

WATER PERMIT NO. 2656A-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

Total Acres: NA

Source of Water Supply: Cheyenne River

Water to be used for: industrial use

County: Fall River

Type of Waste Disposal System:

Location: approximately 6 miles southeast of Hot Springs

PRIORITY Date Received: 7-17-19

Application/License Fee: \$100

Corrected Application Received:

Period of Annual Use: March 1 – November 30

Remarks: Extension of time request

Diversion Point: NE 1/4 NW 1/4 Sec 11-T8S-R6E

Land to be Irrigated: NA

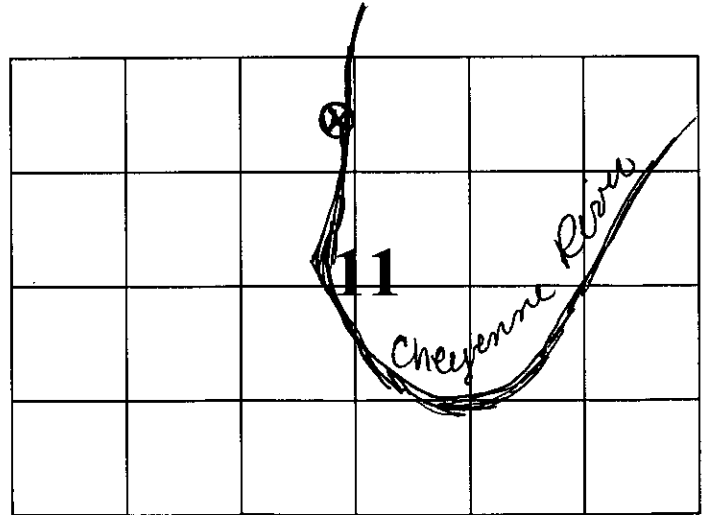
Depth of Well: NA

Well Driller:

Remarks:

Type of Map:

Prepared by:



Reviewed and the Number Assigned on: 7-18-19

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2656A-2**

Date of first receipt of application July 17, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2656A-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. 2656A-2 amends Water Permit No. 2656-2 extending the length of time allowed to place water to beneficial use. Water Permit No. 2656-2 appropriates 767 acre-feet of water annually at a maximum pump rate of 5.0 cubic feet of water per second from the Cheyenne River located in the NW 1/4 NE 1/4 Section 11-T8S-R6E. This site is located approximately 6 miles southeast of Hot Springs SD.
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. 2656A-2 is October 14, 2019.
5. The date from which applicant may claim right is August 23, 2010 (established by Permit No. 2656-2).
6. Water is to be put to beneficial use on or before January 3, 2024.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. 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 Nos. 2656-2 and 2656A-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: 

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

DEC 05 2019

date



RECEIVED

JUL 17 2019

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2656A-2</u> (office use only) Hydrologic Unit <u>10120109</u>
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Hot Springs Star</u> <u>Rapid City Journal</u>

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

Check use(s) of water:

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

Type of Application: (check one)

☐ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☒ Amendment/Correction to Permit No. <u>2656-2</u>		

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

Request for a four year extension to the beneficial use deadline to allow for completion of the EA with the FAA as allowable per SDCL 46-5-26.

1. Name to Appear on Water Permit Pete Lien & Sons, Inc.

Mailing Address PO Box 440 Rapid City SD 57709
 (Address) (City) (State) (Zip Code)

Phone (605) 342-7224 Mobile _____ Email cbeck@petelien.com

2. Amount of water claimed 5.0 *CFS or 767 **GPM and 767 ***AF or _____ Gallons
 Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply Cheyenne River

4. Location of point of diversion NE1/4NW1/4 Section 11-T8S-R6E County Fall River
 (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

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

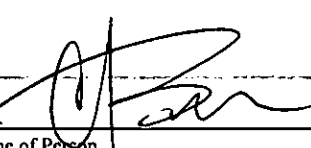
If "Yes," where will water be used? Portions of Sections 10 & 11-T8S-R6E

(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Fall River6. Annual period during which water is to be used March 1 - November 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)

Please refer to original application received August 23, 2010. The application is to draw water from the Cheyenne River for the operation of a gravel washing plant.

I, Clinton Beck, P.E.  Environmental Coordinator, the applicant, certify under
 Name of Person Title (if applicable)

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

PETE

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

LIEN

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JUL 17 2019

WATER RIGHTS
PROGRAM

PAID

JUL 17 2019

Ck# 280098

& Sons, Inc.

June 25, 2019

SD DENR

Water Rights Program

Attn: Mr. Eric Gronlund

523 East Capitol, Joe Foss Building

Pierre, SD 57501-3182

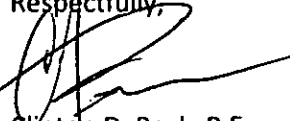
Re: Pete Lien & Sons, Inc.; Request for Amendment to Permit No. 2656-2

Dear Mr. Gronlund,

Please find the enclosed application for an amendment to Permit No. 2656-2. Pete Lien & Sons, Inc. is requesting a four-year extension to the beneficial use deadline to allow for the completion of the EA in part with the FAA for the facility that will use this water right. Please find the enclosed check in the amount of \$100 to cover the application fees.

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

Respectfully,



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

Enclosures

Return Receipt: 7014 2870 0000 3077 8273

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 17

, 20 19

Pete Lien & Sons PO Box 440 Rapid City SD 57709

RECEIVED OF _____

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	100	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Extension of Time on Water Permit #2656-2		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	100 00

No. **09168**

By

Jeanne Goodman
Chief Engineer *vm*

Gronlund, Eric

From: Clint Beck <CBeck@petelien.com>
Sent: Friday, July 19, 2019 12:59 PM
To: Gronlund, Eric
Subject: RE: [EXT] [ExternalSender] water permit application for extension of time to place water to beneficial use for Permit No. 2656-2.

Hi Eric,

The environmental Assessment is required by the FAA in conjunction with the City of Hot Springs.

FAA stands for Federal Aviation Administration.

Sorry for the confusion Eric. Please let me know if you have any other questions. Thanks for your time on this. Take care Eric.

Clinton D. Beck, P.E.
Environmental Coordinator
Pete Lien & Sons, Inc.
Office: (605) 939-2690
Cell: (605) 519-1213



From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Friday, July 19, 2019 8:54 AM
To: Clint Beck <CBeck@petelien.com>
Subject: [ExternalSender] water permit application for extension of time to place water to beneficial use for Permit No. 2656-2.

Clint – Water Rights Program received Pete Lien’s application for an extension of time.

Is the Environmental Assessment a Fall River County requirement that must be met prior to operation at the site or some other requirement?

What does “FAA” in your cover letter stand for?

Thanks

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

Schlaak, Karen

From: Gronlund, Eric
Sent: Tuesday, May 21, 2019 3:20 PM
To: 'Clint Beck'
Cc: Quissell, Steve (Seasonal); Schlaak, Karen
Subject: RE: [EXT] [ExternalSender] Lien & Sons' Water Permit No. 2656-2
Attachments: E1585LDV5-NONIRRIG (1).pdf

We use the normal application form. Basically this will be an amendment to allow for an extension of time. Attached is a pdf of the application form and instructions.

The application filing fee for an amendment is \$100. Lien & Sons will not have to file the \$200 licensing fee since the prior submitted license fee will carry over to this permit if approved. Lien & Sons will be responsible for the cost of publication of the notice in the newspaper. We'll walk you through that process when we get to that point.

Eric

From: Clint Beck [mailto:CBeck@petelien.com]
Sent: Tuesday, May 21, 2019 2:58 PM
To: Gronlund, Eric
Cc: Quissell, Steve (Seasonal)
Subject: RE: [EXT] [ExternalSender] Lien & Sons' Water Permit No. 2656-2

Hi Eric,

Thank you for the reply. We do have a pad there and actually had a portable pump placed on it to make sure it was properly sized and that the location would work for the planned plant location. I believe Steve and I determined at the time of inspection that the pad with the photos of the pump placement was sufficient for the construction condition.

As to the beneficial use and understanding that the request for extension will require a review and approval, I will make sure to provide enough information to allow for said review. Is there a specific form that must accompany this request?

Again, thank you for the information Eric. I appreciate your time and help.

Clinton D. Beck, P.E.
Environmental Coordinator
Pete Lien & Sons, Inc.
Office: (605) 939-2690
Cell: (605) 519-1213



From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Tuesday, May 21, 2019 12:53 PM
To: Clint Beck <CBeck@petelien.com>
Cc: Quissell, Steve (Seasonal) <Steve.Quissell@state.sd.us>
Subject: [ExternalSender] Lien & Sons' Water Permit No. 2656-2

Clint – Steve Quissell forwarded your email on to me. There is no specific timeframe in statute or rule for how long of an extension you can request. SDCL 46-5-26 states “for a reasonable time”. Past practice has been not to give an extension of time above the time afforded in statute for completing construction and placing water to beneficial use. SDCL 46-2A-8 provides for five years to complete construction and an additional four years to put water to beneficial use. Completion of works was to be completed in January 2016 and water placed to beneficial use in January 2020. Lien & Sons had a pad in place when Steve was out there and presuming they had portable pump that could have been easily put in place, a case could be made that the completion of works deadline was met. Then Lien & Sons had another 4 years to place water to beneficial use and appears to be the hold-up is getting local government approval otherwise the wash plant would be operational. It seems appropriate for a request for an extension of time due to operation of law be for up to 4 years.

Any application for an extension of time would undergo staff review prior to a recommendation being made and then need to be public noticed. Therefore, at this time and until the process is complete there is no guarantee an extension of time will be approved.

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

From: Quissell, Steve (Seasonal)
Sent: Tuesday, May 21, 2019 1:34 PM
To: Gronlund, Eric
Subject: FW: [EXT] [ExternalSender] Water Permit No. 2656-2

Eric

Can you help with this. The attached picture is of a pad to be used for the pump when the gravel plant is moved in. This is what was onsite when I did the licensing inspection back in May of 2016.

Steve Quissell
Water Rights Inspector
SD DENR, Water Rights Program
(605) 394-2229
denr.sd.gov



From: Clint Beck [<mailto:CBeck@petelien.com>]
Sent: Tuesday, May 21, 2019 11:31 AM
To: Quissell, Steve (Seasonal)
Subject: RE: [EXT] [ExternalSender] Water Permit No. 2656-2

Good morning Steve,

Thank you for checking in on this one. The operation is still in the permitting phase under review and held up waiting on further action from the city. I will be drafting a request for beneficial use extension per SDCL 46-5-26 under operation of law beyond our power to avoid. I do have a question for you before then though, I could not find any guidance, rule, etc. that details for how long an extension can be requested for. Can you provide this? As stated, we are waiting on the city to complete some additional actions that would allow permitting to continue. This is progressing, but taking longer than anticipated.

As always, thanks for your help and time Steve. On a separate note, if I recall you were in AZ over the winter. Hope the time there was enjoyable and the trip up uneventful.

Clinton D. Beck, P.E.
Environmental Coordinator
Pete Lien & Sons, Inc.
Office: (605) 939-2690
Cell: (605) 519-1213



From: Quissell, Steve (Seasonal) <Steve.Quissell@state.sd.us>
Sent: Monday, May 20, 2019 1:17 PM
To: Clint Beck <CBeck@petelien.com>
Subject: [ExternalSender] Water Permit No. 2656-2

Clint

Have you got any update on the status of the Fall River County gravel operation covered by Water Permit #2656-2? I looked at that diversion site with you back in May of 2016. At that time there was a concrete pad on the bank of the Cheyenne, but no gravel operation utilizing the water. I thought I should wait until there actually was a plant operating at that site before I actually licensed this permit. The time to place that water to beneficial use expires on January 3, 2020 which will be here soon. Has Lien moved a plant in and started washing at this site yet. If so I will proceed with licensing this permit. Thanks for any info you can provide. The site is located in the NW ¼ NE ¼ S11 T8S R6E.

Steve Quissell
Water Rights Inspector
SD DENR, Water Rights Program
(605) 394-2229
denr.sd.gov





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2656A-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. 2656A-2, Pete Lien & Sons, Inc. PO Box 440, Rapid City SD 57709.

The Chief Engineer is recommending APPROVAL of Application No. 2656A-2 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and, 3) it is in the public interest with the following qualifications:

1. Low flow 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 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 Nos. 2656-2 and 2656A-2 authorize 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.

Jeanne Goodman, Chief Engineer
September 23, 2019

REPORT ON WATER PERMIT APPLICATION NO. 2656A-2

Pete Lien and Sons, Inc.

September 4, 2019

Application No. 2656A-2, is a request to the lengthen the time allowed to put to beneficial use an appropriation authorized by Water Permit No. 2656-2 for 767 acre-feet of water annually at a maximum pump rate of 5.0 cubic feet of water per second from the Cheyenne River located in the NW 1/4 NE 1/4 Section 11-T8S-R6E. Water will be diverted for industrial use in a sand and gravel wash plant located approximately 6 miles southeast of Hot Springs SD in Fall River County.

Review of the Proposed Project

Water Permit No. 2656-2 bearing the priority date of August 23, 2010, was approved on January 3, 2011. The permit had a completion date of January 3, 2016, and a beneficial use date of January 3, 2020. A Water Rights inspector found in May of 2016, during the licensing inspection, the applicant had constructed the pump pad for use with a portable pump for gravel washing; the portable pump was not on-site the day of the inspection. The applicant is requesting the beneficial use date be extended to January 3, 2024. If approved, this permit will retain the January 23, 2010, priority date assigned to Permit No. 2656-3.

Review of the Proposed Water Source

The Cheyenne River headwaters in the high plains of Wyoming in the Thunder Basin National Grasslands and meanders around the southern extent of the Black Hills entering South Dakota about 14 miles northwest of the town of Edgemont SD, in Fall River County. The river is impounded by Angostura Reservoir located approximately 6 miles south of Hot Springs and can impound up to 138,761 acre-feet of water stored in Angostura Reservoir for irrigation at the Angostura Irrigation District and other purposes. Construction of Angostura Reservoir was completed in 1949 as part of the Angostura Unit and supplies the Angostura Irrigation District water for irrigation of 12,218 acres in northeastern Fall River and southeastern Custer counties (US Bureau of Reclamation. 2002).

Perennial Cheyenne River flows, above and below Angostura Reservoir, are 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 and approximately 2.5 miles upstream from this project's diversion point (USGS. 2019). The U.S. Geological Survey (USGS) maintains a stream flow gaging station on the Fall River approximately 7.5 miles upstream of the proposed

project at Hot Springs (Figure 1). 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.

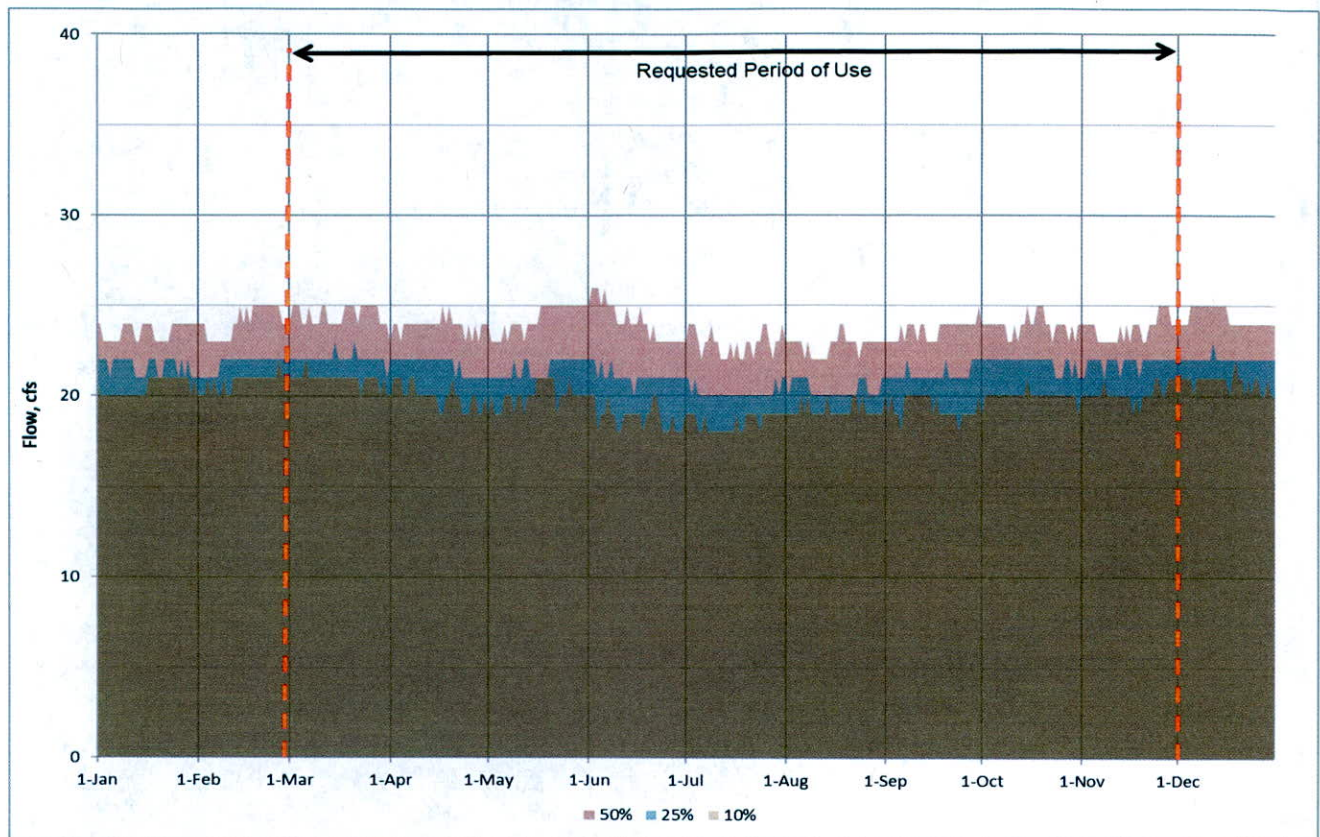


Figure 1. - Daily percentile flow hydrograph for the USGS Stream Gage No. 06402000 Fall River at Hot Springs 1969-2018, contributing drainage area 136 mi² (USGS, 2019).

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 (Figure 2). During the period of proposed use, the 25-percentile level, on average one out of four years, shows the daily flow values ranging between near 60 cfs during the early and late months but dropping to near 30 cfs in mid-July. The 10-percentile, corresponding to the daily flow values at or below this level on average one out of ten years, indicates a similar trend with higher flow levels during the early spring and later fall months before dropping off in July to mid-August with flow levels dropping to approximately 20 cfs range.

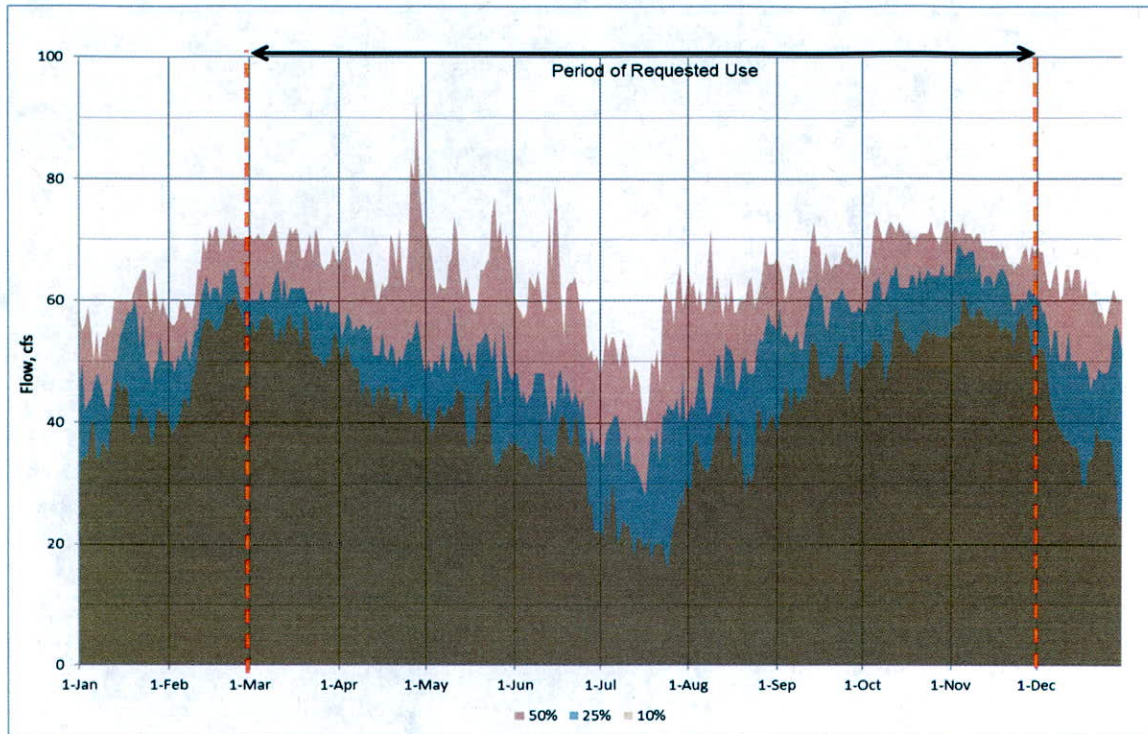


Figure 2. Daily percentile flow hydrograph for the USGS Gage No. 06402600 Cheyenne River near Buffalo Gap, 1968-2018, contributing drainage area 9,792 mi² (USGS, 2019).

The USGS has maintained a stream flow gaging station on the Cheyenne River near Wasta for several years (Figure 3). The 25-percentile level shows the daily flow values at or below the indicated level on average one out of four years, and there is an increase in flow in the spring months before dropping off in late June. The 25-percentile curve drops to a low of approximately 50 cfs in mid-July before beginning to edge upward through the remainder of the summer months and fall. The 10-percentile, corresponding to the daily flow values at or below this level on average one out of ten years, indicates a similar trend with increasing flow levels through most of the spring months before dropping off in July to mid-August with flow levels dropping to approximately the 20 cfs range.

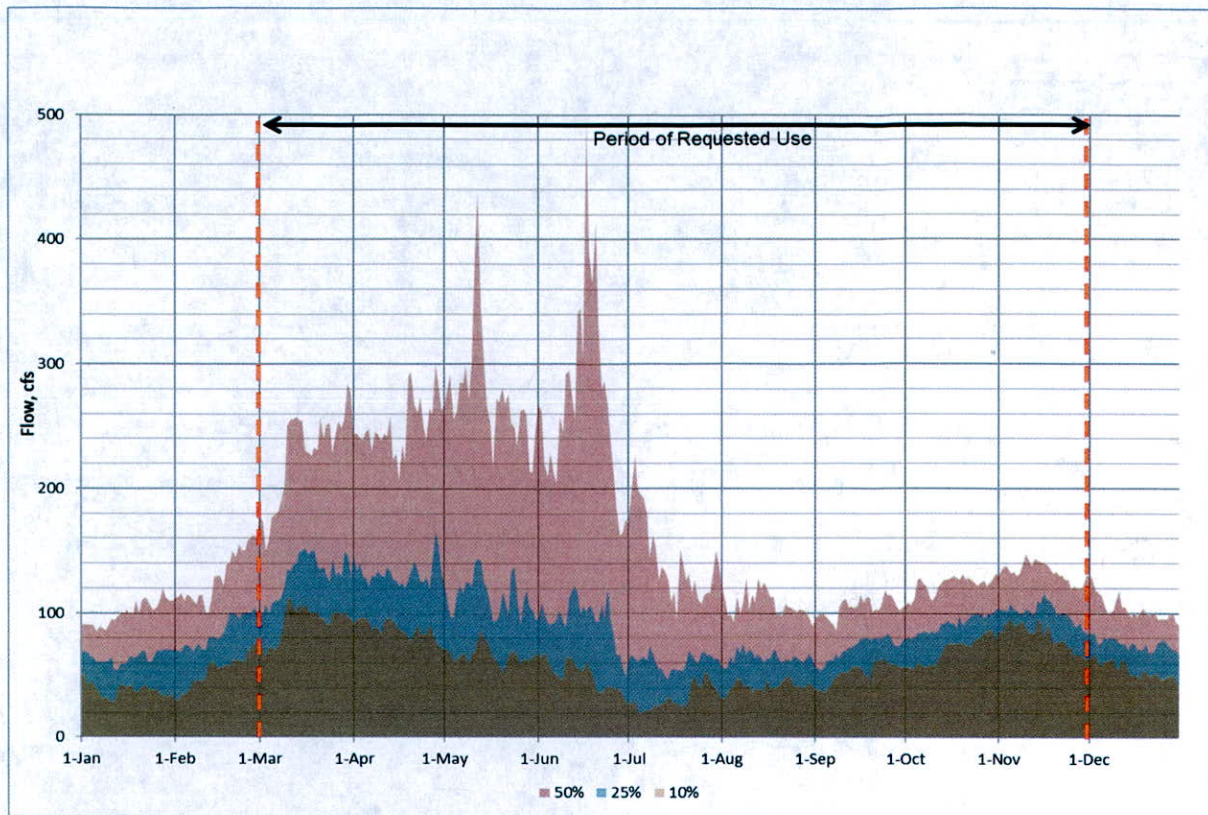


Figure 3. Daily percentile flow hydrograph for the USGS Gage No. 06423500 Cheyenne River near Wasta, 1963-2018, contributing drainage area 12,674 mi² (USGS, 2019).

Review of Existing Water Rights

There are 51 existing water rights/permits appropriating 145.71 cfs from the Cheyenne River located between this project's diversion point and the confluence with the Cheyenne River. During extremely dry climatic conditions, the Cheyenne River cannot be considered a reliable water source. Junior priority Water Rights with diversions from the Cheyenne River between the Wyoming state line and the confluence with the Belle Fourche River have been subject to shutoff orders issued by the Chief Engineer multiple times in the past 30 years. These shutoff orders were issued during the droughts of the late 1980's and early 1990's and during the drought of 2000-2007 (Water Rights, 2019).

Discussion

This application is a request to extend the beneficial use date for the use of Cheyenne River water that has already appropriated under Water Permit No. 2656-2. No. 2656-2 bearing a priority date of August 23, 2010, was approved in January of 2011. A 2016 water permit inspection found the applicant had constructed a pump pad for use with a portable pump for gravel washing; the portable pump was not on-site the day of the inspection. The applicant is requesting the beneficial use date be extended to January 3, 2024. If approved, this permit will retain the January 23, 2010, priority date assigned to Permit No. 2656-3.

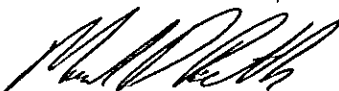
The source of water for this project is the Cheyenne River in the reach between Angostura Reservoir and the confluence with the Belle Fourche River. Based upon a review of the available flow data from the USGS gaging stations and a review of existing rights, there is a reasonable probability that water will be available for this project. However, during periods of extremely dry climatic conditions, this reach has been subject to shutoff orders based upon priority and there is a likelihood shutoff orders will need to be issued during future droughts.

Special Consideration

SDCL 46-5-26 provides that a permit may be amended by extending the time for the completion of construction, or for the application to beneficial use, for a reasonable time, but only because of delays due to physical or engineering difficulties which could not have been reasonably anticipated, due to operation of law beyond the power of the applicant to avoid, or due to other exigent circumstances identified by the Water Management Board. Pete Lien & Sons indicates they are conducting an environmental assessment required by the Federal Aviation Administration due to their operation's proximity to the airport. This could be deemed an operation of law beyond the power of the applicant to avoid.

Conclusions

1. This application requests an extension of time be allowed to put to beneficial use an appropriation authorized by Water Permit No. 2656-2.
2. Water Permit No. 2656-2 appropriates 767 acre-feet of water annually at a maximum pump rate of 5.0 cubic feet of water per second from the Cheyenne River.
3. Water will be diverted for industrial use in a sand and gravel wash plant located approximately 6 miles southeast of Hot Springs SD in Fall River County.
4. The applicant is requesting the beneficial use date be extended to January 3, 2024.
5. If approved, this permit will retain the January 23, 2010, priority date assigned to Permit No. 2656-3.
6. Based upon a review of the available flow data from the USGS gaging stations and a review of existing rights, there is a reasonable probability that water will be available for this project.
7. However, during periods of extremely dry climatic conditions, this reach has been subject to shutoff orders based upon priority, and there is a likelihood shutoff orders will be needed during future droughts.
8. The reason cited by the applicant for needing an extension of time to place water to beneficial use is the requirement by the Federal Aviation Administration to conduct an environmental assessment.



Mark D. Rath

Natural Resources Engineer III

References

1. USGS. 2019. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. US Bureau of Reclamation. 2002. Angostura Unit Contract Negotiation and Water Management Final Environmental Impact Statement. Bureau of Reclamation, Great Plains Region - Dakotas Area Office: Bismarck, ND and Rapid City, SD.
3. Water Rights. 2019. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 24, 2019 11:34 AM
To: cbeck@petelien.com
Subject: Water Permit Application No. 2656A-2
Attachments: 2656A-2.pdf

Attached is the report, recommendation and information regarding the public notice for Water Permit Application No. 2656A-2, Pete Lien & Sons Inc. As stated in the letter, you need to contact the Rapid City Journal ASAP to authorize publication and arrange for payment in both the Rapid City Journal and the Hot Springs Star. Paper copies being mailed today.

Karen Schlaak

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



Affidavit of Publication

RECEIVED

OCT 07 2019

WATER RIGHTS
PROGRAM

Oct. 2 L21126906
NOTICE OF APPLICATION
NO. 2656A-2 to Amend Water
Permit No. 2656-2

Notice is given that Pete Lien & Sons, Inc., c/o Clinton Beck, PO Box 440, Rapid City SD 57709 has filed an application for a water permit to amend Water Permit No. 2656-2 to extend the length of time allowed to place water to beneficial use. Water Permit No. 2656-2 appropriate 767 acre-feet of water annually at a maximum pump rate of 5.0 cubic feet of water per second 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. This site is located approximately 6 miles southeast of Hot Springs SD.

Water Permit No. 2656-3 was approved January 3, 2011, and the proposed project was to be completed by January 3, 2016, with water being put to beneficial use by January 3, 2020. Application No. 2656A-2 requests to extend the length of time allowed for application to beneficial use from January 3, 2020, to January 3, 2024. Application No. 2656A-2, if approved, will retain the August 23, 2010, priority date assigned to Permit No. 2656-2.

Pursuant to SDCL 46-5-26 a permit may be amended to extend the time for application to beneficial use due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board. The permit holder is requesting an extension of time to allow for the completion of the Environmental Assessment that is required by the Federal Aviation Administration in conjunction with the City of Hot Springs for the operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2656A-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) It is a beneficial use of water, and 3) It is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 14, 2019.

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

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

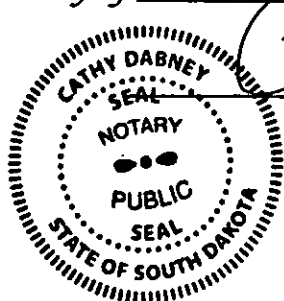
STATE OF SOUTH DAKOTA

County of Pennington SS:

Sheri Sponder being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each day for one successive day, the first publication there of being on the 2nd day of Oct 2019 that the fees charged for the publication there of are 69 dollars and 69 cents.

Sheri Sponder

Subscribed and sworn to before me this 3rd day of October, 2019.



Cathy Dabney
Notary public

4-16-2024

My commission expires

Affidavit of Publication RECEIVED

OCT 07 2019

WATER RIGHTS
PROGRAM

Oct. 2 L21126906

NOTICE OF APPLICATION
NO. 2656A-2 to Amend Water
Permit No. 2656-2

Notice is given that Pete Lien & Sons, Inc., c/o Clinton Beck, PO Box 440, Rapid City SD 57709 has filed an application for a water permit to amend Water Permit No. 2656-2 to extend the length of time allowed to place water to beneficial use. Water Permit No. 2656-2 appropriate 767 acre-feet of water annually at a maximum pump rate of 5.0 cubic feet of water per second 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. This site is located approximately 6 miles southeast of Hot Springs SD.

Water Permit No. 2656-3 was approved January 3, 2011, and the proposed project was to be completed by January 3, 2016, with water being put to beneficial use by January 3, 2020. Application No. 2656A-2 requests to extend the length of time allowed for application to beneficial use from January 3, 2020, to January 3, 2024. Application No. 2656A-2, if approved, will retain the August 23, 2010, priority date assigned to Permit No. 2656-2.

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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

STATE OF SOUTH DAKOTA

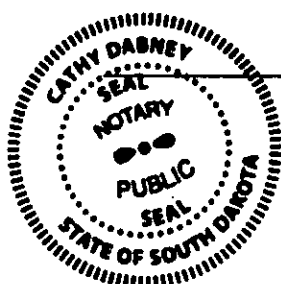
County of Fall River

SS:

Sheri Sponder being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the Rapid City Journal, a corporation of Rapid City, South Dakota, the owner and publisher of the HOT SPRINGS STAR, a legal and daily newspaper printed and published in Sturgis, in said County of Fall River, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies weekly, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Hot Springs, in said Fall River County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Hot Springs Star, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each day for one successive day, the first publication there of being on the 2nd day of Oct 2019 that the fees charged for the publication there of are 47 dollars and 19 cents.

Sheri Sponder

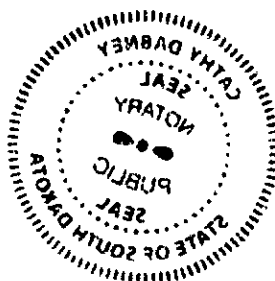
Subscribed and sworn to before me this 3rd day of October, 2019.



Cathy Dabney
Notary public

4-16-2024

My commission expires





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

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

September 24, 2019

Pete Lien & Sons Inc.
c/o Clinton Beck
PO Box 440
Rapid City SD 57709

Dear Mr. Beck:

Water Permit Application No. 2656A-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 Hot Springs Star (published by the Rapid City Journal) and the Rapid City Journal (Ph # 605 394-8335). You should be able to authorize publication of the notice in both papers by contacting the one number given. 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 2656A-2 to Amend Water Permit No. 2656-2

Notice is given that Pete Lien & Sons, Inc., c/o Clinton Beck, PO Box 440, Rapid City SD 57709 has filed an application for a water permit to amend Water Permit No. 2656-2 to extend the length of time allowed to place water to beneficial use. Water Permit No. 2656-2 appropriate 767 acre-feet of water annually at a maximum pump rate of 5.0 cubic feet of water per second 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. This site is located approximately 6 miles southeast of Hot Springs SD.

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Published once at the total approximate cost of_____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 24, 2019 11:12 AM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 2656A-2, Pete Lien & Sons Inc.
Attachments: 2656A-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on October 2, 2019 in the Hot Springs Star.

Pete Lien & Sons Inc, c/o Clinton Beck, PO Box 440, Rapid City SD 57709 (605 342-7224) has been notified to contact you to authorize publication and arrange for payment.

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

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

Karen Schlaak

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 24, 2019 11:13 AM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 2656A-2, Pete Lien & Sons Inc.
Attachments: 2656A-2public.short.docx; FORM8.FRM.doc

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

Karen Schlaak

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





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

DEC 05 2019

Pete Lien & Sons Inc
c/o Clinton Beck
PO Box 440
Rapid City SD 57709

Dear Mr. Beck:

Enclosed is Water Permit No. 2656A-2 extending the length of time allowed to place water to beneficial use, 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,

A handwritten signature in cursive script that reads "Jeanne Goodman".

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

enclosures