL § 46-1-6(3). The amendment is for a beneficial use.

9. The third requirement of SDCL § 46-2A-12 concerns the public interest. The proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for a water distribution system to supply a suburban housing development is in the public interest.

10. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

#### FINAL DECISION

Water Rights filed Proposed Findings of Fact and Conclusions of Law and Decision and the Applicant filed limited objections and proposed alternate findings of fact. In compliance with SDCL § 1-26-25, the Proposed Findings of Fact and Conclusions of Law are accepted, modified, or rejected as follows:

##### Water Rights proposed Findings of Fact

The proposed facts set forth in paragraphs 2-14 and 16-22 are accepted.

The proposed facts set forth in paragraphs 1 and 15 are accepted as modified herein.

##### Applicant's alternative proposed Findings of Fact

The alternate proposed facts set forth in paragraphs 1 and 15 are accepted.

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 2572A-2 is granted with the following qualifications:

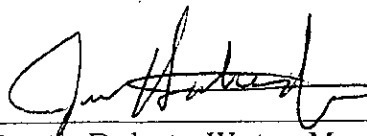
1. The wells approved under Water Right No. 2572-2 and 2572A-2 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The additional well authorized by Permit No. 2572A-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, ARSD Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to ARSD Section 74:02:04:28.

3. The permit holder shall install a water meter on both wells and shall report to the Chief Engineer annually the amount of water withdrawn from the wells completed into the Precambrian Age Crystalline Rock.

Dated this 6th day of May, 2020.

BY THE BOARD:

A handwritten signature in black ink, appearing to be "Jim H. [unclear]", written over a horizontal line.

South Dakota Water Management Board

STATE OF SOUTH DAKOTA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

RECEIVED

MAY 15 2020

WATER RIGHTS  
PROGRAM

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|                               |   |                        |
|-------------------------------|---|------------------------|
| IN THE MATTER WATER           | ) |                        |
| APPLICATION NO. 2572A-2,      | ) | CERTIFICATE OF SERVICE |
| SHERIDAN LAKE HIGHLANDS, INC. | ) |                        |

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The undersigned hereby certifies that true and correct copies of the Notice of Entry of Findings of Fact, Conclusions of Law, and Final Decision in the above matter were served by U.S. mail, first class, postage prepaid, upon the following on this 14th day of May 2020:

Matthew E. Naasz and Talbot Wiczorek  
Gunderson, Palmer, Nelson & Ashmore  
P.O. Box 8045  
Rapid City, SD 57709

Elbert Johnson  
13430 Rockwood Road  
Rapid City, SD 57702

Dennis Nagel  
13435 Rockwood Road  
Rapid City, SD 57702

Tim Bjork-Vice Chairman  
112 West Oak Street  
Pierre, SD 57501

David M. McVey  
Assistant Attorney General  
Counsel for Water Management Board  
1302 East Highway 14, Suite 1  
Pierre, SD 57501

And on the same date, the original was filed with:

Ron Duvall  
DENR Water Rights Program  
Joe Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501

  
Ann F. Mines Bailey  
Assistant Attorney General



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
denr.sd.gov

**JUN 10 2020**

Sheridan Lake Highlands Inc  
c/o Nathan Woods, President  
13479 Sienna Meadows Lane  
Rapid City SD 57702

Dear Mr. Woods:

Enclosed is Water Permit No. 2572A-2 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures