

RECEIVED
JUL 17 2008
WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>2634-2</u> (office use only)	Hydrologic Unit <u>10120109</u>
	Basin <u>Upper Cheyenne</u>	
	Newspaper <u>Custer Co. Chronicle</u>	<u>673-2217</u>
	<u>Hot Springs Star</u> <u>745-4170</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. 2546-2,2302-2

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

Add connection to separate water distribution system.

- Name of Applicant Eben W. Streeter Phone (605) 833-2661
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address PO Box 36 Buffalo Gap State SD 57722
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed No add'l *CFS or **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply See Water Rights Permits 2546-2 and 2302-2
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Custer
NW1/4NE1/4 of Section 15, T6S, R6E
See also Water Rights Permits 2546-2 and 2302-2
- County or counties where water will be used Custer, Fall River
- Annual period during which water is to be used January 1 - 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)

To comply with ARSD 74:02:01:03.01, the Amendment will allow a connection to a separate water distribution system. The water system is Southern Black Hills Water System, Inc.

STATE OF SOUTH DAKOTA)
County of Pennington SS

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

I, Eben W. Streeter, 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 Eben W. Streeter

Subscribed and sworn to before me this 15th day of July 20 08

[Signature]
Notary Public signature

SOUTH DAKOTA
WATER PERMIT NO. 2634-2

Date of first receipt of application July 17, 2008.

The Water Management Board approved Water Permit No. 2634-2 on December 10, 2008 for Eben W Streeter, PO Box 36, Buffalo Gap SD 57722 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. 2634-2 authorizes connection of the Southern Black Hills Water System to a common distribution system owned by Eben Streeter. Eben Streeter currently holds Water Right No. 2302-2 and Water Permit No. 2546-2 which combined appropriate 0.243 cubic feet of water per second (109 gallons per minute) from one well completed into the Madison Aquifer located in the NW 1/4 NE 1/4 Section 15, T6S, R6E, Custer County.
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.
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 July 17, 2008.
5. One-fifth of the construction is to be completed on or before June 10, 2010.
6. All construction is to be completed on or before December 10, 2013.
7. Water is to be put to beneficial use on or before December 10, 2017.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2634-2 is issued for a 20-year term. Pursuant to SDCL 46-2A-21, the 20-year term may be deleted at any time during the 20-year period or following its expiration. If the 20-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2634-2 may also be cancelled for nonconstruction, forfeiture, abandonment, or three permit violations pursuant to SDCL 46-1-12, 46-5-37, 46-5-37.1 and ARSD 74:02:01:37.
2. The 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.

(continued)

3. The well approved under Water Right No. 2302-2 and Water Permit No. 2546-2 shall be valved and the flow reduced to the amount needed or to a minimum when not being used. The well shall also be equipped with a pressure gauge and record kept of pressure fluctuations. The records shall be available to the Chief Engineer upon request. If this well is abandoned or the Permit cancelled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.
4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Madison Aquifer for the common distribution system authorized by Water Right No. 2302-3 and Water Permit No. 2546-2.
5. The water right holder may connect Southern Black Hills Water System, Inc (SBHWS) to the well and SBHWS may use the permitted right subject to the following conditions:
 - a) The water right holder shall bring the well head into compliance with state requirements before allowing SBHWS to connect to the well.
 - b) SBHWS connection to the well will be constructed so as not to prevent the water right holder allowing persons who have historically hauled water access to water under terms and conditions the water right holder may choose to impose.
 - c) SBHWS will not begin construction beyond Phase I and Phase 2 and areas adjacent to or contiguous to Phase 1 and Phase 2, as Phase 1 and Phase 2 and those areas are identified in the proceedings concerning Permit No. 2585-2 in Applicant's exhibit 10 map G01, until an alternative water source is obtained and developed.
 - d) 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.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

FEB 18 2009

date



Supplemental Information

(Complete applicable portions only)

(type or print in ink)

1. Well Information - Proposed Construction*Existing well drilled in 1949
no log or other information is
available.

- a) Drill Hole Diameter 8" & 6" Depth 950 feet
- b) Casing Type steel Diameter 4 inches Thickness 3/8"
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) 950 feet - free flowing
- g) Distance to nearest existing domestic well:

On applicants property _____ On property owned by others _____

2. Wastewater Disposal System Information

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

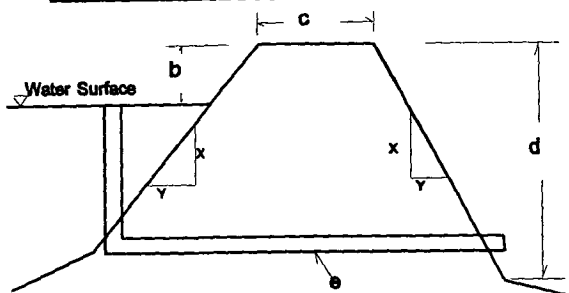
3. Dugout Information

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

4. Water Storage Dams

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

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



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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 7/17/81, 20 08

RECEIVED OF Gunderson Palmer Nelson & Ahlborn - PO Box 8045 Rapid City SD 57709

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No.

03028

By

Harold F. Smith
Chief Engineer

GUNDERSON, PALMER, NELSON & ASHMORE, LLP

ATTORNEYS AT LAW

J. CRISMAN PALMER
JAMES S. NELSON
DANIEL E. ASHMORE
DONALD P. KNUDSEN
PATRICK G. GOETZINGER
TALBOT J. WIECZOREK
JENNIFER K. TRUCANO
DAVID E. LUST
THOMAS E. SIMMONS

ASSURANT BUILDING
440 MT. RUSHMORE ROAD
POST OFFICE BOX 8045
RAPID CITY, SOUTH DAKOTA 57709-8045
TELEPHONE (605) 342-1078 • FAX (605) 342-0480
www.gundersonpalmer.com
ATTORNEYS LICENSED TO PRACTICE IN
SOUTH DAKOTA, NORTH DAKOTA, IOWA, NEBRASKA
COLORADO, WYOMING & MINNESOTA

RECEIVED
JUL 17 2008
WATER RIGHTS PROGRAM
TERRI LEE WILLIAMS
SARA FRANKENSTEIN
AMY K. KOENIG
JASON M. SMILEY
NATHAN M. OOSTRA
MATTHEW E. NAASZ
QUENTIN L. RIGGINS
JEFFREY R. CONNOLLY
WYNN A. GUNDERSON
Of Counsel

July 16, 2008

NEXT DAY DELIVERY

Garland Erbele, PE
Chief Engineer
Water Rights Program, DENR
Joe Foss Building
Pierre SD 57501-3181

RE: Water Right Permit Application – Eben Streeter/Southern Black Hills Water System,
Inc., Oral, South Dakota Amendment to Permit No. 2546-2, 2302-2
GPNA File No. 07653.0002

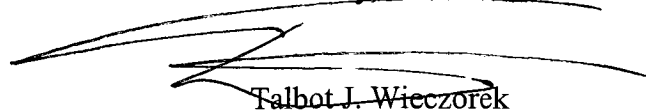
Dear Mr. Eberle:

Enclosed are two completed copies of Application for Permit to Appropriate Water within the State of South Dakota on behalf of Eben Streeter. The application is simply to amend Mr. Streeter's existing permits as referenced in the application.

Please note since the application to amend only concerns amending the permit to provide that water from this well can be used in another distribution system, no map has been attached. There is no intent to change the diversion point or location of the well with this amendment. If a map of the existing well is necessary, please let me know.

Also enclosed is a check in the amount of \$50.00 for the filing fees and final inspection/licensing fee. I was informed that \$50 was the appropriate fee for an amendment since the application does not seek to appropriate additional water. If this is incorrect and the fee is more than \$50, please let me know and we will immediately remit the additional money. Finally, this office will ensure that the cost of publication in the local newspaper will be paid on behalf of the applicant.

Sincerely,



Talbot J. Wiczorek

TJW:klw
Enclosures
c: Eben Streeter
Don Peterson and Clients



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2634-2, Eben W. Streeter**

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. 2634-2, Eben Streeter, PO Box 36, Buffalo Gap SD 57722.

The Chief Engineer is recommending APPROVAL of Application No. 2634-2 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 this permit without a 20 year term limitation, there is reasonable probability that there is unappropriated water available, 2) the proposed connection of a separate water distribution system will not unlawfully impair 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. 2634-2 is issued for a 20-year term. Pursuant to SDCL 46-2A-21, the 20-year term may be deleted at any time during the 20-year period or following its expiration. If the 20-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit Nos. 2632-2 and 2634-2 may also be cancelled for nonconstruction, forfeiture, abandonment, or three permit violations pursuant to SDCL 46-1-12, 46-5-37, 46-5-37.1 and ARSD 74:02:01:37.
2. The 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 approved under Water Right No. 2302-2 and Water Permit No. 2546-2 shall be valved and the flow reduced to the amount needed or to a minimum when not being used. The well shall also be equipped with a pressure gauge and record kept of pressure fluctuations. The records shall be available to the Chief Engineer upon request. If this well is abandoned or the Permit cancelled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.

4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Madison Aquifer for the common distribution system authorized by Water Right No. 2302-3 and Water Permit No. 2546-2.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "Garland Erbele". The signature is fluid and cursive, with the first name "Garland" being more prominent than the last name "Erbele".

Garland Erbele, Chief Engineer
September 2, 2008

NOTE: This common distribution system is a public water system. I encourage the Permit holder to connect Mark Mayer, Administrator with the Drinking Water Program, DENR at (605) 773-3754 to discuss regulations that apply to a public Water system.

WATER PERMIT APPLICATION NOS. 2634-2
EBEN W. STREETER
AUGUST 12, 2008

Water Permit Application No. 2634-2 proposes to connect Southern Black Hills Water System to a common distribution system owned by Eben Streeter. Eben Streeter currently holds Water Right No. 2302-2 and Water Permit No. 2546-2 which combine to appropriate 0.243 cubic feet of water per second (approximately 109 gallons per minute) from one existing well completed into the Madison aquifer located in the NW¼ NE¼ Section 15, T6S-R6E, Custer County.

AQUIFER: Madison aquifer (MDSN)

History:

Water Right No. 2302-2 and Water Permit No. 2546-2 appropriate a total of 0.243 cubic feet of water per second (cfs) from a well that was completed into the Madison aquifer in 1949. The well, originally drilled as an oil test well, was completed as a water well, and has been in use since 1949 for domestic purposes by Mr. Streeter (Water Rights, 1994). On October 10, 1988, the well was repaired, including the installation of 903 feet of four-inch diameter steel liner in the well (Calvin Downen, Downen Drilling Company, oral commun., 20 Aug. 2008). Following the 1988 rehabilitation, the well reportedly flowed 150 gallons per minute (Water Rights, 1994). The well currently does not meet the SD Well Construction Standards since the casing terminates in a pit in violation of SD Well Construction Standard 74:02:04:27 which requires the top of a well's casing shall terminate at least 12 inches above the ground surface.

In 1994, Water Permit No. 2302-2 was issued to appropriate 0.033 cfs for a proposed common distribution system that was to serve 14 rural hookups (Water Rights, 1994). Water Right No. 2302-2 contains two qualifications:

1. Since the well has been in use for a number of years, SDCL 46-2A-20 does not apply. and
2. The well shall be equipped with a pressure gauge and a record kept of any pressure fluctuations.

A 2001 inspection of the works of Water Permit No. 2302-2 conducted by Water Rights Staff pursuant to SDCL 46-5-30 identified:

“Well water is only used at the Streeter Ranch for domestic purposes and by several local residents for drinking water. Local residents obtain water at the well site through a 1.5 inch valved hose. No distribution system, other than to the Streeter Ranch, has been developed nor is one to be developed.”(Stroup, 2001).

In 2005, Water Permit No. 2546-2 was approved to increase the appropriation from the well from 0.033 cubic feet of water per second (cfs) to 0.243 cfs, for the purpose of a common distribution system. Water Permit No. 2546-2 contained three conditions:

1. Pursuant to SDCL 46-1-14 and 46-2A-20, the water permit was issued with a 20-year term
2. The well withdrawals must be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn each year.

ARSD 74:02:01:03.01

Water Management Board rule ARSD 74:02:01:03.01 requires a new water permit to connect a separate water distribution system to the water distribution system. The addition of Southern Black Hills Water System to the existing "Streeter" water distribution system therefore requires a new water permit. If approved, Water Right No. 2634-2 will have a new priority date and construction period.

SDCL 46-2A-9

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

WATER AVAILABILITY:

This application proposes to connect Southern Black Hills Water System to the existing common distribution system that is owned by Eben Streeter. Application No. 2634-2 does not propose to increase the diversion rate that is authorized from the well through existing appropriations. Water Right No. 2302-2 and Water Permit No. 2546-2 currently authorize 0.033 cfs and 0.21 cfs respectively from this well for a common distribution system. Pursuant to ARSD 74:02:01:05.03, the total annual volume of water that can be withdrawn from these two appropriations is limited only by the "authorized and developed diversion rate and not by the actual volume of water withdrawn annually". Although historically, the actual volume of water that has been withdrawn annually is very small, existing appropriations from the Streeter well represent a volume of 175.9 acre-feet per year. Water Permit Application No. 2634-2 does not propose to increase the volume of water appropriated annually from this well. Therefore, the availability of unappropriated water from the Madison aquifer for Water Permit Application No. 2634-2 is not an issue.

AFFECTS ON EXISTING WATER RIGHTS:

The Madison aquifer is a confined aquifer in this area. The Streeter well is a free flowing well with a shut-in pressure reportedly in excess of 30 psi (Water Rights, 1994). Allowing the well to flow or pumping it will reduce the artesian head pressure near the well. Since the storativity of this confined aquifer is assumed to be small, the cone of depression could extend over a fairly large area.

The Water Rights Program does not have any record of domestic wells completed into the Madison aquifer near the Streeter well (Water Rights, 2008c).

In addition to the current appropriations from the Streeter well (Water Right No. 2302-2 and Water Permit No. 2546-2). There are a number of groundwater appropriations or pending appropriations in this area, including four rights/permits to construct works; two future use permits; a deferred application; and a pending application (Water Rights, 2008b).

There are four water rights/permits to construct works and place groundwater to beneficial use within approximately five miles of the Streeter Well. They are shown in table one.

PERMIT/RIGHT NO	NAME	AQUIFER	USE	CFS	DISTANCE (MILES)
2113-2	WILHELM	MNLS	IND	0.03	4.5
419-2	WINDCAVE NATIONAL PARK	MDSN	COM	0.15	3
794-2	BUFFALO GAP	INKR	MUN	0.19	4.5
2615-2	FALL RIVER WATER USERS DISTRICT	MDSN	RWS	0.67	5
MNLS= Minnelusa aquifer, MDSN= Madison aquifer, INKR= Inyan Kara aquifer IND= Industrial, COM= Commercial, MUN= Municipal, RWS= Rural Water System					

Table 1. Groundwater Rights/Permits within five miles of the Streeter Well.

Two future use permits reserve water from the Madison aquifer within approximately five miles of the Streeter well, they are shown in table 2.

PERMIT NO.	NAME	ACRE- FEET/YEAR	DISTANCE (MILES)
2560-2	FALL RIVER WATER USERS DISTRICT	350	3
2580-2	SOUTHERN BLACK HILLS WATER SYSTEM	1474	4.5

Table 2. Future Use Permits within five miles of the Streeter Well

On March 2007 the Water Management Board deferred consideration of Water Permit Application No. 2585-2, Southern Black Hills Water System, to allow for future study to address the public interest aspect of potential impacts of the appropriation on spring flows at Beaver Creek Springs and the water resources of Wind Cave National Park. The well location proposed by Application No. 2585-2 is approximately 400 feet west-southwest of the site proposed by this application.

Currently, Water Permit Application No. 2633-2 for Southern Black Hills Water System is pending Water Management Board action. Water Permit Application No. 2633-2 proposes to appropriate 484 acre feet annual at a maximum diversion rate of 0.67 cubic feet of water per second, from one well to be completed into the Madison aquifer located approximately 2.75 miles northeast of the well site proposed by this application.

Wells that are not completed into the Madison aquifer are not expected to be impacted by withdrawals from the Streeter well since the Madison aquifer appears to be separated hydrologically from other aquifers in this area. Madison aquifer 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.

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 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.

It should be noted however, that the DENR-Water Rights Program monitors 26 observation wells completed into the Madison aquifer and significant well interference (drawdown) has not been documented in any of these wells. This, in spite of the fact that a number of these observation wells are located near high capacity municipal wells in Spearfish, Sturgis and Rapid City. Well interference documented in the observation wells has only been a few feet or tens of feet (Water Rights, 2008a). Given the distance this proposed well site is from existing Madison aquifer wells supplying water rights/permits interference is not expected to be adverse.

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 present 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 Streeter Well is located about 4,000 feet northwest of Beaver Creek Spring. Rahn and Gries (1973) report an average discharge for Beaver Creek Spring as 8.56 cfs. Whalen (1994) reported the Beaver Creek Spring discharge at 3635 gal/min (7.87 cfs). Naus and others (2001) estimate the average discharge of Beaver Creek Spring at approximately 10-15 cfs. This spring discharge provides the baseflow of Beaver Creek. Beaver Creek Spring is classified a 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). A decline of the potentiometric surface of the source aquifer in the vicinity of the springs could decrease spring discharge. Beaver Creek Spring contains geochemical and isotopic characteristics of the Madison aquifer (Whalen, 1994).

Geochemical and common ion data provided by the applicant identifies "significant differences in the water quality" of the Streeter well compared to the water from Beaver Creek Spring (Leggette, Brashears & Graham, Inc., 2008). Although the water quality differences suggest that the source of the Streeter well may be different than the source of Beaver Creek Spring, potential impacts to the spring discharge from increased withdrawals of the well cannot be definitively predicted at this time.

In addition to domestic use, there are 12 Water Rights/Permits appropriating water from Beaver Creek downstream of Beaver Creek Spring (Water Rights, 2008b), and the creek is considered over appropriated (Water Rights, 2005). Appropriations from Beaver Creek are shown in table 3.

PERMIT NO	NAME	USE	CFS	ACRES
1759-2	DANE H CONGER	IRR	3.90	195.80
1794-2	DANE H CONGER	IRR	5.00	537.30
1854-2	DANE CONGER	IRR	2.25	190.40
1892-2	LYDA A BOWKER FAMILY TRUST	IRR	2.40	165.10
1894-2	STEPHEN/LINDA TYMKOWYCH	IRR	1.30	89.40
1910-2	ROBERT K BAKER	IRR	1.30	92.80
1917-2	BCR INC	IRR	1.30	90.20
1919-2	SHAWN FUGIER	IRR	0.20	13.50
1971-2	PAUL & CAROL FUGIER	IRR	0.95	66.60
316-2	SEVEN ELEVEN RANCH INC	IRR	5.40	378.30
892-2	STEVE SIMPSON	COM	11.00	0.00
2573-2	STEVE SIMPSON	FWP	0.00	0.00

Table 3. Beaver Creek appropriations down stream of Beaver Creek Spring

SD Water Law does not protect artesian head pressure as a means of diversion hence well interference resulting in decreased discharge from an “artesian” spring can not be considered an adverse impact to downstream water rights. In 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, 2007a).

The Board recognized the “public interest” issues of decreased base flows in streams that could result from decreased spring discharge as the result of well interference. Recently approved future use permits and water permits appropriating water from the Madison aquifer in this area have 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, 2007b)

Although the total appropriation from the Streeter well will not increase if this application is approved, the actual amount of water withdrawn from the well likely will increase. The existing water rights for the Streeter well (Water Right No. 2302-2 and Water Permit No. 2546-2) contained qualifications that required records of the well head pressure be kept and that annual use must be reported to the Chief Engineer. The estimated water use from the Streeter well as provided by Eben Streeter is shown in table 4.

YEAR	ESTIMATED WATER USE (gallons per day)	ANNUAL VOLUME (acre-feet)
2005	3,000	3.36
2006	5,000	5.60
2007	5,500	6.16

Table 4. Estimated water use from Water Right No. 2302-2 and Water Permit No. 2546-2

The well reportedly flows 150 gallons per minute, but the sustainability of the flow rate is unknown. Also, since the well is cased with only a four-inch diameter casing it is not clear how large of a pump can be installed in the well. If it is assumed that water can be withdrawn from the well at a continuous rate of 0.243 cfs until demand is satisfied, the volume of water withdrawn annually from the well is likely to increase to as much as 106 acre-feet/year, assuming 60% of full time usage which is considered appropriate for a common distribution system (Water Rights, 2008f). A new permit will be required to construct a replacement well, construct an additional well or increase the diversion rate from the existing Streeter Well if the physical limitations of this existing well do not allow it to meet the demand.

If average daily use of the Streeter Well increases from the current estimated 5,500 gallons per day to 94,226 gallons per day, the effect on the aquifer would be equivalent to increasing the average pump rate of the well from 3.82 gallons per minute to 65.43 gallons per minute with Southern Black Hills Water System using the well 60 percent of continuous pumping. Since drawdown at any location outside the pumped well varies directly with the pumping rate (Driscoll, 1986), any drawdown at the location of Beaver Creek Spring that may be caused by withdrawals from the Streeter well could be increased with this approval of this application.

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 (4,000 feet) and the relatively low diversion rate proposed by this application, (109 gpm maximum), it is unlikely that drawdown from this well would have a measurable impact on the spring discharge. This is particularly apparent in light of the fact that estimates for the spring's discharge range from 7.87 cfs to 15 cfs.

Wind Cave National Park:

The National Park Service (NPS) filed a petition to intervene in the matters of Future Use Water Permit Application No. 2580-2 and Water Permit Application No. 2585-2 that were filed by the Southern Black Hills Water System. The Streeter Well site proposed by this application is located within approximately 400 feet of the well that was proposed by Water Permit Application No. 2585-2. The NPS expressed concerns that the proposed appropriations may adversely affect the water rights and water-related resources of Wind Cave National Park. The water-related resources cited by the NPS include "several lakes and pools in the lower reaches of Wind Cave that likely define the ground-water table in this region of the aquifer. Other water resources of high value at Wind Cave NP include three perennial streams (Cold Springs, Beaver, and Highland Creeks), many intermittent and ephemeral stream courses, and over 95 seeps and springs" (Petree, 2006).

The Streeter Well is located over two miles from Wind Cave National Park and over four miles from the lakes and pools in the cave. The major difference between this application and deferred Water Permit Application No. 2585-2 is the diversion rate associated with this application is only 0.243 cfs (109 gpm) compared to the 2.67 cfs (1,198 gpm) proposed by Application No. 2585-2. Measurable impacts to the national park's water resources are not expected if Water Permit Application No. 2634-2 is approved due to the distance between the Streeter well and to Wind Cave National Park and the relatively low diversion proposed.

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 SCL 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."

A permit facilitating the connection of Southern Black Hills Water Systems to the Streeter well constitutes a permit for the construction of works; therefore SDCL 46-2A-20 is applicable. Evidence is not available to justify issuing this permit without a term limitation of 20 years.

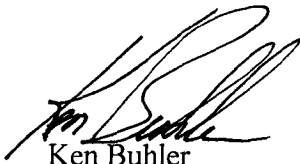
WATER PERMIT/RIGHT TRANSFER

Water Permit Application No. 2634-2 does not propose to change the use or diversion rate authorized for the Streeter Well. Therefore, a simple transfer of ownership of the water rights, not necessarily the well, from Eben Streeter to Southern Black Hills Water System would have accomplished the same thing this permit is proposing without public notice or hearing.

CONCLUSIONS:

1. This application proposes to connect Southern Black Hills Water System to the Eben W. Streeter Well.
2. The Streeter Well is an existing well that is currently used for a common distribution system under Water Right No. 2302-2 and Water Permit No. 2546-2.
3. The well that is to be used to supply this appropriation is located in a well pit and therefore does not comply with the SD Well Construction Standards.
4. The appropriation from the Streeter Well under Water Right No. 2302-2 and Water Permit No. 2546-2 is not limited to an annual volume other than the volume associated with continuous use at the maximum diversion rate.
5. The volume of water used from the Streeter Well is a small fraction of the total volume appropriated under existing water rights.

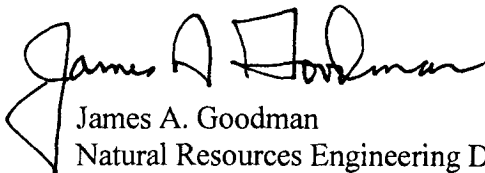
6. This application does not propose to increase the appropriation from the Madison aquifer.
7. If Southern Black Hills Water System connects to the Streeter Well the volume of water pumped annually from the well will increase from less than 10 ac-ft/yr to as much as 106 ac-ft/yr.
8. Approval of Water Permit Application No. 2634-2 will not adversely impact existing water rights including domestic use.
9. Water Permit Application No. 2634-2 can be considered even though the Water Management Board has deferred consideration of Water Permit No. 2585-2 since the public interest of each application must be determined on its own merit.
10. Rural water systems such as Southern Black Hills Water Systems are a beneficial use of water.
11. It is not known if the Streeter well will flow 109 gallons per minute over a sustained timeframe.
12. It is not known if the size of the casing in the Streeter well will accommodate a pump large enough to pump 109 gallons per minute.
13. A new permit will be required to construct a replacement well, construct an additional well or increase the diversion rate from the existing Streeter Well.
14. Information is not available to justify issuing these permits without a term limitation of 20 years.
15. 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.
16. There would not have been public notice or hearing if water rights were transferred from Eben Streeter to Southern Black Hills Water Systems.



Ken Buhler

Natural Resources Engineering Specialist

Approved by



James A. Goodman

Natural Resources Engineering Director

REFERENCES:

Driscoll, F.G., 1986, Groundwater and Wells, Johnson Division, St. Paul, MN. 1089 p.

Leggette, Brashears & Graham, Inc., 2008, Ground-Water Geochemical Sampling & Analysis Southern Black Hills in the Vicinity of the Streeter Ranch and Wind Cave Custer and Fall River Counties, Black Hills, South Dakota; Report prepared on behalf of Southern Black Hills Water System, Inc., in Water Right No. 2302-2

- Naus, C.A., Driscoll, D.G., and Carter, J.M., 2001, Geochemistry of the Madison and Minnelusa Aquifers in the Black hills Area, South Dakota: USGS Water-Resources Investigations Report 01-4129, 118 p.
- Pette, C.W., 2006, June 30, 2006 Petition to Intervene with regard to Applications 2680-2 and 2585-2 filed by the Southern Black Hills Water System: U.S. Department of the Interior, National Park Service, Water Resources Division; in Water Permit Application 2585-2 file, SD DENR-Water Rights Program
- Rahn, P.H, and Gries, J.P., 1973, Large Springs in the Black Hills, South Dakota and Wyoming: SD Geological Survey Report of Investigations No. 107, 46 p.
- Stroup, D.E., 2001, Inspection Report for The Completion of Construction of Works and Application of Water to Beneficial Use for Water Right 2302-2: in Water Right No. 2302-2, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights, 1994, Water Permit Application No. 2302-2 Eben Streeter, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights, 1995, Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights, 2005, "Report on Water Permit Application 2573-2, Steve Simpson" by Stroup, D.E , in Water Right No. 2302-2, South Dakota DENR-Water Rights Program, Joe Foss Building, Pierre, SD,
- Water Rights, 2007a, Water Permit Application No. 2585-2, Southern Black Hills Water System, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights, 2007b, Water Permit Application No. 2580-2, Southern Black Hills Water System, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights, 2008a, Observation Well Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights, 2008b, Water Permit/Right Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights, 2008c, Well Completion Report Files, DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501
- Water Rights, 2008d, "Report for Water Permit Application No. 2631-2", Unpublished Report in Water Permit No. 2631-2, SD 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

Form 8

SEP 11 2008

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Fall River) SS

I, Brett Nachtigall

certify that the attached printed Notice was taken

from the Hot Springs Star

printed and published in Hot Springs
County of Fall River and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

September 2, 2008

September 9, 2008

Cost of Printing \$179.44

Brett Nachtigall
(Signature)

Publisher
(Title)

9-8-08

(Date Signed)

Laura Tarrell
Notary Public

353

NOTICE OF HEARING

on Application No. 2634-2 to
Appropriate Water

Notice is given that Eben W. Streeter, PO Box 36, Buffalo Gap SD 57722 has filed an application for a water permit proposing to connect Southern Black Hills Water System to a common distribution system owned by Eben Streeter. Water Management Board Rule ARSD 74:02:01:03.01 requires a new water permit to connect a separate water distribution system. Eben Streeter currently holds Water Right No. 2302-2 and Water Permit No. 2546-2 which combined appropriate 0.243 cubic feet of water per second (109 gallons per minute) from one well completed into the Madison Aquifer located in the NW 1/4 NE 1/4 Section 15, T6S, R6E, Custer County.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2634-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 September 22, 2008. 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.

The Water Management Board will consider this application at 10:00 A.M. on October 2, 2008 in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. in Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is

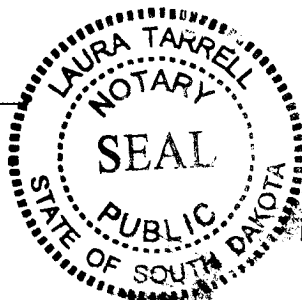
authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The October 2, 2008 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 22, 2008.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by September 22, 2008, at the above Water Rights Program address to request copies of information pertaining to this application. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by September 22, 2008.

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

Sept. 2, 9



My Commission Expires
December 3, 2013

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

Eben Streeter

PO Box 36, Buffalo Gap SD 57722

Nakhi Wearing

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

Sept. 3, 2008; Sept. 10, 2008;

_____, _____; _____, _____;

_____, _____; _____, _____;

_____, _____; _____, _____;

the full amount of the fees for the publication of the annexed notice is \$ 67.63.

Charles W. Najacht

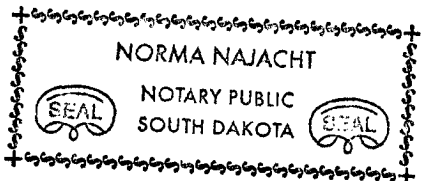
Subscribed and sworn to me before this 10

of September, 2008;

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2012



NOTICE OF HEARING ON APPLICATION NO. 2634-2 TO APPROPRIATE WATER

Notice is given that Eben W. Streeter, PO Box 36, Buffalo Gap SD, 57722 has filed an application for a water permit proposing to connect Southern Black Hills Water System to a common distribution system owned by Eben Streeter. Water Management Board Rule ARSD 74:02:01:03.01 requires a new water permit to connect a separate water distribution system. Eben Streeter currently holds Water Right No. 2302-2 and Water Permit No. 2546-2 which combined appropriate 0.243 cubic feet of water per second (109 gallons per minute) from one well completed

into the Madison Aquifer located in the NW 1/4 NE 1/4 Section 15, T6S, R6E, Custer County.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2634-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 September 22, 2008. 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.

The Water Management Board will consider this application at 10:00 A.M. on October 2, 2008 in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. in Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The October 2, 2008 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 22, 2008.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by September 22, 2008, at the above Water Rights Program address to request copies of information pertaining to this application. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by September 22, 2008.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31;

RECEIVED

SEP 26 2008

WATER RIGHTS
PROGRAM

46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

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

#267, 9/3, 9/10



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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

August 27, 2008

Eben W Streeter
PO Box 36

~~Custer SD 57730~~
Buffalo Gap 57722

Dear Mr. Streeter:

Water Permit Application No. 2634-2 for rural system water use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publishers of the Custer County Chronicle printed at Custer SD (Ph # 605-673-2217) and the Hot Springs Star printed at Hot Springs SD (Ph # 605-745-4170). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice is enclosed. The staff report and Chief Engineer's recommendation will be sent to you in the near future. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization, the publishers have been instructed to publish your notice once each week for two consecutive weeks. The newspapers have 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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 27, 2008

Custer County Chronicle
PO Box 551
Custer SD 57730

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2634-2 to be published twice. Please publish the first notice on September 3, 2008 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Eben W. Streeter, PO Box 36, Buffalo Gap SD 57722 (Ph # 605-833-2661).

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

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 2634-2

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

Date _____

We are in receipt of your letter of August 27, 2008 enclosing Notice to Appropriate Water by Application No. 2634-2 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 27, 2008

Hot Springs Star
PO Box 1000
Hot Springs SD 57747

ATTENTION: Legal Public Notice

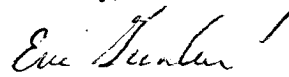
Enclosed is a Notice on Application No. 2634-2 to be published twice. Please publish the first notice on September 2, 2008 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Eben W. Streeter, PO Box 36, Buffalo Gap SD 57722 (Ph # 605-833-2661).

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

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 2634-2

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

Date _____

We are in receipt of your letter of August 27, 2008 enclosing Notice to Appropriate Water by Application No. 2634-2 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on September 3, 2008 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2634-2 to Appropriate Water

Notice is given that Eben W. Streeter, PO Box 36, Buffalo Gap SD 57722 has filed an application for a water permit proposing to connect Southern Black Hills Water System to a common distribution system owned by Eben Streeter. Water Management Board Rule ARSD 74:02:01:03.01 requires a new water permit to connect a separate water distribution system. Eben Streeter currently holds Water Right No. 2302-2 and Water Permit No. 2546-2 which combined appropriate 0.243 cubic feet of water per second (109 gallons per minute) from one well completed into the Madison Aquifer located in the NW ¼ NE ¼ Section 15, T6S, R6E, Custer County.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2634-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 September 22, 2008. 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.

The Water Management Board will consider this application at 10:00 A.M. on October 2, 2008 in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. in Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The October 2, 2008 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 22, 2008.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by September 22, 2008, at the above Water Rights Program address to request copies of information pertaining to this application. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the public hearing if you have a disability for which special arrangements must be made at the hearing.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by September 22, 2008

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 2, 2008

Eben W Streeter
PO Box 36
Buffalo Gap SD 57722

Dear Mr. Streeter:

The staff report and Chief Engineer's recommendation for Water Permit No. 2634-2 are enclosed.

Please review and contact us if you have any questions.

Sincerely:

Gail Jacobson
Water Rights Secretary
605-773-3352

cc: Talbot Wieczorek, PO Box 8045, Rapid City SD 57709
Bob Peplinski, Southern Black Hills Water System, 27819 Hidden Valley Rd, Oral
SD 57766

Trudy D. Jara
11897 Sundance Drive
Hot Springs, SD 57747-6009

RECEIVED

SEP 12 2008

WATER RIGHTS
PROGRAM

September 10, 2008

Chief Engineer,

After reading the Hot Springs Star yesterday, I wish to file an objection to both Application No. 2633-2 and 2634-2 to Appropriate Water. I noted that our Custer County neighbor, Robert H. Peplinski, Chairman of Black Hills Water System, Inc. filed the first application and an Eben W. Streeter with P.O. Box 36, Buffalo Gap, SD filed the second application. I was unaware that Black Hills Water System, Inc. is based out of Oral or Buffalo Gap, SD.

The Madison Aquifer is not an unlimited resource at 1850 feet deep. There are multiple properties already dependent on the Madison. The sited locations for both requests were written as SE ¼ SE ¼ Section 35-T5S-R6E Custer County and NW ¼ NE ¼ Section 15-T6S-R6E Custer County.

My primary objection is that this new water company is not in the public interest. When the project was started some years ago projected costs to the public were verbalized and connection availabilities were discussed. The costs have doubled and the plans are now unclear. And whom will it benefit? The Contractors? The Developers?

We need to save the Great Resources of the Black Hills and surrounding areas. This was our first wet year in the past eight to nine years. We need to treasure what the Black Hills provides South Dakota residence and not open up the area to future development with five-acre ranchettes and a gigantic need for water from the Madison Aquifer at each individual site.

Please say no to these applications. Our Black Hills are the only hills in South Dakota. We need to treasure them for future generations. Also remember that the tourist's dollars support our state economy. Besides, we need to keep the Black Hills open and welcoming to the many animals that call them home.

From the bottom of my heart,


Trudy D. Jara

CC: R.H. Peplinski and E.W. Streeter

Gronlund, Eric

From: Rabuse [krabuse@earthlink.net]
Sent: Tuesday, September 16, 2008 4:50 PM
To: Gronlund, Eric; ken.royse@bartwest.com
Cc: keith
Subject: Southern Black Hills Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

We are in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. We are a landowner in the project area and have applied for water service from the proposed System. We support the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Keith and Kathryn Rabuse
(Canyon Rim Ranch, Big Sky 7)
10207 Best Drive
Dallas, Texas 75229

214-350-0206

Rabuse

09/17/2008

Gronlund, Eric

From: Oxley, J. Jeffery [jjoxley@integratelecom.com]
Sent: Tuesday, September 16, 2008 12:23 PM
To: Gronlund, Eric
Cc: 'Ken.Royse@bartwest.com'; 'Jeane DeLaney'
Subject: Water Permit Applications No.s 2633-2 and 2634-2

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

Dear Mr. Gronlund:

At the suggestion of Lisa Scheinhost, we are writing you to tell you that we in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. We own land in the project area and plan on building our retirement home there. We certainly value a secure water supply. We agree with the Chief Engineer's independent review and recommendation for approval and urge you to support approval of the applications.

Sincerely,

John J. Oxley and Jeane H. DeLaney
1974 NW Lovejoy # 5
Portland OR 97209

09/16/2008

Gronlund, Eric

From: Dave Patee [dave.patee@consumers-supply.com]
Sent: Monday, September 15, 2008 4:51 PM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBH Water System

Water Rights Program
Foss Building
523 E Capital Street
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Application No's. 2633-2 and 2634-2. These applications will go before the State Water Management Board; October 2, 2008. I am a landowner in the project and need water from the proposed system. I am in agreement with the Chief Engineers independent review and recommendation for approval.

Thank You for your consideration in approving these permits.

Sincerely,

David Patee
11507 Red Canyon Road
Not Springs, South Dakota
57747

09/16/2008

Gronlund, Eric

From: Dwight Rabuse [Dwight@livgard.com]
Sent: Monday, September 15, 2008 2:13 PM
To: Gronlund, Eric
Cc: ken.royse@bartwest.com; scheinost@bwig.net; sandysabo@comcast.net
Subject: Southern Black Hills Water

Dear Mr. Gronlund,

My wife Sandy and I own a home at the Canyon Rim Ranch development near Pringle. We are strongly in favor of the SBH water project and support granting permit application nos. 2633-2 and 2634-2, which we understand are going before the Board on October 2nd.

Thank you for your attention.

Dwight Rabuse
Attorney at Law
Livgard & Rabuse, P.L.L.P.
2520 University Avenue SE, Suite 202
Minneapolis, MN 55414
612.825.7777 - phone
612.825.3977 - fax
Dwight@livgard.com
www.livgard.com

This E-mail is confidential, may be privileged, and is intended for the use of the addressees only. If you are not an addressee (or person responsible for delivering this E-mail to the addressees), do not use this E-mail in any way, but promptly contact the sender and delete the E-mail.

09/15/2008

KUTAK ROCK LLP

**THE OMAHA BUILDING
1650 FARNAM STREET
OMAHA, NEBRASKA 68102-2188**

**402-346-6000
FACSIMILE 402-346-1148**

www.kutakrock.com

ATLANTA
CHICAGO
DENVER
DES MOINES
FAYETTEVILLE
IRVINE
KANSAS CITY
LITTLE ROCK
LOS ANGELES
OKLAHOMA CITY
RICHMOND
SCOTTSDALE
WASHINGTON
WICHITA

JO BASS
jo.bass@kutakrock.com
(402) 346-6000

PERSONAL

September 15, 2008

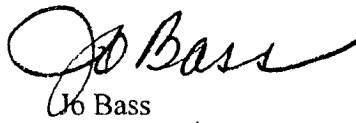
Water Rights Program
Foss Building
523 E. Capital Avenue
Pierre, SD 57501

Dear Mr. Gronlund:

I am in favor of the SBH Project and support Water Permit Applications #2633-2 and #2634-2. These applications will go before the State Water Management Board on October 2, 2008. I am a landowner in the project area, plan to build a home there in 2009 and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,



Jo Bass
1439 S. 87th St
Omaha, NE 68124
(402) 390-0121

Gronlund, Eric

From: Steve Buttress [sbuttress@frontiernet.net]
Sent: Sunday, September 21, 2008 9:48 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBH Water Project

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

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I have recently constructed a home in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Steve Buttress
26835 Elk Run Road
Hot Springs, SD 57747
308 236-9967
308 708-0113 cell
www.stevebuttress.com

09/22/2008

Gronlund, Eric

From: Barton and Lois Adrian [paradox8@cox.net]
Sent: Saturday, September 20, 2008 4:01 PM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: Southern Black Hills Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. We plan to build within the next 12 months. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Barton and Lois Adrian

Gronlund, Eric

From: Barb Kegel [barbk@isodisc.com]
Sent: Friday, September 19, 2008 11:35 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com; Bernie.Sailer@BARTWEST.COM; Alan Kegel
Subject: Southern Black Hills Water Project

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Barb Kegel
4109 North 138th Ave Circle
Omaha, NE 68164
Office: 402-453-1699 x101
Fax: 402-453-1799
Cell: 402-578-2719
barbk@isodisc.com
<http://www.isodisc.com>

Gronlund, Eric

From: alank@isodisc.com
Sent: Friday, September 19, 2008 7:06 AM
To: Gronlund, Eric; Ken.Royse@bartwest.com; Bernie.Sailer@BARTWEST.COM
Subject: Southern Black Hills Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Water Project and support Water Permit Application No.s 2633-2 and 2634-2. To ensure a high quality source of potable domestic water, it is essential these projects advance. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Alan Kegel
14737 Himebaugh Plaza
Omaha, NE 68116
402-201-5990

Gronlund, Eric

From: embr4u@aol.com
Sent: Wednesday, September 17, 2008 2:27 PM
To: Gronlund, Eric
Subject: Water Rights Program

Sir

As a potential land owner who will benefit from the approval of water permit applications 2633-2 & 2634-2, we are asking you approve these permits. We are at an age where hauling water for our needs becomes a major issue and the older we get the harder this will be for us. Rural water will eliminate that need, be a substantial benefit to existing landowners as well as potential new landowners.

We hope this will be approved soon and the project can begin
Thank you very much

[·] Kathy & Glenn Gardner

Looking for spoilers and reviews on the new TV season? [Get AOL's ultimate guide to fall TV.](#)

09/17/2008

Gronlund, Eric

From: Arnold Osmundson [absfsd@msn.com]
Sent: Thursday, September 11, 2008 8:34 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: Water hearing

Dear Mr. Gronlund:

My wife and I own property near West Argyle Road and are part of the Southern Black Hills Water System project.

On Oct. 2 we understand there will be a hearing with the State Water Management Board regarding a request to distribute water. I wish to make known our complete support for the project and encourage a positive ruling after the hearing. We need this project and have no other viable options.

We are counting on your support and will be watching the outcome. Thanks for your interest and work.

Sincerely,

Becky and Arnie Osmundson

09/11/2008

Gronlund, Eric

From: Ed Nesselhuf [pastored@prisoncongregations.org]
Sent: Wednesday, September 10, 2008 11:21 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: Water permit applications

Dear Mr. Gronlund,

My family owns land in Southern Custer County, off of West Argyle Road, which is part of the proposed So. Black Hills Rural Water development. As you probably know, it is quite arid land, in need of a rural water system. I am writing to encourage the passage of Water permit application no. 2633-2 and no. 2634-2 which would allow progress on this needed development. It is my understanding that an independent state review on each permit has yielded a recommendation for approval, for both permits.

Thank you for your consideration of this request.

Sincerely,
Ed Nesselhuf
31612 471st Ave.
Burbank, SD 57010

09/10/2008

Gronlund, Eric

From: Toni Devereux [toni@allamericanrealtygroup.com]
Sent: Tuesday, September 09, 2008 1:07 PM
To: Gronlund, Eric
Subject: SBH Water Project

Im very much in favor of both permits being issued. The need for domestic water is great and will enhance the Hot Springs area economy.

**Thanks You,
Toni Devereux**

**All American Realty Group, LLC - Hot Springs
Toni Devereux Owner/Broker
209 N. River Street
Hot Springs, SD 57747
toni@allamericanrealtygroup.com
www.allamericanrealtygroup.com
Phone 605-745-8700
Fax 605-745-8701
Cell 605-673-1941**

09/09/2008

Gronlund, Eric

From: Robson [robson@mt-rushmore.net]
Sent: Tuesday, September 09, 2008 11:59 AM
To: Gronlund, Eric
Subject: Water Permits

Dear Sir,

We have an interest in the development of water resources in the area of the Black Hills which might well serve us as a potential customer of rural water.

We are therefore asking you to approve the following permits:

Water Permit Application No. 2633-2.

Water Permit Application No. 2634-2.

Thank you for your consideration of these matters.

Sincerely,

Robert and Sonja Shannon
24705 Timber Ridge Road
Hermosa, SD 57744

09/09/2008

Gronlund, Eric

From: Pat John Muilenburg [muilenjd@msn.com]

Sent: Tuesday, September 09, 2008 10:19 AM

To: Gronlund, Eric

Cc: Ken.Royse@bartwest.com

Sir,

As a landowner in the Pringle,S.D. area, I support the efforts to deliver safe and clean water to this area and the Southern Black Hills.

I appreciate your efforts and encourage you even to do more to provide this vital commodity for use by the taxpayers in this area.

thank you!!

John Muilenburg

09/09/2008

Gronlund, Eric

From: Oliver, Jeff [Jeff.Oliver@gs.com]
Sent: Monday, September 08, 2008 1:48 PM
To: Gronlund, Eric
Subject: For your consideration regarding;Water Applications Review on 10/02/08: Permits #2633-2 and 2634-2

Dear Sir,

It has come to my attention that a meeting is to be held on October 2 of this year to review Water Permit Applications 2633-2 & 2634-2 for approval. As a landowner and future resident of the Pine Butte sub-division southwest of Custer, I believe these are very important applications and would like to ask for your support in approving them as an expression of belief in the future of the area. I have visited the Dakota area often and fell in love with the landscape and way of life, so I purchased land to build and live in my retirement home someday soon. I see this project as the best way to support both the reasonable growth and continued natural beauty that so enriches your country and community. Thank you for your consideration of my letter. Good luck, God bless.

Jeff Oliver
708-269-6871

09/09/2008

Gronlund, Eric

From: Steve Reecy [twobarr@gwtc.net]
Sent: Tuesday, September 09, 2008 7:52 AM
To: Ken.Royse@bartwest.com
Cc: Gronlund, Eric
Subject: Southern Black Hills Water Project
Importance: High

Gentlemen:

I am sending this in support of the Southern Black hills Water Project. We ranch north of Edgemont, SD. We have signed up to recieve water if this project is approved. We would be using this water for both cattle and home, as you know with well water you never know how long you we have it. It also can be very expensive if you run out. This project is good for the southern hills and has been approved by the State.

Thanks you

Steve & Sandie Reecy

09/09/2008

Gronlund, Eric

From: Lisa Scheinost [scheinost@goldenwest.net]
Sent: Friday, September 12, 2008 11:44 PM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com; Jeff Scheinost
Subject: SBH Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Lisa Scheinost
710 Taft Avenue
Edgemont, SD 57735
605-662-7048

09/15/2008

Gronlund, Eric

From: Skip Kronemeyer [s_kronemeyer@hotmail.com]
Sent: Saturday, September 13, 2008 12:06 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: Southern Black Hills Water

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System.

I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Stuart Kronemeyer
26789 Elk Run Rd.
Hot Springs, SD 57747

09/15/2008

Gronlund, Eric

From: Steve Buttress [sbuttress@kearney.net]
Sent: Saturday, September 13, 2008 6:53 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBH Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a homeowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Steve Buttress and Jan Weber
26835 Elk Run Road
Hot Springs, SD 57747

09/15/2008

Gronlund, Eric

From: Ken Stach [kenstach@santel.net]
Sent: Saturday, September 13, 2008 7:06 AM
To: Gronlund, Eric
Cc: ken.royse@bartwest.com
Subject: Southern Black Hills Rural Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area (Canyon Rim Ranch, near Pringle) and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Ken Stach
24175 405th Avenue
Letcher, SD 57359

Phone 605-248-2620

09/15/2008

Gronlund, Eric

From: Cheryl FitzgarraId [cherylfitz@gmail.com]
Sent: Saturday, September 13, 2008 7:49 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBH Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Cheryl FitzgarraId
Vista Meadows 6 - Canyon Rim Ranch
879 S 156 Ave.
Omaha, NE 68118

09/15/2008

Gronlund, Eric

From: Becky and Bob Baer [baerb@brookings.net]
Sent: Saturday, September 13, 2008 10:18 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBH Water Project

Water Rights Program
Foss Building
523 E. Capital Ave.
Pierre, SD 57501

Dear Mr. Gronlund,

We are in favor of the SBH Project and support Water Permit Application No.s2633-2 and 2634-2. These applications will go before the State Water Management Board on October 2, 2008. We are a landowners in the project area and need water from the proposed system. We are in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Robert J. and Rebecca K. Baer
26866 Elk Run Road
Hot Springs, SD 57747

605-745-7662
605-697-6461

09/15/2008

Gronlund, Eric

From: Lois Howard [lehwr@seo.midco.net]
Sent: Saturday, September 13, 2008 11:24 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBH Water system

Sept 13, 2008

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Richard & Lois Howard
215 E 27th St
Sioux Falls,SD 57105

09/15/2008

Gronlund, Eric

From: M Hay [hayloft@goldenwest.net]
Sent: Saturday, September 13, 2008 12:13 PM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: Southern Black Hills Water Project

To Whom It May Concern

Please note that my wife and I are in full support of both water permit applications No 2633-2 and No 2634-2. Our residence is located at 12573 Pine Shadows Rd. Hot Springs SD 57747. Our mail address is PO Box 667 Hot Springs SD 57747.

We presently haul water for domestic use and would greatly benefit from water being piped to our property. This would cut down on fuel costs and would not increase the amount of water being taken from the well in Hot Springs.

Sincerely;
David and Marita Hay

09/15/2008

Gronlund, Eric

From: tcddtd@comcast.net
Sent: Saturday, September 13, 2008 2:43 PM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBH Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Thomas and Suann Carbone
109 Cherry Dr.
Egg Harbor Twp. NJ 08234
609-646-5859

09/15/2008

Gronlund, Eric

From: Harry and Marilyn Swain [daisyssd@gwtc.net]
Sent: Saturday, September 13, 2008 10:26 PM
To: Gronlund, Eric
Subject: Support for Southern Black Hills Water System

We fully support the SBH Project and are extremely interested in seeing it to fruition. We have relied on having water hauled at 2000 gallons per delivery as the well that we had drilled approximately 30 years went haywire. We have had to watch our water usage very carefully and the cistern we have only holds about 3000 gallons. There have been too many times when our cistern level became critically low and have had to wait patiently for our water delivered according to the water hauler; many times because the water hauler is so pressed for time because he covers at least two counties we have nearly run out of water. We are excited about the possibility of the SBH water system coming closer to reality. We are pleased that the independent State review on each of the water permit applications (No. 2633-2 and 2634-2) has yielded a recommendation on each for approval.

Thank you for the promising update information and we hope the public hearings go favorably as there are many, many ranchers and others who really need this water system urgently.

Harry and Marilyn Swain
12694 Argyle Rd.
Hot Springs, SD 57747-6031

Gronlund, Eric

From: KATHY FLEMING [mikatfleming@msn.com]
Sent: Sunday, September 14, 2008 12:53 PM
To: Gronlund, Eric
Cc: ken.royse@bartwest.com
Subject: SBH Water Project

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Mike Fleming
26850 Stage Stop Road
PO Box 65
Pringle, SD 57773
605-745-3284

Get more out of the Web. Learn 10 hidden secrets of Windows Live. [Learn Now](#)

Gronlund, Eric

From: Bill Kalm [billkalm@cox.net]
Sent: Sunday, September 14, 2008 3:31 PM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBH Project and Water Permit Applications

Water Rights Program
Foss Building
523 E. Capital Ave.
Pierre, SD 57501

Mr. Gronlund:

We are in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. We are landowners in the project area (Canyon Rim Ranch, Orion's Ridge #3 and Big Sky #11) and need water from the proposed System. We are in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

William Kalm and Raedene Keeton
4702 E. Berneil Dr.
Phoenix, AZ 85028
602-538-1790

--

William D. "Bill" Kalm
Phone: 602-538-1790
Fax: 480-315-9707

This message, together with any attachments, is intended only for the use of the individual or entity to which it is addressed. It may contain information that is confidential and prohibited from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this message or any attachment is strictly prohibited. If you have received this message in error, please notify the original sender immediately by telephone or by return e-mail and delete this message along with any attachments, from your computer. Thank you.

09/15/2008

Gronlund, Eric

From: Paul VanBockern [pvanbockern@wrrestaurants.com]
Sent: Sunday, September 14, 2008 7:59 PM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: FW: SBH Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Water Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Paul Van Bockern
3209 Riversedge Way
Sioux Falls SD 57105
605-339-3611

09/15/2008

Gronlund, Eric

From: Scheinost, Jeff [Jeff.Scheinost@bsci.com]
Sent: Monday, September 15, 2008 8:15 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com; Lisa Scheinost
Subject: Southern Black Hills Water System

Water Rights Program
Foss Building
523 E Capital Ave
Pierre, SD 57501

Mr. Gronlund,

I am in favor of the SBH Project and support Water Permit Application No.s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. I am a landowner in the project area and need water from the proposed System. I am in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely,

Jeff Scheinost
2639 Cardinal Way
Buffalo, MN 55313
763-684-1992

09/15/2008

Gronlund, Eric

From: Ursula R. Gaertner [ugaertner@gwtc.net]
Sent: Wednesday, September 24, 2008 9:04 AM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: Water Permits

Dear Sirs,

Please note that we support water permits #2633-2 and #2634-2. We are very interested that these projects go forward since we have property south of Hot Springs and this property has no access to water. Since the recommendation has been positive for these projects, we hope that they will be approved.

Sincerely,

Ursula R. Gaertner
ugaertner@gwtc.net
Steven Potter
spotter@gwtc.net

09/24/2008

Gronlund, Eric

From: Terry Johnson [terryjohnson@goldenwest.net]
Sent: Monday, September 29, 2008 2:59 PM
To: Gronlund, Eric
Cc: Ken.Royse@bartwest.com
Subject: SBJ Project & Water Permit Application #'s 2633-2 & 2634-2
Importance: High

Eric Gronlund
Water Rights Program
Foss Building
523 E Capital AV
Pierre SD 577501

Dear Mr. Gronlund

We are in favor of the SBH Project and support Water Permit Application #'s 2633-2 and 2634-2. These applications will go before the State Water Management Board October 2, 2008. We are landowners in the project area and need water from the proposed System. We are in agreement with the Chief Engineer's independent review and recommendation for approval.

Thank you for your consideration in approving these permits.

Sincerely

Terry & Scott Johnson
26680 Buffalo Butte DR
Hot Springs SD 57747
605-745-3826

09/29/2008

October 2, 2008

Deliver via e-mail to: Eric.Gronlund@state.sd.us

Eric Gronlund/Chief Engineer
Water Rights Program
Foss Building
523 E. Capitol Ave
Pierre. SD 57501

RE: Southern Black Hills Water Permit Applications No.s 2633-2 and 2634-2

Dear Mr. Gronlund

I am writing in support of your recommendation to approve the above named water permits for Southern Hills Water. As founder of Red Canyon Company, a company which has pioneered environmentally-friendly land development in the Black Hills, we represent over seventy five land owners in multiple communities (Canyon Rim Ranch, Tatanka Spirit) which are located in the proposed SBH service area.

Our "wilderness preservation communities" have established a new, more sensitive development model which results in low impact, low density living options for second homes or retirement living. Because of these unique communities, more and more South Dakotans are returning home for retirement or recreational living. Moreover, even we're attracting people from as far as the U.K and Singapore. The benefit to the Black Hills is a higher tax base (without virtually no increased use of established county or municipal services), superior land-stewardship and clean-commerce throughout the Black Hills region.

Mr. Gronlund, historically rural households have had a tough-time getting access to good, affordable water. Municipalities and county governments are increasingly protective of their water sources and or without funding to provide it more broadly. Individual households have experienced "hit and miss" wells in these parts. With SBH, more U.S. citizens will finally have affordable water access allowing, distributed more fairly and equitably.

So by this letter, I wish to convey the full support of both our company and the growing numbers of new land owners we represent in the Southern Black Hills (planned to exceed 100 households before the end of 2010). Specifically, we support the approval of the permits required to facilitate the SBH water system and will urge all of those who have purchased land in our communities to go on record with their individual support.

Kindest Regards

Jim Farmer/CEO
Red Canyon Company

CC Ken Royce Ken.Royse@bartwest.com
Please forward to SBH BOD and Don Peterson

GUNDERSON, PALMER, NELSON & ASHMORE, LLP

ATTORNEYS AT LAW

J. CRISMAN PALMER
JAMES S. NELSON
DANIEL E. ASHMORE
DONALD P. KNUDSEN
PATRICK G. GOETZINGER
TALBOT J. WIECZOREK
JENNIFER K. TRUCANO
DAVID E. LUST
THOMAS E. SIMMONS

ASSURANT BUILDING
440 MT. RUSHMORE ROAD
POST OFFICE BOX 8045
RAPID CITY, SOUTH DAKOTA 57709-8045
TELEPHONE (605) 342-1078 · FAX (605) 342-0480
www.gundersonpalmer.com
ATTORNEYS LICENSED TO PRACTICE IN
SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA
COLORADO, WYOMING & MINNESOTA

TERRI LEE WILLIAMS
SARA FRANKENSTEIN
AMY K. KOENIG
JASON M. SMILEY
MATTHEW E. NAASZ
QUENTIN L. RIGGINS
JEFFREY R. CONNOLLY

WYNN A. GUNDERSON
Of Counsel

September 16, 2008

RECEIVED
SEP 17 2008
WATER RIGHTS
PROGRAM

Garland Eberle
Chief Engineer
Water Rights Program, Foss Bldg.
523 E Capitol - Joe Foss Building
Pierre SD 57501-3181

RE: Southern Black Hills Water System, Inc., Oral, South Dakota
Application 2634-2 to Appropriate Water
GPNA File No. 07653.0002

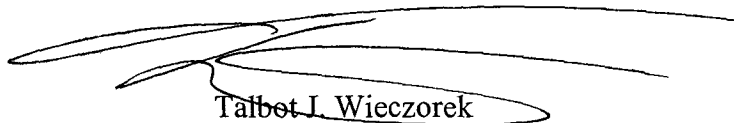
Dear Mr. Eberle:

This letter is to serve as a petition to intervene in Application No. 2634-2, the amendment by Eben Streeter to his existing water permit. This petition to intervene is filed on behalf of Southern Black Hills Water System, Inc. (SBHW).

SBHW supports the application to amend the permit. SBHW sees the application as a positive use of existing appropriated water in the area. The amendment of the permit will allow SBHW to help existing homeowners and ranchers by providing an accessible water supply.

This petition to intervene is being submitted pursuant to the notice published and pursuant to SDCL § 46-2A-4(4) and A.R.S.D. 74:02:01:12.04. If you have any questions or need anything else to allow SBHW to intervene, please let me know.

Sincerely,



Talbot J. Wieczorek

TJW:klw
c: Eben Streeter
Don Peterson and Clients

Sept. 18th 2008

RECEIVED

SEP 19 2008

WATER RIGHTS
PROGRAM

DENR - Water Rights Program and Chief Engineer,

I'm writing to you in opposition of application numbers #2633-2 for Southern Black Hills Water System, and #2634-2 for Eben Streeter.

I am very concerned and fearful that these two wells will have a negative impact on Beaver Creek Spring, because of their close proximity to it and a well that is being drilled by Fall River Water Users District, that is also within 3 miles of the Spring.

There are 13 of us, who have water rights / permits from Beaver Creek, down stream from the Spring. I have an irrigation water right, from the State, dating back to the 1800's. This water right has always been in my family, and is still in use today to irrigate alfalfa fields for hay production, for our ranch. A few years ago, an extensive underground pipe was buried by several neighboring ranches, and our ranch, from a diversion point along Beaver Creek to supply irrigation water.

The installation of this System was very costly, but was also a great conservation measure, by eliminating evaporation and seepage losses from above ground ditches.

Our livelihoods depend greatly on Beaver Creek. If Beaver Creek is allowed to be diminished to the point of the loss of irrigation,

it would have many negative impacts including the loss of hay production, wildlife, ground water and the source water for many shallow wells in the area.

I hope you will take into consideration the damage these two applicants would have on us.

Please keep me informed of any further developments.

Thank You,
Shawn Fugier

RECEIVED

SEP 19 2008

WATER RIGHTS
PROGRAM

9-17-08

DENR Water Rights Program and Chief Engineer,

Once again we are writing to you with our concern and opposition of application #2633-2 for Southern Black Hills Water Systems and #2634-2 for Eben Streeter.

Our greatest fear is that by drilling these wells + pumping the water elsewhere, Beaver Creek will surely be depleted. This is the source of water for Trout Haven, and the ranches that irrigate from it. All of these ranches need the water to grow enough feed for Cattle in the winter, + to water livestock. It has a tremendous effect on our livelihoods.

Several years ago, the Beaver Creek irrigators installed a pipeline carry + conserve water for irrigation. Shallow wells regenerate from the irrigation, + wild life benefit from the crops + extra cover. We have tried to be good stewards of the land + to conserve water.

It seems to be an unnecessary drain on the wells + creeks in this area, to benefit cities that might seek water closer to them.

Please take our concerns seriously + keep us advised.

Sincerely,
Paul + Carol Fugiet

Gronlund, Eric**From:** Gronlund, Eric**Sent:** Tuesday, September 23, 2008 1:35 PM**To:** 'embr4u@aol.com'; 'Rabuse'; 'Oxley, J. Jeffery'; 'Dave Patee'; 'Dwight Rabuse'; 'Bass, Jo'; 'Scheinost, Jeff'; 'Paul VanBockern'; 'Bill Kalm'; 'KATHY FLEMING'; 'Harry and Marilyn Swain'; 'tcdtd@comcast.net'; 'M Hay'; 'Lois Howard'; 'Becky and Bob Baer'; 'Cheryl Fitzgarrald'; 'Ken Stach'; 'Steve Buttress'; 'Skip Kronemeyer'; 'Lisa Scheinost'; 'Arnold Osmundson'; 'Ed Nesselhuf'; 'Toni Devereux'; 'Robson'; 'Pat John Muilenburg'; 'Steve Reecy'; 'Oliver, Jeff'; 'Steve Buttress'; 'Barton and Lois Adrian'; 'Barb Kegel'; 'alank@isodisc.com'**Subject:** Notice of an automatic delay on Water Permit Application No. 2633-2, Southern Black Hills Water System & No. 2634-2, Eben Streeter

In the past few weeks, those listed on this distribution list submitted email correspondence supporting the pending water permit applications for Southern Black Hills Water System and Eben Streeter in southwestern South Dakota. Some included a mailing address while others did not.

This transmittal is to inform you that a least one petitioner opposing each water permit application filed for an continuance of the scheduled October 2, 2008 hearing before the Water Management Board. In South Dakota, there is a statutory provision that allows for a one time request for postponement of the date set for hearing. The Chief Engineer is then required to cancel the original hearing and reschedule the application for hearing at a future Board meeting. Attached are the notices for each application canceling the October 2nd hearing. I anticipate the hearing will now be scheduled for the Water Management Board's December 10 - 11, 2008 meeting.

Those individuals that provided an address will also be receiving service of these notices by US Postal Service.

Please let me know if you have any questions.

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

09/23/2008

To: DENR Water Management Board
Ref: Water Permit App. # 2634-2

I am in full support of amending this permit so Mr. Streets can provide water to Southern Black Hill Water System.

I have hauled water from the Streets well for approximately 30 years. There are many households and ranchers with a very dire need for a rural water system.

Water hauling is becoming a time consuming and an economic burden with high fuel costs so lets put the water in a rural pipeline. The water is very much more accessible and the burden, the time, and the dollars saved would be very beneficial to the rural ranchers and households.

Please give Southern Black Hills Water System your full support by approving Permit # 2634-2.

RECEIVED

SEP 23 2008

WATER RIGHTS
PROGRAM

Thank you
John Beard



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 23, 2008

NOTICE

TO: Eben W. Streeter
PO Box 36
Buffalo Gap SD 57722
and Parties of Record (see attached list)

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Automatic Delay of Hearing on Water Permit Application No. 2634-2, Eben W. Streeter

Petitions have been submitted in response to the public notice for Water Permit Application No. 2634-2 filed by Eben W. Streeter. In addition, numerous letters of support for the application were submitted via email. A petition filed by Michael M. Hickey, counsel for Trout Haven Ranch made a formal request for postponement of the October 2nd hearing date on the application. Therefore, the hearing on Application No. 2634-2 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on October 2, 2008.

The hearing to consider Application Nos. 2634-2 will now be scheduled for the December 10 - 11, 2008, Water Management Board meeting tentatively to be held in Pierre. Future notice of the time and place of the hearing for Application No. 2634-2 will be provided to all parties of record.

The letters of support for this application were submitted via email and did not provide a signature. In addition, many of the letters did not include an address. There is a question whether these submittals constitute a petition to intervene in the hearing process. However, this is for the Water Management Board to decide. At this time, the Water Rights Program will provide this notice by US Postal Service to those who provided an address and also provide this notice via email to all who electronically submitted letters of support.

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

enclosure

c: Diane Best, Assistant Attorney General

PARTIES OF RECORD
Water Permit Application No. 2634-2, Eben Streeter

Applicant

Eben W. Streeter
PO Box 36
Buffalo Gap SD 57722

Petitions

Trudy D. Jara
11897 Sundance Drive
Hot Springs SD 57747-6009

Shawn Fugier
27094 Beaver Valley Rd
Buffalo Gap SD 57720

Paul and Carol Fugier
27032 Beaver Valley Rd
Buffalo Gap SD 57720

Michael M. Hickey
Counsel for Trout Haven Ranch
Bangs McCullen Law Firm
PO Box 2670
Rapid City SD 57709-2670

Talbot Wieczorek
Counsel for Southern Black Hills Water System
Gunderson, Palmer, Nelson & Ashmore LLP
PO Box 8045
Rapid City SD 57709

John Beard
3420 Corral Drive, Apt. 109
Rapid City SD 57702

Merle Semmler
26895 148th Avenue
Buffalo Gap SD 57722

Letters in Support (received via email)

Glenn & Kathy Gardner
4412 E Harwood Circle
Sioux Falls, SD 57103

John J. Oxley and Jeane H. DeLaney
1974 NW Lovejoy #5
Portland OR 97209

Keith and Kathryn Rabuse
10207 Best Drive
Dallas TX 75229

David Patee
11507 Red Canyon Road
Hot Springs SD 57747

Dwight Rabuse
Livgard & Rabuse PLLP
2520 University Avenue SE, Suite 202
Minneapolis MN 55414

Jo Bass
1439 S 87th Street
Omaha NE 68124

Becky and Arnie Osmundson
(address not provided)

Ed Nesselhuf
31612 471st Avenue
Burbank SD 57010

Toni Devereux
209 N. River Street
Hot Springs SD 57747

John Muilenburg
(address not provided)

Steve and Sandie Reecy
(address not provided)

Stuart Kronemeyer
26789 Elk Run Road
Hot Springs SD 57747

Ken Stach
24175 405th Avenue
Letcher SD 57359

Robert and Rebecca Baer
26866 Elk Run Road
Hot Springs SD 57747

David and Marita Hay
(address not provided)

Harry and Marily Swain
12694 Argyle Road
Hot Springs SD 57747-6031

William Kalm and Raedene Keeton
4702 E. Berneil Drive
Phoenix AZ 85028

Steve Buttress
26835 Elk Run Road
Hot Springs SD 57747

Barb Kegel
4109 North 138th Avenue Circle
Omaha NE 68164

Robert and Sonja Shannon
24705 Timber Ridge Road
Hermosa SD 57744

Jeff and JeanMarie Oliver
836 Maple Lane
Peotone, Illinois, 60468

Lisa Scheinost
710 Taft Avenue
Edgemont SD 57735

Steve Buttress and Jan Weber
26835 Elk Run Road
Hot Springs SD 57747

Cheryl Fitzgarrald
879 S 156th Avenue
Omaha NE 68118

Richard and Lois Howard
215 E 27th Street
Sioux Falls SD 57105

Thomas and Suann Carbone
109 Cherry Drive
Egg Harbor Twp NJ 08234

Mike Fleming
26850 Stage Stop Road
PO Box 65
Pringle SD 57773

Paul Van Bockern
3209 Riversedge Way
Sioux Falls SD 57105

Barton and Lois Adrian
(address not provided)

Alan Kegel
14737 Himebaugh Plaza
Omaha NE 68116

CERTIFICATION

I hereby certify that on September 24, 2008, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 23, 2008 regarding Eben Streeter permit 2634-2 addressed as stated below:

Merle Semmler, 26895 148th Ave., Buffalo Gap SD 57722

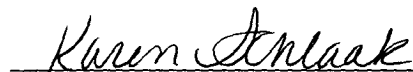
A copy of the above described Notice was sent Inter-office to:

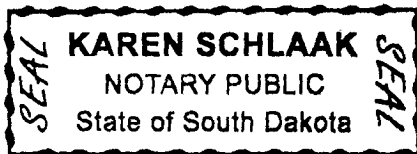
Diane Best, Assistant Attorney General, Mickelson Building, 1302 E Hwy 14, Suite 1, Pierre SD 57501-8501


Gail Jacobson
Secretary
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 24th day of September, 20 08.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013



PARTIES OF RECORD
Water Permit Application No. 2634-2, Eben Streeter

Applicant

Eben W. Streeter
PO Box 36
Buffalo Gap SD 57722

Petitions

Trudy D. Jara
11897 Sundance Drive
Hot Springs SD 57747-6009

Shawn Fugier
27094 Beaver Valley Rd
Buffalo Gap SD 57720

Paul and Carol Fugier
27032 Beaver Valley Rd
Buffalo Gap SD 57720

Michael M. Hickey
Counsel for Trout Haven Ranch
Bangs McCullen Law Firm
PO Box 2670
Rapid City SD 57709-2670

Talbot Wieczorek
Counsel for Southern Black Hills Water System
Gunderson, Palmer, Nelson & Ashmore LLP
PO Box 8045
Rapid City SD 57709

John Beard
3420 Corral Drive, Apt. 109
Rapid City SD 57702

Letters in Support (received via email)

Kathy and Glenn Gardner
(address not provided)

John J. Oxley and Jeane H. DeLaney
1974 NW Lovejoy #5
Portland OR 97209

Keith and Kathryn Rabuse
10207 Best Drive
Dallas TX 75229

David Patee
11507 Red Canyon Road
Hot Springs SD 57747

Dwight Rabuse
Livgard & Rabuse PLLP
2520 University Avenue SE, Suite 202
Minneapolis MN 55414

Jo Bass
1439 S 87th Street
Omaha NE 68124

Becky and Arnie Osmundson
(address not provided)

Ed Nesselhuf
31612 471st Avenue
Burbank SD 57010

Toni Devereux
209 N. River Street
Hot Springs SD 57747

Robert and Sonja Shannon
24705 Timber Ridge Road
Hermosa SD 57744

John Muilenburg
(address not provided)

Steve and Sandie Reecy
(address not provided)

Stuart Kronemeyer
26789 Elk Run Road
Hot Springs SD 57747

Ken Stach
24175 405th Avenue
Letcher SD 57359

Robert and Rebecca Baer
26866 Elk Run Road
Hot Springs SD 57747

David and Marita Hay
(address not provided)

Harry and Marily Swain
12694 Argyle Road
Hot Springs SD 57747-6031

William Kalm and Raedene Keeton
4702 E. Berneil Drive
Phoenix AZ 85028

Steve Buttress
26835 Elk Run Road
Hot Springs SD 57747

Barb Kegel
4109 North 138th Avenue Circle
Omaha NE 68164

Jeff Oliver
(address not provided)

Lisa Scheinost
710 Taft Avenue
Edgemont SD 57735

Steve Buttress and Jan Weber
26835 Elk Run Road
Hot Springs SD 57747

Cheryl Fitzgarrald
879 S 156th Avenue
Omaha NE 68118

Richard and Lois Howard
215 E 27th Street
Sioux Falls SD 57105

Thomas and Suann Carbone
109 Cherry Drive
Egg Harbor Twp NJ 08234

Mike Fleming
26850 Stage Stop Road
PO Box 65
Pringle SD 57773

Paul Van Bockern
3209 Riversedge Way
Sioux Falls SD 57105

Barton and Lois Adrian
(address not provided)

Alan Kegel
14737 Himebaugh Plaza
Omaha NE 68116

CERTIFICATION

I hereby certify that on September 23, 2008, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 23, 2008, regarding the automatic delay of the October 2, 2008 hearing date for Water Right Permit Application No. 2634-2, as addressed below and on attached parties of record list. In addition, this notice is sent electronically to all those individuals that submitted a letter of support electronically.

Eben W. Streeter
PO Box 36
Buffalo Gap SD 57722

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

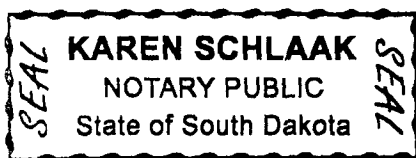
Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501


Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 23rd day of September 2008.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013



SEP 24 2008
WATER RIGHTS
PROGRAM

Chief Engineer

I support Southern Hills water users
we need water for livestock on personal use,
east of Buffalo Gap. The two permits,
#s are [#] 26-34-2 and [#] 26-33-2

Mike Semmler

Mike Semmler
26895 148th Ave
Buffalo Gap SD 57722

RAPID CITY

Thomas H. Foye
Thomas E. Simmons
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
Riley J. Wilson
Sarah E. Baron Houy
Chad A. Williams
Kirsten M. Taggart

SIOUX FALLS

John P. Mullen
Brian K. Kirby
Victoria M. Duehr
Patrick J. Knecht
Thomas J. Von Wald
Brian R. Schumacher

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

RAPID CITY

First Western 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

Doral Centre Building
101 W. 69th Street
Suite 200
P.O. Box 88208
Sioux Falls, South Dakota
57109-8208
P. (605) 339-6800
F. (605) 339-6801

**Reply to Rapid City Office**

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

September 22, 2008

RECEIVED
SEP 29 2008
WATER RIGHTS
DIVISION

Sent via U.S. Mail and Facsimile

Mr. Garland Erbele, 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 Eben Streeter, No. 2634-2*

Dear Mr. Erbele:

In accordance with the published notice, please find enclosed the Motion for Continuance and Objection filed on behalf of Trout Haven Ranch in the above-referenced matter. A copy has been sent to Eben Streeter, 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:sbh

Enclosures

cc: Client
Mr. Eben Streeter

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE)
APPLICATION OF EBEN STREETER,)
APPLICATION NO. 2634-2)

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 October 2, 2008, before the Water Management Board. This request is made on the grounds and for the reasons that 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 application filed by Eben Streeter.

Dated this 22nd day of September, 2008.

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

BY:



MICHAEL M. HICKEY

Attorneys for Trout Haven Ranch
333 West Blvd., Suite 400; P.O. Box 2670
Rapid City, SD 57709
Phone: (605) 343-1040

RECEIVED
SEP 2 1 00
WATER RIGHTS
PROGRAM

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:

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

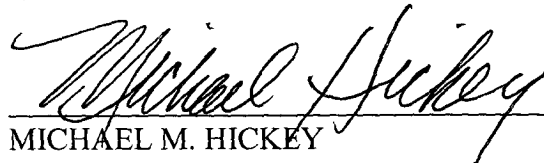
Facsimile: (605) 773-4068

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:

**Eben Streeter
PO Box 36
Buffalo Gap, SD 57722**

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

Dated this 22nd day of September, 2008.


MICHAEL M. HICKEY

RECEIVED
SEP 22 2008
WATER RIGHTS
DIVISION

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE)
APPLICATION OF EBEN STREETER,)
APPLICATION NO. 2634-2)

OBJECTION

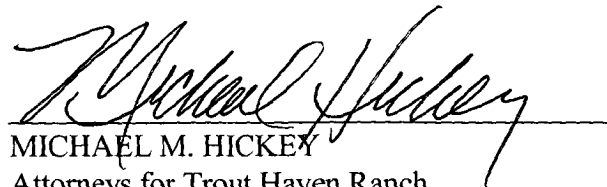
Comes now Trout Haven Ranch, by and through its undersigned counsel, and hereby objects to the above-described application to appropriate water filed on behalf of Eben Stretter. The application is not in the public interest as it will adversely impact the existence and flow of water from Beaver Creek Springs.

In addition, this objection is based upon the grounds and for the reasons that Trout Haven Ranch 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 Eben Streeter if approved.

Dated this 22nd day of September, 2008.

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

BY:



MICHAEL M. HICKEY

Attorneys for Trout Haven Ranch
333 West Blvd., Suite 400; P.O. Box 2670
Rapid City, SD 57709
Phone: (605) 343-1040

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:

**Garland Erbele, 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:

**Eben Streeter
PO Box 36
Buffalo Gap, SD 57722**

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

Dated this 22nd day of September, 2008.



MICHAEL M. HICKEY

Gronlund, Eric

From: Gronlund, Eric
Sent: Tuesday, September 30, 2008 9:09 AM
To: 'Terry Johnson'
Subject: FW: Southern Black Hills Water System

Mr. Johnson:

I received your email message indicating support for the Southern Black Hills Water System.

The water permit application was public noticed and the time to intervene in the hearing process concluded September 23rd. There were a number of petitions and letters received regarding the application. Some opposed the application while other were supportive. A number of residents filed letters of support via email. There is a question whether these are properly filed petitions since there was no signature and many did not provide an address. In your case, the email was also submitted after the time to petition to intervene had past. Ultimately, the Water Management Board, which is a citizen board for hearing contested water permit application, will need to rule on this matter. This is now a legal process that must follow procedures set forth in water rights law.

Finally, some petitions that were filed requested postponement of the October 2nd hearing. There is a statutory provision that allows petitioners to request a one-time postponement of the hearing. I have attached a pdf file with two notices that were sent to parties postponing the October 2nd hearing on the application before the Water Management Board.

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

09/30/2008

RECEIVED

OCT - 1 2008

WATER RIGHTS
PROGRAM

Dear Sirs;

I am writing in support of the
Southern Black Hills Water system.

I would like you to consider your
support of the Water Permit number
2633-2 and # 2634-2

Thank you
Lyle Hartshorn
Kenne Hartshorn



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 22, 2008

NOTICE

TO: Eben W. Streeter
PO Box 36
Buffalo Gap SD 57722
and Parties of Record (see attached list)

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application No. 2634-2, Eben W. Streeter

Petitions were submitted in support and opposition to Water Permit Application No. 2634-2 filed by Eben W. Streeter. The petitions were filed in response to the Notice of Hearing to appropriate water published in the Custer and Fall River Counties. The October 2, 2008 scheduled hearing before the Water Management Board was postponed by a petitioner's request filed pursuant to SDCL 46-2A-5. This notice schedules a hearing before the Water Management Board to consider this application.

Application No. 2634-2 proposes to connect Southern Black Hills Water System to a common distribution system owned by Eben Streeter. Water Management Board Rule ARSD 74:02:01:03.01 requires a new water permit to connect a separate water distribution system. Eben Streeter currently holds Water Right No. 2302-2 and Water Permit No. 2546-2 which combined appropriate 0.243 cubic feet of water per second (109 gallons per minute) from one well completed into the Madison Aquifer located in the NW 1/4 NE 1/4 Section 15, T6S, R6E, Custer County.

The Water Management Board will conduct a hearing to consider Application No. 2634-2 at 1:00 PM (Central Time) on Wednesday, December 10, 2008 at the Pierre Chamber of Commerce, 800 West Dakota Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to the prior agenda item. 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. 2634-2 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 this permit without a 20 year term limitation, there is reasonable probability that water is available, 2) the proposed connection of a separate water distribution system will not unlawfully impair existing rights, 3) the proposed use is a beneficial use and 4) it is in the public

interest. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application based on the evidence presented at the public hearing.

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

Enclosed is a copy of the report, recommendation and petitions in the matter of Water Permit Application No. 2634-2. In addition to written petitions that were submitted, the enclosure includes the emails of support and the late filed petitions that were received. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be 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.

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

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352. In addition, 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.

c: Diane Best, Assistant Attorney General

NOTE: Since this matter does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by November 28, 2008.

PARTIES OF RECORD
Water Permit Application No. 2634-2, Eben Streeter

Applicant

Eben W. Streeter
PO Box 36
Buffalo Gap SD 57722

Petitions

Trudy D. Jara
11897 Sundance Drive
Hot Springs SD 57747-6009

Shawn Fugier
27094 Beaver Valley Rd
Buffalo Gap SD 57720

Paul and Carol Fugier
27032 Beaver Valley Rd
Buffalo Gap SD 57720

Michael M. Hickey
Counsel for Trout Haven Ranch
Bangs McCullen Law Firm
PO Box 2670
Rapid City SD 57709-2670

Talbot Wieczorek
Counsel for Southern Black Hills Water System
Gunderson, Palmer, Nelson & Ashmore LLP
PO Box 8045
Rapid City SD 57709

John Beard
3420 Corral Drive, Apt. 109
Rapid City SD 57702

Merle Semmler
26895 148th Avenue
Buffalo Gap SD 57722

Late Filed Petition

Lyle and Donna Hartshorn
13670 LH Road
Hermosa SD 57744

Letters in Support (received via email)

Glenn & Kathy Gardner
4412 E Harwood Circle
Sioux Falls, SD 57103

John J. Oxley and Jeane H. DeLaney
1974 NW Lovejoy #5
Portland OR 97209

Keith and Kathryn Rabuse
10207 Best Drive
Dallas TX 75229

David Patee
11507 Red Canyon Road
Hot Springs SD 57747

Dwight Rabuse
Livgard & Rabuse PLLP

Jo Bass
1439 S 87th Street

2520 University Avenue SE, Suite 202
Minneapolis MN 55414

Becky and Arnie Osmundson
(address not provided)

Toni Devereux
209 N. River Street
Hot Springs SD 57747

John Muilenburg
(address not provided)

Steve and Sandie Reecy
(address not provided)

Stuart Kronemeyer
26789 Elk Run Road
Hot Springs SD 57747

Ken Stach
24175 405th Avenue
Letcher SD 57359

Robert and Rebecca Baer
26866 Elk Run Road
Hot Springs SD 57747

David and Marita Hay
(address not provided)

Harry and Marily Swain
12694 Argyle Road
Hot Springs SD 57747-6031

William Kalm and Raedene Keeton
4702 E. Berneil Drive
Phoenix AZ 85028

Steve Buttress
26835 Elk Run Road
Hot Springs SD 57747

Barb Kegel
4109 North 138th Avenue Circle
Omaha NE 68164

Omaha NE 68124

Ed Nesselhuf
31612 471st Avenue
Burbank SD 57010

Robert and Sonja Shannon
24705 Timber Ridge Road
Hermosa SD 57744

Jeff and JeanMarie Oliver
836 Maple Lane
Peotone, Illinois, 60468

Lisa Scheinost
710 Taft Avenue
Edgemont SD 57735

Steve Buttress and Jan Weber
26835 Elk Run Road
Hot Springs SD 57747

Cheryl Fitzgarrald
879 S 156th Avenue
Omaha NE 68118

Richard and Lois Howard
215 E 27th Street
Sioux Falls SD 57105

Thomas and Suann Carbone
109 Cherry Drive
Egg Harbor Twp NJ 08234

Mike Fleming
26850 Stage Stop Road
PO Box 65
Pringle SD 57773

Paul Van Bockern
3209 Riversedge Way
Sioux Falls SD 57105

Barton and Lois Adrian
(address not provided)

Alan Kegel
14737 Himebaugh Plaza
Omaha NE 68116

Late Filed

Jim Farmer, CEO
Red Canyon Company

Late Filed Email

Terry and Scott Johnson
26680 Buffalo Butte Dr
Hot Springs SD 57747

Ursula R. Gaertner

Steve Potter

CERTIFICATION

I hereby certify that on October 22, 2008, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 22, 2008, regarding hearing for Water Right Permit Application No. 2634-2, as addressed below and on the attached parties of record list:

Eben W. Streeter
PO Box 36
Buffalo Gap SD 57722

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

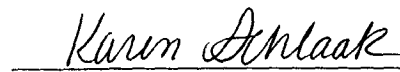
Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



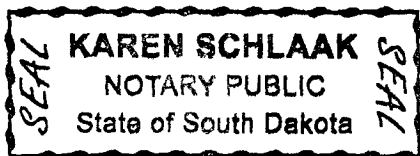
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 23rd day of October 2008.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



RECEIVED

6 2008

Division of Financial
Technical Assistance

12-12-08



Dear Water Management Board Members,

We have a great interest in the recent hearing concerning the Streeter well & others that are being planned for in the area; and their effect on the Beaver Creek Spring.

Our ranch is a family homestead, which was established in the early 1800's, & is one that has irrigation rights from Beaver Creek.

We would like to thank you for giving this matter careful thought and for putting the provision in the Southern Black Hills Water Systems permit that will help to protect our water rights.

Without folks like you, who are willing to serve on these boards, the Agriculture producers and irrigators will soon be out of business. We truly appreciate your help with this matter and hope you will continue to monitor the Beaver Creek area.

Sincerely,
Paul & Carol Fugier

RECEIVED

DEC 17 2008

Division of Financial
& Technical Assistance

Dear Water Management Board,

I thought I should write to you and let you know how grateful I am to know that you still care about irrigation water rights.

The qualifications you put with Southern Black Hills water permit, is of great comfort to me, as a 5th generation irrigator on the original Homestead.

Without Beaver creek spring and that creek, I fear I would be put out of business, I, as well as my neighbors, depend heavily on the flows of the spring, to produce hay for winter feed.

I hope you will remember these qualifications in future applications that come before you. I would also like to invite each of you to come visit, and to show you the delicate nature of our most precious natural resource. I believe it would help you understand our concerns.

I am truly sincere with this invitation.

Please feel free to contact me.

Many, Many Thanks.
Shawn

Shawn Fugler
27094 Beaver Valley Rd.
Buffalo Gap, SD 57722

833-2780
833-2781

GUNDERSON, PALMER, NELSON & ASHMORE, LLP

ATTORNEYS AT LAW

J. CRISMAN PALMER
JAMES S. NELSON
DANIEL E. ASHMORE
DONALD P. KNUDSEN
PATRICK G. GOETZINGER
TALBOT J. WIECZOREK
JENNIFER K. TRUCANO
DAVID E. LUST
THOMAS E. SIMMONS

ASSURANT BUILDING
440 MT. RUSHMORE ROAD
POST OFFICE BOX 8045
RAPID CITY, SOUTH DAKOTA 57709-8045
TELEPHONE (605) 342-1078 · FAX (605) 342-0480
www.gundersonpalmer.com
ATTORNEYS LICENSED TO PRACTICE IN
SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA
COLORADO, WYOMING & MINNESOTA

TERRI LEE WILLIAMS
SARA FRANKENSTEIN
AMY K. KOENIG
JASON M. SMILEY
MATTHEW E. NAASZ
QUENTIN L. RIGGINS
JEFFREY R. CONNOLLY
REBECCA L. MANN

WYNN A. GUNDERSON
Of Counsel

January 20, 2009

Via E-Mail and U.S. Mail

Michael Hickey
Bangs, McCullen, Butler, Foye & Simmons
PO Box 2670
Rapid City SD 57709

**RE: Southern Black Hills Water System
GPGN File No. 07653.0002**

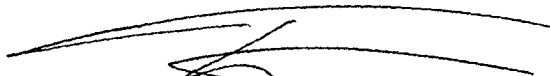
Dear Mr. Hickey:

Attached you will find the language on the Streeter Amendment. I drafted the Stipulation as a condition of the permit. I numbered it as condition five as the Chief Engineer recommended conditions one through four as part of the permit.

I ran the language by Diane Best to ensure that the Department of Environment and Natural Resources would agree with the language and she made various changes that I incorporated in the attached draft. Please let me know if you have any suggested changes or believe the language inaccurately reflects the agreement we put on the record.

I would like to have any comments from you by next Monday, January 26th as I tentative set that date to mail the language to the other intervenors who were present that day for any comments they may have.

Sincerely,



Talbot J. Wieczorek

TJW:klw

Enclosure

c: Diane Best via e-mail
Ken Royse/John Beard/Don Peterson via e-mail
Bob Peplinski

(5) The water right holder may connect Southern Black Hills Water System, Inc. (SBHWS) to the well and SBHWS may use the permitted right subject to the following conditions:

- (a) The water right holder shall bring the well head into compliance with state requirements before allowing SBHWS to connect to the well.
- (b) SBHWS connection to the well will be constructed so as not to prevent the water right holder allowing persons who have historically hauled water access to water under terms and conditions the water right holder may choose to impose.
- (c) SBHWS will not begin construction beyond Phase 1 and Phase 2 and areas adjacent to or contiguous to Phase 1 and Phase 2, as Phase 1 and Phase 2 those areas are identified in the proceedings concerning Permit # 2585-2 in Applicant's exhibit 10 map G01, until an alternative water source is obtained and developed.
- (d) 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.

STATE OF SOUTH DAKOTA
WATER MANAGEMENT BOARD

= = = = =

IN THE MATTER OF THE WATER PERMIT
APPLICATION NO. 2634-2, EBEN STREETER

= = = = =

BEFORE THE WATER MANAGEMENT BOARD
Everett Hoyt, Chairman
Leo Holzbauer, Member
Bernita Loucks, Member
Jim Hutmacher, Member
Tim Bjork, Member
Rodney Freeman, Member
Jeff Hallem, Counsel

APPEARANCES
Talbot Wieczorek, appearing on behalf of the Applicant
Diane Best, appearing on behalf of the State
Michael Hickey, appearing on behalf of Mr. Simpson

2

1 TRANSCRIPT OF PROCEEDINGS, held in the
2 above-entitled matter, at the Pierre Chamber of Commerce,
3 Pierre, South Dakota, on the 10th day of December, 2008.
4
5
6
7
8
9
10
11
12

13
14
15
16
17
18
19
20
21
22
23
24
25

3

1 MR. WIECZOREK: Chair, this is slightly
2 different. This is a stipulation on the Streeter permit,
3 which is Permit 2634-2, which is the next one. And the
4 stipulation would be as follows, and Mr. Hickey, of
5 course, can correct me if I miss something, is that at
6 least for the individuals that would be stipulating to
7 this would be that they would have no objection to the
8 board on an amendment to the permit to allow Southern
9 Black Hills to hook into the common distribution system
10 of Mr. Streeter.

11 Southern Black Hills -- it's been agreed to
12 bring the well head into compliance -- that's not
13 necessarily essential to this stipulation but just to
14 clarify that to the board, that Southern Black Hills
15 would use that as a what I'm going to call a getting

16 started source of water. And as soon as Southern Black
17 Hills had an alternative source of water, that any
18 rights, contractual rights or rights to hook up to the
19 streeter would then become a secondary emergency source.
20 So at that point they would only use it in cases of
21 emergency.

22 The further stipulation is that in reference to
23 the deferred permit there was a discussion of a stage 1
24 and stage 2 that Southern Black Hills would agree not to
25 proceed beyond construction beyond stage 2 until that

4

1 alternative source is obtained.

2 Is that correct?

3 MR. HICKEY: Right.

4 MR. WIECZOREK: And I believe Mr. Hickey can
5 speak for Mr. Simpson. And I talked to Randy. Randy,
6 does that sound correct to you?

7 MR. SCHROTH: Yeah.

8 MR. HICKEY: That's acceptable to you, Steve;
9 right?

10 MR. SIMPSON: Yes.

11 MR. HICKEY: And Shawn needs to think about it.

12 MR. WIECZOREK: And so as I would understand it
13 then, if that's an acceptable stipulation on the record,
14 then --

15 MR. HICKEY: We would withdraw our objection to
16 Permit Application 2634-2.

17 MR. WIECZOREK: Based on that stipulation.

18 MR. SCHROTH: I have one question on that that
Page 3

19 just came to mind. The people that currently haul water
20 out of that well would still be allowed access to all
21 their water out of the well?

22 MR. WIECZOREK: That's agreed. And, in fact,
23 that's a condition Mr. Streeter put on Southern Black
24 Hills. And, in fact, this would be testimony again
25 tomorrow. Southern Black Hills has proposed to bring

5

1 that well head kind of in compliance and design it so
2 it's easier to access the water so they'll just redesign
3 the whole thing.

4 So yeah. The historical users will still have
5 access to the water. That would be -- that's agreeable,
6 and that's agreeable to Southern Black Hills.

7 MR. HICKEY: And this is all done without
8 prejudice to our conditions concerning Application 33.

9 MR. WIECZOREK: Yes.

10 CHAIRMAN HOYT: We have the stipulation on the
11 record at this point.

12 Mr. Fugier, again with no pressure intended in
13 you in making your decision but do you have any idea what
14 time frame you might need in order to make a decision or
15 whether we should proceed to hearing tomorrow afternoon?

16 MR. FUGIER: I'll try and make the decision
17 today. I guess I'd like to express my concern for my
18 right to irrigate, being that well is so close to that
19 spring head that I can't believe that cone of depression
20 isn't going to extend far enough to affect the flows of
21 that creek.

22 CHAIRMAN HOYT: Very well. Well, let's let you
23 think about that. The stipulation is on the record. We
24 will reconvene the hearing in 2633-2, and there will be
25 further testimony in this hearing that might bear on your

6

1 decision. And we'll come back to docket 2634-2 following
2 the conclusion of the testimony in the 2633 docket, which
3 we would anticipate around 6 p.m.

4 (A hearing is held in another matter)

5 CHAIRMAN HOYT: Very well. With the indulgence
6 of the Board, we'll reopen the record in the Matter of
7 Water Permit Application No. 2634-2.

8 Do I understand, Mr. Fugier, that you would like
9 to offer comments or testimony as it relates to the
10 Docket No. 2634-2?

11 MR. FUGIER: Yes. I -- can you read back the
12 proposal there?

13 MR. HALLEM: Are you talking about the
14 stipulation between the parties?

15 MR. FUGIER: Yes.

16 MR. WIECZOREK: I don't know if she can find it
17 quickly. I believe I can give it again.

18 CHAIRMAN HOYT: Very well. The Applicant --

19 MR. FUGIER: I guess the question was that you
20 had -- after you started phase 2 that you would quit
21 using the existing Streeter well and use it only as a
22 backup source of water.

23 MR. WIECZOREK: Actually the stipulation is a
24 little more restrictive than that. When we secure

25 another source that we could use we would make it a

7

1 backup at that point, even if we weren't done with
2 phase 2. And if we haven't yet secured another source
3 into the system, what -- we won't advance beyond phase 2.
4 So you don't have to worry about us trying to push that
5 water a long ways out of your area.

6 MR. FUGIER: And I guess my thinking is using
7 that pump or that well as an emergency, I'm thinking the
8 pump goes down in the main well. Is that what emergency
9 is defined as?

10 MR. WIECZOREK: Yeah.

11 MS. BEST: There's a definition of standby water
12 use in the water rules.

13 MR. FUGIER: Okay. I would agree to it.

14 CHAIRMAN HOYT: Very well. So you're agreeing
15 to the stipulation on the same terms as Mr. Simpson and
16 Mr. Schroth?

17 MR. FUGIER: Yes.

18 (Discussion off the record)

19 MR. FREEMAN: Mr. Chairman, I would move
20 approval -- based upon the stipulation entered into by
21 the parties, I would move approval of Application 2634-2
22 subject to the four qualifications set forth by the chief
23 engineer.

24 MS. LOUCKS: Second.

25 CHAIRMAN HOYT: It's been moved and seconded

1 that based on the stipulation in the record by the
2 parties that the permit be approved subject to the
3 qualifications of the chief engineer.

4 MR. HALLEM: I think you have to add the
5 conditions of the stipulation to the permit on it.
6 Otherwise, they're not going to be part of the permit
7 itself.

8 MR. FREEMAN: All right. And I will amend that
9 motion to include the stipulation that has been placed on
10 the record as a qualification number 5. I'm assuming,
11 Bernita, you will go along with that.

12 MS. LOUCKS: Second.

13 MR. FREEMAN: Thank you.

14 CHAIRMAN HOYT: Thank you. Very well. Any
15 discussion concerning the motion and the second? The
16 permit would be granted subject to the qualifications.

17 Hearing no further discussion, those in favor of
18 the motion signify by saying aye.

19 (All indicate aye)

20 CHAIRMAN HOYT: Opposed, same sign.

21 (No audible response)

22 CHAIRMAN HOYT: The motion is carried. The
23 permit will be issued subject the qualifications.

24 MR. HALLEM: And since everybody that is here
25 agreed to the stipulation, there will not be any proposed

1 Findings of Fact and Conclusions of Law. There will just

2 be the issuance of the permit. Unless does anybody have
3 an objection to that?

4 MS. BEST.

5 MS. BEST: No. I have none. I need to make
6 darn sure I have the correct writing on that stipulation
7 so we get it on the permit.

8 MR. HICKEY: Yeah. If you'd circulate that
9 proposed order or the proposed permit so we can take a
10 look at it, that would be fine with me.

11 MS. BEST: I don't have the exact language
12 available.

13 MR. HALLEM: The court reporter --

14 MS. BEST: Yeah.

15 MR. HALLEM: And I think circulating it before
16 it's executed making sure everybody's in agreement with
17 it would be a good thing to do.

18 MS. BEST: So the exact language you want on the
19 permit is what was read in the record?

20 CHAIRMAN HOYT: Qualification 5.

21 MS. BEST: No. I'm talking about Streeter.

22 MR. FREEMAN: That's the stipulation we were
23 talking about. Can we go off the record?

24 CHAIRMAN HOYT: Let's go off the record.

25

10

1 STATE OF SOUTH DAKOTA)

2 :SS

CERTIFICATE

3 COUNTY OF HUGHES)

4

5 I, CHERI MCCOMSEY WITTLER, a Registered
6 Professional Reporter, Certified Realtime Reporter and
7 Notary Public in and for the State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings
10 had in the above-entitled matter on the 10th day of
11 December, 2008, and that the attached is a true and
12 correct transcription of the proceedings so taken.

13 Dated at Pierre, South Dakota this 23rd day of
14 December, 2008.

15
16
17
18
19
20
21
22
23
24
25

Cheri McComsey Wittler,
Notary Public and
Registered Professional Reporter
Certified Realtime Reporter

RECEIVED

FEB - 5 2009

WATER RIGHTS
PROGRAM

GUNDERSON, PALMER, NELSON & ASHMORE, LLP

ATTORNEYS AT LAW

J. CRISMAN PALMER
JAMES S. NELSON
DANIEL E. ASHMORE
DONALD P. KNUDSEN
PATRICK G. GOETZINGER
TALBOT J. WIECZOREK
JENNIFER K. TRUCANO
DAVID E. LUST
THOMAS E. SIMMONS

ASSURANT BUILDING
440 MT. RUSHMORE ROAD
POST OFFICE BOX 8045
RAPID CITY, SOUTH DAKOTA 57709-8045

TELEPHONE (605) 342-1078 · FAX (605) 342-0480

www.gundersonpalmer.com
ATTORNEYS LICENSED TO PRACTICE IN
SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA
COLORADO, WYOMING & MINNESOTA

TERRI LEE WILLIAMS
SARA FRANKENSTEIN
AMY K. KOENIG
JASON M. SMILEY
MATTHEW E. NAASZ
QUENTIN L. RIGGINS
JEFFREY R. CONNOLLY
REBECCA L. MANN

WYNN A. GUNDERSON
Of Counsel

February 4, 2009

VIA FAX (605) 773-4068

And U.S. MAIL

Garland Eberle
Chief Engineer
Water Rights Program
DENR
523 E. Capitol
Pierre, SD 57501

**RE: Southern Black Hills Water System – Streeter Permit 2634-2
GPGN File No. 07653.0002**

Dear Mr. Eberle:

Pursuant to the stipulation placed on the record at the hearing on December 10, 2008, regarding the Application No. 2634-2, made by Eben W. Streeter, enclosed you will find condition number 5 to the issuance of the permit. The stipulation has been reduced to an additional condition and is condition number 5 as your recommendation of September 2, 2008, recommended four conditions that the parties all agree should be part of the amended permit.

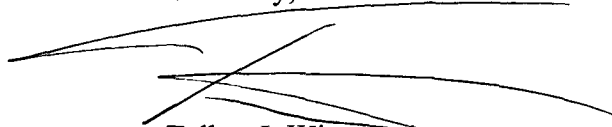
The enclosed language has been approved by Diane Best. Additionally, I provided the language to Mr. Hickey, counsel for Trout Haven and Mr. Simpson. Mr. Hickey had no changes. I have also provided the language to the other Intervenor who were present at the hearing, Mr. Randy Scroth and Shawn Fugier last week. Mr. Fugier and Mr. Scroth did not provide me with any changes.

GUNDERSON, PALMER, NELSON & ASHMORE, LLP

Garland Eberle
February 4, 2009
Page -2-

I ask that the condition be added to the conditions you recommended and the Amended Permit be issued. Thank you for your consideration and let me know if you have any questions.

Sincerely,



Talbot J. Wieczorek

TJW:klw
Enclosure

c: Diane Best via e-mail
Ken Royse/John Beard/Don Peterson via e-mail
Michael Hickey/Shawn Fugier/Randy Scroth
Bob Peplinski
Eben Streeter

(5) The water right holder may connect Southern Black Hills Water System, Inc. (SBHWS) to the well and SBHWS may use the permitted right subject to the following conditions:

- (a) The water right holder shall bring the well head into compliance with state requirements before allowing SBHWS to connect to the well.
- (b) SBHWS connection to the well will be constructed so as not to prevent the water right holder allowing persons who have historically hauled water access to water under terms and conditions the water right holder may choose to impose.
- (c) SBHWS will not begin construction beyond Phase 1 and Phase 2 and areas adjacent to or contiguous to Phase 1 and Phase 2, as Phase 1 and Phase 2 and those areas are identified in the proceedings concerning Permit # 2585-2 in Applicant's exhibit 10 map G01, until an alternative water source is obtained and developed.
- (d) 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.

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

300 N. Dakota Avenue, Suite 403
Sioux Falls, South Dakota 57104-6032
Phone (605) 367-5880
Fax (605) 367-5886
www.state.sd.us/atg

RECEIVED

FEB 11 2009

**WATER RIGHTS
PROGRAM**

LARRY LONG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY

February 5, 2009

Shawn Fugier
27094 Beaver Valley Rd.
Buffalo Gap, SD 57722

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

Talbot Wiecezorek
Attorney at Law
PO Box 8045
Rapid City, SD 57709

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

Randy Scroth
PO Box 1
Buffalo Gap SD 57720

Re: Southern Black Hills Water Permit Application No. 2633-2,
Eben Streeter Water Permit Application No. 2634-2

Gentlemen,

At the Water Board's December hearing, the Board required the Chief Engineer to include a qualification on Eben Streeter Permit No. 2634-2 to reflect the stipulation of

the parties. The DENR has received correspondence from Mr. Wieczorek which includes a proposed stipulated qualification. Mr. Wieczorek advises that each of you have had an opportunity to review this language and that no objections have been raised. Accordingly, the permit, with this language, will be issued on February 16. It will also include the other qualifications proposed by the Chief Engineer at the DENR hearing in December.

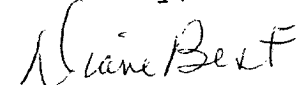
Also, the DENR received other correspondence which I am sharing with you.

First, the DENR and Mr. Simpson corresponded on questions regarding the existing Trout Haven water right. Although this correspondence stems from the Southern Black Hills permit hearing, the inquiry took place after that hearing was completed. Accordingly, the DENR does not intend to reopen the hearing or approach the Board regarding this information. It appears that Mr. Simpson did send his correspondence to the Board Chairman, so I am forwarding it to all parties since a member of the Board received it.

Second, the DENR received two letters from Shawn Fugier and Paul and Carol Fugier. By sending these letters to the DENR, it appears they are asking the DENR to forward their correspondence to the Water Board. Because this is a contested case and the letters had not been provided to all other parties, the DENR cannot automatically do so without sharing them with all parties. The current status is that the letters have been included in the agency file and have not been forwarded to the Board. If the remaining parties consent, the letters will be provided to the Board by mail. If the parties do not consent the letters (and any objections raised) will be provided to the Board at its next meeting on March 11 when the Findings of Fact are considered.

Finally, please note my new address and telephone number above.

Sincerely,



Diane Best

Assistant Attorney General

cc: Eric Gronlund

RECEIVED

FEB 11 2009

WATER RIGHTS
PROGRAM

Eben Streeter Water Permit Application No. 2634-2

Stipulated Qualification

GUNDERSON, PALMER, NELSON & ASHMORE, LLP

ATTORNEYS AT LAW

J. CRISMAN PALMER
JAMES S. NELSON
DANIEL E. ASHMORE
DONALD P. KNUDSEN
PATRICK G. GOETZINGER
TALBOT J. WIECZOREK
JENNIFER K. TRUCANO
DAVID E. LUST
THOMAS E. SIMMONS

ASSURANT BUILDING
440 MT. RUSHMORE ROAD
POST OFFICE BOX 8045
RAPID CITY, SOUTH DAKOTA 57709-8045
TELEPHONE (605) 342-1078 • FAX (605) 342-0480
www.gundersonpalmer.com
ATTORNEYS LICENSED TO PRACTICE IN
SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA
COLORADO, WYOMING & MINNESOTA

TERRI LEE WILLIAMS
SARA FRANKENSTEIN
AMY K. KOENIG
JASON M. SMILEY
MATTHEW E. NAASZ
QUENTIN L. RIGGINS
JEFFREY R. CONNOLLY
REBECCA L. MANN

WYNN A. GUNDERSON
Of Counsel

February 4, 2009

VIA FAX (605) 773-4068

And U.S. MAIL

Garland Eberle
Chief Engineer
Water Rights Program
DENR
523 E. Capitol
Pierre, SD 57501

**RE: Southern Black Hills Water System – Streeter Permit 2634-2
GPGN File No. 07653.0002**

Dear Mr. Eberle:

Pursuant to the stipulation placed on the record at the hearing on December 10, 2008, regarding the Application No. 2634-2, made by Eben W. Streeter, enclosed you will find condition number 5 to the issuance of the permit. The stipulation has been reduced to an additional condition and is condition number 5 as your recommendation of September 2, 2008, recommended four conditions that the parties all agree should be part of the amended permit.

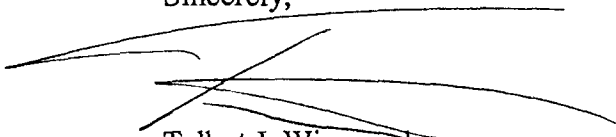
The enclosed language has been approved by Diane Best. Additionally, I provided the language to Mr. Hickey, counsel for Trout Haven and Mr. Simpson. Mr. Hickey had no changes. I have also provided the language to the other Intervenor who were present at the hearing, Mr. Randy Scroth and Shawn Fugier last week. Mr. Fugier and Mr. Scroth did not provide me with any changes.

GUNDERSON, PALMER, NELSON & ASHMORE, LLP

Garland Eberle
February 4, 2009
Page -2-

I ask that the condition be added to the conditions you recommended and the Amended Permit be issued. Thank you for your consideration and let me know if you have any questions.

Sincerely,



Talbot J. Wiczorek

TJW:klw
Enclosure

c: Diane Best via e-mail
Ken Royse/John Beard/Don Peterson via e-mail
Michael Hickey/Shawn Fugier/Randy Scroth
Bob Peplinski
Eben Streeter

(5) The water right holder may connect Southern Black Hills Water System, Inc. (SBHWS) to the well and SBHWS may use the permitted right subject to the following conditions:

- (a) The water right holder shall bring the well head into compliance with state requirements before allowing SBHWS to connect to the well.
- (b) SBHWS connection to the well will be constructed so as not to prevent the water right holder allowing persons who have historically hauled water access to water under terms and conditions the water right holder may choose to impose.
- (c) SBHWS will not begin construction beyond Phase 1 and Phase 2 and areas adjacent to or contiguous to Phase 1 and Phase 2, as Phase 1 and Phase 2 and those areas are identified in the proceedings concerning Permit # 2585-2 in Applicant's exhibit 10 map G01, until an alternative water source is obtained and developed.
- (d) 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.

Trout Haven Permit Correspondence



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 6, 2009

Steve Simpson
Trout Haven Ranch
PO Box 147
Buffalo Gap SD 57722

Dear Mr. Simpson:

Trout Haven Ranch holds Water Right No. 892-2 appropriating 11.0 cubic feet of water per second from Beaver Creek and a well for fish culture purposes. The use of Beaver Creek is to be non-consumptive. The water right includes a condition requiring measuring devices above the diversion point from the stream and downstream from the re-entry point to Beaver Creek. The condition is to ensure that the use of water from Beaver Creek remains non-consumptive by measuring stream flow above and below the hatchery facility. A copy of the water permit as originally issued (including a retyped version of the condition for ease in reading) and the Water Rights Commission's minutes from the September 15, 1966 are attached.

DENR requests that by January 23, 2009, Trout Haven Ranch provide details on the type and location of the measuring devices in place. This request is based on the testimony and Water Management Board discussion at the December 10th hearing on Southern Black Hills Water System's water permit application. DENR also requests submittal of any flow records kept over the years from both of the measuring devices.

Weather permitting, Aaron Tieman from DENR's Rapid City regional office may be in contact with you to personally view the measuring devices. If you have any questions regarding this matter, please contact Eric Gronlund at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program, DENR

Enclosures

C: Michael Hickey, Bangs McCullen Law Firm, PO Box 2670, Rapid City SD 57709-2670
Diane Best, Assistant Attorney General, 300 N. Dakota Avenue, Suite 403, Sioux Falls
SD 57104-6032

Typed version of condition to Water Right No. 892-2

Base flows of Beaver Creek are appropriated by prior appropriators. Depletions under this permit shall be negligible during the irrigation season, and rates of flow shall not be changed. Measuring devices shall be installed to measure stream flow above the diversion point from the stream, and downstream from the waters re-entry point into the stream. Water shall not be ponded upon property of others without permission. The well shall be so constructed so that water is not drawn into the well from the stream during the irrigation season. The Commission should be advised as to the type of measuring device to be installed and at the time the well is constructed. Certain tests may be required. Downstream water right holders shall have access to the measuring devices.

TROUT HAVEN RANCH
PO Box 147
Buffalo Gap, SD 57722

RECEIVED

JAN 26 2009

-copy-

January 22, 2009

Garland Eberle, Chief Engineer
Dept. of Environment and Natural Resources
PMB2020, Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Dear Mr. Erbele:

RE: Letter Dated January 6, 2009

I called your office and talked to Eric to find out exactly what you're looking for. We have a Parshall Measuring Flume above and below the trout hatchery. My Dad installed those when I was a kid, but I remember him putting them in because I had to do the shovel work. My Dad told me that the reason they were installed was not because of any concerns of DENR but because of the concerns of irrigators below us. For a year or two, occasionally one of those guys would show up to look at the flumes. They found that all the water coming in was going out.

It's difficult to measure the water coming in because of several floods we had this summer. In September, when we were out of fish, we had a backhoe re-dig our intake ditch to get out the silt and crud that had washed in our diversion ditch because of these floods. We managed to dig a trench down to the original grade up to the weir. You can see the weir but it has a lot of mud on it. Our plans are to use the new weir that's going to be built 100 yards upstream on Schroth's land to meet any irrigators' concerns about any consumption that we have. It will be much more accurate and much easier to read. Our discharge weir requires us to put up a temporary blockade in a diversion ditch to read the weir. It's a pain.

Our son, who is a graduate of the School of Mines, showed us how to use a measuring system called the Manning Formula where we can measure the flow of the hatchery by using the culvert under the road in front of our place. It's real simple, and that's what we use.

The only requirement we have in measuring our flow is dealing with our discharge monitoring permit which is only an estimate. We have routinely added water to the stream by way of our well we use in our hatchery building and average about 6.5 million gallons per day through our hatchery. I wish this type of measurement (Manning formula) would work for requirements that will be placed upon Southern Hills Water, but it's not accurate enough. USGS indicated that a V-notch weir, which we will install above us on Schroth's land, will be a lot more accurate.

You or any of your representatives are welcome at Trout Haven Ranch any time. We'll be glad to give you the nickel tour. Garland, if there's anything else I can do to help you, don't hesitate to ask.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Simpson", with a long horizontal flourish extending to the right.

STEVE SIMPSON, Owner
Trout Haven Ranch

cc: Michael Hickey, Attorney
Diane Best, Asst. Attorney General ✓
Everett Hoyt, Water Board

Correspondence

**Southern Black Hills Water Permit Application No. 2633-2 and
Eben Streeter Water Permit Application No. 2634-2**

12-14-08

RECEIVED

DEC 17 2008

Division of Financial
& Technical Assistance

Dear Water Management Board,

I thought I should write to you and let you know how grateful I am to know that you still care about irrigation water rights.

The qualifications you put with Southern Black Hills water permit, is of great comfort to me, as a 5th generation irrigator on the original Homestead.

Without Beaver creek spring and that creek, I fear I would be put out of business. I, as well as my neighbors, depend heavily on the flows of the spring, to produce hay for winter feed.

I hope you will remember these qualifications in future applications that come before you. I would also like to invite each of you to come visit, and to show you the delicate nature of our most precious natural resource. I believe it would help you understand our concerns.

I am truly sincere with this invitation. Please feel free to contact me.

Many, Many Thanks.
Shawn

Shawn Fugler
27094 Beaver Valley Rd.
Buffalo Gap, SD 57722

833-2780



RECEIVED

DEC 16 2008

Division of Financial
& Technical Assistance

12-12-08

Dear Water Management Board Members

We have a great interest in the recent hearing concerning the Streeter well & others that are being planned for in the area; and their effect on the Beaver Creek Spring.

Our ranch is a family homestead, which was established in the early 1800's, & is one that has irrigation rights from Beaver Creek.

We would like to thank you for giving this matter careful thought and for putting the provision in the Southern Black Hills Water Systems permit that will help to protect our water rights.

Without folks like you, who are willing to serve on these boards, the Agriculture producers and irrigators will soon be out of business. We truly appreciate your help with this matter and hope you will continue to monitor the Beaver Creek area.

Sincerely,
Paul & Carol Fugier



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

FEB 18 2003

Eben W Streeter
PO Box 36
Buffalo Gap SD 57722

Dear Mr. Streeter:

Enclosed is Water Permit No. 2634-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

RECEIVED

DEC 16 2010

WATER RIGHTS
PROGRAM

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

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

Water Right/Permit No. 2634-2Date: 12-14-2010I/We request that Water Right/Permit No. 2634-2 formerly owned by:Eben W. Streeter be transferred to:New Owner Name: Streeter Family Limited PartnershipAddress: c/o Eben W StreeterCity, State, Zip P.O. Box 36Buffalo Gap SD 57722 Telephone No. 605-833-7661

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

NW 1/4 NE 1/4 Section 15, T6S, R6E of the
Black Hills Meridian, Custer County South
Dakota.

☒ I understand that the validity of Water Right/Permit No. 2634-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

Eben W Streeter
I, General Partner for Streeter Family Limited Partnership, the new owner, certify that the above information is true and correct.

Eben W Streeter
(signed by new owner)
Eben W. Streeter, General Partner.

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/16, 20 10

RECEIVED OF Streeter Family LLP PO Box 36 Buffalo Gap SD 57722

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50 00	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2634-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No.

04719

By

Barbara Erbe
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 23, 2010

2634-2

Eben W Streeter
Streeter Family Limited Partnership
PO Box 36
Buffalo Gap SD 57722 0036

Dear Mr. Streeter:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for transferring Water Permit No. 2634-2.

The transfer has been completed. The permit formerly listed in the name of "**Eben W Streeter**" is now listed in the name of "**Streeter Family Limited Partnership**".

Enclosed for your records is Receipt No. 04719 in the amount of \$50.00. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is fluid and cursive.

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

2634-2



South Dakota Legislature

State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070

House of Representatives

RECEIVED

OCT 12 2012

WATER RIGHTS
PROGRAM

October 10, 2012

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources
523 East Capitol Ave.
Pierre, SD 57501

Dear Garland:

Landowners in the vicinity of the state funded Southern Black Hills Water System's wells have posed a number of questions to me regarding the progress, funding and oversight of the project in the Beaver Creek drainage. Probably stemming from the recent drought, there is interest in any annual reports that the State of South Dakota requires to be filed with DENR. Therefore, I would request any and all reports that are public and must be filed with DENR regarding water permits 2632-2; 2634-2; 2546-2; and 2633-2. Thank you in advance for any assistance you may be able to provide, and please do not hesitate to contact me at your convenience should you require anything additional of me.

Sincerely,

Lance S. Russell
State Representative
PO Box 184
Hot Springs, SD 57747
605-745-3228



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 19, 2012

The Honorable Lance S. Russell
South Dakota State Representative
PO Box 184
Hot Spring, SD 57747

Dear Representative Russell:

Thank you for your request of annual reports filed with the Department of Environment and Natural Resources (DENR) for various water rights that supply water to the Southern Black Hills Water System. Your list included Water Permit No. 2632-2, which is a permit held by the city of Box Elder. I presume this is a typographical error and the correct permit number is 2302-2 which is the original Eben Streeter water right.

Water Right No. 2302-2 obtained by Eben Streeter in 1994 appropriates 15 gallons per minute (gpm) from one well known locally as the "Streeter well" completed into the Madison Aquifer. Mr. Streeter originally intended this water right to be used for a small water distribution system but is primarily used to supply his house water, for livestock watering, and area homeowners use it to supply water for their cisterns. The water right was obtained prior to the department requiring annual reporting. Therefore, annual water use reporting is not a condition on this water right.

Water Permit No. 2546-2 obtained in 2005 by Eben Streeter appropriates an additional 95 gpm from the Streeter well. The intended use of the water under this water permit was the same as the original water right obtained in 1994. However, annual water use reporting is a requirement of this permit. Mr. Streeter has reported the estimated annual water use since 2005 as follows:

2005	2006	2007	2008	2009	2010	2011
3.4 acre feet	5.6 acre feet	6.2 acre feet	6.2 acre feet	6.7 acre feet	9.2 Acre feet	8.6 acre feet

An acre foot of water equals 325,828 gallons.

Water Permit No. 2634-2 is held by Streeter Family Limited Partnership and was obtained in 2008 authorizing connection of Southern Black Hills Water System to the Streeter well. This permit does not allow an increase in the 110 gpm diversion rate appropriated by 2302-2 and 2546-2. Annual water use reporting is also a requirement of this permit. DENR received the first annual report for this water right for water used in 2011. Southern Black Hills Water

System reported its use separate of Mr. Streeter's 2011 water use from the well. They reported 5.8 acre feet of water used under this water permit in 2011.

Water Permit No. 2633-2 held by Southern Black Hills Water System appropriates 300 gpm from a new well to be completed into the Madison Aquifer. This well is to be located about 2.75 miles north of the existing Streeter well. While annual reporting is a requirement of this permit, the well has not been drilled and no water use has occurred.

I hope this information answers your request. Please let me know if DENR can be of further assistance in responding to your constituents.

Sincerely,

A handwritten signature in black ink, appearing to read "Garland Erbele". The signature is fluid and cursive, with a long horizontal stroke at the end.

Garland Erbele
Water Rights Program, DENR
605 773-3352

Report of Examination of Works and/or Application of Water to Beneficial Use For Permits No. 2546-2 and 2634-2

I have this day, **February 22, 2016**, made a thorough examination of the water use system constructed by **Eben Streeter** of Permit No. **2546-2** bearing the priority of **1/3/2005** authorizing the diversion of **0.21** cu. ft. per second (additional water to # 2302-2) from one well for **common distribution system** purposes in **Custer** County and for **Streeter Family Limited** of Permit No. **2634-2** bearing the priority of **7/17/2008** which amended permit **2546-2** allowing connection to Southern Black Hills Water System.

Inspection contacts: **Bill Streeter** (Streeter Family Partner)
4462 Thompson Parkway
Johnstown Co. 80534
Ph # 970-302-8094

Don Peterson, Manager
Southern Black Hills Water System
SBH@goldenwest.net
605-745-4669

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: **Vernon Baker (1949)**
- 2) No. of Wells **1**
- 3) Depth(s) **939** feet
- 4) Well log is available **Yes**

Casing:

- 1) Diameter: **Originally 8 5/8" steel to 575 ft., 6 5/8" to 681 ft., and 5 1/2" to 939 ft.**

The well was re-cased with 910 ft. of 4 1/2" steel in 1988.

- 2) Length **939** feet
- 3) Type **Steel**

Screen:

- 1) Type **Perforated steel casing 929'-939' (1949)**
- 2) Length **10** feet

3) Static water level: **This is a flowing well. The closed in pressure in 1949 was 33 psi, and had 23 psi pressure @ 90 gpm flow through 1 1/2" fire hose. When the well was re-cased in 1988 the reported flow was 150 gpm flow @ 23 psi. Water temperature was 108°. The well head was brought into compliance with SD Well Construction Standards by Taylor Drilling (October 2010) in conjunction with Phase 1 of the Southern Black Hills Water System construction which was completed in Sept 2011. SBHWS records show the current closed in pressure at the well head with no flow on the system fluctuates slightly from 94 ft. to 102 ft. (40.7-44.2 psi).**

Pump:

- 1) Make Grundfos An underground pre-fabricated booster station was installed at the well as part of SBHWS Phase 1 construction. Two booster pumps alternate operation to maintain pressure on the entire system including the Streeter ranch pipeline and the outlet used by the historical water haulers. The plumbing arrangement also allows for service to the ranch and water haulers without use of the pumps if the pumps are in stand-by status.
- 2) Model CR20-03 (2 identical pumps alternating operation)
- 3) Size 2" inlet/outlet vertical variable speed multi-stage centrifugal
- 4) Capacity 111.3 (rated) GPM (metered flow 101 gpm @ 59 psi discharge press. 2/22/2016)
- 5) Horsepower rating 7.5 hp ea.

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

Southern Black Hills Water System has completed Phase 1 and Phase 2. The Streeter ranch pipeline provides water to the ranch headquarters and pasture taps using a 2" PVC line. Four local individuals have access to the well for loading and hauling water.

C. Works used to apply water to beneficial use:

Southern Black Hills Water System, Streeter Ranch pipeline, 1 ½" hose with valve for loading water

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
 - a) The well is valved and all withdrawals are controlled by the metered booster pump installation. The manifold is equipped with pressure gauges and a record is kept of operating pressures.
 - b) Water withdrawals are reported annually to DENR
 - c) Southern Black Hills Water System has connected to the well.
 - d) The well head was brought into compliance prior to the SBHWS connection.
 - e) Persons who have historically hauled water have full access to a water fill station.
 - f) SBHWS has not begun construction beyond Phase 1 and Phase 2.
 - g) SBHWS has not developed an alternative water source and utilizes only the Streeter well.
- 2) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in good condition with the point of diversion located as follows:
NW ¼ NE ¼ S 15, T6S, R6E (1,046 ft. south and 1,480 ft. west of the NE corner Section 15),
N 43.53251° W 103.38705°
2. The works are capable of diverting and conveying to the place of use .243 cu. ft. per second (109 gpm) of water which is to be used for **rural water system** and **domestic** use and the license should be issued for **.243 cfs**.
3. All structures, wells and lands on map – **only the Streeter well and ranch headquarters are shown on the map. The Southern Black Hills Water System is shown in other documents.**

F. Comments or other permits associated with the Streeter Well:

Water Right 2302-2 obtained in 1994 appropriated 15 gpm from the Streeter well for a small water distribution system.

Water Right 2546-2 obtained in 2005 appropriated an additional 95 gpm (now 110 gpm) for a common distribution system and required annual water use reporting. Water Right 2634-2 is an amendment to 2546-2 which allows connection to Southern Black Hills Water System (no additional water).

Water Right 2633-2 and 2633A-2 obtained in 2008 by SBHWS appropriated 300 gpm from a Madison well to be completed on or before 3/11/19, after which the Streeter well will be only a standby well for SBHWS.



Steven Quissell
Water Rights Inspector
DENR, Water Rights Program

Date report completed: 2/24/2016

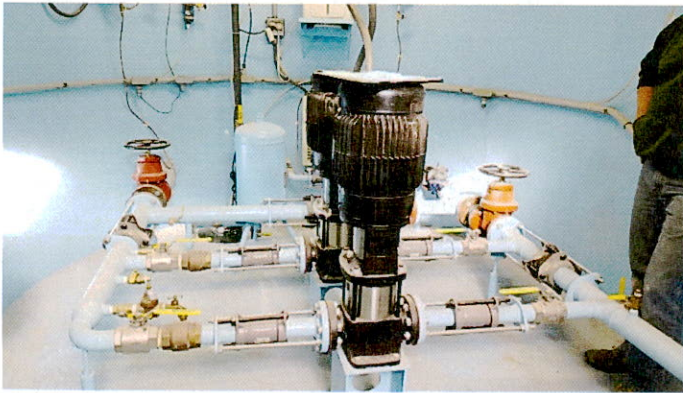
Report of Examination of Works
Permit Nos. 2546-2 and 2634-2



Streeter well after casing reconstructed to terminate above ground per SD well construction standards



SBHWS booster pit with Streeter well in background



Prefabricated booster station w/ vertical centrifugal pumps

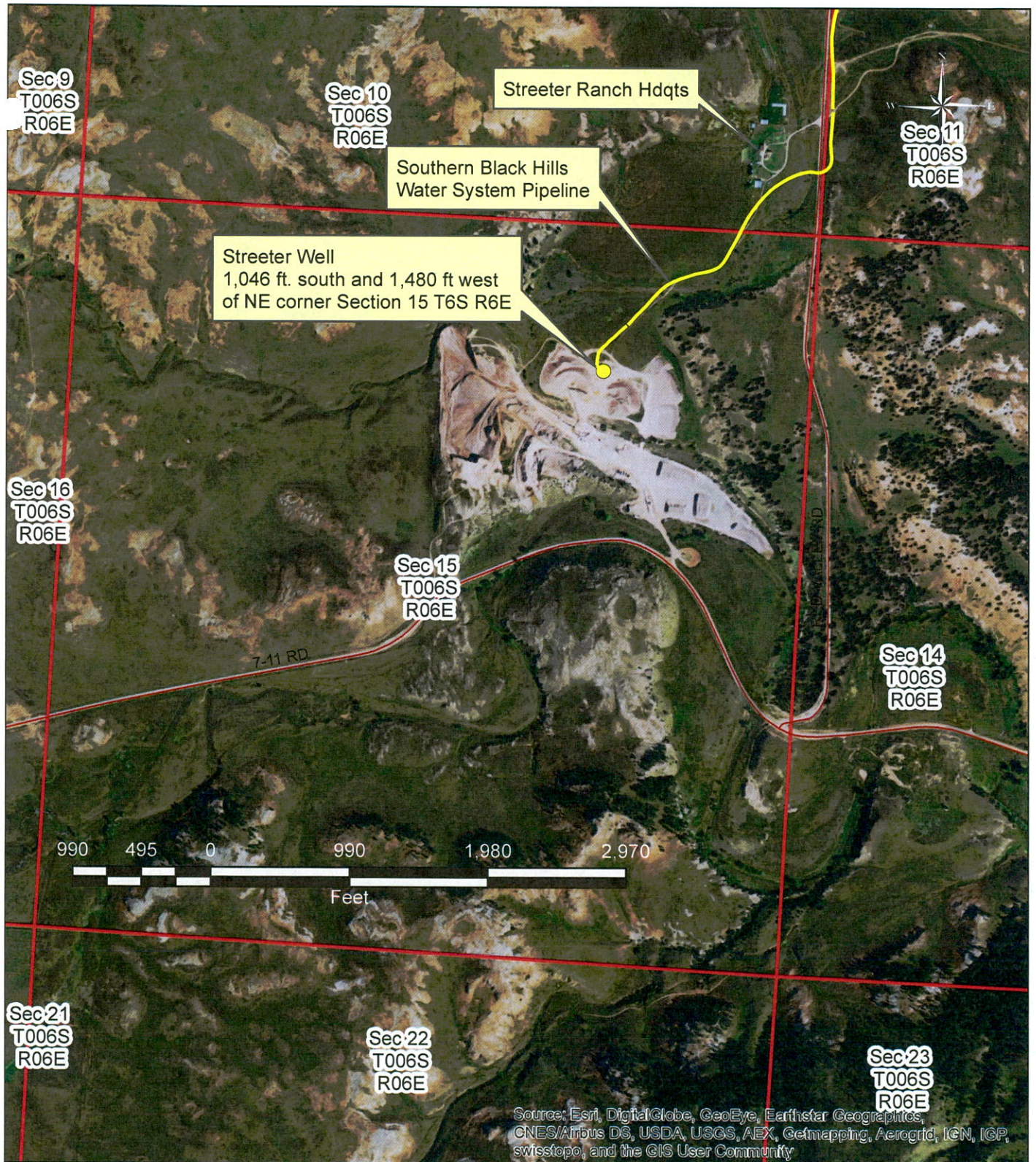


Booster station access



Water Hauler Pit

Water Right # 2546-2 Eben Streeter
Water Right #2634-2 Streeter Family Limited
2/22/2016



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2634-2

(1) Eben W Streeter, Buffalo Gap SD made Application No. 2634-2, July 17, 2008 for a water permit to authorize connection of the Southern Black Hills Water System to the common distribution system authorized by Water Right No. 2302-2 from one well - Madison Aquifer, Custer County, South Dakota for rural water system use purposes. Permit No. 2634-2, with a priority date of July 17, 2008 was approved December 10, 2008 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before December 10, 2013 and for the application to beneficial use of water on or before December 10, 2017.

Other rights/permits associated with this water use system:

Water Right No. 2302-2, with a priority date of April 4, 1994 authorized 0.033 cubic feet of water per second (cfs) from one well.

Water Permit No. 2546-2, with a priority date of January 3, 2005 authorized an additional 0.21 cfs from the existing well.

On December 16, 2010, Permit No. 2634-2 was transferred to Streeter Family Limited Partnership. On April 4, 2016, Nos. 2302-2 and 2546-2 were transferred to Streeter Family Limited Partnership, 4462 Thompson Parkway, Johnston CO 80534.

The applicable portions of Nos. 2302-2 and 2546-2 are incorporated into No. 2634-2.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Incorporated Water Right No. 2634-2 is issued a license, bearing priority dates of April 4, 1994 (0.033 cfs), January 3, 2005 (0.21 cfs) and July 17, 2008 (connection of Southern Black Hills Water System) to appropriate 0.243 cubic feet of water per second from one well – Madison Aquifer for common distribution, rural water use and domestic use.

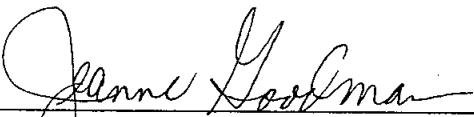
The diversion point is located: 1,046 feet south and 1,480 feet west of the NE corner of Section 15-T6S-R6E (NW 1/4 NE 1/4).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 2634-2 including the following qualifications:

1. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2634-2 is issued for a 20-year term. Pursuant to SDCL 46-2A-21, the 20-year term may be deleted at any time during the 20-year period or following its expiration. If the 20-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2634-2 may also be cancelled for nonconstruction, forfeiture, abandonment, or three permit violations pursuant to SDCL 46-1-12, 46-5-37, 46-5-37.1 and ARSD 74:02:01:37.

(continued)

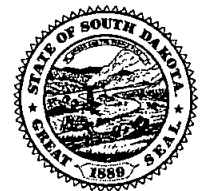
2. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. The well approved under Water Right No. 2302-2 and Water Permit No. 2546-2 shall be valved and the flow reduced to the amount needed or to a minimum when not being used. The well shall also be equipped with a pressure gauge and record kept of pressure fluctuations. The records shall be available to the Chief Engineer upon request. If this well is abandoned or the Permit cancelled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.
4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Madison Aquifer for the common distribution system authorized by Water Right No. 2302-3 and Water Permit No. 2546-2. *Annual reports are on file with the Water Rights Program.*
5. The water right holder may connect Southern Black Hills Water System, Inc (SBHWS) to the well and SBHWS may use the permitted right subject to the following conditions:
 - a) The water right holder shall bring the well head into compliance with state requirements before allowing SBHWS to connect to the well.
 - b) SBHWS connection to the well will be constructed so as not to prevent the water right holder allowing persons who have historically hauled water access to water under terms and conditions the water right holder may choose to impose.
 - c) SBHWS will not begin construction beyond Phase I and Phase 2 and areas adjacent to or contiguous to Phase 1 and Phase 2, as Phase 1 and Phase 2 and those areas are identified in the proceedings concerning Permit No. 2585-2 in Applicant's exhibit 10 map G01, until an alternative water source is obtained and developed.
 - d) 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.



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

JUN 29 2016

date



2634-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JUN 29 2016

2302-2
2546-2
2634-2

Streeter Family Limited Partnership
c/o Bill Streeter
4462 Thompson Parkway
Johnston CO 80534

Dear Mr. Streeter:

Enclosed is Water License No. 2634-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed are the receipts for payment of the Notice of Transfer of Ownership on Nos. 2302-2 and 2546-2. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 2634-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

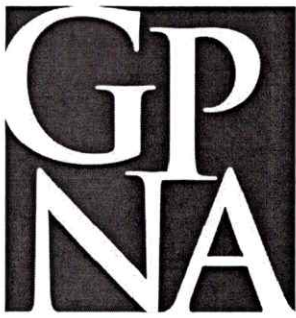
Sincerely,


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

Note: The applicable portions of Nos. 2302-2 and 2546-2 are incorporated into Water License No. 2634-2.

enclosures

c: Don Peterson, Manager
Southern Black Hills Water System



GUNDERSON | PALMER | NELSON | ASHMORE LLP

RECEIVED

JAN 02 2026

OFFICE OF
WATER

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

www.gpna.com

December 24, 2025

Matthew E. Naasz
Email: mnaasz@gpna.com
Direct Dial: (605) 719-3424

VIA EMAIL & U.S. MAIL

Ron Duvall
South Dakota Water Rights Program
523 E. Capital Ave
Pierre, SD 57501-3182
ron.duvall@state.sd.us

Re: Southern Black Hills Water System, Inc. - General Matters
GPNA File No. 07653.0018

Dear Mr. Duvall:

As you know, our firm represents Southern Black Hills Water System, Inc. ("SBHWS"). Water license 2634-2 authorizes SBHWS to divert water from the point of diversion and at the rate authorized by permit 2546-2. These permits authorize diversion from the Madison Aquifer in Custer County.

Statute requires Madison Aquifer water permits in the Black Hills to include a 20-year term. SDCL § 46-2A-20. Prior to cancellation or amendment of the expiration date on any such water permit, notice and hearing must be provided. SDCL § 46-2A-21. Based on our recent conversation, it is my understanding the South Dakota Department of Agriculture and Natural Resources water rights program also interprets the relevant statutes as requiring a hearing prior to cancellation or amendment to a water permit subject to these statutes. As such, it is my understanding that water permits 2546-2 and 2634-2 remain in effect and are not in jeopardy of being cancelled or amended prior to a hearing regarding the applicable time limit.

If any of this information is incorrect, please let me know. As always, I appreciate your time in discussing these issues

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Naasz', is written over a blue horizontal line.

Matthew E. Naasz

MEN:aa

Offices in Rapid City and Pierre, South Dakota

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