

WATER PERMIT NO. 2656-2

Name of Applicant: Pete Lien & Sons, Inc.

Address: PO box 440, Rapid City SD 57709

Phone: 605 342-7224

Amount of Water Claimed: 5.0 cfs – 767 AF annually

Total Acres: NA

Source of Water Supply: Cheyenne River

Water to be used for: industrial

County: Fall River

Type of Waste Disposal System:

Location: 6 miles southeast of Hot Springs

PRIORITY Date Received: 8-23-2010

Application/License Fee: \$1,450

Corrected Application Received: 9-3-2010

Period of Annual Use: March 1 – November 30

Remarks:

Diversion Point: NE ¼ NW ¼ Sec 11-T8S-R6E

Land to be Irrigated: NA

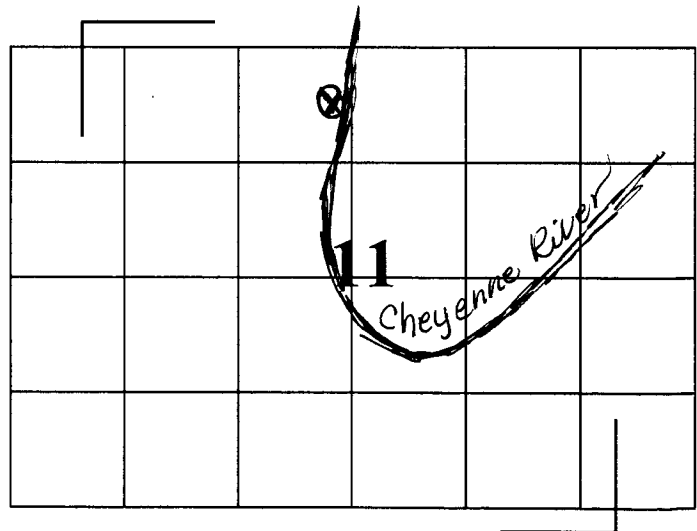
Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Kim C Sarver, PE



Reviewed and the Number Assigned on: 9-8-2010

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SD EForm - 1585LD V3

FORM 2: Application for uses other than irrigation
(type or print)Mail to:
PMB 2020
DENR - Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352(office use only)
No. 2656-2 Hydrologic Unit 10120109
Basin Upper Cheyenne
Newspaper Hot Springs Star PO Box 1000
605-745-4176 57247

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AUG 23 2010

WATER RIGHTS
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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. _____

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

1. Name of Applicant Pete Lien & Sons, Inc. Phone (605) 342-7224(check one) ☒ Owner ☐ Tenant/lesseeMailing Address PO Box 440 Rapid City SD 57709
(Address) (City) (State) (Zip Code)2. Amount of water claimed 5.0 *CFS or 767 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)3. Source of water supply Cheyenne River4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Fall River
NW1/4 NE1/4 Section 11, T8S-R6E5. County or counties where water will be used Fall River6. Annual period during which water is to be used March 1-Nov. 30

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

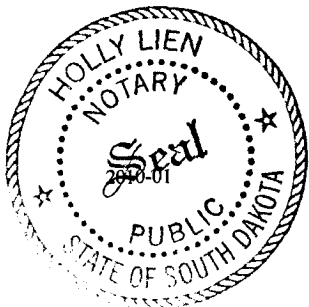
This application is to draw water from the Cheyenne River for the operation of a gravel washing plant.

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. Also, attach map and any other technical information. (see instructions)

I, Danielle Wiebers, 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 Danielle WiebersSubscribed and sworn to before me this 16th day of August 20 10

Notary Public signature

My commission expires 11/17/12

SOUTH DAKOTA
WATER PERMIT NO. 2656-2

Date of first receipt of application August 23, 2010.

Date of return to applicant for corrections, amendments or changes August 23, 2010.

Date of receipt of corrected application September 10, 2010.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2656-2 to Pete Lien & Sons, Inc., PO Box 440, Rapid City SD 57709 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2656-2 appropriates 5.0 cubic feet of water per second (767 acre-feet annually) from the Cheyenne River located in the NW 1/4 NE 1/4 Section 11-T8S-R6E.
2. The water appropriated shall be used for the purpose of industrial use in a gravel washing plant 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: March 1 – November 30.
4. The date of approval of Permit No. 2656-2 is January 3, 2011.
5. The date from which applicant may claim right is August 23, 2010.
6. One-fifth of the construction is to be completed on or before July 3, 2013.
7. All construction is to be completed on or before January 3, 2016.
8. Water is to be put to beneficial use on or before January 3, 2020.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed. This permit does not authorize diversion of water from the Cheyenne River at any time when the river flow is low, unless written orders have been issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. Permit No. 2656-2 authorizes diversion of water from the Cheyenne River only to the extent necessary to replenish the holding/settling ponds for losses due to evaporation and dust control purposes. Water shall be re-circulated through the holding/settling ponds and reused to minimize the need to make Cheyenne River diversions.

WATER MANAGEMENT BOARD

By: Garland Erbele

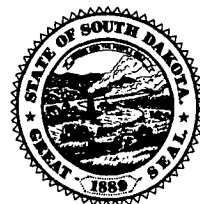
Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

FFR 1 1 2011

date



LEGEND:

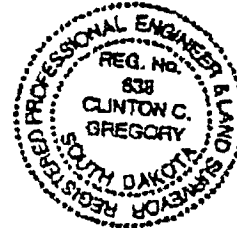
- U.S. BRASS CAP
- 5/8" REBAR WITH CAP #638 (SET)
- 5/8" REBAR WITH CAP #1771 (FOUND)
- WC WITNESS CORNER

BASIS OF BEARING:
SOLAR OBSERVATION.

PLAT OF THE SE1/4SW1/4 SEC. 2.
NE1/4NW1/4, NW1/4NE1/4,
SE1/4NW1/4, NE1/4SW1/4, NE1/4
SE1/4 AND THE SE1/4SW1/4, S1/2
SE1/4 NORTH OF THE CENTERLINE
OF THE U. S. ANGOSTURA CANAL.
SEC. 11, ALL IN T8S. R6E. BHM.
FALL RIVER COUNTY, SOUTH
DAKOTA.

NOTE:

LAND USE IS SUBJECT TO EASE-
MENTS, EXCEPTIONS AND RE-
SERVATIONS LISTED IN THE
QUITCLAIM DEED DATED NOVEMBER
19, 1952 FROM SAMUEL M. FLYTE
TO ALICE V. FLYTE AS RECORDED
IN THE FALL RIVER COUNTY RE-
GISTER OF DEEDS OFFICE, HOT
SPRINGS, SOUTH DAKOTA.



SURVEYOR'S CERTIFICATE

I, CLINTON C. GREGORY, PROFESSIONAL ENGINEER AND
REGISTERED LAND SURVEYOR, NO. 638, IN THE STATE
OF SOUTH DAKOTA CERTIFY THAT I HAVE SURVEYED THE
LAND AS SHOWN AND DESCRIBED HEREON AND THAT THE
SAME IS TRUE AND CORRECT IN ALL RESPECTS.

WITNESS MY HAND AND SEAL THIS 29 DAY OF APRIL, 1996.

Clinton C. Gregory
CLINTON C. GREGORY

SCALE: 1" = 500'



SE1/4SW1/4 AND SW1/4SE1/4 NORTH OF
CENTERLINE OF THE U. S. ANGOSTURA
CANAL 44.250 +/- ACRES

LINE	BEARING
L 1	N 00 04' 55" W
L 2	S 00 03' 44" E
L 3	S 00 03' 33" W
L 4	S 53 58' 00" W
L 5	S 20' 00' 47" E

DISTANCE
373.71'
362.73'
149.98'
261.11'
226.22'

CURVE	DELTA ANGLE	RADIUS	ARC	TANGENT
C 1	14 00' 36"	572.96'	140.10'	70.40'
C 2	30 20' 48"	572.96'	304.80'	158.10'

SE1/4SE1/4 NORTH OF
CENTERLINE OF THE U. S.
ANGOSTURA CANAL 18.950 +/-
ACRES

SE1/4SE1/4 NORTH OF
CENTERLINE OF THE U. S.
ANGOSTURA CANAL 18.950 +/-
ACRES

CHORD	CHORD BEARING
136.75'	S 50 20' 18" W
301.22'	N 77 17' 36" W

Prepared By
Gregory Engineering
327 Dakota Street
Hot Springs, SD 57747
(605) 745-3320

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Flyte Pit

Last Revised: 1/16/07



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/23, 20 10

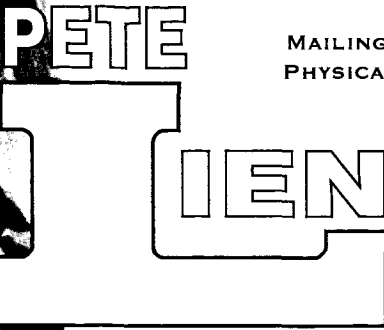
RECEIVED OF Pete Lien & Sons Inc PO Box 440 Rapid City SD 57709

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	3550	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. _____	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	3750 00

No. 04605

By Leland Erbe
Chief Engineer



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

*PETE LIEN & SONS *BIRDSALL SAND & GRAVEL *COLORADO LIEN CO.
*DAKOTA BLOCK CO. *TRANS COLORADO CONCRETE

PETER C. LIEN
1898 - 1969 FOUNDER

BRUCE H. LIEN
FOUNDER

CHARLES H. LIEN
FOUNDER
CHAIRMAN

PETER C. LIEN
PRESIDENT

& Sons, Inc.

August 19, 2010

PMB 2020
DENR-Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182

Re: Application to Appropriate water

Please accept the enclosed application and fee payment to appropriate water in the state of South Dakota. If there are questions or concerns regarding this application please feel free to contact me at (605) 939-2686 or dwiebers@petelien.com.

Thank you,

Danielle Wiebers
Environmental Engineer
Pete Lien & Sons, Inc.

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AUG 23 2010

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

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

August 23, 2010

Pete Lien & Sons Inc.
Danielle Wiebers
PO Box 440
Rapid City SD 57709

Dear Ms. Wiebers:

Thank you for submitting the *Application for a Permit to Appropriate Water* for gravel washing plant in Fall River County. In order to complete the application the following is required.

- Enclosed is the aerial photo map submitted with the application. Mark the proposed location of the Cheyenne River diversion point with an "X".
- Also, the map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local NRCS office).
- The application requests a diversion rate of 5.0 cfs. Since this is a large amount of water, it may be to your advantage to request an annual acre-feet volume amount. If the application is amended to an acre-feet amount, the filing fee will be reduced and a portion of the fee will be refunded.

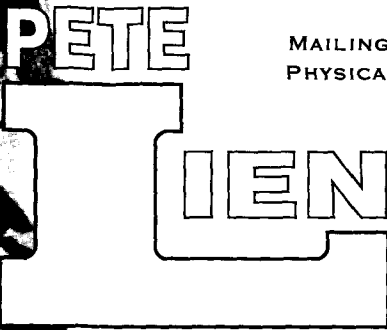
If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosure



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

*PETE LIEN & SONS *BIRDSALL SAND & GRAVEL *COLORADO LIEN CO.
*DAKOTA BLOCK CO. *TRANS COLORADO CONCRETE

PETER C. LIEN
1898 - 1969 FOUNDER

BRUCE H. LIEN
FOUNDER

CHARLES H. LIEN
FOUNDER
CHAIRMAN

PETER C. LIEN
PRESIDENT

& Sons, Inc.

September 2, 2010

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SEP - 3 2010

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Department of Environment and Natural Resources
Water Rights Program
Karen Schlaak
PMB 2020
523 East Capitol
Pierre, SD 57501-3182

Dear Ms. Schlaak:

Thank you for your response to our application dated August 23, 2010. Our response for your request of additional information follows:

- Enclosed is the requested map with the diversion point noted and signed by a registered Professional Engineer.
- Our maximum rate of diversion is requested to be 5.0 cfs, however, this location will only be operated seasonally and our maximum annual usage will not exceed 250 MGal annually.

If you have any questions please feel free to contact me at (605) 939-2686 or dwiebers@petelien.com.

Thank you,

Danielle Wiebers
Environmental Engineer
Pete Lien & Sons, Inc.

Gronlund, Eric

From: Danielle Wiebers [DWiebers@petelien.com]
Sent: Thursday, September 09, 2010 10:57 AM
To: Gronlund, Eric
Subject: RE: Map submitted with Pete Lien and Sons water permit application

Hi Eric,

I will have them correct the map and resend it. You are also correct about this being separate from the other operation on the Cheyenne.

Thank you,
Danielle

From: Eric.Gronlund@state.sd.us [mailto:Eric.Gronlund@state.sd.us]
Sent: Thursday, September 09, 2010 9:25 AM
To: Danielle Wiebers
Subject: Map submitted with Pete Lien and Sons water permit application

Ms. Wiebers:

Attached is a scanned version of the map submitted with Pete Lien & Sons' water permit application from the Cheyenne River. I am reasonably confident that the section designation on the map errantly references Section 2 instead of the correct section which is Section 11. The diversion point appears to me to be in the NE 1/4 NW 1/4 Section 11, T8S, R6E. If you agree, please have Kim Sarver correct the map and submitted a signed stamped version. Thanks!

Also Peter Lien & Sons has a water right for another operation on the Cheyenne River a few miles downstream. Am I correct in assuming that this new operation is separate from the other operation and that Pete Lien's this is not simply retiring the old site and transferring to this new location?

Eric Gronlund
Water Rights Program, DENR
Phone: (605) 773-3352
Fax: (605) 773-4068
Email: eric.gronlund@state.sd.us
Web: www.denr.sd.gov

09/09/2010

Gronlund, Eric

From: Danielle Wiebers [DWiebers@petelien.com]
Sent: Friday, September 10, 2010 12:13 PM
To: Gronlund, Eric
Subject: Revised Flyte Pit Application MAp

Hi Eric,

Please accept this revised map as replacement for the one sent earlier. I had them correct it so that the diversion point is shown and identified clearly to match the description on the application.

Thank you,
Danielle Wiebers
Pete Lien & Sons, Inc.

09/10/2010

PAYMENT REQUEST FORM

2-11-11

PAYEE: Pete Lien & Sons Inc
Daniel Wiebers
PO Box 440
Rapid City SD 57709

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

REFUND on Water Permit 2656-2 (overpayment)

AMOUNT: \$2,300.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Darlan Cubel 2/11/11

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



**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. 2656-2, Pete Lien & Sons, Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2656-2, Pete Lien & Sons, Inc., c/o Danielle Wiebers, PO Box 440, Rapid City SD 57709.

The Chief Engineer is recommending APPROVAL of Application No. 2656-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed. This permit does not authorize diversion of water from the Cheyenne River at any time when the river flow is low, unless written orders have been issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. Permit No. 2656-2 authorizes diversion of water from the Cheyenne River only to the extent necessary to replenish the holding/settling ponds for losses due to evaporation and dust control purposes. Water shall be re-circulated through the holding/settling ponds and reused to minimize the need to make Cheyenne River diversions.

See report on application for additional information.

Garland Erbele, Chief Engineer
December 3, 2010

REPORT ON APPLICATION NO. 2656-2

Pete Lien & Sons, Inc.

October 4, 2010

Water Permit Application No. 2656-2 proposes to appropriate 5.0 cubic feet of water per second (cfs) or 767 acre-feet annually from the Cheyenne River located in NW¼ NE¼ Section 11, T8S-R6E for industrial use in a gravel washing plant. The project is located in Fall River County approximately 6 miles southeast of the town of Hot Springs and about 2 miles below the confluence of the Cheyenne River with the Fall River.

WATER SOURCE – CHEYENNE RIVER

Formed by the confluence of Antelope and Dry Fork creeks, the Cheyenne River rises in northeastern Wyoming in the Thunder Basin National Grassland in northeastern Converse County, Wyoming. It flows east into South Dakota, passes Edgemont, and skirts the southern end of the Black Hills, passing through Angostura Reservoir.

On the east side of the Black Hills, the river flows northeast, past Oral and the Buffalo Gap National Grassland, and along the northwestern boundary of the Pine Ridge Indian Reservation and Badlands National Park. It is joined by Rapid Creek, passes Wasta and is joined by the Belle Fourche River in eastern Meade County, after which it flows east-northeast along the southern boundary of the Cheyenne River Indian Reservation. It is joined by Cherry Creek at the town of Cherry Creek and then flows into the Missouri River approximately 32 miles (50 km) north-northwest of Pierre, with the lower 35 miles (56 km) of the river forming an arm of Lake Oahe.

Perennial Cheyenne River flows, above and below Angostura Reservoir, is normally low with occasional high flows occurring during spring snowmelt and periodic rainstorms. Average precipitation in the area is about 16-inches per year, most of which occurs from April through September. In dry to normal periods, Angostura reservoir does not normally contribute flow to the Cheyenne River. The Fall River is a tributary to the Cheyenne River with confluence located approximately 5 miles below Angostura Reservoir. A significant portion of the flow in this reach below the reservoir is provided by the Fall River which is fed by thermal springs therefore the base stream flow of Fall River does not vary far from the median throughout the year (Table 1).

Table 1. USGS Gage Fall River at Hot Springs Monthly Median Flow Probabilities (cfs)

Probability	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
90%	21	21	21	22	21	20	20	20	20	20	21	20
75%	22	22	22	23	22	22	22	21	21	22	22	22
50%	24	24	24	25	24	24	25	24	23	24	24	24
25%	28	28	27	28	28	27	28	27	26	26	28	28
10%	30	30	30	30	30	30	31	30	29	29	29	30

The U.S. Geological Survey (USGS) maintains a stream flow gaging station on the Cheyenne River approximately 15 miles downstream of the proposed project near Buffalo Gap, South Dakota. The historical data from this gage for the June through August interval, when Cheyenne River flows are mainly regulated by output to the Irrigation District from Angostura Dam, indicate there is a 50 percent probability the median flow rate at this location will range from 42 to 54 cfs or greater during this interval of any given year. There is a 75-percent probability the median flow rate will range from 31 to 43 cfs or greater for the same interval at this location (Table 2).

Table 2. USGS Gage Near Buffalo Gap Median Flow Probabilities (cfs)

Probability	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
90%	40	56	55	46	44	36	33	33	47	54	57	34
75%	47	60	59	53	50	42	31	43	57	62	62	49
50%	55	64	65	62	60	54	42	54	64	69	69	60
25%	67	73	86	93	76	73	54	65	73	74	74	70
10%	74	147	158	154	209	159	78	78	85	80	79	78

Since 1929, the USGS has maintained a stream flow gaging station on the Cheyenne River near Wasta. Data from this gaging station for the June through August interval indicate there is a 50-percent probability the median flow rate will range from 102 to 324 cfs or greater at this location during this interval of any given year. There is a 75-percent probability the median flow rate will range from 59 to 106 cfs or greater for the same interval at this location (Table 3).

Table 3. USGS Gage near Wasta Median Flow Probabilities (cfs)

Probability	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
90%	35	47	100	77	50	58	32	32	40	60	63	44
75%	53	70	140	119	89	106	66	59	62	76	92	64
50%	80	108	241	234	217	324	149	102	92	105	120	90
25%	128	182	495	460	629	1040	377	188	149	163	159	125
10%	180	316	974	1022	1560	2402	799	493	280	278	252	185

During periods of drought, water rights with diversions from the Cheyenne River are subject to shutoff Orders issued by the Chief Engineer. Shut-off Orders have been issued for the Cheyenne River in 1989, 1990, 2006 and 2007. Although the 2006 Order was issued on June 30 it was rescinded on September 5th following a significant precipitation event, allowing diversions from the Cheyenne River. The 2007 Order was issued on June 27th was rescinded on two or three instances allowing junior water right holders to divert water from the Cheyenne River for short durations (i.e. 24 to 48 hours).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

Upstream of this project to Angostura reservoir there are 5 existing water rights appropriating 5.29 cfs and downstream to the confluence of the Cheyenne and Belle Fourche Rivers there are 49 existing water rights appropriating 150.42 cfs. At times, especially during drought periods, low flows occur in the Cheyenne River reach from the reservoir to the confluence with the Belle Fourche River.

The applicant, Pete Lien & Sons, currently holds Water Permit No. 2531-2 authorizing the diversion of Cheyenne River water for industrial use in another gravel washing operation located approximately 12 miles downstream of this proposed project. Water Permit No. 2531-2 lists a priority date of June 14, 2004 and authorizes the diversion of 5.0 cfs from the Cheyenne River subject to certain qualifications. Permit Qualification #2 reads as follows:

“Permit No. 2531-2 authorizes diversion of water from the Cheyenne River only to the extent necessary to replenish the holding/settling ponds for losses due to evaporation and dust control purposes. Water shall be re-circulated through holding/settling ponds and reused as needed to minimize the need to make Cheyenne River diversions.”

Additional information should be noted from the Findings of Fact/Conclusions of Law for Water Permit No. 2531-2, more specifically Findings of Fact Nos. 12 and 13, which read as follows:

“12. The opponents to the permit also challenged the propriety of allowing the Applicant to withdraw 5 cfs rather than a lower cfs. The Applicant, however, demonstrated that its system was set up to work at an optimum level at 5 cfs. The Board has found that the withdrawal of water at 5 cfs will not harm the opponents. The opponents therefore lack a viable objection to the 5 cfs withdrawal rate.”

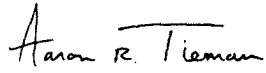
“13. The Board finally takes note of the opponents’ objection to the use of 5 cfs on a continuous basis. The Board finds, however, that the application does not request 5 cfs on a continuous basis. Moreover, the final decision of the Board prohibits the use of 5 cfs on a continuous basis and limits the diversions of water under the permit to the amount necessary to replenish the holding/settling ponds for losses due to evaporation and dust control purposes. It also requires recirculation of water through the holding/settling ponds and reuse goes to minimize the Cheyenne River diversions.”

The applicant has informed Water Rights staff that the proposed project will be designed very similar to the existing gravel washing plant with the same type of holding/settling ponds and reuse system currently configured for Water Permit 2531-2. In addition, the applicant has been informed of the possibility that water rights with diversions from the Cheyenne River could be subject to shutoff Orders issued by the Chief Engineer. Therefore, it would be in Pete Lien & Son’s interest to fill the ponds in the spring when high flows generally occur in order to have water to re-circulate from the ponds in the event that a Cheyenne River shut-off order is issued.

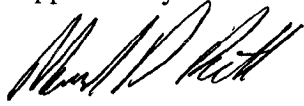
Except during severe drought conditions in the Upper Cheyenne River Basin, historical USGS stream flow data indicates that a diversion rate of 5.0 cfs of water should not adversely impact existing water rights or domestic water use downstream of this proposed project.

CONCLUSIONS

1. Water Permit Application No. 2656-2 proposes to appropriate 5.0 cfs from the Cheyenne River for industrial use in a gravel washing plant.
2. During extremely dry conditions, a low-flow bypass or shutoffs may be ordered by the Chief Engineer in order to protect downstream domestic use and prior water rights.
3. The applicant has informed Water Rights staff that the proposed project will be designed with holding/settling ponds and reuse system very similar to the applicant’s existing gravel washing plant currently configured for Water Permit 2531-2.
4. Except during severe drought conditions in the Upper Cheyenne River Basin, historical USGS stream flow data indicates that a diversion rate of 5.0 cfs of water should not adversely impact existing water rights or domestic water use downstream of this proposed project.
5. If this application is approved, it should be issued with qualifications similar to the ones the Water Management Board placed on Water Permit No. 2531-2, since this project would be operated in a similar manner.



Aaron R. Tieman
Natural Resources Project Engineer
Approved by

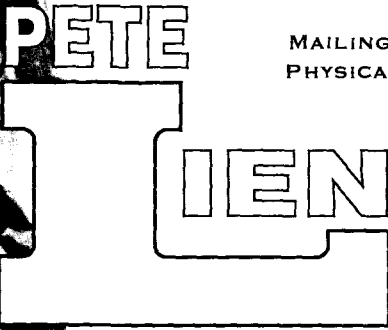


Mark D. Rath
Natural Resources Engineering Specialist

BIBLIOGRAPHY

USGS National NWISWeb Water Information System 2010, Historical Stream Flow for South Dakota.

Water Right, 2010, Unpublished Water Rights Data, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.



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

*PETE LIEN & SONS *BIRDSALL SAND & GRAVEL *COLORADO LIEN CO.
*DAKOTA BLOCK CO. *TRANS COLORADO CONCRETE

PETER C. LIEN
1898 - 1969 FOUNDER

BRUCE H. LIEN
FOUNDER

CHARLES H. LIEN
FOUNDER
CHAIRMAN

PETER C. LIEN
PRESIDENT

& Sons, Inc.

December 22, 2010

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

RECEIVED

DEC 28 2010

WATER RIGHTS
PROGRAM

Re: Proof of publication for Application No 2656-2

Dear Eric:

I received an affidavit of publication from the Hot Springs Star and there was no cover letter stating whether a copy was sent to your office also. I have enclosed a copy for your files in the event that they did not forward one to your office.

Thank you,

Danielle Wiebers
Environmental Engineer
Pete Lien & Sons, Inc.

67
NOTICE OF APPLICATION
NO. 2656-2

to Appropriate Water

Notice is given that Pete Lien & Sons Inc., c/o Danielle Wiebers, PO Box 440, Rapid City SD 57709 has filed an application for a water permit to appropriate 5.0 cubic feet of water per second (767 acre-feet annually) from the Cheyenne River located in the NW 1/4 NE 1/4 Section 11-T8S-R6E for industrial use in a gravel washing plant.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2656-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by January 3, 2011.

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

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

Published twice at the total
approximate cost of \$43.99.

Dec. 14, 21

RECEIVED

DEC 22 2010

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

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

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

#67 Notice of

Application #2656-2

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

for two

successive issues, beginning with the issue dated

Dec. 14, 2010

and ending with the issue dated

Dec. 21, 2010

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

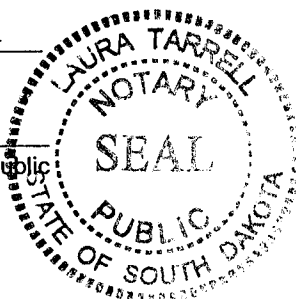
\$ 43.99, and that no agreement or understanding, for the division thereof, has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the whole amount insures to the benefit of the publishers of said newspaper.

Subscribed and sworn to before me

this 14 day of Dec

20 10.

Notary Public



My Commission Expires
December 3, 2013

RECEIVED

DEC 22 2010

WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

December 6, 2010

Pete Lien & Sons Inc
c/o Danielle Wiebers
PO Box 440
Rapid City SD 57709

Dear Ms. Wiebers:

Water Permit Application No. 2656-2 for industrial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Hot Springs Star printed at Hot Springs SD (Ph # 605-745-4170). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
eric.gronlund@state.sd.us

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

December 6, 2010

Hot Springs Star
PO Box 1000
Hot Springs SD 57747

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2656-2 to Appropriate Water to be published twice. Please publish the first notice on December 14, 2010 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 Pete Lien & Sons Inc., c/o Danielle Wiebers, PO Box 440, Rapid City SD 57709 (Ph # 605-342-7224).

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. 2656-2

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

Date _____

We are in receipt of your letter of December 6, 2010 enclosing Notice to Appropriate Water by Application No. 2656-2 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 December 14, 2010 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 2656-2 to Appropriate Water

Notice is given that Pete Lien & Sons Inc., c/o Danielle Wiebers, PO Box 440, Rapid City SD 57709 has filed an application for a water permit to appropriate 5.0 cubic feet of water per second (767 acre-feet annually) from the Cheyenne River located in the NW ¼ NE ¼ Section 11-T8S-R6E for industrial use in a gravel washing plant.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2656-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by January 3, 2011.

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

Published twice at the total approximate cost of _____.



**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 11 2011

Pete Lien & Sons, Inc.
c/o Danielle Wiebers
PO Box 440
Rapid City SD 57709

Dear Ms. Wiebers:

Enclosed is Water Permit No. 2656-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

This application was submitted with a \$3,750.00 fee. The correct fee is \$1,450.00. Therefore, \$2,300.00 will be refunded to Pete Lien & Sons, Inc. The refund check should be received within the next couple of weeks.

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.

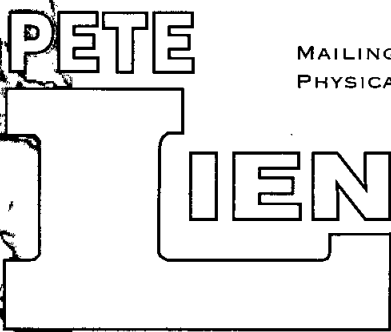
An informational sheet ? *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

2656-2



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

RECEIVED

JAN 11 2016

WATER RIGHTS
PROGRAM

& Sons, Inc.

January 8, 2016

SD Department of Environment and Natural Resources
Water Rights Program
523 East Capitol
Pierre, SD 57501-3181

Re: Pete Lien & Sons, Inc.; Water Permit No. 2656-2; Completion of Construction

Please find this letter to demonstrate compliance with Condition 7 of Water Permit 2656-2. Construction of the diversion system was completed on August 24, 2015. A Notice of Completion of Works and Application of Water to Beneficial Use will be provided in the future once water is allocated for beneficial use.

If there are any questions regarding this notice or if additional information is required, please feel free to contact me at (605) 939-2690 or by email at CBeck@petelien.com.

Respectfully,

A handwritten signature in black ink, appearing to read "C. Beck", is written over a horizontal line.

Clinton D. Beck
Environmental Coordinator
Pete Lien & Sons, Inc.

Return Receipt: 7014 2870 0000 3077 6972