

WATER PERMIT NO. 2610-2

Name of Applicant: United Land Management

Address: Box 54, Rapid City SD 57709 Phone: 605 490-9362

Amount of Water Claimed: 0.21 cfs Total Acres: NA

Source of Water Supply: groundwater (two wells)

Water to be used for: suburban housing development County: Custer

Type of Waste Disposal System:

Location: 20 miles southwest of Custer

PRIORITY Date Received: 2-9-07

Application/License Fee: \$275

Corrected Application Received: 2-20-07

Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: NW ¼ SE ¼ Sec 10-T6S-R3E

Land to be Irrigated: NA

Depth of Well: 1000 feet deep

Well Driller:

Remarks:

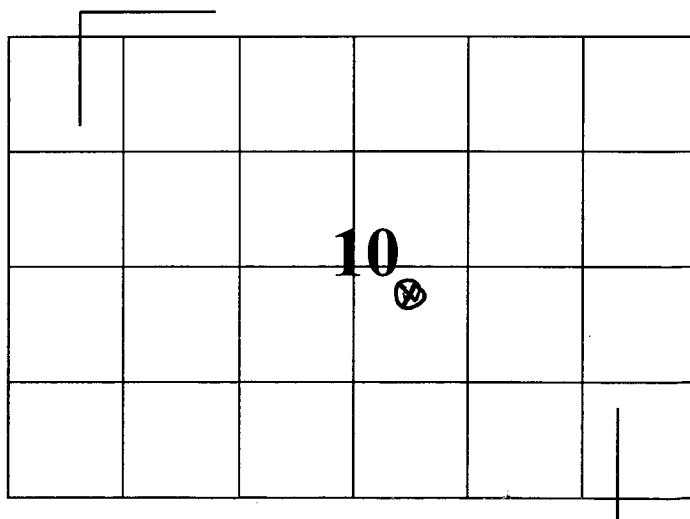
Type of Map: aerial

Prepared by: Kory Bassert, NRCS

Reviewed and the Number Assigned on: 2-20-07

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)	
	No. <u>2610-2</u>	Hydrologic Unit <u>10120106</u>
	Basin <u>Upper Cheyenne</u>	
	Newspaper <u>Custer County Chronicle, PO Box 551</u> <u>605 673-2217 (Wed) 57730-0551</u>	

RECEIVED

FEB 20 2007

WATER RIGHTS
PROGRAM

originally 2/9/07
received

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

Check use(s) of water:

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

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

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

- Name of Applicant United Land Management Phone 605-490-9362
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address Box 54 Rapid City State SD 57709
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed .21 *CFS or 95 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 2 wells in NW 1/4
SE 1/4 Section 10-T6S-R3E County Custer
- County or counties where water will be used Custer
- Annual period during which water is to be used Jan 1 to Dec 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

STATE OF SOUTH DAKOTA)

County of Pennington SS

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

I, United Land Management, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Richard Allred

Applicant's signature United Land Management Richard Allred
Title - Caretaker

Subscribed and sworn to before me this 19 day of Feb 20 07

Cheryl A. Jager, Notary
Notary Public signature
My Commission Expires: 10/9/2010

**SOUTH DAKOTA
WATER PERMIT NO. 2610-2**

Date of first receipt of application February 9, 2007.

Date of return to applicant for corrections, amendments or changes February 9, 2007.

Date of receipt of corrected application February 20, 2007.

The Water Management Board approved Water Permit No. 2610-2 on July 11, 2007 for United Land Management, c/o Richard Allred, Box 54, Rapid City SD 57709 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2610-2 appropriates 0.21 cubic feet of water per second from two wells to be completed into the Madison Aquifer (approximately 1000 feet deep) located in the NW ¼ SE ¼ Section 10-T6S-R3E.
2. The water appropriated shall be used for the purpose of suburban housing development and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is February 9, 2007.
5. One-fifth of the construction is to be completed on or before January 11, 2010.
6. All construction is to be completed on or before July 11, 2012.
7. Water is to be put to beneficial use on or before July 11, 2016.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2610-2 is issued for a 20-year term. Pursuant to SDCL 46-2A-21, the 20-year term may be deleted at any time during the 20-year period or following its expiration. If the 20-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2610-2 may also be cancelled for non-construction, forfeiture, abandonment, or three permit violations pursuant to SDCL 46-1-12, 46-5-37, 46-5-37.1 and ARSD 74:02:01:37.
2. The wells 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.
3. The wells authorized by Permit No. 2610-2 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.
4. United Land Management shall report to the Chief Engineer annually the amount of water withdrawn from the Madison Aquifer.

WATER MANAGEMENT BOARD

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

AUG 01 2007
date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 11" Depth 1000 ft
- b) Casing Type welded Diameter 8" Thickness 1/4" to 5/16"
head and coupler
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material 850 ft
- f) Depth to Water (ground surface to water level) 900 ft
- g) Distance to nearest existing domestic well:
- On applicants property 50 ft On property owned by others _____

2. Wastewater Disposal System Information

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

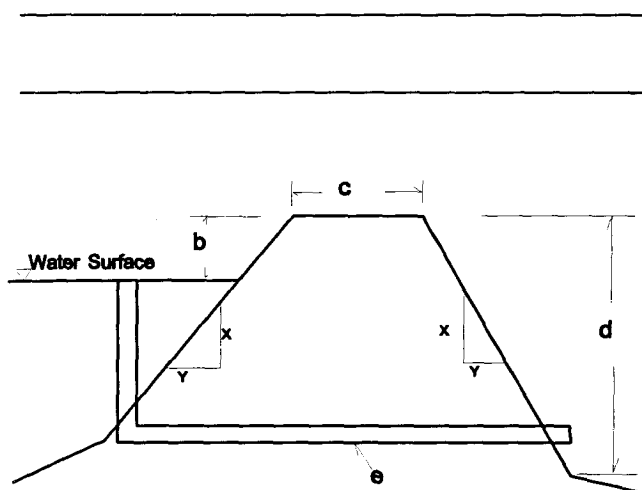
3. Dugout Information

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

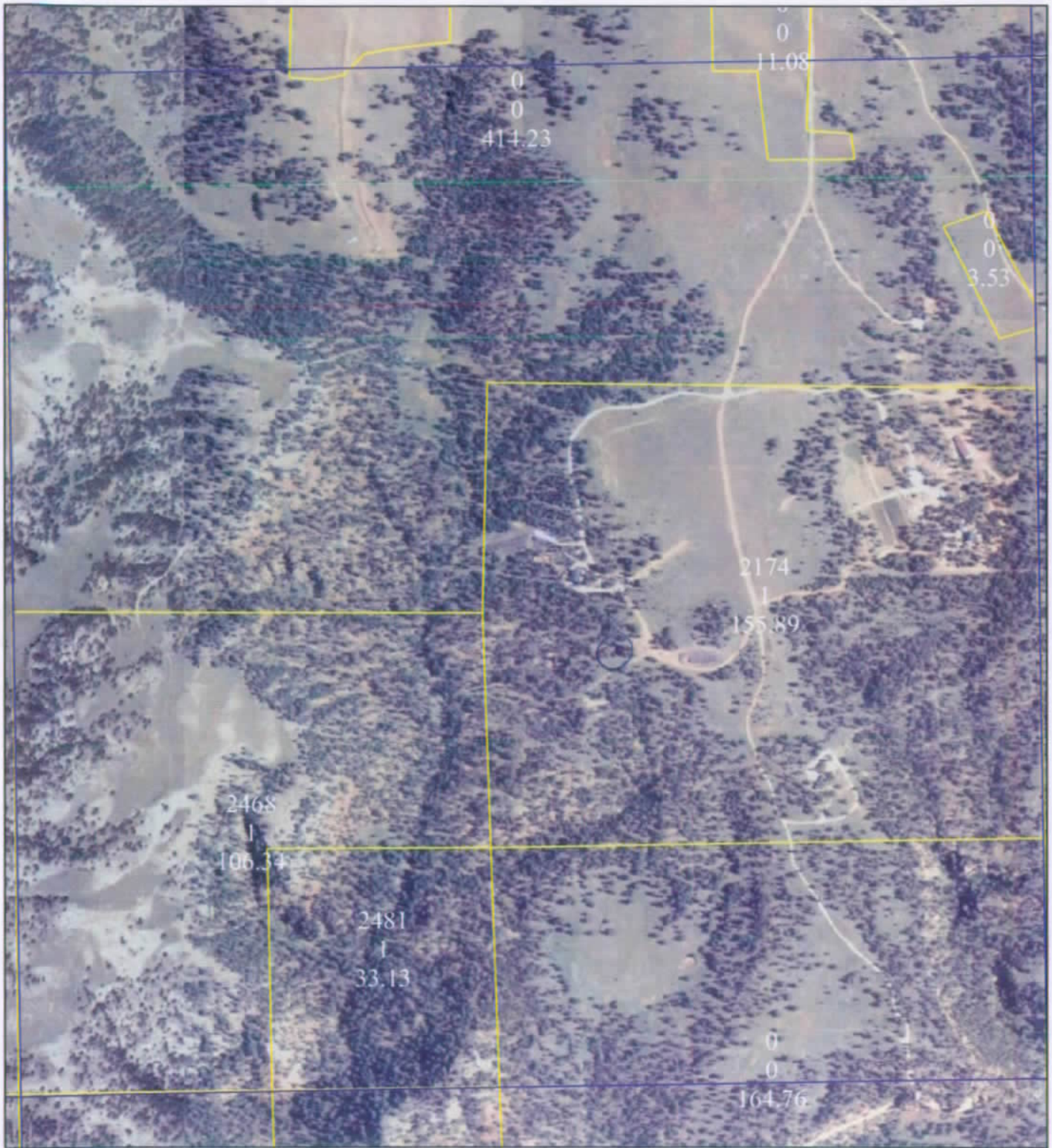
4. Water Storage Dams

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

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



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



United States Department of Agriculture
Farm Service Agency

10-6S-3E

Custer County, SD

1:8,589

September 18, 2006



Kory Bassett 2/9/07
Kory Bassett
NRCS District Conservationist
Hot Springs, SD

FROM : HOWE WELL DRILLING AND EXCAVAG FAX NO. : 6056733818

May. 02 2007 09:30AM P1

SD EForm - 1621 V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

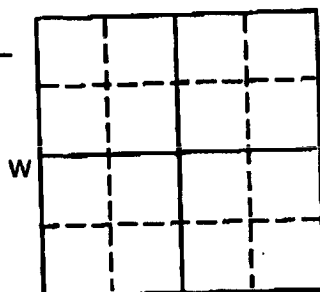
11-02

Location Sec 10 Twp 6S Rg 3E

County

Custer

North

Please mark well
location with an "X"

Well Completion Date

5/5/2005

Distance to nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

500.0 ft. from Drainfield (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☒ Steel ☐ Plastic ☐ Other

If other describe

PIPEWEIGHT DIAMETER FROM TO HOLE DIAMETER
16.0 LB/FT 5.00 IN 0.0 FT 805.0 FT 6.75 INLB/FT IN FT FT IN

GROUTING DATA:

Grout Type No. of Sacks Grout Weight From To
Portland 48 16.0 Lb/gal 0.0 Ft 805.0 FtCement Lb/gal Ft Ft

Describe grouting procedure

SCREEN:

☐ Perforated pipe ☐ ManufacturedDiameter inches Length FeetMaterial 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? Chlorine Tablets☐ No, Why Not?Lab sample sent to for
water quality analysisWell Owner: United Land Management

Business Name:

Address: 20 Mile RanchCity, State, Zip: Custer SD 57730

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Spearfish	0	100
Minnelusa	100	765
Madison	765	1030

STATIC WATER LEVEL 650.0 FEETIf flowing: closed in pressure PSIGPM flow 10.0 through inch pipeControlled by ☐ Valve ☐ Reducers ☐ OtherReduced flow rate GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe:
☐ Bailed
☐ Other

Pumping Level Below Land Surface

 Ft. After Hrs. pumped GPM Ft. After Hrs. pumped GPMIf pump installed, pump rate: GPM

REMARKS

We hit 10 GPM of water at 1000 ft.
We did not install pump. They installed their own.This well was drilled under license # 363

And this report is true and accurate.

Drilling firm: Howe Well Drilling

Signature of License Representative:

Charles Howe

Signature of Well Owner or Equitable Property Holder:

Date:

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date Feb 9, 20 07

RECEIVED OF United Land Management, Box 54, Rapid City SD 57709

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

Fee for Application for Permit No. <u>2610-2</u> to Appropriate Water, to construct and to put water to beneficial use	225	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2610-2</u>	50	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	275.00

No.

02937

By

Harland Erbe

Chief Engineer

KS



February 9, 2007

United Land Management
Box 54
Rapid City SD 57709

Dear Sir:

Thank you for submitting the *Application for a Permit to Appropriate Water* for a suburban housing development. The application is being returned for the following:

- Please complete Item No. 4, Location of point of diversion. From the map submitted with the application, it appears the well will be located in the NW ¼ SE ¼ Section 10-T6S-R3E.
- Is it correct to assume the Annual period of use, Item No. 6, would be January 1 – December 31?
- The bottom portion of the application requires the applicant signature and notarization.
- If available, please submit a well log or test hole log signed by a licensed South Dakota well driller.

- still to obtain - we will send when we have it
Thanks

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosure

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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WATER RIGHTS
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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2610-2, United Land Management**

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. 2610-2, United Land Management, Box 54, Rapid City SD 57709.

The Chief Engineer is recommending APPROVAL of Application No. 26¹⁰~~07~~-2 for a 20 year term 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. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2610-2 is issued for a 20-year term. Pursuant to SDCL 46-2A-21, the 20-year term may be deleted at any time during the 20-year period or following its expiration. If the 20-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2610-2 may also be cancelled for non-construction, forfeiture, abandonment, or three permit violations pursuant to SDCL 46-1-12, 46-5-37, 46-5-37.1 and ARSD 74:02:01:37.
2. The wells 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.
3. The wells authorized by Permit No. 2610-2 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.
4. United Land Management shall report to the Chief Engineer annually the amount of water withdrawn from the Madison Aquifer.

See report on application for additional information.

Garland Erbele, Chief Engineer
May 11, 2007

WATER PERMIT APPLICATION NO. 2610-2
UNITED LAND MANAGEMENT
APRIL 20, 2007

Water Permit application No. 2610-2 proposes to appropriate 0.21 cubic feet of water per second (cfs) [95 gallons per minute], from two wells to be completed into the Madison aquifer, approximately 1,000 feet deep. The wells are to be located in the NW¼ SE¼ Section 10, T6S-R3E, Custer County. The water is for a suburban housing development.

AQUIFER: Madison aquifer (MDSN)

Aquifer Characteristics:

The Madison Limestone, locally known as the Pahasapa Limestone, is a fine to medium crystalline, cavernous limestone and dolomite. The Madison is laterally extensive and underlies much of the western United States. The Madison underlies approximately 736,640 acres of Custer County and contains an estimated 9,208,000 acre-feet of recoverable water in storage in Custer County (Allen and others, 1985). The upper portion of the Madison Limestone is karstic, therefore it contains randomly distributed zones of secondary porosity and permeability formed by weathering of exposed surfaces, groundwater solution and fracturing, and is considered the Madison aquifer. The average porosity of the Madison is estimated to be 11% and the effective porosity from which recoverable water can be obtained by wells is assumed to be 5% (Rahn, 1979). The well site proposed by this application is located approximately five miles from the Madison outcrop (Strobel and others, 1999). The top of the Madison is expected to be approximately 760 feet below grade (Carter and Redden, 1999a). The Madison is expected to be approximately 300 feet thick in this area (Carter and Redden, 1999a) and (Carter and Redden, 1999b).

Water Availability:

The availability of unappropriated water in the Madison aquifer can be evaluated by considering SDCL 46-6-3.1 which requires that "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."

Recharge to the Madison aquifer occurs through streamflow losses and direct infiltration of precipitation at the outcrop area. Recharge for the entire Madison aquifer in South Dakota has been estimated to range from 140,000 to 400,000 acre-feet per year (Woodward Clyde, 1981). Average annual recharge from 1931-1998 was estimated to be approximately 137,000 ac-ft/yr (Carter and others, 2001a).

The high cost of Madison wells, except very near the outcrop, and the availability of groundwater from shallower aquifers, has limited domestic development and generally restricted usage from the Madison to those uses which require water rights. There are a total of 147 permits/rights which appropriate water from the Madison aquifer in South Dakota plus one deferred application (Application No. 2585-2 Southern Black Hills

Water System). In addition, there are five future use permits (369-1 City of Belle Fourche, 1833-2 Weston Heights Home Owners, 2086-2 The City of Rapid City, 2560-2 Fall River Water User's District, and 2580-2 Southern Black Hills Water System) that reserve 8,202.8 acre-feet of water annually from the Madison aquifer. The majority of the water rights/permits from the aquifer are from Butte, Lawrence, Meade, Pennington and Fall River Counties. The Madison supplies water for irrigation, geothermal, industrial, and commercial use. However, by far the major use of the aquifer is for common distribution systems (suburban housing development and municipal use). The cities of Spearfish, Belle Fourche, Sturgis, Rapid City, Box Elder, and Edgemont all depend on water from the Madison aquifer.

If the worst case assumptions are made that (1) permits/rights with an annual withdrawal limitation (ac-ft/yr) will use the maximum allowable; and (2) permits/rights that are limited by a diversion rate only, will use 60% of the maximum allowable (considered reasonable for water distribution systems); the total water use from the Madison would be less than 50,000 acre-feet per year. The actual amount of water used from the Madison is considerably less than this estimate. Withdrawals from wells completed into the Madison aquifer were estimated to be 12,163 acre-feet annually from 1987-1996 (Carter and others, 2001b). Comparison of the estimated annual recharge to the Madison with the water use estimated from the aquifer indicates unappropriated water is available from the Madison aquifer.

This application proposes to appropriate less than 100 acre-feet of water annually (assuming a pumping rate of 0.21 cfs, 60% of the time) from the Madison aquifer. Comparison of the estimated annual recharge to the Madison with the water use estimated from the aquifer indicates unappropriated water is available from the Madison aquifer.

A water budget is not intended to suggest that all of the water that is in storage in the Madison or that all of the recharge is available for this appropriation, merely to demonstrate that in general the Madison aquifer is an immense resource that is relatively untapped.

The Water Rights Program monitors 26 observation wells completed into the Madison aquifer in the Black Hills area (Water Rights, 2007a). Madison aquifer observation well CU-95A is located approximately eight miles west-northwest of this proposed well site, FR-92A is located approximately eight miles south-southeast of this proposed well site, and FR-95A is located approximately 14 miles southwest of this proposed well site. Hydrographs of these observation wells are shown below in figures 1-3, respectively.

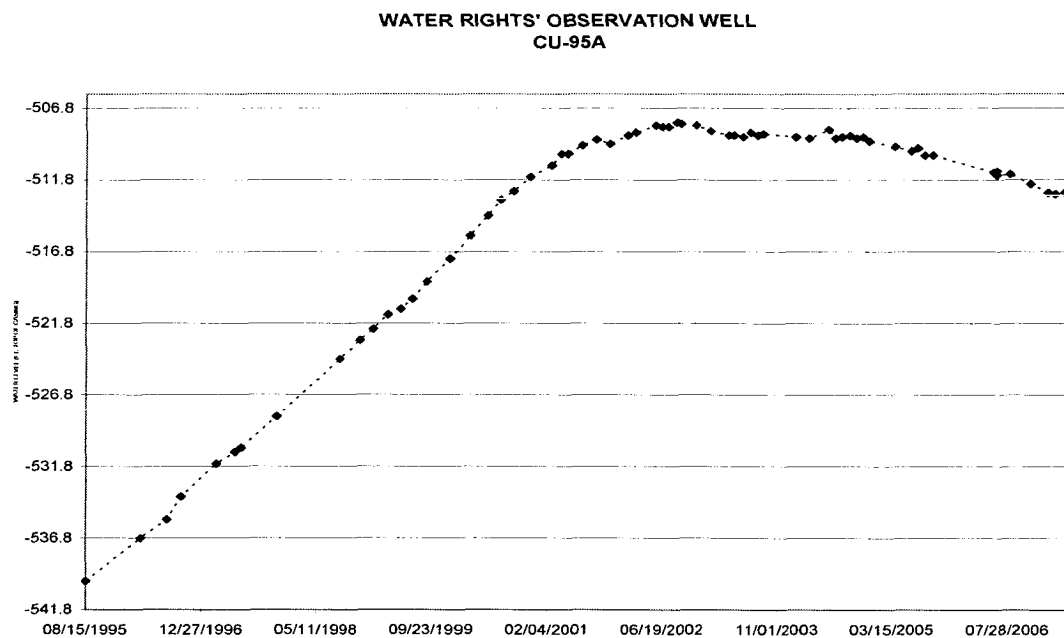


Figure 1. Hydrograph of Water Rights' Madison aquifer observation well located approximately 8 miles west-northwest of 2610-2

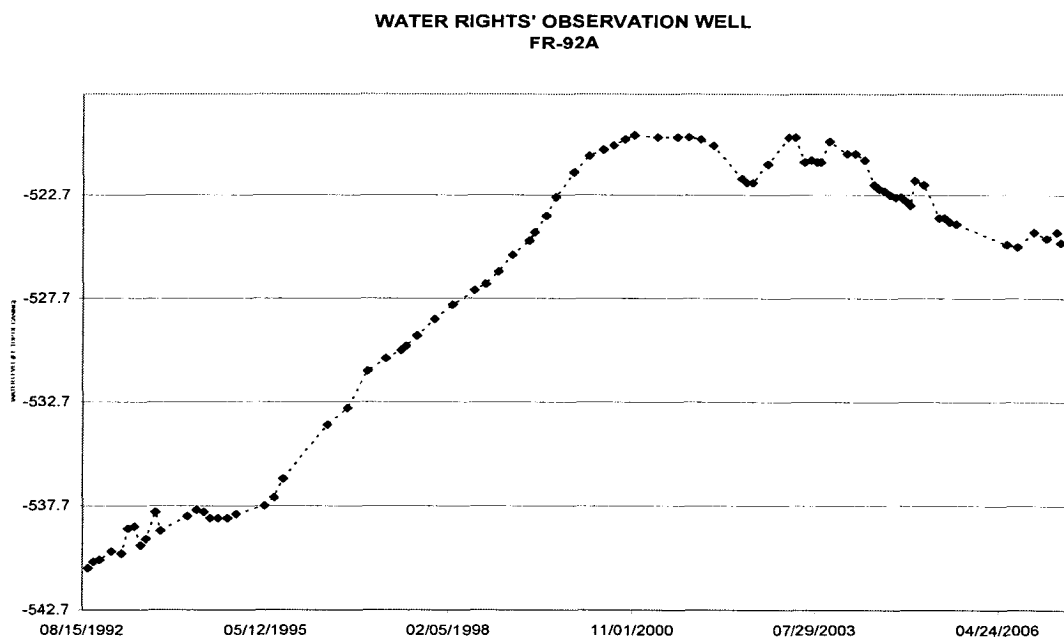


Figure 2. Hydrograph of Water Rights' Madison aquifer observation well located approximately 8 miles south-southeast of 2610-2

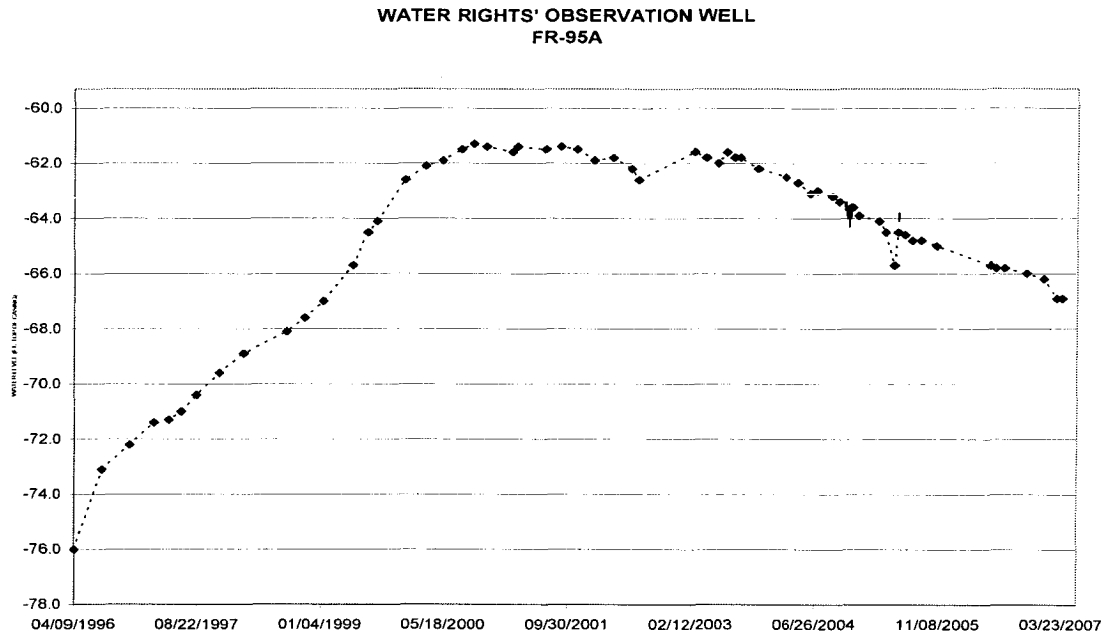


Figure 3. Hydrograph of Water Rights' Madison aquifer observation well located approximately 14 miles southwest of 2610-2

The hydrographs document that the potentiometric surface of the Madison aquifer fluctuates 14 to 32 feet at the observation wells in response to seasonal and climatic variations. The potentiometric surface measured at these sites rose during the late 1990's in response to wet climatic conditions and has declined in recent years in response to less recharge. A comparison of these hydrographs with data from Water Rights' observation wells completed into the Madison aquifer that have longer periods of record, suggest the fluctuations represented in figures 1-3 are representative of climatic conditions instead of pumping from the aquifer. Long-term water level declines are not apparent from the hydrographs of wells with longer periods of record. Observation well data suggest that at the existing level of development, natural influences dominate the water levels of the aquifer and the effects of pumping as yet are not obvious.

Affects on Existing Rights:

The Water Rights Program has record of a number of domestic wells in this area. The majority of these domestic wells appear to be completed into the Minnelusa aquifer and at least two are completed into the Deadwood aquifer. Wells completed into aquifers that are either stratigraphically above or below the Madison aquifer (i.e. Minnelusa and Deadwood respectively) are not expected to be affected by this proposed appropriation since the lower Minnelusa aquifer can be considered a confining bed that isolates the Madison hydraulically from shallower aquifers, and the bottom portion of the Madison isolates the Madison from lower aquifers. There are no completion reports on file for wells completed into the Madison aquifer within approximately five miles of the well sites proposed by this application.

There are no wells supplying Water Rights/Permits within approximately nine miles of the well site proposed by this application. The nearest Water Right supplied by a well completed into the Madison aquifer, Water Right No. 419-2, Wind Cave National Park; is located approximately 10 miles east-northeast of the well sites proposed by this application.

Well interference resulting from this appropriation is not expected to be an issue to either domestic wells or wells supplying appropriative rights due to the distance between wells and the relatively low diversion rate proposed by this application.

The well sites proposed by this application are located approximately five miles west of the "Argyle" well site proposed by Future Use Permit No. 2580-2. Approval of this application should not hinder development of the future use permit due to the distance and between wells.

TERM LIMITATION:

SDCL 46-2A-20 requires that "... no water permit for construction of works to withdraw water from the Madison formation in Butte, Fall River, Custer, Lawrence, Meade and Pennington counties may be issued for a term of more than twenty years, unless the water management board determines, based upon the evidence presented at the hearing that:

- (1) Sufficient information is available to determine whether any significant adverse hydrologic effects on the supply of water in the Madison formation would result if the proposed withdrawal were approved; and
- (2) The information, whether provided by the applicant or by other means, show that there is a reasonable probability that issuance of the proposed permit would not have a significant adverse effect on nearby Madison formation wells and springs."

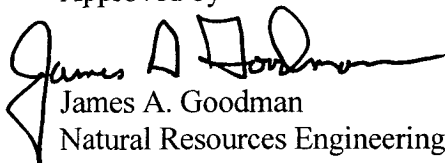
Evidence is not available to justify issuing this permit without a term limitation of 20 years.

Conclusions:

1. The Madison aquifer is a viable aquifer in this area.
2. This diversion will not adversely impair existing water rights.
3. Information is not available to approve this application without a 20 year term limit



Ken Buhler
Natural Resources Engineering Specialist
Approved by



James A. Goodman
Natural Resources Engineering Director

References:

- Allen, J.C., Iles, D.L., and Petres, A.K., 1985, Analysis of Groundwater and Streamflow Data Western Dakotas Region of South Dakota, Tasks 3A.B.C. and 4A.B.: Groundwater Resource Inventory: South Dakota Department of Water and Natural Resources
- Carter, J.M., Redden, J.A., 1999a, Altitude of the Top of the Madison Limestone in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-744-D, 2 sheets, scale 1:100,000
- Carter, J.M., Redden, J.A., 1999b, Altitude of the Top of the Deadwood Formation in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-744-E, 2 sheets, scale 1:100,000
- Carter, J.M., Driscoll, D.G., and Hamade, G.R., 2001a, Estimated Recharge to the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota and Wyoming, Water Years 1931-98: U.S. Geological Survey Water-Resources Investigations Report 00-4278, 66 p
- Carter, J.M., Driscoll, D.G., Hamade, G.R., and Jarrell, G.J., 2001b, Hydrologic Budgets for the Madison and Minnelusa Aquifers, Black Hills of South Dakota and Wyoming, Water Years 1987-1996, Water-Resources Investigations Report 01-4119, U.S. Department of the Interior, U.S. Geological Survey, Rapid City, SD
- Rahn, P.H., 1979, Ground Water Resources of Western South Dakota: U.S. Army Corps of Engineers, SDSM&T Project #2533
- Strobel, M.L., Jarrell, G.J., Sawyer, J.F., Schleicher, J.R., and Fahrenbach, M.D., 1999, Distribution of Hydrogeologic Units in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-743, 3 sheets, scale 1:100,000
- Water Rights Program, 2007a, Observation Well Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights Program, 2007b, Water Permit/Right Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights Program, 2007c, Well Completion Report Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Woodward Clyde Consultants, 1981, Well Field Hydrology Technical Report, for the ETSI Coal Slurry Pipeline Project, U.S. Dept. of the Interior, Bureau of Land Management

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer)

OK

Charles W. Najacht of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein, mentioned, and was and is printed wholly or in part in an office maintained at said place of publication: that the

Department of Environment & Natural Resources
Water Rights Program

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 2 successive week(s), on which said newspaper was regularly published, to wit:

May 23, 2007; May 30, 2007;

_____, _____; _____, _____;

_____, _____; _____, _____;

_____, _____; _____, _____;

_____, _____; _____, _____;

the full amount of the fees for the publication of the annexed notice is \$ 39.64.

Charles W. Najacht

Subscribed and sworn to me before this 30

of May, 2007;

Norma Najacht

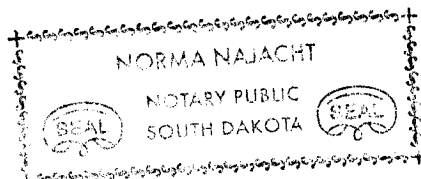
NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2012

RECEIVED

JUN - 1 2007

WATER RIGHTS
PROGRAM



**NOTICE OF
APPLICATION
NO. 2610-2**

(TO APPROPRIATE WATER

Notice is given that United Land Management, Box 54, Rapid City SD 57709 has filed an application for a water permit to appropriate 0.21 cubic feet of water per second from two wells to be completed into the Madison Aquifer (approximately 1000 feet deep) located in the NW 1/4 SE 1/4 Section 10-T6S-R3E. The water is for a suburban housing development.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2610-2 for a 20year term because 1) evidence is not available to justify issuing this permit without a 20 year term limitation, 2) the

developed with out unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendations 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 June 11, 2007.

include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

#157, 5/23, 5/30

The petition may be informal, but must



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 16, 2007

CUSTER COUNTY CHRONICLE
PO BOX 551
CUSTER SD 57730

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2610-2 to Appropriate Water to be published twice. Please publish the first notice on May 23, 2007 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is United Land Management, PO Box 54, Rapid City SD 57709 (Ph # 605-490-9362).

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

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 2610-2

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

Date _____

We are in receipt of your letter of May 16, 2007 enclosing Notice to Appropriate Water by Application No. 2610-2 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

May 16, 2007

UNITED LAND MANAGEMENT
PO BOX 54
RAPID CITY SD 57709

Dear Sir:

Water Permit Application No. 2610-2 for suburban housing use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Custer County Chronicle printed at Custer SD (Ph # 605-673-2217). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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, the publisher has been instructed to publish your notice once each week for two consecutive weeks. 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 applications.

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.

Instruction to Newspaper - Publish first Notice on May 23, 2007 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2610-2 to Appropriate Water

Notice is given that United Land Management, Box 54, Rapid City SD 57709 has filed an application for a water permit to appropriate 0.21 cubic feet of water per second from two wells to be completed into the Madison Aquifer (approximately 1000 feet deep) located in the NW ¼ SE ¼ Section 10-T6S-R3E. The water is for a suburban housing development.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2610-2 for a 20-year term because 1) evidence is not available to justify issuing this permit without a 20 year term limitation, 2) the proposed diversion can be developed with out unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendations 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 June 11, 2007.

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



United States Department of the Interior

NATIONAL PARK SERVICE

Water Resources Division
1201 Oakridge Drive, Suite 250
Fort Collins, Colorado 80525-5596



IN REPLY REFER TO:

June 11, 2007

RECEIVED

JUN 12 2007

WATER RIGHTS
PROGRAM

L54(2380)
WICA/Water Rights

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

Mr. Richard Allred, Caretaker
United Land Management
P.O. Box 54
Rapid City, SD 57709

Re: Petition to Intervene in the Matter of Application 2610-2 filed by United Land Management

Dear Gentlemen:

The National Park Service (NPS) is hereby filing a Petition to Intervene in the matter of Water Permit Application No. 2610-2, filed by United Land Management. Application No. 2610-2 requests to withdraw an unspecified annual amount of ground water from the Madison aquifer at an instantaneous rate of 0.21 cubic feet per second. The application states the water is to be used for suburban housing development. The proposed well will be approximately 1000 feet deep.

The NPS is concerned that the Application No. 2610-2, over time and in combination with senior water right applications including the Southern Black Hills Water System (2580-2, 2585-2) and the Fall River Water Users District (2560-2, 2560A-2, 2615-2) will adversely impact Wind Cave National Park (Wind Cave NP) senior water rights and water-dependent resources (See Appendix).

The evaluation for Water Permit Application No. 2610-2 by Mr. Ken Buhler of the South Dakota Department of Environment and Natural Resources provides a range of estimates for the annual recharge to the Madison Aquifer from 100,000 acre-feet per year (afy) to 400,000 afy with a U.S. Geological Survey report estimating the average annual recharge to the aquifer to be approximately 137,000 afy during 1938 – 1998. These values represent annual recharge estimates for the entire Madison Aquifer within the Black Hills region, but as noted by Mr. Buhler, not all recharge is available for this appropriation. The appropriations represented by this application and the previously mentioned senior

applications may have a cumulative and detrimental effect on Wind Cave NP water rights and water-dependent resources.

There is currently not enough information available to conduct a thorough evaluation of the effects of proposed ground-water pumping on the water rights and water dependent resources within Wind Cave NP. The ongoing geochemical sampling study co-funded by the NPS and Southern Black Hills Water System will provide useful information on the origin and pathways of ground water in the vicinity of Wind Cave NP. When completed, this information will be forwarded to the State to use in future analyses.

The NPS requests the Chief Engineer to evaluate the effects of pumping in the Madison Aquifer near Wind Cave NP after 10 years and adjust permitted water rights accordingly to protect Wind Cave NP senior water rights and water-dependent resources. The NPS also requests that the Chief Engineer and South Dakota Water Management Board consider a requirement for an alternative source aquifer to be used if future analysis shows that the pumping proposed under 2610-2, alone or in combination with water rights of the Southern Black Hills Water System and Fall River Water Users District will adversely impact Wind Cave NP water rights and water-dependent resources.

If you have any questions or concerns related to this matter, please contact me at (970) 225-3505 or Jeff Hughes of my staff at (970) 225-3527.

Sincerely,



Charles W. Pettee
Chief, Water Rights Branch

Attachment

Cc: (all w\attachment)
WICA – Superintendent, Horrocks
MWRO – Cinnamon

APPENDIX

Wind Cave NP Water-Dependent Resources

Wind Cave NP was established on January 9, 1903, (32 Stat. 765) and enlarged several times in the ensuing years. It was the seventh National Park and the first one designated for the protection of cave features. The main park feature is Wind Cave, located in the Madison Limestone near the park Visitor Center. There are over 121 miles of the Cave discovered to date with many more miles likely to be explored in the future. Artesian ground-water flow has been and continues to be the dominant force in cave formation.

Wind Cave was formed within the Madison Limestone of the Black Hills, probably during Paleocene-Eocene times (40-50 million years ago). The cave developed along gypsum deposits and paleokarst zones and is one of the oldest caves in the world. The cave intersects one of the world's best examples of paleofill, ancient sediment that filled caves and sinkholes that existed before Wind Cave formed. The cave has two natural entrances, one of which is modified, and the cave is associated with numerous natural blowholes. More than 121 miles of passages have been explored and mapped making Wind Cave one of the longest caves in the world. Studies of the airflow for which the cave is named suggest that only a tiny fraction of the cave's potential extent has been discovered. Wind Cave is the world's best known example of a complex rectilinear maze cave. At any given point, from three to five interconnecting levels can occur within 250-vertical feet of rock, creating one of the world's premier maze caves.

Wind Cave's length and passage density are enough to put it into the ranks of world-class caves, but the cave is significant for many other reasons. The best known of these is boxwork. Boxwork is rarely found in other caves but is found in Wind Cave in quantities and qualities that are unparalleled in all of the world's known caves. On-going survey projects continually make new discoveries of unusual features in the cave. The cave is known for its rare and unusual variety of minerals and speleothems. These include unusual helictite bushes, quartz formations, large clusters of frostwork, and fragile growths of gypsum. The cave has a simple, but highly specialized ecosystem that operates independently of photosynthesis. The microbial diversity in the cave is significant, with 12 divisions and subdivisions of bacteria found at Rainbow falls, including *Proteobacteria* and *Acidobacteria* and 2 divisions of microbes from the kingdom of *Archaea* (Euryarchaea and Crenarchaea).

There are currently several lakes and pools in the lower reaches of Wind Cave that likely define the ground-water table in this region of the aquifer. Other water resources of high value at Wind Cave NP include three perennial streams (Cold Springs, Beaver, and Highland Creeks), many intermittent and ephemeral stream courses, and over 95 seeps and springs. These water sources are not only important for the flora and fauna that live within or adjacent to the water, but also to the bison, elk, deer and pronghorn that require watering. The distribution of water sources throughout the park allows the large animals to move from place to place and not overgraze any particular area.

Wind Cave NP Water Rights

Wind Cave NP has three state appropriative water rights that are senior to those sought by the applicant.

Number	Name	Point of Diversion	Rate of Diversion	Purpose	Priority date
US 33-2	Cold Springs Creek	Sec. 32 & 28, T5S, R5E	0.2 cfs	Domestic, recreation, wildlife, fire protection	August 23, 1937
US 508-2	Cold Springs Lake	SW ¼ SE ¼ Sec. 26, T5S, R5E	222.08 afy	Stockwater, recreational	November 4, 1939
419-2	Headquarters well	SE ¼ SE ¼ Sec 6, T6S, R6E	0.44 cfs	Park operations	December 29, 1955

These rights are vital to the continued operation and functioning of the park.

Management and Legislation

The mission of the NPS is stated in the NPS Organic Act and provides the overall objectives for managing NPS units which "...is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." (16 U.S.C. 1).

The NPS Statement for Management for Wind Cave NP (National Park Service, 1994) conveys the purpose and legislative intent for the establishment for Wind Cave NP as:

- To preserve and protect the surface and subsurface resources.
- To provide services and facilities necessary and appropriate for public enjoyment and appreciation of the park's resources.

The Statement for Management also lists statements of significance that are provided to capture the essence of Wind Cave NP. This list includes:

- Wind Cave is among the world's longest, oldest, and most three-dimensionally complex cave systems.
- Wind Cave contains the world's largest concentration of boxwork, a cave formation.
- Wind Cave provides a valuable opportunity to observe, study, and interpret the entire hydrologic cycle, especially the hidden part that is the water en route to the aquifer.

- Wind Cave provides a valuable opportunity for visitors to view a mixture of equally significant cave resources and prairie ecosystems and to appreciate the connections between surface and subsurface resources.
- Wind Cave is one of the earliest park areas to be designated a game preserve for the reestablishment of native American bison.
- Wind Cave was one of the earliest national parks and the first to be established to protect a cave.
- Wind Cave is an important part of the region's tourism.

Notable legislation affecting Wind Cave NP includes the National Game Preserve Act (37 Stat. 293) in 1912 which provided for "for the establishment of...the Wind Cave National Game Preserve, upon land embraced within the boundaries of the Wind Cave National Park." This Act created a permanent range for bison to be presented to the American Bison Society. The bison rely on the water sources throughout Wind Cave NP for their survival.

In 1931, the NPS purchased 101 acres in Section 32, T5S, R5E BHB&M to secure a water supply for the park. In 1937, the United States received a State water right permit for use of water originating on this property (U.S. Water Right 33-2).

Public Law 708 expanded the boundaries of Wind Cave NP again in 1946. In addition to creating an area large enough to maintain viable populations of large game animals, the legislation provided that the State allow a minimum of 10,000 gallons per day of water to pass from Custer State Park to Wind Cave NP.

References Cited

Heakin, Allen J., 2004. Streamflow and Water-Quality Characteristics for Wind Cave National Park, South Dakota, 2002-03. *U.S. Geological Survey SIR 2004-5071*. 68pp.

National Park Service, 1994. Statement for Management, Wind Cave National Park. Technical Information Center, Denver Service Center, National Park Service. 50 pp.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 15, 2007

NOTICE

TO: Richard Allred
United Land Management
PO Box 54
Rapid City SD 57709

Charles W. Pettee, Chief
Water Rights Branch
Nation Park Service
1201 Oakridge Drive, Suite 250
Fort Collins CO 80525-5596

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 2610-2, United Land Management

A petition to intervene has been filed by the National Park Service in the matter of Water Permit Application No. 2610-2, United Land Management. The petition was filed in response to the Notice of Application to appropriate water published in the Custer County Chronicle printed in Custer SD. This notice schedules a hearing before the Water Management Board to consider this application.

As specified in the publication notice, Application No. 2610-2 proposes to appropriate 0.21 cubic feet of water per second from two wells to be completed into the Madison Aquifer (approximately 1000 feet deep) located in the NW ¼ SE ¼ Section 10-T6S-R3E. The water is for a suburban housing development.

The Water Management Board will conduct a hearing to consider Application No. 2610-2 at 9:30 AM (Central Time), on July 11, 2007 in the Community Room, Milbank Visitors Center, 1001 East 4th Avenue, Milbank SD. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The hearing time is an estimate and may be delayed due to prior agenda items. Notice will be provided to all parties of record of any change in the hearing time or date.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2610-2 for a 20-year term because 1) evidence is not available to justify issuing this permit without a 20 year term limitation, 2) the proposed diversion can be developed with out unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the evidence presented at the public hearing.

The July 11, 2007, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any party who timely filed a petition opposing the application. The request for an automatic delay must be filed by July 2, 2007.

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

Enclosed is a copy of the report, recommendation and petition in the matter of Water Permit Application No. 2610-2. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The enclosed material is the same information being sent to the Board members in advance of the hearing.

Notice is further given to individual with disabilities that this hearing is being held in a physically accessible facility. Please notify Eric Gronlund at (605) 773-3352 by July 2, 2007, if you have any questions about the hearing process or have special needs for which the department will make arrangements.

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

c: Diane Best, Assistant Attorney General

enclosures

NOTE: Since this matter does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by July 2, 2007.

CERTIFICATION

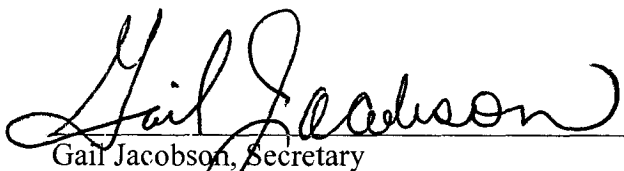
I hereby certify that on June 15, 2007, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 15, 2007, regarding scheduling of hearing for Water Right Permit Application No. 2610-2, United Land Management, as addressed below.

Richard Allred
United Land Management
PO Box 54
Rapid City SD 57709

Charles W. Pettee, Chief
Water Rights Branch
Nation Park Service
1201 Oakridge Drive, Suite 250
Fort Collins CO 80525-5596

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

Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



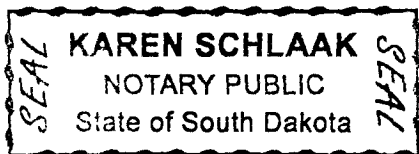
Gail Jacobson, Secretary
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of June, 2007.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oakridge Drive, Suite 250
Fort Collins, Colorado 80525-5596



IN REPLY REFER TO:

June 29, 2007

L54 (2380)
WICA/Water Rights

RECEIVED

JUL - 5 2007

WATER RIGHTS
PROGRAM

South Dakota Water Management Board:

Mr. Jim Hutmacher, Chairman
Mr. Leo Holzbauer, Vice Chairman
Ms. Bernita Loucks, Secretary
Mr. Francis E. Brink
Mr. Rodney Freeman, Jr.
Mr. Everett Hoyt

Re: In the Matter of South Dakota Water Permit Application 2610-2 by United Land Management

Dear Water Management Board Members:

The National Park Service (NPS) received a Notice of Hearing, dated June 15, 2007, scheduled for Water Permit Application 2610-2 by United Land Management. The NPS has previously submitted a Petition to Intervene in this matter on June 11, 2007. The Hearing is scheduled for July 11, 2007, in Milbank, SD.

The NPS has conducted further analysis of the Application and believes that this withdrawal alone is not likely to impact the water rights and water-dependent resources of Wind Cave National Park (NP). However, the NPS wishes to restate its concerns about the potential impacts of this proposed appropriation, in addition to senior water use and future use permits by the Fall River Water Users District and Southern Black Hills Water System. If the permit is granted, the NPS requests copies of any well logs, pump test data, and water use data from the Applicant.

This Board has previously received NPS testimony on the water-dependent resources and water rights of Wind Cave NP (Water Management Board meeting of November 30, 2006). As stated in this meeting, ground water in the Madison Aquifer plays an integral part in the functioning, interpretation and operation of the park.

It is presently unknown how the development of ground water will impact the park. More precisely, the exact locations of future ground water development in addition to the amount of water developed and the aquifer properties in the southern Black Hills around Wind Cave NP are yet to be determined. Once these are known, a better estimate of the effects of pumping on Wind Cave NP water rights and water-dependent resources can be made.

Therefore, the NPS is interested in working with the Chief Engineer and water users to collect and analyze information necessary to determine aquifer properties so that the effect of existing uses and future applications can be reasonably evaluated.

The NPS is not opposed to the granting of Application 2610-2 as proposed, so we do not plan to attend the scheduled Hearing on July 11, 2007.

If you have any questions concerning the content of this letter, please contact me at (970) 225-3505 or Jeff Hughes at (970) 225-3527

Sincerely,

A handwritten signature in cursive script, appearing to read "Chuck Pettee".

Chuck Pettee
Chief, Water Rights Branch

cc: Mr. Garland Eberle, Chief Engineer, Department of Environment and Natural Resources
Mr. Richard Allred, United Land Management
Mr. Jeff Hallem, Deputy Attorney General
Ms. Diane Best, Assistant Attorney General



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

AUG 01 2007

United Land Management
C/O Richard Allred
PO Box 54
Rapid City SD 57709

Dear Mr. Allred:

Enclosed is Water Permit No. 2610-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet ? *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

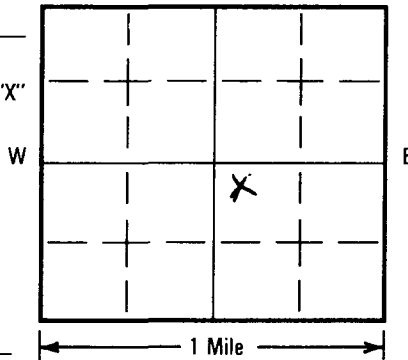
enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

2610-2
07-92

Location NW 1/4 SE 1/4 Sec 10 Twp 65 Rg 3E
County Custer North

Please mark well location with an "X"



Well Completion Date

10-15-07

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 2100 ft. from septic system (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Air rotary + DHH

CASING DATA: ☒ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>28</u> LB/FT	<u>8 7/8</u> IN	<u>0</u> FT	<u>930</u> FT	<u>11</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>	<u>270</u>	<u>15</u> lb./gal	<u>0</u> ft.	<u>930</u> ft.
_____	_____	_____ lb./gal	_____ ft.	_____ ft.

Describe grouting procedure pressure grouted
through casing

SCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN 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: chlorine solution

Laboratory sent to for water quality analysis _____ NO, Why Not? _____

Did not set pump

Well Owner: _____

Business Name: United Land Management

Address: _____

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>mostly SS yel. some shale</u>	<u>0</u>	<u>115</u>
<u>LS, SS + shale red to pink</u>	<u>115</u>	<u>248</u>
<u>LS shaley red to gray</u>	<u>248</u>	<u>307</u>
<u>SS yellow</u>	<u>307</u>	<u>344</u>
<u>LS gray, pink + white</u>	<u>344</u>	<u>597</u>
<u>LS white w/ purp shale</u>	<u>597</u>	<u>701</u>
<u>shale red</u>	<u>701</u>	<u>719</u>
<u>LS light gray to buff</u>	<u>719</u>	<u>1085</u>

STATIC WATER LEVEL ~ 800 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____

☐ Bailed air developed

☐ Other _____

Pumping Level Below Land Surface

1085 ft. After 2 Hrs. pumped 50 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

RECEIVED

JAN 30 2008

WATER RIGHTS
PROGRAM

This well was drilled under license # 331

And this report is true and accurate.

Drilling firm Taylor Drilling Co.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Signature of Well Owner or Equitable Property Holder: _____

Signature of Well Owner or Equitable Property Holder: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

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

Water Right/Permit No. 2610-2Date: 12/29/09I/We request that Water Right/Permit No. 2610-2 formerly owned by:United Land Management

be transferred to:

New Owner Name: United Order of South DakotaAddress: 11570 Farmer road PO Box 5050City, State, Zip Custer SD 57730 Telephone No. 605-673-5274

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

Water Permit No. 2610-2

☒ I understand that the validity of Water Right/Permit No. 2610-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, United Order of South Dakota, the new owner, certify that the above information is true and correct. By Stephen P. Harber Trustee

United Order of South Dakota
By Stephen P. Harber Trustee
(Signed by new owner)

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

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

(Copy of land deed transfer enclosed also)

After Recording Return To:

Stephen P. Harker, Trustee

11571 Farmer Road

Pringle, SD 57773

STATE OF SOUTH DAKOTA,
COUNTY OF CUSTER-SS

51279

Filed this 24 Day of Dec 2009 at 10:15 O'clock PM
BOOK 49 OF DEED PAGE 330

ISI

REGISTER OF DEEDS FEE \$ 22.00 PD 22.00 DEPUTY
N/S

[Space Above This Line For Recording Data]

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS THAT: FOR VALUABLE CONSIDERATION OF TEN DOLLARS (\$10.00), and other good and valuable consideration, cash in hand paid, the receipt and sufficiency of which is hereby acknowledged and confessed, and for which no lien, express or implied, does or shall exist United Land Management, LLC, a Limited Liability Company organized and existing under the laws of the State of South Dakota, Grantor, has GRANTED, SOLD, CONVEYED AND WARRANTED, and by these presents does hereby GRANT, SELL, CONVEY AND WARRANT unto Stephen P. Harker, Trustee of the United Order of South Dakota, a Common Law Trust dated of even date hereof, Grantee, all that certain tract of land lying and being situated in the County of Custer, State of South Dakota, and more particularly described as follows, to-wit:

See the Attached Exhibit "A" for Complete Legal Description.

TOGETHER WITH all improvements, easements, and appurtenances thereunto belonging. SUBJECT TO all easements, restrictions, reservations, rights of way, and items currently appearing of record, if any.

TRANSFER FEE PAID \$

EXEMPT FROM TRANSFER FEE

EXEMPT from Transfer Fee 43-4-22(18)

WITNESS the hand of said grantor, this 23rd day of December, 2009.

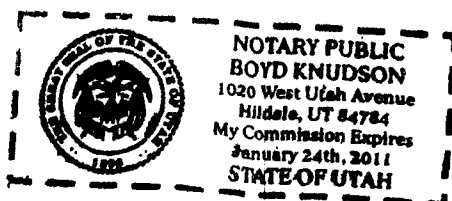
Witnesses:

United Land Management, LLC

Jerold Williams (Seal)
Jerold Williams, Manager and Member

STATE OF Utah
COUNTY OF Washington

This instrument was acknowledged before me on December 23rd, 2009 by Jerold Williams, Manager and Member of United Land Management, LLC, a South Dakota Limited Liability Company on behalf of said Limited Liability Company



Boyd Knudson
Notary Public

Commission Expires: 1/24/11

EXHIBIT "A"

Parcel # 6359: The South Half of the North Half of the Southwest Quarter of the Northeast Quarter ($S\frac{1}{2} N\frac{1}{2} SW\frac{1}{4} NE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian, containing 10 acres, more or less.

Parcel # 6360: The South Half of the Southwest Quarter of the Northeast Quarter ($S\frac{1}{2} SW\frac{1}{4} NE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian, containing 20 acres, more or less.

Parcel # 6361: The South Half of the North Half of the Southeast Quarter of the Northeast Quarter ($S\frac{1}{2} N\frac{1}{2} SE\frac{1}{4} NE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian, containing 10 acres, more or less.

Parcel # 6362: The South Half of the Southeast Quarter of the Northeast Quarter ($S\frac{1}{2} SE\frac{1}{4} NE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian, containing 20 acres, more or less.

Parcel # 6364: The West Half of the East Half of the Northwest Quarter of the Southeast Quarter ($W\frac{1}{2} E\frac{1}{2} NW\frac{1}{4} SE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian, containing 10 acres, more or less.

Parcel # 6365: The West Half of the Northwest Quarter of the Southeast Quarter ($W\frac{1}{2} NW\frac{1}{4} SE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian, containing 20 acres, more or less.

Parcel # 6366: The East Half of the Northeast Quarter of the Northwest Quarter of the Southeast Quarter ($E\frac{1}{2} NE\frac{1}{4} NW\frac{1}{4} SE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian, containing 5 acres, more or less.

Parcel # 6367: The West Half of the Northwest Quarter of the Northeast Quarter of the Southeast Quarter ($W\frac{1}{2} NW\frac{1}{4} NE\frac{1}{4} SE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian, containing 5 acres, more or less.

Parcel # 6368: The East Half of the Northeast Quarter of the Southeast Quarter ($E\frac{1}{2} NE\frac{1}{4} SE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian. The East Half of the Northwest Quarter of the Northeast Quarter of the Southeast Quarter ($E\frac{1}{2} NW\frac{1}{4} NE\frac{1}{4} SE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian. The Southwest Quarter of the Northeast Quarter of the Southeast Quarter ($SW\frac{1}{4} NE\frac{1}{4} SE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian. The East Half of the Southeast Quarter of the Northwest Quarter of the Southeast Quarter ($E\frac{1}{2} SE\frac{1}{4} NW\frac{1}{4} SE\frac{1}{4}$) of Section 10, Township 6 South, Range 3 East, Black Hills Meridian. This parcel contains 40 acres, more or less.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

CMI

Date 12-31, 20 09

RECEIVED **CMI**, 1430 Haines Ave, Suite 108, 360, Rapid City SD 57701

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Water Permit No. 2610-2</u>		
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	50.00

No. **04505**

By



Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

January 5, 2010

2610-2

United Order of South Dakota
c/o Stephen P Harker, Trustee
PO Box 5050
Custer SD 57730

Dear Mr. Harker:

Thank you for following up on the ownership change for Water Permit No. 2610-2. The transfer has been completed. The water permit formerly listed in the name of United Land Management is now listed in the name of United Order of South Dakota. For your records, enclosed is a copy of the permit and the receipt for payment of the transfer fee.

Pursuant to a qualification (No. 4) on Water Permit No. 2610-2, I am requesting that you report the amount of water diverted from the Madison Aquifer during 2009. Please respond by January 31, 2010. If you do not have this information, please forward this request to the person who would.

If you have any questions concerning this or other water rights questions, please contact Karen Schlaak at (605) 773-3352. Water use data and/or questions may also be forwarded to Karen via email at karen.schlaak@state.sd.us.

Sincerely,

Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

enclosures



2610-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

April 14, 2011

United Order of South Dakota
c/o Stephen P Harker, Trustee
PO Box 5050
Custer SD 57730

Dear Mr. Harker:

I am writing in regard to a well completion report filed by Taylor Drilling Co. The report shows a new well was completed for United Land Mgmt on October 20, 2010.

A review of our files indicate United Order of South Dakota (formerly United Land Mgmt) holds Water Permit No. 2610-2 (copy included) for 0.21 cubic feet of water per second (95 gallons per minute) from two wells, approximately 1,000 feet deep located in the NW ¼ SE ¼ Section 10-T6S-R3E for suburban housing development use. We have on file well completion reports for two wells drilled May 5, 2005 and October 15, 2007.

Mr. Harker, is this well a replacement well or an additional well which does not increase the total appropriation of 95 gallons per minute? If the authorized diversion rate is to be increased a new water permit will need to be obtained. Once we know this information, we can determine what additional action, if any, needs to be taken to ensure your water rights accurately reflects the suburban housing development's water supply system.

If you have any questions, please contact Eric Gronlund or me. We will be happy to assist you in any way possible.

Sincerely,

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

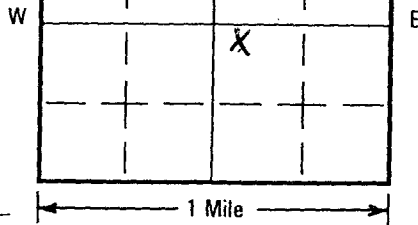
enclosure

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NW 1/4 SE 1/4 Sec 10 Twp 6S Rg 3ECounty Custer North

Please mark well location with an "X"



Well Completion Date

10-20-10Well Owner: United Land Mgmt

Business Name: _____

Address: _____

WELL LOG:

DEPTH

FORMATION

FROM

TO

see attachment

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? > 100 ft. from septic system (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Air Rotary & DHHCASING DATA: ☒ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>40.50</u> LB/FT	<u>10 3/4</u> IN	<u>0</u> FT	<u>933</u> FT	<u>14</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>	<u>700</u>	<u>15</u> lb./gal	<u>0</u> ft	<u>933</u> ft
_____	_____	_____ lb./gal	_____ ft	_____ ft

Describe grouting procedure Cement pressure grouted through casingSCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN 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: chlorine solution

_____ NO, Why Not? _____

Laboratory sent to for water quality analysis

pump not installedSTATIC WATER LEVEL 2800 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped

Describe: _____

☐ Bailedair developed☐ Other _____

Pumping Level Below Land Surface

1080 ft. After 2 Hrs. pumped 25 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

RECEIVED**FEB 11 2011****WATER RIGHTS PROGRAM**

REMARKS

This well was drilled under license # 331

And this report is true and accurate.

Drilling firm Taylor Drilling Co.

Signature of License Representative: _____

Clark Taylor

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

Lithology for United Land Management water well completed October 20, 2010

0	to	92	SS, yellow, orange & tan
92	to	205	mostly LS, some SS & Shale, red, pink, lavender & white
205	to	220	Shale, red
220	to	300	LS, Shaley, red to gray
300	to	332	SS, yellow
332	to	602	LS, gray, pink & white
602	to	620	Shale, red to purple
620	to	695	LS, white
695	to	715	Shale, red
715	to	1078	LS, light gray to buff (Madison)
1078	to	1081	Siltstone, lavender (Englewood)

Duvall, Ron

From: Harris, Linda (DENR)
Sent: Thursday, April 28, 2011 3:52 PM
To: Duvall, Ron
Subject: United Land Management (FLDS near Pringle). WR 2610-2

Ron,

If this is of interest, here are the well locations that I GPS'd. Attached is an map of the area.

Well #1: 2007, 1085 ft. 43.54233, -103.74530

Well #2: 2010, 1081 ft. 43.54275, -103.74533 (Well still under construction-no power, no pump.)

I was told the original well drilled in 2005 to 1030 ft has been abandoned.



United Land
nagement.jpg (3:

See Linda Harris email
dated 4/28/2011

2610-2



2610-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

April 13, 2012

United Order of South Dakota
Attention: Preston
11571 Farmer Road
Custer SD 57731

Dear Preston:

You contacted me regarding the April 14, 2011 letter from Karen Schlaak on a well completed on October 20, 2010 for United Land Mgmt (copy enclosed).

United Order of South Dakota holds Water Permit No. 2610-2 appropriating 95 gallons per minute (gpm) from two wells completed into the Madison Aquifer located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10, T6S, R3E. You stated that one of the original wells got a pump stuck and in an effort to remove it the casing was damaged. Subsequently the well is abandoned. The new well drilled in 2010 is a replacement located approximately 250 feet from the abandoned well.

This replacement well is allowed without further water permitting requirements since it remains located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10 as long as the combined peak diversion rate from the two wells does not exceed the authorized 95 gpm. If the combined diversion rate from the two wells exceeds 95 gpm, a new water right permit is required for the amount above 95 gpm.

The abandoned well must be plugged in accordance with South Dakota Well Construction Standards. If the abandon well has not already been plugged, please contact a well driller to properly plug the well.

If you have any questions, please feel free to contact me.

Sincerely,

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

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 2610-2Date: July 2, 2015I/We request that Water Right/Permit No. 2610-2 formerly owned by:United Order of South Dakota, Stephen P. Harker, Trustee be transferred to:New Owner Name: United Order of South Dakota, Isaac S. Jeffs, TrusteeAddress: P.O. Box 5050City, State, Zip Custer ☒ SD ☒ 57730 Telephone No. 325-650-8444

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

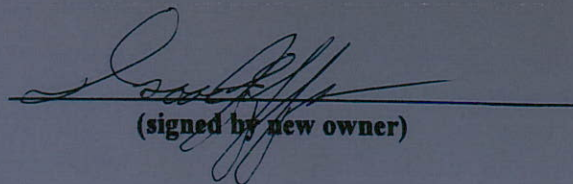
Notice is not given because property has been transferred. Notice is given because Stephen P. Harker is no longer a Trustee of the United Order of South Dakota. Isaac S. Jeffs is a Trustee of the United Order of South Dakota. Ownership of permit No. 2610-2 has thus been transferred from Stephen P. Harker, as Trustee to Isaac S. Jeffs, as Trustee.

☒ I understand that the validity of Water Right/Permit No. 2610-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Isaac S. Jeffs, the new owner, certify that the above information is true and correct.


(signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 7/6, 20 15

RECEIVED OF Gunderson, Palmer, Nelson & Ashmore LLP PO Box 8045 Rapid City SD 58709

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2610-2</u>		
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	50 00

No. 07441

By Jane Goodman
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

July 6, 2015

2610-2

Isaac S Jeffs, Trustee
United Order of South Dakota
PO Box 5050
Custer SD 57730

Dear Mr. Jeffs:

I am writing to acknowledge receipt of the transfer form and filing fee submitted for filing an ownership change on Water Permit No. 2610-2.

The ownership change has been completed. Water Permit No. 2610-2 has been transferred as follows:

- **From:** United Order of South Dakota, Stephen P Harker, Trustee
- **To:** United Order of South Dakota, Isaac S Jeffs, Trustee

The receipt for the filing fee is being forwarded by copy of this letter to Gunderson, Palmer, Nelson & Ashmore LLP. If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

c: Gunderson, Palmer, Nelson & Ashmore LLP w/Receipt No. 07441

McMath, Genny

From: Gronlund, Eric
Sent: Thursday, January 14, 2016 9:18 AM
To: McMath, Genny
Subject: Water Permit No. 2610-2

On the database for Permit No. 2610-2, please remove United Order of South Dakota as the holder of the permit and change to Isaac S. Jeffs who is the trustee.

I know he is listed as the contact person but change the actual permit owner name to his. United Order of South Dakota as a common law trust and as such can not be the actually holder of the permit but instead the trustee is. Therefore, the permit should be in Mr. Jeffs' name.

PAID

SEP 20 2021

Ck# _____

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

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

SEP 20 2021

WATER RIGHTS
PROGRAMNo. 2610-2Date: 9-16-2021I/We request that Water Permit No. 2610-2formerly owned by: United Order of South Dakota

be transferred to: (name & address) Blue Mountain Ranch LLC
11581 Farmer RD. Custer SD 57730

Telephone No. 435-233-8549

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

2 wells – NW 1/4 SE 1/4 Section 10-T6S-R3E

I/We understand that the validity of Water Right/Permit No. 2610-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Dan Pysil, the new owner, certify that the above information is true and correct.

Dan Pysil
(Signed by new owner)

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

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

2610-2

RECEIPT

WATER RIGHTS PROGRAM
South Dakota Department of Agriculture and Natural Resources

Date September 20, 2021

RECEIVED OF Blue Mountain Ranch LLC 11581 Farmer Rd. Custer SD 57730

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form <u>2610-2</u>	\$ <u>50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>50.00</u>

By Eric Gronlund
Chief Engineer
EG

**Operating Agreement of
BLUE MOUNTAIN RANCH, LLC**

This Operating Agreement (this "Agreement") is effective as of the 11 day of September 2019, by and between the undersigned, Prairie Farms, LLC a Utah limited liability company, Claude Seth Cooke, Patrick Pipkin, Andrew Chatwin, the Members (the "Members") of Blue Mountain Ranch, LLC a Colorado limited liability company (the "Company").

Explanatory Statements

A. The Members have obtained that certain default judgment entered April 29, 2019 by the United States District Court for the District of Arizona, Case No. CV-16-08232-PCT-DLR awarding monetary damages to each of the Members (the "Judgement"), as more fully described in Exhibit B, attached hereto and incorporated herein.

B. The Members obtained a Transcript of Judgment in the District Court of Montezuma County, Colorado, Case No. 2019CV030034 for the Judgment which was filed as a foreign judgment with said district court, and the Members have assigned the Transcript of Judgment to the Company for the purpose of allowing the Company to, among other things, foreclose, bid, and acquire real property to which said Transcript of Judgment may attach and/or is recorded against.

C. Any real property obtained by the Company through foreclosure or other means of the Company's exercising the rights and benefits afforded by the Transcript of Judgment shall be held and managed by the Company pursuant to the terms and conditions contained in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the Members, agree as follows:

**Section I
Defined Terms**

The following capitalized terms have the meanings specified below, in Section I.

"Act" means the Colorado Limited Liability Act, as amended from time to time.

"Adjusted Capital Account Deficit" means, with respect to any Interest Holder, the deficit balance, if any, in the Interest Holder's Capital Account at the end of the relevant taxable year, once the following adjustments have been made:

(i) any deficit will be decreased by the amounts which the Interest Holder is obligated to restore under Section 4.4.2 of the Agreement or is obligated to restore under Regulation Sections 1.704-2(g)(1) and (i)(5) (i.e., the Interest Holder's share of Minimum Gain and Member Minimum Gain); and

(ii) any deficit will also be increased by the items described in Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5), and (6), if applicable.

"Affiliate" means, with respect to a Member, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such Member. The term "control," as used in the immediately preceding sentence, means, with respect to a Person that is a corporation, the right to exercise, directly or indirectly, more than twenty five percent (25%) of the voting rights attributable to the shares of the controlled corporation, and with respect to a Person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person.

"Agreed Value" means the dollar amount last agreed upon in writing by the Managers at a duly held annual or special meeting. The Managers will base the Agreed Value upon the reasonable value of the Company's assets less outstanding liabilities and encumbrances. The Agreed Value will be dated and filed in the records of the Company. If the date of the most recent determination of the Agreed Value is more than 13 months before the date of the event giving rise to the purchase and sale of Membership Rights, or an Interest, then the Withdrawal Purchase Price or Transfer Price shall be computed using Appraised Value.

"Agreement" means this Agreement, as amended from time to time.

"Capital Account" means the account maintained by Company for each Interest Holder in accordance with the following provisions:

(i) an Interest Holder's Capital Account shall be credited with the Interest Holder's Capital Contributions, the amount of any Company liabilities assumed by the Interest Holder (or which are secured by Company property distributed to the Interest Holder), the Interest Holder's allocable share of Profit and any item in the nature of income or gain specially allocated to such Interest Holder pursuant to the provisions of Section IV (other than Section 4.3.3.); and

(ii) an Interest Holder's Capital Account shall be debited with the amount of money and the fair market value of any Company property distributed to the Interest Holder, the Interest Holder's allocable share of Loss, and any item in the nature of expenses or losses specially allocated to the Interest Holder pursuant to the provisions of Section IV (other than Section 4.3.3.).

If any Interest is transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent the Capital Account is attributable to the transferred Interest. If the book value of Company property is adjusted pursuant to Section 4.3.3., the Capital Account of each Interest Holder shall be adjusted to reflect the aggregate adjustment in the same manner as if Company had recognized gain or loss equal to the amount of such aggregate adjustment. It is intended that the Capital Accounts of all Interest Holders shall be maintained in compliance with the provisions of Regulation Section 1.704-1(b), and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent with that Regulation.

"Capital Contribution" means the total amount of cash and the fair market value of any other assets contributed (or deemed contributed under Regulation Section 1.704-1(b)(2)(iv)(d)) to the Company by a Member, net of liabilities assumed or to which the assets are subject.

"Cash Flow" means all cash funds derived from operations of Company (including interest received on reserves), without reduction for any noncash charges, but less cash funds used to pay current operating expenses and to pay or establish reasonable reserves for future expenses, debt payments, capital improvements, and replacements as determined by the Members. Cash Flow shall be increased by the reduction of any reserve previously established.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law.

"Company" means the limited liability Company operated in accordance with this Agreement.

"Interest Holder" means any Person who holds a Membership Interest, whether as a Member or as an unadmitted assignee of a Member.

"Involuntary Withdrawal" means, with respect to any Member, the occurrence of any of the following events:

(i) if a Member makes an assignment for the benefit of creditors; files a voluntary petition of bankruptcy; is adjudged bankrupt or insolvent or there is entered against the Member an order for relief in any bankruptcy or insolvency proceeding; files a petition seeking for the Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the Member or of all or any substantial part of the Member's properties; files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding described in this Subsection (i) and; any proceeding against the Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, continues for one hundred twenty (120) days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the Member or all or any substantial part of the Member's properties without the Member's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty (120) days or, if the appointment is stayed, for one hundred twenty (120) days after the expiration of the stay during which period the appointment is not vacated;

(ii) if a Member breaches this Agreement;

(iii) if a Member is an individual, the death of a Member; except that the death of an individual is not an involuntary withdrawal under this agreement so long as the membership interest passes to a Member's Family; or

(iv) if the Member is a Member by virtue of being the trustee of a trust holding the Interest, the termination of the trust; if the Member is a partnership or limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company; if the Member is a corporation, the dissolution of the corporation or the revocation of its charter.

"Majority Vote of Members" means a decision made by a majority of the Members who are original signatories to this Agreement and/or who have been subsequently admitted as Members with voting rights. For clarification purposes, if there are four members, a majority vote is a vote by three out of four members. If there are three members, a majority vote is a vote by two out of three members. If there are only two members, a majority vote is a unanimous vote by the two members.

"Manager" means the person(s) serving as member(s) of the Management Committee pursuant to Article V.

"Member" means each Person signing this Agreement and any Person who is subsequently admitted as a member of Company.

"Member's Family" means, with respect to any individual Member, the spouse, siblings, and lineal descendants by birth or adoption, and trusts for the exclusive benefit of a Member or any of the foregoing individuals.

"Member Minimum Gain" has the meaning set forth in Regulation Section 1.704-2 (i) for "partner nonrecourse debt minimum gain."

"Membership Interest" means a Person's share of the Profits and Losses of Company, and the right to receive distributions from Company.

"Membership Rights" means all of the rights of a Member in Company, including a Member's: (i) Membership Interest, (ii) right to inspect Company's books and records, and (iii) the right to participate in the management of and vote on matters coming before Company, as specified in this Agreement.

"Minimum Gain" has the meaning set forth in Regulation Section 1.704-2(d). Minimum Gain will be computed separately for each Interest Holder in a manner consistent with the Regulations under Code Section 704(b).

"Negative Capital Account" means a Capital Account with a balance of less than zero.

"Percentage" means, as to a Member, the percentage set forth after the Member's name on Exhibit A, as amended from time to time, and as to an Interest Holder who is not a Member, the Percentage of the Member whose Interest has been acquired by such Interest Holder, to the extent the

Interest Holder has succeeded to that Member's Membership Interest.

"Person" means an individual, corporation, partnership, association, limited liability Company, trust, estate, or other entity.

"Positive Capital Account" means a Capital Account with a balance greater than zero.

"Profit" and *"Loss"* means, for each taxable year of Company (or other period for which Profit or Loss must be computed) Company's taxable income or loss determined in accordance with Code Section 703(a), with the following adjustments:

(i) all items of income, gain, loss, deduction, or credit required to be stated separately pursuant to Code Section 703(a)(1) will be included in computing taxable income or loss;

(ii) any tax-exempt income of Company, not otherwise taken into account in computing Profit or Loss, will be included in computing taxable income or loss;

(iii) any expenditures of Company described in Code Section 705(a)(2)(B) (or treated as such pursuant to Regulation Section 1.704-1(b)(2)(iv)(i)) and not otherwise taken into account in computing Profit or Loss, will be subtracted from taxable income or loss;

(iv) gain or loss resulting from any taxable disposition of Company property will be computed by reference to the adjusted book value of the property disposed of, notwithstanding the fact that the adjusted book value differs from the adjusted basis of the property for federal income tax purposes;

(v) instead of the depreciation, amortization, or cost recovery deductions allowable in computing taxable income or loss, depreciation computed based upon the adjusted book value of the asset will be taken into account; and

(vi) notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Section 4.3 will not be taken into account in computing Profit or Loss.

"Regulation" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code.

"Resignation" means a Member's dissociation with Company by means other than a Transfer or an Involuntary Withdrawal.

"Transfer" means, when used as a noun, any voluntary sale, hypothecation, pledge, assignment, attachment, or other transfer, and, when used as a verb, means voluntarily to sell, hypothecate, pledge, assign, or otherwise transfer. Transfer shall include an involuntary transfer

which arises by operation of law or otherwise including but not limited to transfers resulting from death, divorce, or as a result of court order.

Section II

Formation and Name; Office; Purpose; Term

2.1. *Organization.* The Company was organized as a limited liability Company under the laws of the State of Colorado upon the filing of Articles of Organization with the Colorado Secretary of State on August 29, 2019. The Managers may authorize the Company to conduct business in any state other than Colorado and may take steps necessary to cause the registration of the Company to conduct business in any such states.

2.2. *Name of Company.* The name of the limited liability Company is **BLUE MOUNTAIN RANCH, LLC** (the "Company"). The Company may do business under that name and under any other name or names upon which the Managers agree. If Company does business under a name other than that set forth in its Articles of Organization, then Company shall file a trade name certificate as required by law.

2.3. *Purpose.* Company is organized to engage in any business permitted under the Act, including (i) bidding and foreclosing upon any real property against which the Transcript of Judgement has been recorded and entering into all agreements and documents in connection with same and (ii) the holding, acquiring, selling, leasing, cattle ranching, farming, and conducting ranch or other business operations in connection with real property and any improvements thereon located that may be acquired by the Company (the "Property").

2.4. *Term.* The term of Company began upon the date of the filing of the Articles of Organization and shall continue in existence in perpetuity, unless its existence is sooner terminated pursuant to Section VII of this Agreement.

2.5. *Principal Office.* The principal office of the Company is initially located at 450 East Utah Avenue, Hildale, Utah 84784, or at any other place upon which the Managers may agree.

2.6. *Resident Agent.* The name and address of the Company's resident agent in the State of Colorado is Gregory Golden & Landeryou, LLC 1199 Main Avenue, Suite 213, Durango, Colorado 81301. The Managers may change the registered agent as necessary.

2.7. *Members.* The name, present mailing address, initial capital contribution, and Percentage of each Member are set forth on Exhibit A, as it may be amended from time to time.

Section III

Members; Capital; Capital Accounts; Personal Guarantees

**Signature Page for Operating Agreement of
BLUE MOUNTAIN RANCH, LLC**

IN WITNESS WHEREOF, the parties have executed, or caused this Agreement to be executed, under seal, as of the date set forth hereinabove.

MEMBERS:

Prairie Farms, LLC, A Utah limited liability company

Seth Cooke
By: Seth Cooke, Managing Member

Date: 9-11-, 2019

Seth Cooke
By: Seth Cooke

Date: 9-11-, 2019

Patrick Pipkin
By: Patrick Pipkin

Date: 9-11-, 2019

Andrew Chatwin
By: Andrew Chatwin

Date: 9-11, 2019



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 5, 2021

2610-2
2730-2

Patrick Pipken
Blue Mountain Ranch LLC
11581 Farmer Rd
Custer SD 57730

Dear Mr. Pipken:

I am writing to acknowledge the transfer of ownership forms, filing fees and the Operating Agreement for the LLC.

The ownership changes have been completed. Water Permit Nos. 2610-2 and 2730-2 formerly listed under United Order of SD – Isaac Jeffs, Trustee, are now listed under Blue Mountain Ranch LLC.

Enclosed for your records are receipts for the filing fees that were paid. If I can answer any questions, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

June 24, 2024

Hyrum Keddington
11581 Farmer Road
Custer SD 57730

Dear Mr. Keddington:

Thank you for reporting your annual water usage. Your Permit Nos. 2610-2 and 2730-2 have been removed from the July Water Management Board meeting.

The letter for reporting annual water usage is sent every year in January. I have enclosed copies of your permits for your reference. Please look over the qualifications section.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Duvall", with a large, stylized loop at the beginning.

Ron Duvall, Natural Resources Engineer
for Eric Gronlund, Chief Engineer
Water Rights Program

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 9, 2024

2610-2
2730-2

SDR Training Center
c/o Hyrum Keddington
11581 Farmer Rd
Custer SD 57730

Dear Mr. Keddington:

The Water Rights Program is in receipt of two "Notice of Transfer of Ownership" forms, requesting that Water Permit Nos. 2610-2 & 2730-2, held by Blue Mountain Ranch LLC, be transferred to SDR Training Center.

While the transfer forms were received on June 24, 2024, to date, no transfer fees have been received. Please mail a check, payable to SD Water Rights Program, in the amount of \$100.00 (\$50/transfer) to:

SD DANR
Water Rights Program
523 E Capitol Ave
Pierre SD 57501

Payment may also be made over the phone by calling our Fiscal Office at 605-773-5559.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 2730-2, 2610-2Date: March 5, 2024

I/We request that Water Right/Permit No. 2610-2 formerly owned by:
Blue Mountain Ranch be transferred to:

New Owner Name: SDR Training Center, Hyrum Keddington
Address: 11581 Farmer Road
City, State, Zip Custer SD 57730 Telephone No. 801-979-5899

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

☒ I understand that the validity of Water Right/Permit No. 2610-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Hyrum Keddington, the new owner, certify that the above information is true and correct.

Hyrum Keddington
(signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date July 18th, 2024

RECEIVED OF Paid by Makell Evans for Hyrum Keddington 11581 Farmer Rd Custer SD 57730

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form <u>Permit # 2610-2</u>	<u>\$51.25</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	<u>\$51.25</u>

By

Eric Gronlund

Chief Engineer

JS



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

June 11, 2024

NOTICE OF HEARING

TO: Blue Mountain Ranch, c/o Patric Pipkin, LLC., 11581 Farmer Rd, Custer SD 57730

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Violation of Permit Qualification to Report Annual Water Use

Our records indicate your 2023 annual water use has not been submitted for Permit Nos. 2610-2 and 2730-2. The request to report water use for 2023 was dated January 5, 2024. Two follow-up attempts to get the required water use report have gone unanswered. The Water Management Board has directed owners of water permits who have not submitted the 2023 water use reporting be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit Nos. 2610-2 and 2730-2 qualification:

"The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Madison aquifer."

The hearing will be held at **Wednesday, July 10, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit Nos. 2610-2 and 2730-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the water use report(s) is (are) received in this office before the **July 10, 2024** hearing, you will no longer be in violation of your permit and your name will be removed from the Board agenda. You may submit your water use report by providing the information to Rachel Rodriguez at (605) 773-3352 or via email at rachel.rodriguez@state.sd.us. You may also submit the water use report via mail using the address in the NOTE at the bottom of this Notice.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD 57501 or call (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing, dated June 11, 2024, concerning violation water use reporting qualification in the matter of Water Permit Nos. 2610-2 and 2730-2 was served by U.S. certified mail, postage prepaid, upon the following on June 11, 2024.

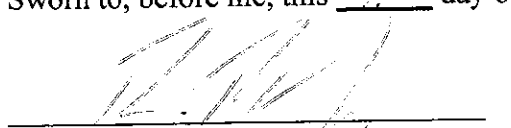
Blue Mountain Ranch
c/o Patric Pipkin LLC.
11581 Farmer Rd
Custer SD 57730



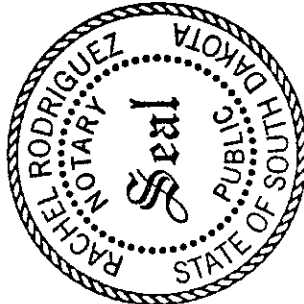
Shannon Konst
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this _____ day of _____, 2024.



Rachél Rodriguez
Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

2610-2
2730-2

July 19, 2024

SDR Training Center
c/o Hyrum Keddington
11581 Farmer Rd
Custer SD 57730

Dear Mr. Keddington:

I have received your "Notice of Transfer of Ownership" forms and the required fees. Enclosed are receipts of payment for your records, as well as copies of both Water Permits.

Water Permit Nos. 2610-2 & 2730-2, previously owned by Blue Mountain Ranch LLC, are now listed under SDR Training Center. I have also updated your contact information in our system.

As a reminder, so long as you use the water beneficially, as stated in the Water Permits, State Water Laws provide that you have a continuing right to use the water. Should the water not be put to beneficial use for a period longer than 3 consecutive years, without legal excuse, the permits will be subject to cancellation.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

enclosures