

WATER PERMIT NO. 2633A-2

Name of Applicant: Southern Black Hills Water System

Address: 26858 HWY 382, Hot Springs SD 57747 Phone: 605 745-4669

Amount of Water Claimed: 0.67 cfs Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: rural water system use County: Fall River, Custer, Pennington

Type of Waste Disposal System:

Location: 5 miles northwest of Buffalo Gap

PRIORITY Date Received: 3-3-14 Application/License Fee: \$ 100

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

Remarks: Extension of time request

Diversion Point: SE 1/4 SE 1/4 Sec 35-T5S-R6E

Land to be Irrigated: NA

Depth of Well: 1850 feet

Well Driller:

Remarks:

Type of Map:

Prepared by:

35



Reviewed and the Number Assigned on: 3-3-14

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

RECEIVED
MAR 03 2014
WATER RIGHTS
PROGRAM

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph (605) 773-3352	(office use only)	
	No. <u>2633A-2</u>	Hydrologic Unit <u>10120109</u>
	Basin <u>upper Cheyenne</u>	
	Newspaper <u>See Sheet</u>	

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: (check one)

☐ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☒ Amendment/Correction to Permit No. <u>2633-2</u>		

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

Extension of time for construction

- Name of Applicant Southern Black Hills Water System, Inc. Phone 605-745-4669
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 26858 Highway 385 Hot Springs SD 57747
(Address) (City) (State) (Zip Code)
- Amount of water claimed 0.67 *CFS or 300 **GPM 484 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Ground Water (Madison Aquifer)
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Custer
1 well to be located in the SE 1/4 of Section 35, T5S, R6E
- County or counties where water will be used Custer, Fall River, Pennington
- Annual period during which water is to be used January 1 through December 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)
Well to provide water for Southern Black Hills Water System, Inc.
a regional/rural water system.

STATE OF SOUTH DAKOTA)
County of CUSTER) SS

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

I, Don Kraus, 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.

Applicant's signature Don Kraus

Subscribed and sworn to before me this 27th

day of February 20 14



Karen K. Webster
Notary Public signature

SOUTH DAKOTA
WATER PERMIT NO. 2633A-2

Date of first receipt of application March 3, 2014.

The Water Management Board approved Water Permit No. 2633A-2 on October 23, 2014 for Southern Black Hills Water System, Inc., c/o Don Kraus, 26858 Highway 385, Hot Springs SD 57747 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. 2633A-2 extends the length of time allowed to complete construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximately 1850 feet deep) located in the SE 1/4 SE 1/4 Section 35-T5S-R6E.
2. The water appropriated shall be used for the purpose of rural water system use and may not exceed the amount of water needed for beneficial use to serve users in Custer, Fall River and Pennington Counties.
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 June 20, 2008 (established by Permit No. 2633-2).
5. All construction is to be completed on or before March 11, 2019.
6. Water is to be put to beneficial use on or before March 11, 2023.
7. 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. 2633A-2 is issued for a twenty year term. Pursuant to SDCL 46-2A-21, the twenty year term may be deleted at any time during the twenty year period or following its expiration. If the twenty 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. 2633A-2 may also be cancelled for non-construction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37.1 and ARSD 74:02:01:37.
2. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. The well authorized by Permit No. 2633A-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. The Applicant, Water Permit Holder, shall report to the Chief Engineer annually the amount of water withdrawn from the Madison aquifer.
5. The Applicant, Water Permit Holder, under this permit shall control withdrawals from the well so there is not a significant effect on the water flow from Beaver Creek Springs or a significant adverse effect on the water quality and character in Beaver Creek Springs.

WATER MANAGEMENT BOARD

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

DEC 01 2014

date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 3, 2014

RECEIVED OF Southern Black Hills Water Systems Inc., 26856 hwy 385, Hot Springs SD 57747

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

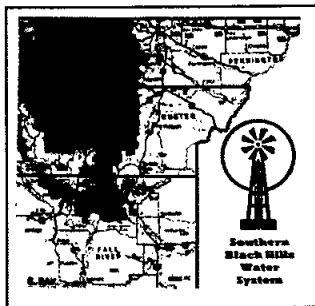
Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use		
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Extension of Time on Water Permit No. 2633-2.	100	00
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	100.00

No. **06771**

By

Janne Goodman
Chief Engineer

KS



26858 Highway 385
Hot Springs, South Dakota 57747
Phone 605-745-4669

February 27, 2014

Directory

- ♦ *John Beard*
Chairman
Buffalo Gap, SD
605-718-0890
- ♦ *Jay Smith*
Vice-Chairman
Hermosa, SD
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- ♦ *Ted Wick*
Treasurer
Hot Springs, SD
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- ♦ *Steve Sewell*
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- ♦ *George Vansco*
Advisory
SD Rural Water
605-642-4031
- ♦ *Ken Royse*
Engineer
Bartlett & West, Inc.
701-258-1110
- ♦ *Don Peterson*
Manager
605-745-4669

Mr. Eric Grunland
Water Rights Program, DENR
Joe Foss Building 523 East Capitol
Pierre, SD 57501-3181

RE: Extension of Time for Permit 2633-2

Dear Eric

Due to the magnitude of the Southern Black Hills Water System project, the System Board is requesting an extension of time for Permit 2633-2.

Southern Black Hills Water System incurred a delay of six and a half years in receiving a permit from the USDA Forest Service to cross over their land for 2.8 miles along Argyle Road Right of Way. During this delay, Southern Black Hills Water System was unable to finalize any plans for the development of Phase Two and other proposed Phases. Currently the system engineer has completed design work for the well site under Permit 2633-2.

Therefore, Southern Black Hills Water System is requesting an extension of time for the above referenced permit.

We appreciate your consideration of our request. Please feel free to contact System Manager Don Peterson at the above referenced number.

Sincerely

John Beard
Chairman, Southern Black Hills Water System

JB:rjw

**SOUTHERN
BLACK HILLS
WATER SYSTEM**



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



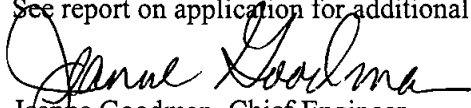
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2633A-2, Southern Black Hills Water System, Inc.**

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. 2633A-2, Southern Black Hills Water System, Inc., c/o Don Kraus, 26858 Highway 385, Hot Springs SD 57747.

The Chief Engineer is recommending Approval of Application No. 2633A-2 for an extension of time with a 20 year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20 year term limitation, there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest with the following qualifications:

1. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2633A-2 is issued for a twenty year term. Pursuant to SDCL 46-2A-21, the twenty year term may be deleted at any time during the twenty year period or following its expiration. If the twenty 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. 2633A-2 may also be cancelled for non-construction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37.1 and ARSD 74:02:01:37.
2. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. The well authorized by Permit No. 2633A-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. The Applicant, Water Permit Holder, shall report to the Chief Engineer annually the amount of water withdrawn from the Madison aquifer.
5. The Applicant, Water Permit Holder, under this permit shall control withdrawals from the well so there is not a significant effect on the water flow from Beaver Creek Springs or a significant adverse effect on the water quality and character Beaver Creek Springs.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
May 5, 2014

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 2633A-2
SOUTHERN BLACK HILLS WATER SYSTEM, INC
MAY 1, 2014

Water Permit Application No. 2633A-2 proposes to amend Water Permit No. 2633-2 to extend the length of time allowed to complete the construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison aquifer. The well is to be located the SE¼ SE¼ of Section 35, T5S-R6E and is expected to be approximately 1,850 feet deep. Water from the well is to supply a rural water system with users in Custer, Fall River, and Pennington Counties.

Water Permit No. 2633-2 was approved March 11, 2009, and the proposed project was to be completed by March 11, 2014, with water to be put to beneficial use by March 11, 2018. Application No. 2633A-2 requests to extend the length of time allowed to complete construction of the project from March 11, 2014, to March 11, 2019. Application No. 2633A-2, if approved, will retain the June 20, 2008 priority date assigned to Permit No. 2633-2.

South Dakota Codified Law (SDCL) 46-5-26

Pursuant to SDCL 46-5-26, a permit may be amended to extend the time for completion of construction due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board. This application is requesting an extension of time due to delays incurred in receiving a permit from the USDA Forest Service to construct on the national forest. During the delay, Southern Black Hills Water System, Inc. was unable to finalize plans for portions of the project.

SDCL 46-2A-2

Pursuant to SDCL 46-2A-12 an amendment of an existing permit or license may be granted for a change in use, a change in point of diversion or other change only if the change does not unlawfully impair existing rights and is for a beneficial use and in the public interest.

EXISTING WATER RIGHTS/PERMITS

Appropriations from the Madison aquifer within approximately five miles of the well site proposed by this application are shown in Table 1.

PERMIT NO	NAME	PRIOR DATE	STATUS	USE	CFS	ACRES	DISTANCE FROM 2633A-2 (MILES)
419-2	WIND CAVE NATIONAL PARK	12/29/1955	LC	COM/IRR	0.15	6	4
2302-2	EBEN W STREETER	02/07/1994	LC	RWS	0.033		2.75
2546-2	EBEN STREETER	01/03/2005	PE	RWS	0.21		2.75
2634-2	STREETER FAMILY LIMITED PARTNERSHIP	07/17/2008	PE	RWS	0		2.75
Water right No. 2302-2, Water Permit no. 2546-2, and Water Permit No. 2634-2 are supplied from a single well							

Table 1. Appropriations from the Madison aquifer within approximately five miles of the well site proposed by Application No. 2633A-2.

Water Right No. 419-2, Wind Cave National Park, originally appropriated water from a spring and a deep well. The source of the spring is likely the Madison aquifer, and the well (well No. 1) was completed into both the Madison and Deadwood aquifers. It is probable that most if not all of the water well No.1 produces is from the Deadwood aquifer. In 1998 the National Park Service received authorization pursuant to SDCL 46-5-13.1 to develop an additional diversion point (well) into the Deadwood aquifer without application or publication of a notice of hearing. The second well (well No.2) was eventually completed into the Madison aquifer, approximately 550 feet from well No.1. Water from well No. 2 exceeded EPA drinking water standards for arsenic and fluoride in the past and is maintained as a backup well.

Water Right No. 2302-2, Water Permit No. 2546-2 and Water Permit No. 2634-2 are all supplied from a single well (Streeter well). Water Right No. 2302-2 and 2546-2 authorize appropriations for a common distribution system to be used by Eben Streeter. Water Permit No. 2634-2 authorizes the connection of Southern Black Hills Water System to the common distribution system. A qualification on Water Permit No. 2634-2 requires:

“SBHWS will not begin construction beyond Phase 1 and Phase 2 and areas adjacent to or contiguous to Phase 1 and Phase 2... until an alternative water source is obtained and developed.”

Water Permit No. 2634-2 is further conditioned to include the qualification that:

“Once SBHWS has obtained and developed an alternative water source, the water right holder shall restrict SBHWS’s use of the well to use as a standby water source.”

In addition to the water rights/permits shown in Table 1, Water Permit Application No. 2585-2, proposing a Madison aquifer well for rural water system use by Southern Black Hills Water Systems was deferred in 2007 until the public interest issues regarding the potential impact to Beaver Creek and the cave pools of Wind Cave National Park can be addressed through additional testing and study of the Madison aquifer in the area of the proposed well site. There are no records of domestic wells completed into the Madison aquifer within approximately five miles of this proposed well site on file with the DENR-Water Rights Program (Water Rights, 2014b; Water Rights 2014c).

The Madison aquifer is under confined conditions in this area and drawdown from pumping a well may extend over a fairly large area. At this time, data is not available to precisely predict the impact this well may have on area water levels since the aquifer characteristics have not been determined for this area, and the aquifer characteristics of the Madison aquifer can vary considerably within a short distance (Greene, 1993). Carter and others (2001) developed hydrologic budgets for the Madison and Minnelusa aquifers combined, using nine subareas to cover the Black Hills. The subareas were identified on the basis of hypothetical flowpaths and were selected with the intent of minimizing flow across the boundaries. The well that is to be used to supply this appropriation is located in Carter and others' (2001) subarea 7. Carter and others (2001) estimated the transmissivity of the Madison aquifer on the boarder of the subarea near the well site at 1,463 feet squared per day (ft^2/d). Applying this estimated transmissivity and assuming a storage coefficient of $S = 2 \times 10^{-4}$, the drawdown 1,000 feet from a well pumping 0.56 cfs would be less than 23 feet after one year of continuous pumping based on the Theis Equation (see Figure 1) ("Theis Equation Calculator").

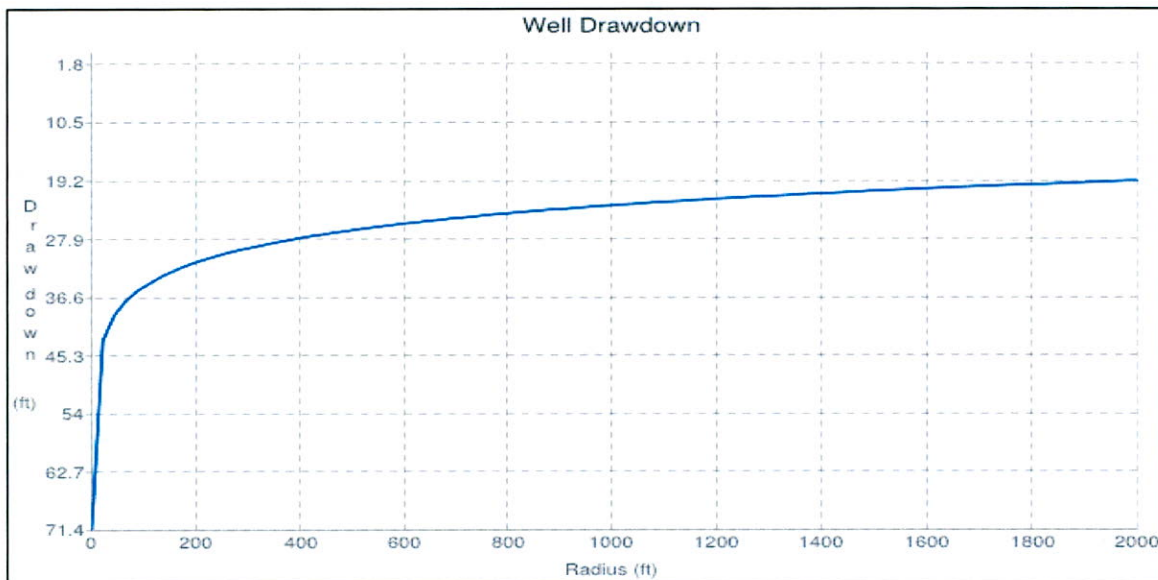


Figure 1. Drawdown predicted from a well pumping 0.56 cfs from the Madison aquifer, continuously for one year, assuming $T = 1,463 \text{ ft}^2/\text{d}$, $S = 2 \times 10^{-4}$. (modified from ("Theis Equation Calculator"))

A single-well aquifer test was conducted on Wind Cave National Park, Well No. 2 to derive an estimate of aquifer transmissivity for the Madison aquifer within the park. Transmissivity of the Madison aquifer was estimated on the order of 3,200 ft^2/day (Hughes and Cuttillo, 2008). Applying this estimated transmissivity and assuming a storage coefficient of $S = 2 \times 10^{-4}$, the drawdown 1,000 feet from a well pumping 0.56 cfs would be less than 12 feet after one year of continuous pumping based on the Theis Equation (see Figure 2) ("Theis Equation Calculator").

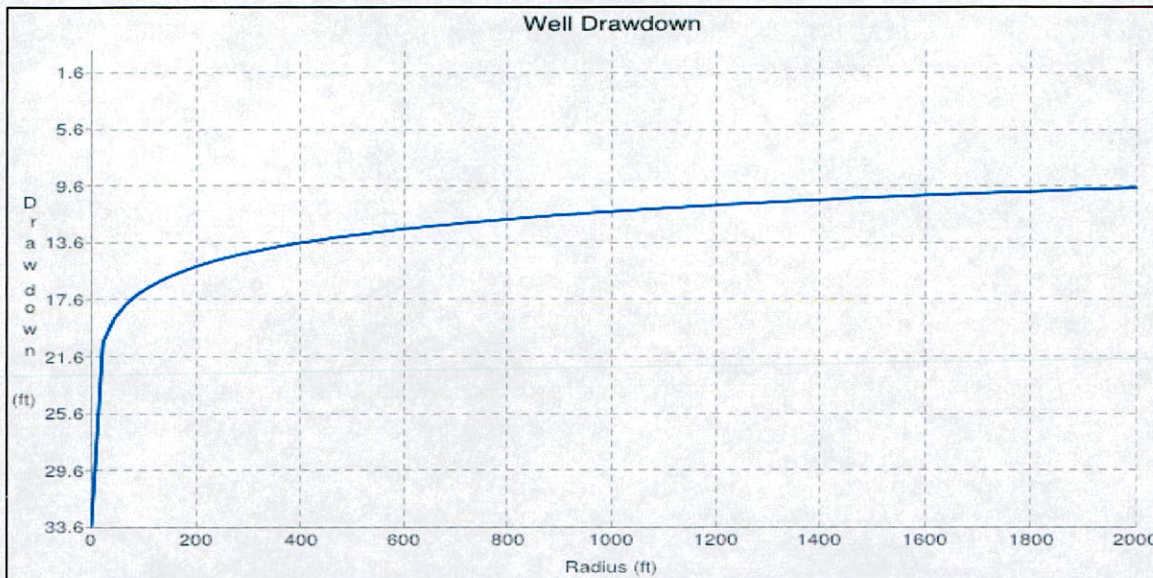


Figure 2. Drawdown predicted from a well pumping 0.56 cfs from the Madison aquifer, continuously for one year, assuming $T = 3,200 \text{ ft}^2/\text{d}$, $S = 2 \times 10^{-4}$. (modified from ("Theis Equation Calculator"))

The Theis equation requires a number of simplifying assumptions, some of which may not apply in this case; however, the solution is still useful to show that drawdown should not be significant.

Wells supplying existing Water Rights/Permits and domestic uses are protected from adverse impacts per Water Management Board rules 74:02:04 and 74:02:05, which were promulgated pursuant to SDCL 46-6-6.1. These rules provide for the regulation of large capacity wells to the degree necessary to maintain an adequate depth of water for a prior appropriator in wells that have the ability to produce water **independent of artesian pressure**. Simply put, the pump placement in a prior appropriator's well is not necessarily protected.

The static water level of a well at the well site proposed by this application is expected to be approximately 90 feet above ground surface (i.e. a flowing well with a shut in pressure of 39 psi) (McKaskey, 2013). Therefore, there is approximately 1,660 feet of artesian head pressure at this well site.

If the water levels in the Madison aquifer were to decline, owners of existing wells bear the responsibility of lowering the pump inlet in the well to 20 feet below the top of the aquifer, if necessary. Increased lift would decrease the pump discharge; or require a larger pump or a different type of a pump to maintain the same output.

An increase in operating expenses that may result from interference between wells is not necessarily an adverse impact. The Water Management Board considered this situation in the matter of Water Permit Application 2313-2, Coca-Cola Bottling Company of the Black Hills (Water Rights, 1995). The Board adopted findings of fact and conclusions of law that basically state that if the increased cost or decreased production is considered an adverse impact, it could be in conflict with SDCL 46-1-4, which requires South Dakota's water resources to be put to beneficial use to the fullest extent of which they are capable.

BENEFICIAL USE:

The Water Management Board has determined in the past that a rural water system use of water is a beneficial use.

PUBLIC INTEREST ISSUES:

In the past, there have been two local “public interest” issues raised that could potentially be obstacles to developing the Madison aquifer in this area: the possibility of affecting artesian spring discharge, and the possibility of affecting the water resources at Wind Cave National Park.

Artesian Springs:

The water at a number of springs in the southern Black Hills area contains geochemical and isotopic characteristics of the Madison aquifer (Whalen, 1994). These springs are classified as Type 2 springs by Rahn and Gries (1973), meaning “The springs do not dry up and serve as points of permanent discharge from the carbonate aquifer” (Rahn and Gries, 1973). One of these springs, Beaver Creek Spring is located approximately three miles south-southwest of this proposed well site. The discharge of Beaver Creek Spring provides base flow to Beaver Creek. In addition to domestic uses there are twelve appropriations from Beaver Creek downstream of Beaver Creek Springs. The variability of the discharge of Beaver Creek Springs as measured by the National Park Service personnel can be seen in Figure 3.

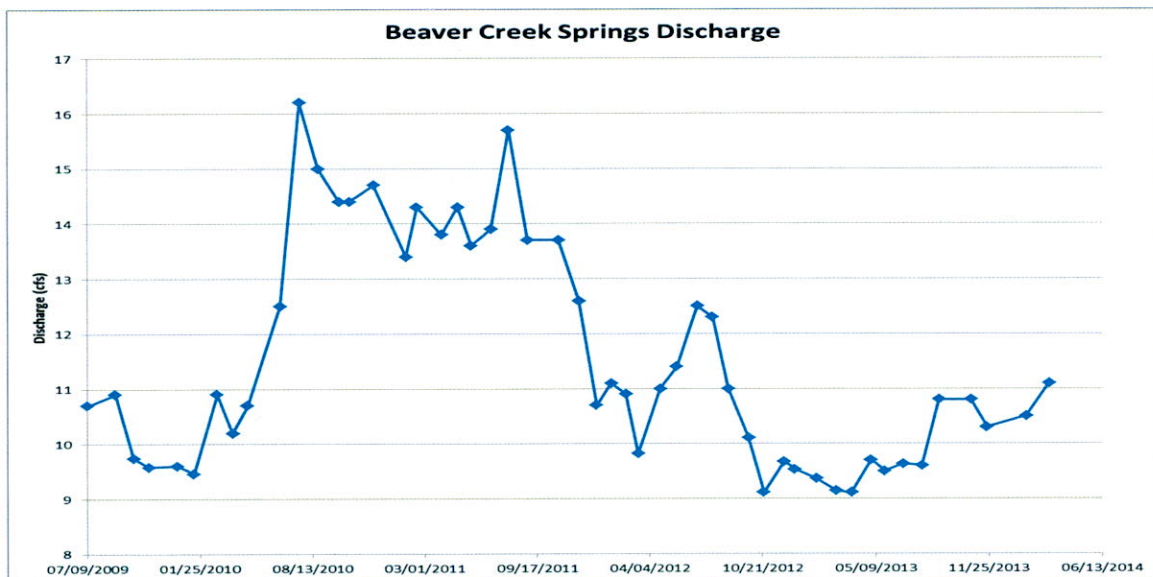


Figure 3. Beaver Creek Spring Discharge (“Aquarius Web Data Portal.”)

DENR-Water Rights’ observation well CU-91A, located approximately two and one-quarter miles west of Beaver Creek Springs provides data on the potentiometric surface of the Madison aquifer in this area. Comparison of the discharge of Beaver Creek Springs and the potentiometric surface of the Madison aquifer suggests a relationship exists between the two (see Figure 4). At this time it is not possible to determine if a cause and effect relationship exists between the Madison aquifer potentiometric surface and the spring flow or if the two have similar responses to the same hydrologic conditions.

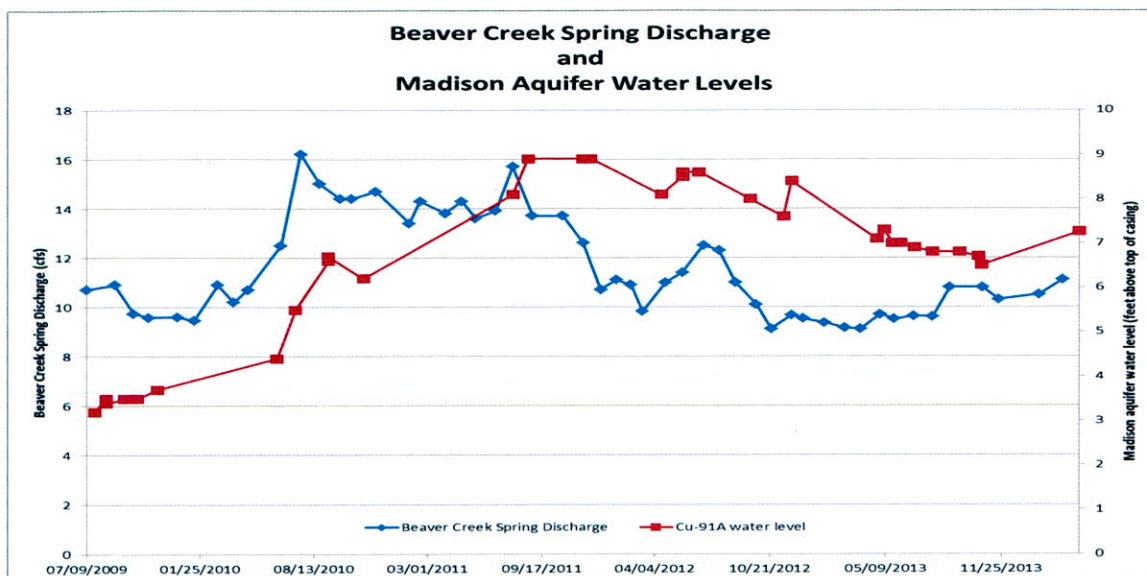


Figure 4. Beaver Creek Spring Discharge compared to Madison aquifer potentiometric surface measured at observation well CU-91A (“Aquarius Web Data Portal.”; Water Rights 2014a)

The Madison potentiometric surface in the vicinity of Beaver Creek Springs is expected to be approximately 3,650 feet above mean sea level elevation (fmsl) (approximately 190 feet above grade). This potentiometric surface was estimated using : 1)DENR-Water Rights’ observation well data (Water Rights, 2014a); 2) the reported shut in pressure of the Streeter well which is located approximately 4,000 feet from the spring (Water Rights, 2014c), and 3) McKaskey, (2013). A decline of the potentiometric surface in the vicinity of the springs could decrease spring discharge.

When considering Future Use Permit No. 2560-2 for Fall River Water User District, the Water Management Board accepted that SD Water Law does not protect artesian head pressure as a means of diversion and determined that well interference resulting in decreased discharge from these “artesian” springs could probably not be considered an adverse impact. The Board did however recognize the “public interest” issues of decreased base flows in area streams that could result from decreased spring discharge as the result of well interference. Approval of Future Use Permit No. 2560-2 included the following qualification:

“At such time as definite plans are made to construct works and put the water reserved by this permit to beneficial use, specific application for all or any part of the reserved water must be submitted and approved prior to construction of facilities pursuant to SDCL 46-5-38.1 with particular attention given to the flows of Beaver Spring, Cascade Springs and Hot Springs.” (Water Rights, 2014b)

Subsequently, when considering the deferral of Water Permit Application No. 2585-2, Southern Black Hills Water System, the Water Management Board adopted a conclusion of law (No. 11) which states in part “The only protection South Dakota law provides when considering an application for an underground water permit for flow from an artesian spring is under the public interest criteria.” (Water Rights, 2014b).

The well site proposed by this application (2633A-3) is located approximately three miles north-northeast of Beaver Creek Springs. A fairly large change in the hydraulic gradient in the vicinity of the springs would be necessary to significantly affect the groundwater flow rates and consequently the spring's discharge. Given the distance involved and the relatively low diversion rate proposed by this application, (300 gpm maximum), it is unlikely that drawdown from this well would have a measurable impact on the spring discharge. However, the Water Management Board conditioned Water Permit No. 2633-2 with a qualification requiring the permit holder "shall control withdrawals from the well so there is not a significant adverse effect on the water flow from Beaver Creek Springs or a significant adverse effect on the water quality and character in Beaver Creek Springs.

Wind Cave National Park:

In the past, the National Park Service (NPS) has expressed concerns that well withdrawals from the Madison aquifer may adversely affect the water rights and water-related resources of Wind Cave National Park. The water-related resources cited by the NPS include: lakes and pools in the lower reaches of Wind Cave, three perennial streams (Cold Springs, Beaver, and Highland Creeks), many intermittent and ephemeral stream courses, and over 95 seeps and springs.

Lakes and Pools:

The lakes and pools in Wind Cave are located approximately five and three-fourths miles west-southwest of the well site proposed by this application. The stages of the lakes fluctuate in response to climatic conditions similar to fluctuations in the Madison potentiometric surface measured in DENR-Water Rights' Observation Well CU-91A (Buhler, 2008).

The impacts of pumping the well proposed by this application is expected to be negligible on the Wind Cave Lakes, especially when compared with the natural fluctuations because of the distances involved (>5 miles) and the relatively small diversion rate proposed (300 gpm).

Streams (Perennial and Ephemeral):

The NPS identified three perennial streams (Cold Spring, Beaver and Highland Creeks) as "water resources of high value at Wind Cave NP". The entire length of Cold Spring Creek is located on formations that are geologically lower than the Madison and therefore are not expected to be influenced by Madison aquifer withdrawals. Beaver and Highland Creeks are typically dry in their reaches downstream from the loss zone (Madison, Minnelusa and Minnekahata aquifer outcrops) because the upstream flow is usually insufficient to meet or exceed the streams' loss thresholds. Since loss thresholds are assumed to be generally constant (Hortness and Driscoll, 1998), any fluctuations of the groundwater levels caused by pumping will not affect the frequency that the reaches of Beaver Creek and Highland Creek downstream of the loss zones are dry.

Seeps and springs:

The majority of the seeps and springs identified by the NPS (Petee, 2006), are obviously not related to the Madison aquifer. They either surface in geologic formations hydrologically isolated from the Madison at elevations hundreds of feet higher than the water level of the Madison, or in geologic formations older than (below) the Madison. The few seeps or springs identified by the NPS that are actually situated on the Madison outcrop are likely expressions of localized perched conditions that would not be impacted by any changes in water level of the regional system.

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."

Pursuant to SDCL 46-2A-21, "at the end of the twenty-year limitation, the board may cancel a permit or amend the permit with a new term limitation of up to twenty years, if the board is unable to make a finding after notice and hearing that sufficient information is available to delete the term."

Evidence is not available to justify issuing these permits without a term limitation of 20 years.

CONCLUSIONS:

1. SDCL 46-5-26 allows a permit to be amended to extend the time for completion of construction due to delays caused by engineering difficulties.
2. This application is requesting an extension of time due to delays incurred in receiving a permit from the USDA Forest Service which prevented the finalization of plans for portions of the project.
3. SDCL 46-2A-2 allows for amendments to existing permits if the change does not unlawfully impair existing rights and is for a beneficial use and in the public interest.
4. Drawdown from this proposed appropriation is not expected to be significant far from the production well due to the relatively low diversion rate proposed.
5. The Madison aquifer is under confined conditions in this area. Adequate wells will not be adversely affected.
6. A decrease to artesian spring discharge and consequent decrease to flows for Beaver Creek water right holders would not be considered an adverse impact.
7. The potential of a decrease to artesian spring discharge and consequent decrease to flows for Beaver Creek water right holders would be addressed as a public interest issue.
8. The Water Management Board has conditioned Madison aquifer appropriations, including Water Permit No. 2633-2, by requiring the permit holder "shall control withdrawals from the well so there is not a significant adverse effect on the water flow from Beaver Creek Springs or a significant adverse effect on the water quality and character in Beaver Creek Springs."
9. Given the distance between the well proposed by this application and Beaver Creek Springs and the relatively low diversion rate proposed by this application, it is unlikely that drawdown from this well would have a measurable impact on the spring discharge.

10. The impacts of pumping the well proposed by this application is expected to be negligible on the Wind Cave Lakes because of the distances involved and the relatively small diversion rate proposed.
11. Streams, seeps and springs located in Wind Cave National Park are not expected to be impacted by this proposed diversion.
12. Information is not available to justify issuing this permit without a term limitation of 20 years.
13. Following notice and a public hearing, the Water Management Board can cancel this permit or amend it with a new term limitation after twenty years.
14. The Water Management Board deferred consideration of Water Permit Application No.. 2585-2, Southern Black Hills Water System, for a proposed Madison aquifer well to be located approximately two and three-fourths miles southwest of the site proposed by this application. Since the deferral was for public interest reasons and not water availability issues, it should not hinder the board's consideration of this application.


for Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

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- Water Rights Program, 2014b, Water Permit/Right Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights Program, 2014c, Well Completion Report Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Whalen, P.J., 1994, Source Aquifers for Cascade Springs, Hot Springs and Beaver Creek Springs in the Southern Black Hills of South Dakota: South Dakota School of Mines and Technology Master of Science Thesis, Rapid City, SD, 299 p.

RECEIVED

JUN - 2 2014

AFFIDAVIT OF PUBLICATION

State of South Dakota)
) ss.
County of Fall River)

WATER RIGHTS
PROGRAM

Brett Nachtigall of Hot Springs, Fall River County, South Dakota, being duly sworn, upon oath says that he is the publisher of the Hot Springs Star, as a legal newspaper, as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, and is published at Hot Springs, county and state aforesaid; that the advertisement headed -

#503 Notice of
Application

a true printed copy thereof is hereunto annexed, was published in the said Hot Springs Star, in the regular and entire issue of said paper,

for one

successive issues, beginning with the issue dated _____

May 20, 2014

and ending with the issue dated _____

May 20, 2014

That the full amount of the fee charged for the publication of said notice is

\$ 35.25, and that no agreement or understanding, for the division thereof, has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the whole amount insures to the benefit of the publishers of said newspaper.

Brett Nachtigall
Subscribed and sworn to before me

this 29 day of May

2014

Laura Tarrell
Notary Public

My Commission Expires
December 3, 2019



503

NOTICE OF APPLICATION
NO. 2633A-2

for an Extension of Time
to Water Permit No. 2633-2

Notice is given that Southern Black Hills Water System, Inc., c/o Don Peterson, Manager, 26858 Hwy 385, Hot Springs SD 57747 has filed an application for a water permit to extend the length of time allowed to complete construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximate 1850 feet deep) located in the SE 1/4 SE 1/4 Section 35-T5S-R6E, Custer County to serve water users in Custer, Fall River and Pennington Counties.

Water Permit No. 2633-2 was approved March 11, 2009 and the proposed project was to be completed by March 11, 2014, with water being put to beneficial use by March 11, 2018. Application No. 2633A-2 requests to extend the length of time allowed to complete construction of the project from March 11, 2014 to March 11, 2019. Application No. 2633A-2, if approved, will retain the June 20, 2008 priority date assigned to Permit No. 2633-2.

Pursuant to SDCL 46-5-26, a permit may be amended to extend the time for completion of construction due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board. This application is requesting an extension of time due to delays incurred receiving a permit from the USDA Forest Service to construct on their land. During the delay, Southern Black Hills Water System was unable to finalize plans for portions of the project.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2633A-2 for a 20-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing the permit without a 20 year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful

impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider 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 recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352) and the applicant's

mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 30, 2014.

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.

Published once at the total
approximate cost of \$35.25.

May 20

May 14
L20864429
Notice of Application No.
2633A-2 for an Extension of Time
to Water Permit No. 2633-2
Notice is given that Southern
Black Hills Water System, Inc.,
c/o Don Peterson, Manager, 26858
Hwy 385, Hot Springs SD 57747
has filed an application for a
water permit to extend the length
of time allowed to complete con-
struction of works for Water Per-
mit No. 2633-2. Water Permit No.
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of water annually at a maximum
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be completed into the Madison Aqu-
ifer (approximate 1850 feet
deep) located in the SE 1/4 SE 1/4
Section 35-T5S-R6E, Custer
County to serve water users in
Custer, Fall River and Pen-
nington Counties.
Water Permit No. 2633-2 was ap-
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pleted by March 11, 2014, with
water being put to beneficial use
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limitation, there is reasonable
probability that there is unappro-
priated water available, 2) the
proposed diversion can be develop-
ed without unlawful impair-
ment of existing rights, 3) the pro-
posed 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 this
application, as recommended, un-
less 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 Manage-
ment Board will consider this ap-
plication. Notice of the hearing
will be given to the applicant and
any person filing a petition.
Any person interested in oppos-
ing or supporting this application
or recommendation must file a
written petition with BOTH the
applicant and Chief Engineer.
The applicant must file a petition
if contesting the Chief Engineer's
recommendation. The Chief
Engineer's address is "Water
Rights Program, Foss Building,
523 E Capitol, Pierre SD 57501
(605 773-3352)" and the applicant's
mailing address is given above. A
petition filed by either an inter-
ested person or the applicant
must be filed by May 27, 2014.
The petition may be informal,
but must include a statement de-
scribing the petitioner's interest in
the application, the petitioner's
reasons for opposing or support-
ing the application, and the signa-
ture and mailing address of the
petitioner or the petitioner's legal
counsel, if legal counsel is ob-
tained. Contact Eric Gronlund at
the above Water Rights Program
address to request copies of infor-
mation pertaining to this applica-
tion. Steven M. Pirner, Secre-
tary, Department of Environment
and Natural Resources.

Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington

SS:

RECEIVED

MAY 30 2014

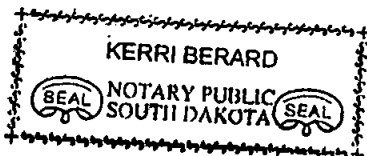
WATER RIGHTS
PROGRAM

Brandyn Crawford being first duly sworn, upon his/her oath says:
That he/she is now and was at all time hereinafter mentioned, an
employee of the RAPID CITY JOURNAL, a corporation of Rapid
City, South Dakota, the owner and publisher of the RAPID CITY
JOURNAL, a legal and daily newspaper printed and published in
Rapid City, in said County of Pennington, and has full and
personal knowledge of all the facts herein stated as follows: that
said newspaper is and at all of the times herein mentioned has been
a legal and daily newspaper with a bonafide paid circulation of at
least Two Hundred copies daily, and has been printed and published
in the English language, at and within an office maintained by the
owner and publisher thereof, at Rapid City, in said Pennington
County, and has been admitted to the United States mail under the
second class mailing privilege for at least one year prior to the
publication herein mentioned; that the advertisement, a printed
copy of which, taken from said Rapid City Journal, the paper in
which the same was published, is attached to this sheet and made a
part of this affidavit, was published in said paper once each
Week for one successive
Week, the first publication there of being on the
14th day of May that the fees charged for
the publication there of are 82 dollars
and 88 cents.

Subscribed and sworn to before me this 28th
day of May, 2014.

Kerri Berard
Notary public

KERRI BERARD
NOTARY PUBLIC
MY COMM. EXP. AUGUST 21, 2019



My commission expires

Affidavit of Publication

State of South Dakota)
)ss.
County of Custer)

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

Southern Hills Water System

Notice of Application

2633A-2

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 1 successive week(s), on which said newspaper was regularly published, to wit:

May 14, 2014; _____;

_____; _____;

_____; _____;

_____; _____;

_____; _____;

the full amount of the fees for the publication of the annexed notice is \$ 35.10.

Charles W. Najacht

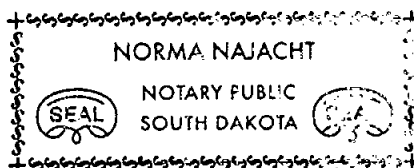
Subscribed and sworn to me before this 14

of May, 2014;

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2014



NOTICE OF APPLICATION NO. 2633A-2 FOR AN EXTENSION OF TIME TO WATER PERMIT NO. 2633-2

Notice is given that Southern Black Hills Water System, Inc., c/o Don Peterson, Manager, 26858 Hwy 385, Hot Springs SD 57747 has filed an application for a water permit to extend the length of time allowed to complete construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximate 1850 feet deep) located in the SE 1/4 SE 114 Section 35- T5SR6E, Custer County to serve water users in Custer, Fall River and Pennington Counties.

Water Permit No. 2633-2 was approved March 11, 2009 and the proposed project was to be completed by March 11, 2014, with water being put to beneficial use by March 11, 2018. Application No. 2633A-2 requests to extend the length of time allowed to complete construction of the project from March 11, 2014 to March 11, 2019. Application No. 2633A-2, if approved, will retain the June 20, 2008 priority date assigned to Permit No. 2633-2.

Pursuant to SDCL 46-5-26, a permit may be amended to extend the time for completion of construction due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board. This application is requesting an extension of time due to delays incurred receiving a permit from the USDA Forest Service to construct on their land. During the delay, Southern Black Hills Water System was unable to finalize plans for portions of the project.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2633A-2 for a 20-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing the permit without a 20 year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hear-

RECEIVED

MAY 30 2014

WATER RIGHTS
PROGRAM

ing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 27, 2014.

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. Pirmer, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$35.10.

5/14



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



May 6, 2014

Custer County Chronicle
PO Box 551
Custer SD 57730

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2633A-2 to Appropriate Water. Please publish the notice once on May 14, 2014. 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 and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Southern Black Hills Water System, Inc., c/o Don Peterson, Manager, 26858 Hwy 385, Hot Springs SD 57747 (Ph # 605-745-4669).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

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



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov



May 6, 2014

Rapid City Journal
PO Box 450
Rapid City SD 57709

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2633A-2 to Appropriate Water. Please publish the notice once on May 14, 2014. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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Eric Gronlund
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605 773-3352

enclosures



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



May 6, 2014

Hot Springs Star
PO Box 1000
Hot Springs SD 57747

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2633A-2 to Appropriate Water. Please publish the notice once on May 13, 2014. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



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

May 6, 2014

Southern Black Hills Water System Inc
Don Peterson, Manager
26858 Hwy 385
Hot Springs SD 57747

Dear Mr. Peterson:

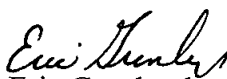
Water Permit Application No. 2633A-2 for rural water system use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the following papers:

Hot Springs Star printed at Hot Springs SD (Ph # 605-745-4170)
Custer County Chronicle printed at Custer SD (Ph # 605-673-2217)
Rapid City Journal printed at Rapid City SD (Ph # 605-394-8300)

You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352
enclosures

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

Instruction to Newspaper - Publish the Notice on May 14, 2014. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

Notice of Application No. 2633A-2 for an Extension of Time to Water Permit No. 2633-2

Notice is given that Southern Black Hills Water System, Inc., c/o Don Peterson, Manager, 26858 Hwy 385, Hot Springs SD 57747 has filed an application for a water permit to extend the length of time allowed to complete construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximate 1850 feet deep) located in the SE 1/4 SE 1/4 Section 35-T5S-R6E, Custer County to serve water users in Custer, Fall River and Pennington Counties.

Water Permit No. 2633-2 was approved March 11, 2009 and the proposed project was to be completed by March 11, 2014, with water being put to beneficial use by March 11, 2018. Application No. 2633A-2 requests to extend the length of time allowed to complete construction of the project from March 11, 2014 to March 11, 2019. Application No. 2633A-2, if approved, will retain the June 20, 2008 priority date assigned to Permit No. 2633-2.

Pursuant to SDCL 46-5-26, a permit may be amended to extend the time for completion of construction due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board. This application is requesting an extension of time due to delays incurred receiving a permit from the USDA Forest Service to construct on their land. During the delay, Southern Black Hills Water System was unable to finalize plans for portions of the project.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2633A-2 for a 20-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing the permit without a 20 year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider 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 recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 27, 2014.

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.

Published once at the total approximate cost of _____.



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



May 6, 2014

Peter Fahmy
Water Rights Branch
National Park Service
1201 Oakridge Dr., Suite 250
Fort Collins CO 80525-5596

Dear Mr. Fahmy:

Enclosed is a copy of the report, recommendation and public notice for Water Permit Application No. 2633A-2 filed by Southern Black Hills Water System for an extension of time to complete construction of works for Water Permit No. 2633-2. The public notice is scheduled to be published on either May 13 or 14th in the Hot Springs Star, Custer County Chronicle and the Rapid City Journal. The date to intervene and cause a hearing before the Water Management Board is May 27, 2014.

This information is being sent to the National Parks Service as a party of record to the original hearing on Application No. 2633-2. If you have any questions regarding DENR's review of the application, please contact either Ann Mines or Matt Naasz with the Attorney General's office at (605) 773-3215.

Sincerely,

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

enclosures



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



May 6, 2014

Randy Scroth
PO Box 1
Buffalo Gap SD 57720

Dear Mr. Scroth:

Enclosed is a copy of the report, recommendation and public notice for Water Permit Application No. 2633A-2 filed by Southern Black Hills Water System for an extension of time to complete construction of works for Water Permit No. 2633-2. The public notice is scheduled to be published on either May 13 or 14th in the Hot Springs Star, Custer County Chronicle and the Rapid City Journal. The date to intervene and cause a hearing before the Water Management Board is May 27, 2014.

This information is being sent to you as a party of record to the original hearing on Application No. 2633-2. If you have any questions regarding DENR's review of the application, please contact me at (605) 773-3352.

Sincerely,

A handwritten signature in cursive script, reading "Eric Gronlund".

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

enclosures



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



May 6, 2014

Shawn Fugier
27094 Beaver Valley Rd
Buffalo Gap SD 57720

Dear Mr. Fugier:

Enclosed is a copy of the report, recommendation and public notice for Water Permit Application No. 2633A-2 filed by Southern Black Hills Water System for an extension of time to complete construction of works for Water Permit No. 2633-2. The public notice is scheduled to be published on either May 13 or 14th in the Hot Springs Star, Custer County Chronicle and the Rapid City Journal. The date to intervene and cause a hearing before the Water Management Board is May 27, 2014.

This information is being sent to you as a party of record to the original hearing on Application No. 2633-2. If you have any questions regarding DENR's review of the application, please contact me at (605) 773-3352.

Sincerely,

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

enclosures



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



May 6, 2014

Michael M. Hickey
Attorney at Law
PO Box 2670
Rapid City SD 57709

Dear Mr. Hickey:

Enclosed is a copy of the report, recommendation and public notice for Water Permit Application No. 2633A-2 filed by Southern Black Hills Water System for an extension of time to complete construction of works for Water Permit No. 2633-2. The public notice is scheduled to be published on either May 13 or 14th in the Hot Springs Star, Custer County Chronicle and the Rapid City Journal. The date to intervene and cause a hearing before the Water Management Board is May 27, 2014.

This information is being sent to you as counsel for Trout Haven Ranch who was as a party of record to the original hearing on Application No. 2633-2. If you have any questions regarding DENR's review of the application, please contact either Ann Mines or Matt Naasz with the Attorney General's office at (605) 773-3215.

Sincerely,

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

enclosures

Faxed



BANGSMcCULLEN

— LAW FIRM —

Reply to Rapid City Office

Writer's e-mail address: mhickey@bangsmccullen.com

May 27, 2014

Sent by U.S. Mail and Facsimile

Ms. Jeanne Goodman, Chief Engineer
Department of Environment and National Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Re: *In the Matter of the Application of Southern Black Hills Water Systems No. 2633A-2*

Dear Ms. Goodman:

Please find enclosed the original of *Trout Haven Ranch's Motion for Intervention and Continuance* in the above-referenced matter. A copy has been sent to Southern Black Hills Water System, Inc., which is intended as service by U.S. Mail.

If you have any questions or comments, please advise.
Thank you.

Sincerely,

BANG, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

for Michael M. Hickey

MMH:bah

Enclosure

cc: Client

Southern Black Hills Water Systems, Inc.

Ms. Ann Mines

Mr. Matt Naasz

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

**IN THE MATTER OF THE APPLICATION
OF SOUTHERN BLACK HILLS WATER
SYSTEM, APPLICATION NO. 2633A-2**

**Trout Haven Ranch's
Motion for Intervention
and Continuance**

Comes now Trout Haven Ranch, an interested party in the above proceeding, and hereby moves the Chief Engineer to intervene in this proceeding and continue the hearing in this matter before the Water Management Board. This request is made on the grounds and for the reasons that the extension requested is not in the public interest and the Applicant has not acted in a reasonable and timely fashion to complete its construction of works as required by the mandates of law.

Additionally, Trout Haven Ranch objects on the grounds and for the reasons that it uses the waters from Beaver Creek and Beaver Creek Springs in the operation of its commercial trout raising business. If the application is granted, Trout Haven Ranch will be injured and damaged and its operations adversely affected in that the quantity, quality and temperature of water used by Trout Haven

Ranch will be detrimentally altered and diminished by the usage envisioned by the application of Southern Black Hills Water System if approved.

Trout Haven Ranch needs additional time to review the application and reports prepared in this matter so that it can present evidence and testimony in opposition to the request for an extension of time for completion of construction filed by Southern Black Hills Water System.

Dated this 27th day of May, 2014.

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

BY: 
for MICHAEL M. HICKEY
333 West Boulevard, Ste. 400
P.O. Box 2670
Rapid City, SD 57709-2670
(605) 343-1040
mhickey@bangsmccullen.com
ATTORNEYS FOR TROUT HAVEN RANCH

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by facsimile and by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in an envelope addressed to said addressee, to wit:

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

Facsimile: (605) 773-4068

and by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in an envelope addressed to said addressee, to wit:

**Southern Black Hills Water System, Inc.
26858 Hwy 385
Hot Springs SD 57747**

which are the last addresses of the addressees known to the subscriber.

Dated this 27th day of May, 2014.


for MICHAEL M. HICKEY

BANGS, MCCULLEN, BUTLER, FOYE & SIMMONS, L.L.P.

333 WEST BOULEVARD, SUITE 400

PO BOX 2670

605-343-1040 (PHONE)

605-343-1503 (FAX)

RAPID CITY SD 57709

MHICKEY@BANGSMCCULLEN.COM

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Ms. Jeanne Goodman	Michael M. Hickey
COMPANY:	DATE:
DENR	May 27, 2014
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(605) 773-4068	5
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:

RE:

Southern Black Hills Water System Application 2633A-2

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Please see attached correspondence and filing. Thank you.

**IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL AND
ASK TO SPEAK TO BETH ANN HALVORSON
OR MIKE HICKEY AS SOON AS POSSIBLE.**

The information contained in this facsimile message is privileged information under the attorney-client privilege; therefore it is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

RECEIVED

MAY 29 2014

WATER RIGHTS
PROGRAM



BANGSMcCULLEN
— LAW FIRM —

Reply to Rapid City Office

Writer's e-mail address: mhickey@bangsmccullen.com

May 27, 2014

Sent by U.S. Mail and Facsimile

Ms. Jeanne Goodman, Chief Engineer
Department of Environment and National Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

**Re: In the Matter of the Application of Southern Black
Hills Water Systems No. 2633A-2**

Dear Ms. Goodman:

Please find enclosed the original of *Trout Haven Ranch's Motion for Intervention and Continuance* in the above-referenced matter. A copy has been sent to Southern Black Hills Water System, Inc., which is intended as service by U.S. Mail.

If you have any questions or comments, please advise.
Thank you.

Sincerely,

BANG, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

for Michael M. Hickey

MMH:bah
Enclosure

cc: Client
Southern Black Hills Water Systems, Inc.
Ms. Ann Mines
Mr. Matt Naasz

RAPID CITY

Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Terry L. Hofer
Rod Schlauger
Daniel F. Duffy
Jeffrey G. Hurd
John H. Raforth
Terry G. Westergaard
Steven R. Nolan
Gregory J. Erlandson
Eric J. Pickar
Sarah E. Baron Houy
Jacob M. Quasney
Jessica L. Fjerstad
Kara L. Frankman
Mark F. Marshall
Of Counsel

SIOUX FALLS

Victoria M. Duehr
Kathryn L. Hoyme

*Attorneys also admitted in
Nebraska, North Dakota,
Minnesota and Missouri*



RAPID CITY

First Interstate Gateway
333 West Boulevard
Suite 400
P.O. Box 2670
Rapid City, South Dakota
57709-2670
P. (605) 343-1040
F. (605) 343-1503

SIOUX FALLS

5919 S. Remington Place
Suite 100
P.O. Box 88208
Sioux Falls, South Dakota
57109-8208
P. (605) 339-6800
F. (605) 339-6801

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

RECEIVED
MAY 29 2014
WATER RIGHTS
PROGRAM

**IN THE MATTER OF THE APPLICATION
OF SOUTHERN BLACK HILLS WATER
SYSTEM, APPLICATION NO. 2633A-2**

**Trout Haven Ranch's
Motion for Intervention
and Continuance**

Comes now Trout Haven Ranch, an interested party in the above proceeding, and hereby moves the Chief Engineer to intervene in this proceeding and continue the hearing in this matter before the Water Management Board. This request is made on the grounds and for the reasons that the extension requested is not in the public interest and the Applicant has not acted in a reasonable and timely fashion to complete its construction of works as required by the mandates of law.

Additionally, Trout Haven Ranch objects on the grounds and for the reasons that it uses the waters from Beaver Creek and Beaver Creek Springs in the operation of its commercial trout raising business. If the application is granted, Trout Haven Ranch will be injured and damaged and its operations adversely affected in that the quantity, quality and temperature of water used by Trout Haven

Ranch will be detrimentally altered and diminished by the usage envisioned by the application of Southern Black Hills Water System if approved.

Trout Haven Ranch needs additional time to review the application and reports prepared in this matter so that it can present evidence and testimony in opposition to the request for an extension of time for completion of construction filed by Southern Black Hills Water System.

Dated this 27th day of May, 2014.

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

BY: 
for MICHAEL M. HICKEY
333 West Boulevard, Ste. 400
P.O. Box 2670
Rapid City, SD 57709-2670
(605) 343-1040
mhickey@bangsmccullen.com
ATTORNEYS FOR TROUT HAVEN RANCH

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by facsimile and by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in an envelope addressed to said addressee, to wit:

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

Facsimile: (605) 773-4068

and by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in an envelope addressed to said addressee, to wit:

**Southern Black Hills Water System, Inc.
26858 Hwy 385
Hot Springs SD 57747**

which are the last addresses of the addressees known to the subscriber.

Dated this 27th day of May, 2014.


for MICHAEL M. HICKEY



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

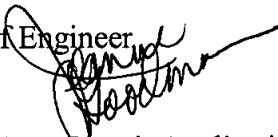
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov



May 29, 2014

NOTICE OF HEARING

TO: Southern Black Hills Water System Inc. Michael M Hickey
c/o Don Kraus Bangs McCullen Law Firm
26858 Highway 385 PO Box 2670
Hot Springs SD 57747 Rapid City SD 57709-2670

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Notice of Hearing on Water Permit Application No. 2633A-2, Southern Black Hills
Water System Inc.

A petition opposing approval of Water Permit Application No. 2633A-2 has been filed in response to the Notice of Application published in the Custer County Chronicle, Rapid City Journal and Hot Springs Star. This notice schedules a hearing on the application before the South Dakota Water Management Board.

Application No. 2633A-2 is for a water permit to extend the length of time allowed to complete construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximate 1850 feet deep) located in the SE 1/4 SE 1/4 Section 35-T5S-R6E, Custer County to serve water users in Custer, Fall River and Pennington Counties. Water Permit No. 2633-2 was approved March 11, 2009 and the proposed project was to be completed by March 11, 2014, with water being put to beneficial use by March 11, 2018. Application No. 2633A-2 requests to extend the length of time allowed to complete construction of the project from March 11, 2014 to March 11, 2019. Application No. 2633A-2, if approved, will retain the June 20, 2008 priority date assigned to Permit No. 2633-2.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2633A-2 for an extension of time with a 20 year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20 year term limitation, there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest.

The Water Management Board will consider Application No. 2633A-2 at 2:30 PM on Thursday, July 10, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. Parties will be provided written notice if there is a change to the hearing time or date.

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 after it reaches a conclusion based on the facts presented at the public hearing. The July 10, 2014, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic

delay must be filed by June 30, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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

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

Enclosed is a copy of the report, recommendation, and petitions in the matter of Water Permit Application No. 2633A-2. The affidavits of publication will be sent at a future time. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is June 10, 2014. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

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

enclosures

c: Ann Mines, Assistant Attorney General
Matt Naasz, Assistant Attorney General

CERTIFICATION

I hereby certify that on May 29, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated May 29, 2014, regarding scheduling the hearing for Water Right Permit Application No. 2633A-2, as addressed below:

Southern Black Hills Water System Inc.
c/o Don Kraus
26858 Highway 385
Hot Springs SD 57747

Michael M Hickey
Bangs McCullen Law Firm
PO Box 2670
Rapid City SD 57709-2670

Sent Inter-office to:

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

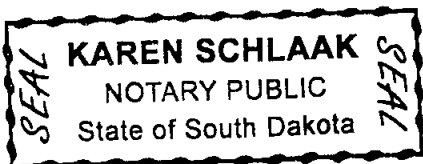
Matt Naasz, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Gail Jacobsen
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 29th day of May, 2014

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2019



RECEIVED

JUN 30 2014

WATER RIGHTS
PROGRAM



BANGSMcCULLEN
— LAW FIRM —

Reply to Rapid City Office

Writer's e-mail address: mhickey@bangsmccullen.com

June 27, 2014

Ms. Jeanne Goodman, Chief Engineer
DENR-Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Mr. Eric Gronlund
DENR-Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

**Re: In the Matter of the Application of Southern Black
Hills Water Systems No. 2633A-2**

Dear Ms. Goodman and Mr. Gronlund:

Please find enclosed the original of *Trout Haven Ranch's Motion for Continuance* in the above-referenced matter. A copy has been sent to Southern Black Hills Water System, Inc., which is intended as service by U.S. Mail.

If you have any questions or comments, please advise.

Thank you.

Sincerely,

BANG, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

Michael M. Hickey

MMH:bah
Enclosure

cc: Client
Southern Black Hills Water Systems, Inc.
Ms. Ann Mines
Mr. Matt Naasz

RAPID CITY

Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Terry L. Hofer
Rod Schlauger
Daniel F. Duffy
Jeffrey G. Hurd
John H. Raforth
Terry G. Westergaard
Steven R. Nolan
Gregory J. Erlandson
Eric J. Pickar
Sarah E. Baron Houy
Jacob M. Quasney
Jessica L. Fjerstad
Kara L. Frankman
Mark F. Marshall
Of Counsel

SIOUX FALLS

Victoria M. Duehr
Kathryn L. Hoyme

*Attorneys also admitted in
Nebraska, North Dakota,
Minnesota and Missouri*



RAPID CITY

First Interstate Gateway
333 West Boulevard
Suite 400
P.O. Box 2670
Rapid City, South Dakota
57709-2670
P. (605) 343-1040
F. (605) 343-1503

SIOUX FALLS

5919 S. Remington Place
Suite 100
P.O. Box 88208
Sioux Falls, South Dakota
57109-8208
P. (605) 339-6800
F. (605) 339-6801

RECEIVED

JUN 30 2014

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

**IN THE MATTER OF THE APPLICATION
OF SOUTHERN BLACK HILLS WATER
SYSTEM, APPLICATION NO. 2633A-2**

**Trout Haven Ranch's
Motion for Continuance**

Comes now Trout Haven Ranch, an interested party in the above proceeding, and hereby moves the Chief Engineer to continue the hearing set for July 10, 2014, before the Water Management Board. This request is made on the grounds and for the reasons that Trout Haven Ranch is waiting to hear back from Southern Black Hills Water System concerning their operational plans, and needs additional time to review the application and reports prepared in this matter so that it can determine if it needs to present evidence and testimony in opposition to the request for an extension of time for completion of construction filed by Southern Black Hills Water System.

Dated this 27th day of June, 2014.

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

BY: 
MICHAEL M. HICKEY
333 West Boulevard, Ste. 400
P.O. Box 2670
Rapid City, SD 57709-2670
(605) 343-1040
mhickey@bangsmccullen.com
ATTORNEYS FOR TROUT HAVEN RANCH

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in an envelopes addressed to said addressees, to wit:

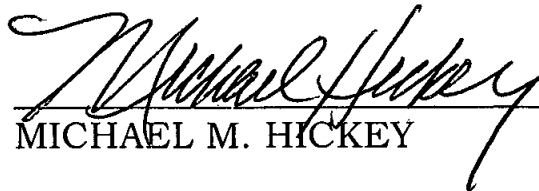
**Jeanne Goodman, Chief Engineer
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501**

**Eric Gronlund
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501**

**Southern Black Hills Water System, Inc.
26858 Hwy 385
Hot Springs SD 57747**

which are the last addresses of the addressees known to the subscriber.

Dated this 27th day of June, 2014.


MICHAEL M. HICKEY



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

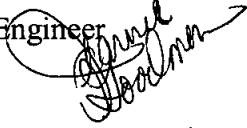
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov



June 30, 2014

NOTICE

TO: Southern Black Hills Water System Inc. Michael M Hickey
c/o Don Kraus Bangs McCullen Law Firm
26858 Highway 385 PO Box 2670
Hot Springs SD 57747 Rapid City SD 57709-2670

FROM: Jeanne Goodman, Chief Engineer 
Water Rights Program

SUBJECT: Automatic Delay of July 10, 2014, Hearing on Water Permit Application No. 2633A-2,
Southern Black Hills

A petition was received in response to the public notice for Water Permit Application No. 2633A-2 filed by Southern Black Hills Water System. Notice of hearing was sent to parties scheduling a July 10, 2014, hearing before the Water Management Board. Petitioner Trout Haven Ranch has made formal request (copy enclosed) for postponement of the July 10, 2014, hearing date before the Water Management Board. Therefore, the hearing on Application No. 2633A-2 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on July 10, 2014.

The hearing to consider Application No. 2633A-2 will now be scheduled for the Board's fall meeting tentatively to be held in October. Future notice of the time and place of the hearing for Application No. 2633A-2 will be provided to parties of record.

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

Enclosure

c: Ann Mines, Assistant Attorney General
Matt Naasz, Assistant Attorney General
Talbot Wiczorek, Counsel for Southern Black Hills Water System

CERTIFICATION

I hereby certify that on June 30, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated June 30, 2014, regarding automatic delay of the July 10, 2014, the hearing for Water Right Permit Application No. 2633A-2, as addressed below:

Southern Black Hills Water System Inc.
c/o Don Kraus
26858 Highway 385
Hot Springs SD 57747

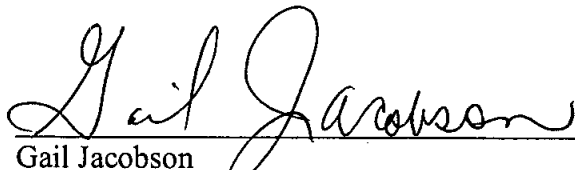
Michael M Hickey
Bangs McCullen Law Firm
PO Box 2670
Rapid City SD 57709-2670

Talbot Wieczorek
PO Box 8045
Rapid City SD 57709

Sent Inter-office to:

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

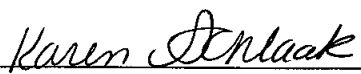
Matt Naasz, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



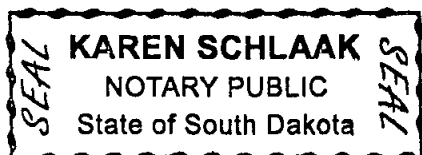
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 30th day of June, 2014



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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

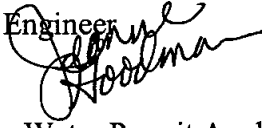


October 2, 2014

NOTICE

TO: Talbot Wieczorek, Counsel
Southern Black Hills Water System
PO Box 8045
Rapid City SD 57709

Michael M Hickey
Bangs McCullen Law Firm
PO Box 2670
Rapid City SD 57709-2670

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Scheduling of Hearing on Water Permit Application No. 2633A-2, Southern Black Hills Water System

A petition was submitted by Trout Haven Ranch in opposition to Water Permit Application No. 2633A-2 filed by Southern Black Hills Water System. The petition was filed in response to the Notice of Application published in the Hot Springs Star, Custer County Chronicle and Rapid City Journal. Subsequently, a notice of hearing was sent to parties on May 29, 2014 scheduling a July 10, 2014, hearing before the Water Management Board. The July hearing was then postponed pursuant to SDCL 46-2A-5 based on the request by counsel for the petitioner. This notice schedules a hearing before the Water Management Board to consider Application No. 2633A-2.

Application No. 2633A-2 is for a water permit to extend the length of time allowed to complete construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximate 1850 feet deep) located in the SE 1/4 SE 1/4 Section 35-T5S-R6E, Custer County to serve water users in Custer, Fall River and Pennington Counties. Water Permit No. 2633-2 was approved March 11, 2009 and the proposed project was to be completed by March 11, 2014, with water being put to beneficial use by March 11, 2018. Application No. 2633A-2 requests to extend the length of time allowed to complete construction of the project from March 11, 2014 to March 11, 2019. Application No. 2633A-2, if approved, will retain the June 20, 2008 priority date assigned to Permit No. 2633-2.

The Water Management Board will conduct a hearing to consider Application No. 2633A-2 at 9:00 AM (Central Time) on Thursday, October 23, 2014, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Future notice will be provided to all parties if there are changes to the hearing time. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2633A-2 with qualifications. The recommendation is not final or binding upon the Board. The Board is authorized to 1)

approve, 2) approve with qualifications, 3) defer, or 4) deny the application based on the evidence presented at the public hearing.

Applicable provision of the notice of application published in the Hot Springs Star, Custer County Chronicle and Rapid City Journal and the May 29, 2014, Notice of Hearing will still apply at the hearing.

Enclosed are the affidavits of publication which were not sent with the May 29th notice of hearing. As set forth in the May 29th notice, the staff report, recommendation, petition along with these affidavits are sent to the Water Management Board prior to the hearing.

Please contact Ann Mines, Assistant Attorney General at (605) 773-3215 if you have questions regarding the hearing.

enclosures

c: Ann Mines, Assistant Attorney General
Matt Naasz, Assistant Attorney General
Southern Black Hills Water System Inc., c/o Don Kraus, 26858 Highway 385, Hot Springs SD
57747

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer)

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

Southern Hills Water System

Notice of Application

2633A-2

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 1 successive week(s), on which said newspaper was regularly published, to wit:

May 14, 2014;

_____;

_____;

_____;

_____;

the full amount of the fees for the publication of the annexed notice is \$ 35.10.

Charles W. Najacht

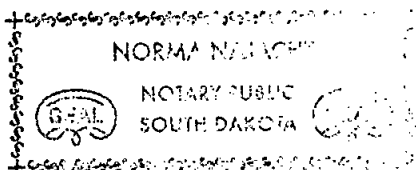
Subscribed and sworn to me before this 14

of May, 2014;

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2018



NOTICE OF APPLICATION

NO. 2633A-2

FOR AN EXTENSION

OF TIME TO WATER

PERMIT NO. 2633-2

Notice is given that Southern Black Hills Water System, Inc., c/o Don Peterson, Manager, 26858 Hwy 385, Hot Springs SD 57747 has filed an application for a water permit to extend the length of time allowed to complete construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximate 1850 feet deep) located in the SE 1/4 SE 114 Section 35- T5SR6E, Custer County to serve water users in Custer, Fall River and Pennington Counties.

Water Permit No. 2633-2 was approved March 11, 2009 and the proposed project was to be completed by March 11, 2014, with water being put to beneficial use by March 11, 2018. Application No. 2633A-2 requests to extend the length of time allowed to complete construction of the project from March 11, 2014 to March 11, 2019. Application No. 2633A-2, if approved, will retain the June 20, 2008 priority date assigned to Permit No. 2633-2.

Pursuant to SDCL 46-5-26, a permit may be amended to extend the time for completion of construction due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board. This application is requesting an extension of time due to delays incurred receiving a permit from the USDA Forest Service to construct on their land. During the delay, Southern Black Hills Water System was unable to finalize plans for portions of the project.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2633A-2 for a 20-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing the permit without a 20 year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hear-

ing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 27, 2014.

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.

Published once at an approximate cost of \$35.10.

5/14

RECEIVED

MAY 30 2014

WATER RIGHTS PROGRAM

Notice of Application No.
2633A-2 for an Extension of Time
to Water Permit No. 2633-2

Notice is given that Southern Black Hills Water System, Inc., c/o Don Peterson, Manager, 26858 Hwy 385, Hot Springs SD 57747 has filed an application for a water permit to extend the length of time allowed to complete construction of works for Water Permit No. 2633-2. Water Permit No. 2633-2 appropriates 484 acre-feet of water annually at a maximum diversion rate of 0.67 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximate 1850 feet deep) located in the SE 1/4 SE 1/4 Section 35-T5S-R6E, Custer County to serve water users in Custer, Fall River and Pennington Counties.

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Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington

SS:

RECEIVED

MAY 30 2014

WATER RIGHTS
PROGRAM

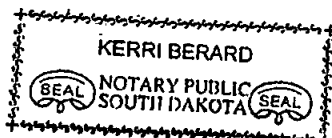
Brandyn Crawford being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each Week for One successive Week, the first publication there of being on the 14th day of May that the fees charged for the publication there of are 82 dollars and 88 cents.

Subscribed and sworn to before me this 28th day of May, 2014.

Kerri Berard
Notary public

KERRI BERARD
NOTARY PUBLIC
MY COMM. EXP. AUGUST 21, 2019

My commission expires



RECEIVED

AFFIDAVIT OF PUBLICATION

JUN - 2 2014

State of South Dakota)
) ss.
County of Fall River)

WATER RIGHTS
PROGRAM

Brett Nachtigall of Hot Springs, Fall River County, South Dakota, being duly sworn, upon oath says that he is the publisher of the Hot Springs Star, as a legal newspaper, as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, and is published at Hot Springs, county and state aforesaid; that the advertisement headed -

#503 Notice of
Application

a true printed copy thereof is hereunto annexed, was published in the said Hot Springs Star, in the regular and entire issue of said paper,

for one

successive issues, beginning with the issue dated

May 20, 2014

and ending with the issue dated

May 20, 2014

That the full amount of the fee charged for the publication of said notice is

\$ 35.25, and that no agreement or understanding, for the division thereof, has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the whole amount insures to the benefit of the publishers of said newspaper.

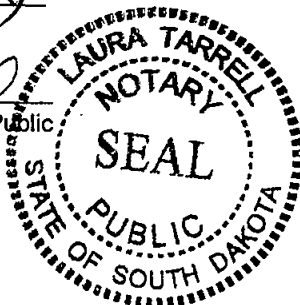
Subscribed and sworn to before me

this 29 day of May

2014

Laura Tarrell
Notary Public

My Commission Expires
December 3, 2019



503
NOTICE OF APPLICATION
NO. 2633A-2

for an Extension of Time
to Water Permit No. 2633-2

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

Published once at the total
approximate cost of \$35.25.

May 20

CERTIFICATION

I hereby certify that on October 22, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 2, 2014, regarding scheduling of the hearing for Water Right Permit Application No. 2633A-2, as addressed below:

Southern Black Hills Water System Inc.
c/o Don Kraus
26858 Highway 385
Hot Springs SD 57747

Michael M Hickey
Bangs McCullen Law Firm
PO Box 2670
Rapid City SD 57709-2670

Talbot Wieczorek
PO Box 8045
Rapid City SD 57709

Sent Inter-office to:

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

Matt Naasz, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



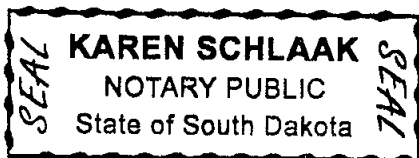
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 2nd day of October, 2014



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



▶ **RAPID CITY**

Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Terry L. Hofer
Rod Schlauger
Daniel F. Duffy
Jeffrey G. Hurd
John H. Raforth
Terry G. Westergaard
Steven R. Nolan
Gregory J. Erlandson
Eric J. Pickar
Sarah E. Baron Houy
Jacob M. Quasney
Kara L. Frankman
Benjamin D. Tronnes
Mark F. Marshall
Of Counsel

▶ **SIOUX FALLS**

Victoria M. Duehr
Kathryn L. Hoyme

*Attorneys also admitted in
Nebraska, North Dakota,
Minnesota and Missouri*



BANGSMcCULLEN
— LAW FIRM —

RECEIVED

OCT 06 2014

WATER RIGHTS
PROGRAM

Reply to Rapid City Office

Writer's e-mail address: mhickey@bangsmccullen.com

October 3, 2014

Mr. Eric Gronlund
DENR-Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

**Re: *In the Matter of the Application of Southern Black
Hills Water Systems No. 2633A-2***

Dear Mr. Gronlund:

This is to confirm our phone conversation of this date. As I advised you, my client Trout Haven Ranch, wishes to withdraw its objection to the application of Southern Black Hills Water Systems in the above matter.

I have earlier advised counsel for Southern Black Hills that we are withdrawing our opposition to this application. I am sending all counsel a copy of this letter so that they are aware of our withdrawal.

If you have any questions or comments, please advise.
Thank you.

Sincerely,

BANG, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

Michael M. Hickey

MMH:bah

cc: Client

Mr. Talbot Wieczorek
Ms. Ann Mines
Mr. Matt Naasz

▶ **RAPID CITY**

First Interstate Gateway
333 West Boulevard
Suite 400
P.O. Box 2670
Rapid City, South Dakota
57709-2670
P. (605) 343-1040
F. (605) 343-1503

▶ **SIOUX FALLS**

5919 S. Remington Place
Suite 100
P.O. Box 88208
Sioux Falls, South Dakota
57109-8208
P. (605) 339-6800
F. (605) 339-6801



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



DEC 01 2014

Southern Black Hills Water System
Don Kraus
26858 Hwy 385
Hot Springs SD 57747

Dear Mr. Kraus:

Enclosed is Water Permit No. 2633A-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,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures