

WATER PERMIT NO. 2742-2

Name of Applicant: **Voorhees Hospitality LLC**

Address: **12720 US Hwy 16, Rapid City SD 57702** Phone: **605 391-3534**

Amount of Water Claimed: **0.036 cfs** Total Acres: **NA**

Source of Water Supply: **groundwater (one add'l well)**

Water to be used for: **commercial** County: **Pennington**

Type of Waste Disposal System:

Location: **3 miles east of Hill City**

PRIORITY Date Received: **8-10-15** Application/License Fee: **\$ 300**

Corrected Application Received: Period of Annual Use: **Jan 1- Dec 31 (domestic use) April 1 – Oct 1 (commercial use)**

Remarks: **Additional diversion rate for existing well and/or new well**

Diversion Point: **NE 1/4 NW 1/4 Sec 27-T1S-R5E**

Land to be Irrigated: **NA**

Depth of Well: **40 feet deep**

Well Driller:

Remarks:

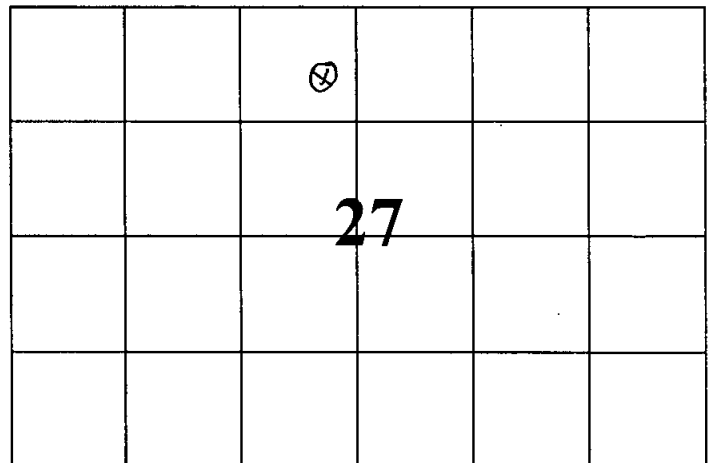
Type of Map: **plat**

Prepared by:

Reviewed and the Number Assigned on: **8-10-15**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



\$ 300

RECEIVED

AUG 10 2015

WATER RIGHTS
PROGRAM

Mail to:
PMB 2020
DENR - Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352

No. 2742-2 (office use only) Hydrologic Unit 10120109
Basin upper Cheyenne
Newspaper Rapid City Journal
605-394-8300

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. 2649-2

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

Applying for Additional Diversion Rate Authority + potentially a new well.

1. Name to Appear on Water Permit

(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

Voobers Hospitality LLC

Charles Voobers

(name and complete address if different than above name)

Mailing Address 17720 US Hwy 16 Rapid City SD 57702
(Address) (City) (State) (Zip Code)

Home Phone 605-574-8833 Cell 605-391-3534 Email ma1@whisperingwindsblackhills.com

2. Amount of water claimed 16 GPM *CFS or 0.036 **GPM 10 ***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 Ground Water

4. Location of point of diversion NE 1/4 NW 1/4 section 27 - T15 R5E County Pennington
(example - 3 wells in SW 1/4 NE 1/4 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? All within proposed area
(example - NW 1/4 section 12-T104N-R53W)

5. County or counties where water will be used Pennington

6. Annual period during which water is to be used Household year Round April - Oct 1 commercial

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)

Seven Whispering Winds cottage. Add Diversion Rate Authority 2649-2
that may include completion of a new well

I, Charles Voobers, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

SOUTH DAKOTA
WATER PERMIT NO. 2742-2

Date of first receipt of application August 10, 2015.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2742-2 to Voorhees Hospitality LLC, c/o Charles Voorhees, 12720 US Hwy 16, Rapid City SD 57702 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. 2742-2 appropriates an additional 0.036 cubic feet of water per second (cfs) to what is currently authorized by Water Right No. 2649-2. Water Right No. 2649-2 authorizes 0.02 cfs from one well completed into the Precambrian aged Crystalline Rock Aquifer located in the NE 1/4 NW 1/4 Section 27-T1S-R5E. This permit appropriates an additional 0.036 cfs from the existing well and/or an additional well (Precambrian aged Crystalline Rock) approximately 40 feet deep to be located in the NE 1/4 NW 1/4 Section 27-T1S-R5E. This permit and Water Right No. 2649-2 will authorize a total diversion rate of 0.056 cfs (25 gallons per minute) at an annual volume up to 10 acre feet of water.
2. The water appropriated shall be used for the purpose of domestic and commercial use at the Whispering Winds Cottages and Campsites 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 (domestic use) and April 1 – October 1 (commercial use).
4. The date of approval of Permit No. 2742-2 is September 28, 2015.
5. The date from which applicant may claim right is August 10, 2015.
6. One-fifth of the construction is to be completed on or before March 28, 2018.
7. All construction is to be completed on or before September 28, 2020.
8. Water is to be put to beneficial use on or before September 28, 2024.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

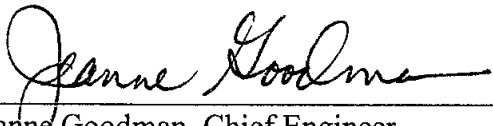
QUALIFICATIONS

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The new well authorized by Permit No. 2742-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

(continued)

3. Water Right No. 2649-2 and Water Permit No. 2742-2 combined authorize a total annual diversion of 10 acre feet of water.
4. Voorhees Hospitality LLC shall report to the Chief Engineer annually the amount of water withdrawn from the Precambrian aged Crystalline Rock aquifer.

WATER MANAGEMENT BOARD

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

OCT 09 2015
date



Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many 1 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by _____c) Well Depth 40 Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____

d) Distance to nearest existing domestic well:

On applicant's property NoneOn property owned by others Unknown**2. Wastewater Disposal System Information**a) Type of System (i.e. septic tank, drain field) Septic Tank / Drain Fieldb) System Capacity (gallons) 2 - 1500 gallon tanks & 500 gallon lift station Year Constructed 2009

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 (e.g. 3 to 1 is a typical slope)

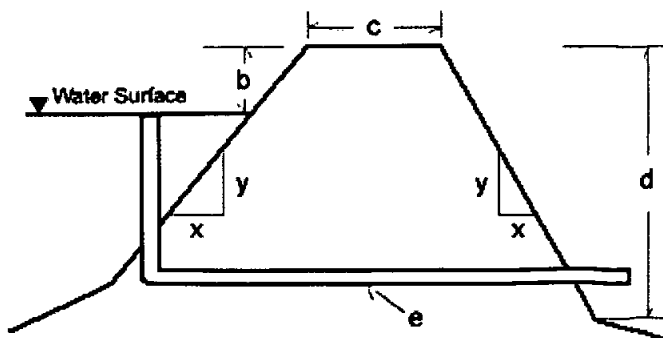
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres

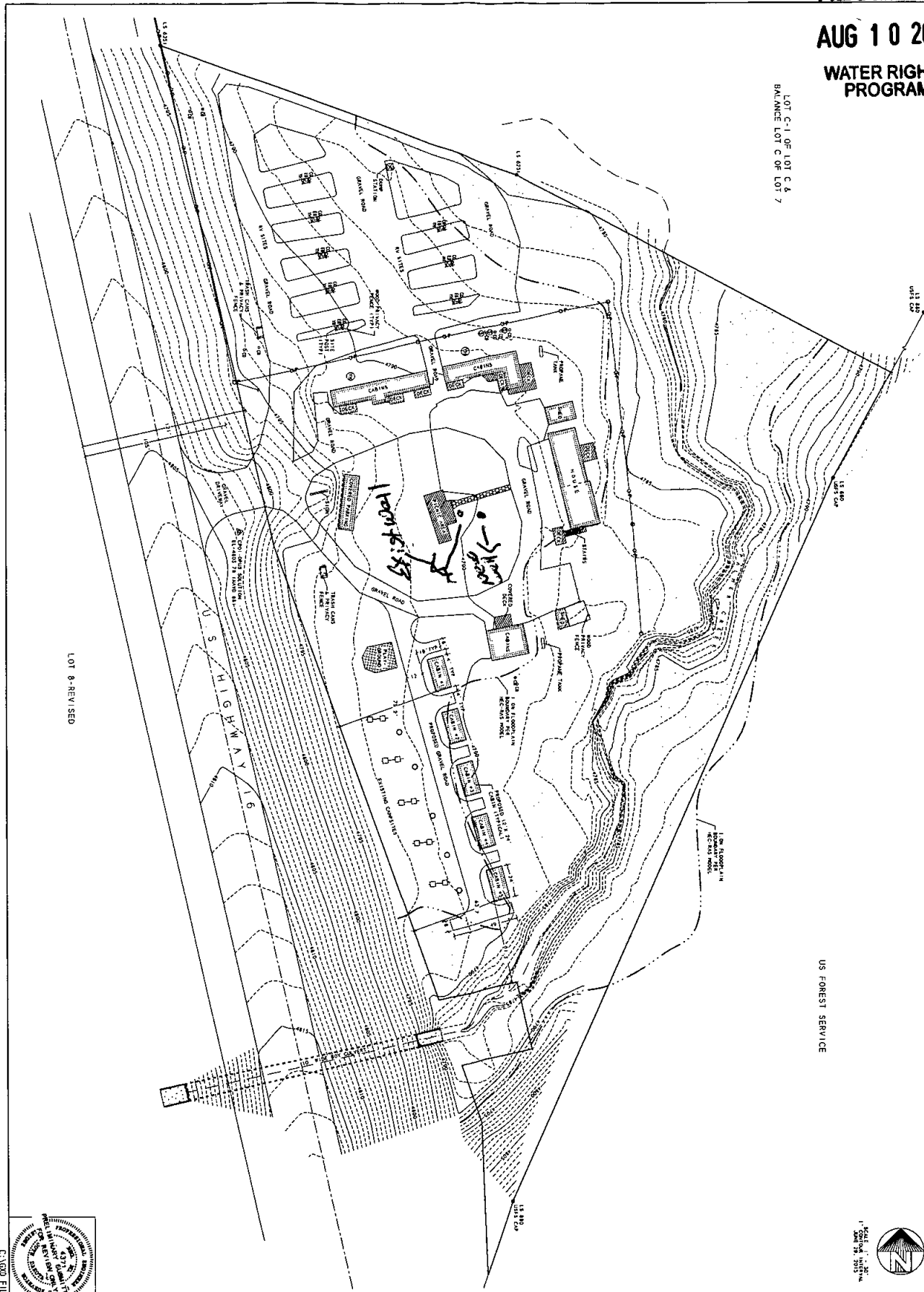


RECEIVED

AUG 10 2015

WATER RIGHTS
PROGRAM

LOT C-1 OF LOT C &
BALANCE LOT C OF LOT 7



LOT 8 - REVISED

US FOREST SERVICE



Project No. 25-01-2258
Survey By: JSL
Drawn By: CML
Designed By: JSL
Checked By: MSL
Date: 8/22/15

SITE PLAN
WHISPERING WINDS COTTAGES
12720 US HIGHWAY 16
VOORHEES HOSPITALITY, LLC

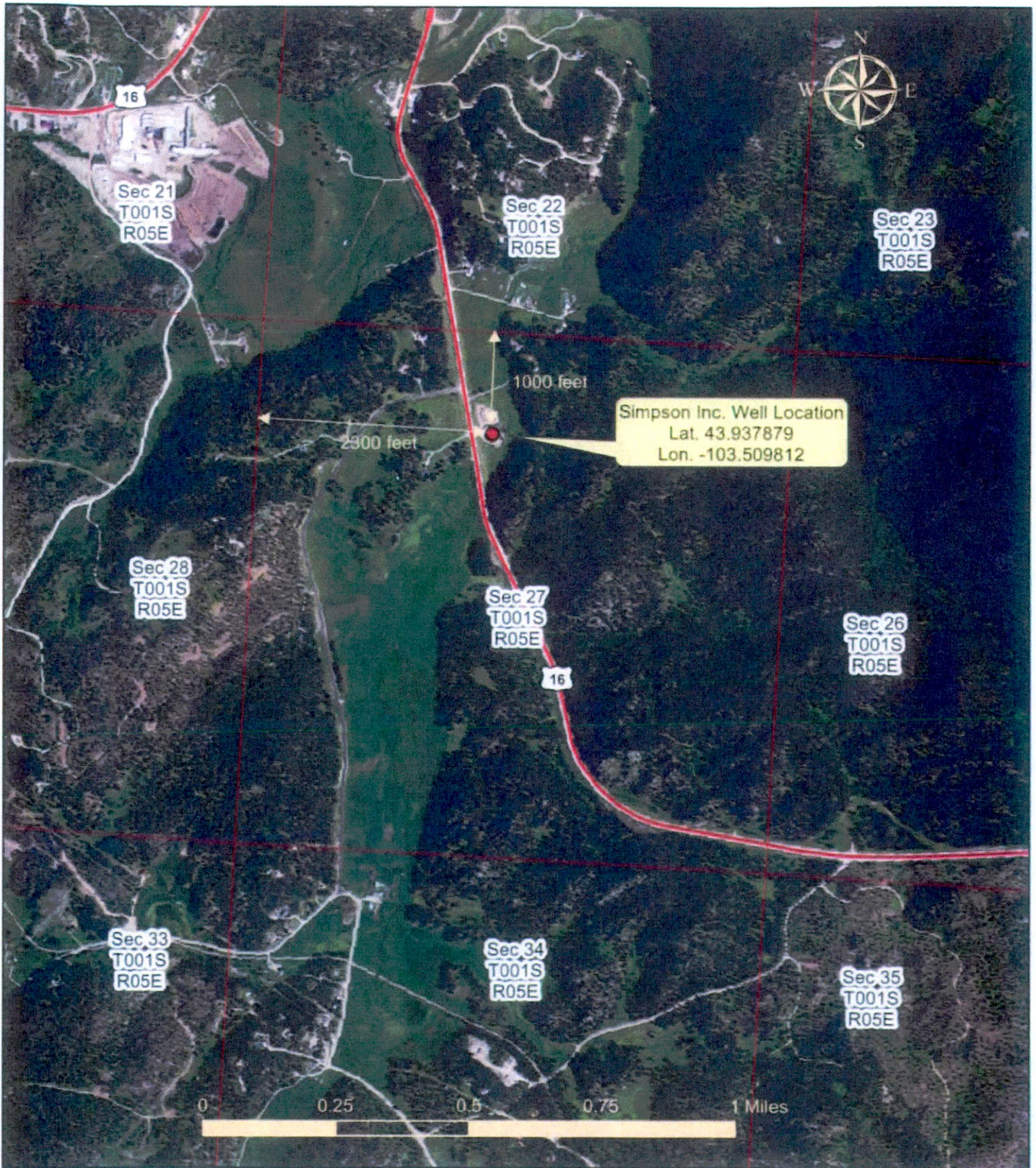
LOT 3, LOTS 4A & 4B, & LOT D OF LOT 7
OF PALMER GULCH PLACER MS 690 LESS
HIGHWAY ROW, SECTION 27, T1S, R5E,
BHM, PENNINGTON COUNTY, SOUTH DAKOTA

B
E
L
S

BRITTON ENGINEERING &
LAND SURVEYING, INC.
8035 BLACK HAWK ROAD, SUITE 5,
PO BOX 649 BLACK HAWK, SD 57718
PH. (605) 716-7988

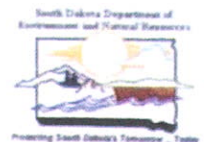


Water Right 2649-2
Simpson Inc.
November 27, 2012



Aaron R. Tieman

Aaron Tieman
Engineer II
DENR Water Rights Program



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/10, 20 15

RECEIVED OF Voorhees Hoppitality LLC 12720 S Hwy 16 Rapid City SD 57702

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

Fee for Application for Permit No. <u>2742-2</u> 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. <u>2742-2</u>	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	300 00

No. 07469

By Jean Goodman
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

August 10, 2015

Voorhees Hospitality LLC
Charles Voorhees
12720 US Hwy 16
Rapid City SD 57702

Dear Mr. Voorhees:

Thank you for submitting the *Application for a Permit to Appropriate Water* for additional diversion rate authority to Water Right No. 2649-2. In order to complete the application the following is required.

- A review of the Secretary of State's website finds that Emily Sovall is the registered agent for Voorhees Hospitality LLC. DENR will need the application to be signed by Ms. Sovall or a statement of authority signed by Ms. Sovall granting you authority to act on behalf of Voorhees Hospitality on all matters involving the water permit application.

Also, enclosed is your receipt in the amount of \$50.00 for the transfer of ownership on Water Right No. 2649-2. The water right formerly listed in the name of Simpson Inc is now listed in the name of Voorhees Hospitality LLC.

If you have any questions, please contact Eric Gronlund or me.

Sincerely,

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

enclosures

Schlaak, Karen

From: Gronlund, Eric
Sent: Wednesday, August 12, 2015 1:49 PM
To: Schlaak, Karen
Subject: FW: Voorhees Hospitality LLC

From: Whispering Winds [<mailto:mail@whisperingwindsblackhills.com>]
Sent: Wednesday, August 12, 2015 1:45 PM
To: Gronlund, Eric
Subject: Voorhees Hospitality LLC

My name is Charles Voorhees and I'm 100% owner of Voorhees Hospitality LLC. Emily Sovell was the attorney who drafted the paperwork, but she has no ownership interest in the company. There are no other parties with decision making authority in this entity other than myself.

Thank you,

Chuck Voorhees
Whispering Winds Cottages
605-574-9533
mail@whisperingwindsblackhills.com



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2742-2, Voorhees Hospitality LLC**

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. 2742-2, Voorhees Hospitality LLC, c/o Chuck Voorhees, 12720 US Hwy 16, Rapid City SD 57702.

The Chief Engineer is recommending APPROVAL of Application No. 2742-2 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. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. The new well authorized by Permit No. 2742-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
5. Water Right No. 2649-2 and Water Permit No. 2742-2 combined authorize a total annual diversion of 10 acre feet of water.
6. Voorhees Hospitality LLC shall report to the Chief Engineer annually the amount of water withdrawn from the Precambrian aged Crystalline Rock aquifer.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
September 8, 2015

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 2742-2
VOORHEES HOSPITALITY LLC
C/O CHARLES VOORHEES
AUGUST 19, 2015

Water Permit Application No. 2742-2 proposes to appropriate 0.036 cubic feet of water per second (cfs) from an existing well that is authorized by Water Right No. 2649-2. Water Right No. 2649-2 authorizes diversions from a well completed into the Precambrian aged Crystalline Rock aquifer at a maximum rate of 0.02 cfs (8.98 gallons per minute (gpm)). The well authorized by Water Right No. 2649-2 which was completed in the 1950's, is located in the NE¼ NW¼ Sec.27, T1S-R5E, and is purportedly 38 feet deep. This application proposes to authorize an additional diversion rate of 0.036 cfs (approximately 16 gpm) from the existing well and/or from an additional well, approximately 40 feet deep, completed into the Crystalline Rock aquifer. If an additional well is drilled, it will be located in the NE¼ NW¼ Sec. 27, T1S-R5E. Water Permit No. 2742-2 (if approved), together with Water Right No 2649-2 will authorize a maximum diversion rate of 0.056 cfs (approximately 25 gpm) and 10 acre-feet of water annually for domestic use and commercial use at the Whispering Winds Cottages and campsites.

AQUIFER: Precambrian aged Crystalline Rock (CRSL)

Geology and Aquifer Characteristics:

A log is not available for the well that supplies water for Water Right No. 2649-2. Geologically, this well site is situated on alluvium mantled Precambrian aged crystalline rock. The crystalline rock in this area is a Metagraywache with lenses of debris flow deposits near this well site. In addition, numerous intrusives of Harney Peak Granite have been identified in this area (Redden and Uzunlar, in Prep.). The rock types present in this area (with the exception of the alluvium) are all crystalline and make up what can be considered a single hydrologic unit. The crystalline rocks themselves are relatively impermeable, and groundwater is derived primarily through joints, fractures and foliation within the rock. The distribution, orientation and interconnection of these zones of secondary porosity and permeability are unpredictable, and the aquifer characteristics are site specific and highly variable. The structural geology of the area is somewhat complex. The Golden Slipper silicified breccia zone is within one quarter mile south and east of the well site; the St. Elmo Thrust Fault is inferred north and west of the well site approximately one quarter mile; and the China Gulch Fault is projected less than one quarter mile north of the well site. In addition, the crest of the Summit Peak anticline is inferred or projected within one mile west of the well site. The effects, if any, of these geologic structures to the groundwater hydrology, are unknown.

The aquifer (crystalline rock), which outcrop throughout this area, is under unconfined conditions, and the static water level of wells in this area are expected to be about the same elevation as neighboring creeks and streams (Spring Creek, Palmer Creek and their tributaries).

SOUTH DAKOTA CODIFIED LAW (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 availability of unappropriated water and existing rights from the aquifer.

WATER AVAILABILITY:

The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1 which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.”

Water Permit Application No. 2742-2 proposes to appropriate water from the crystalline rock aquifer for domestic use and a commercial use at the Whispering Winds Cottages and Campsites. The water system is to supply the Whispering Winds Cottages and Campsites from May 1 through October 1 and domestic use for a residence year round, therefore can be considered a water distribution system pursuant to SDCL 46-1-6(17). Since the Pre-Cambrian aged crystalline rock is older than the Greenhorn Formation and the water is to be used for a water distribution system, the withdrawal/recharge issue need not be considered.

The crystalline rock aquifer is not a single regional aquifer but rather numerous localized aquifers. Recharge to the localized crystalline rock aquifer occurs through infiltration of precipitation falling on the outcrop, and through streamflow losses when the stages of area streams are higher than groundwater levels. “Recharge conditions are highly transient and have large spatial variability; thus quantification is not attempted” (Driscoll and Carter, 2001). Discharge from the aquifer is through evapotranspiration, well withdrawals and discharge to area streams. Recharge to the localized crystalline rock aquifer in this area likely is much larger than well withdrawals and evapotranspiration to accommodate groundwater discharge that contributes base flow in Palmer Creek.

The DENR-Water Rights Program monitors two observation wells completed into the Precambrian aged Crystalline Rock aquifer. Neither of these observation wells are in the

immediate vicinity of the well that this application proposes to use. Due to the observation wells' distances from the well that is to be used to supply this appropriation and the site specific nature of the aquifer, these observation wells do not describe the local characteristics of the aquifer. However, this data can provide representative general characteristics of the aquifer.

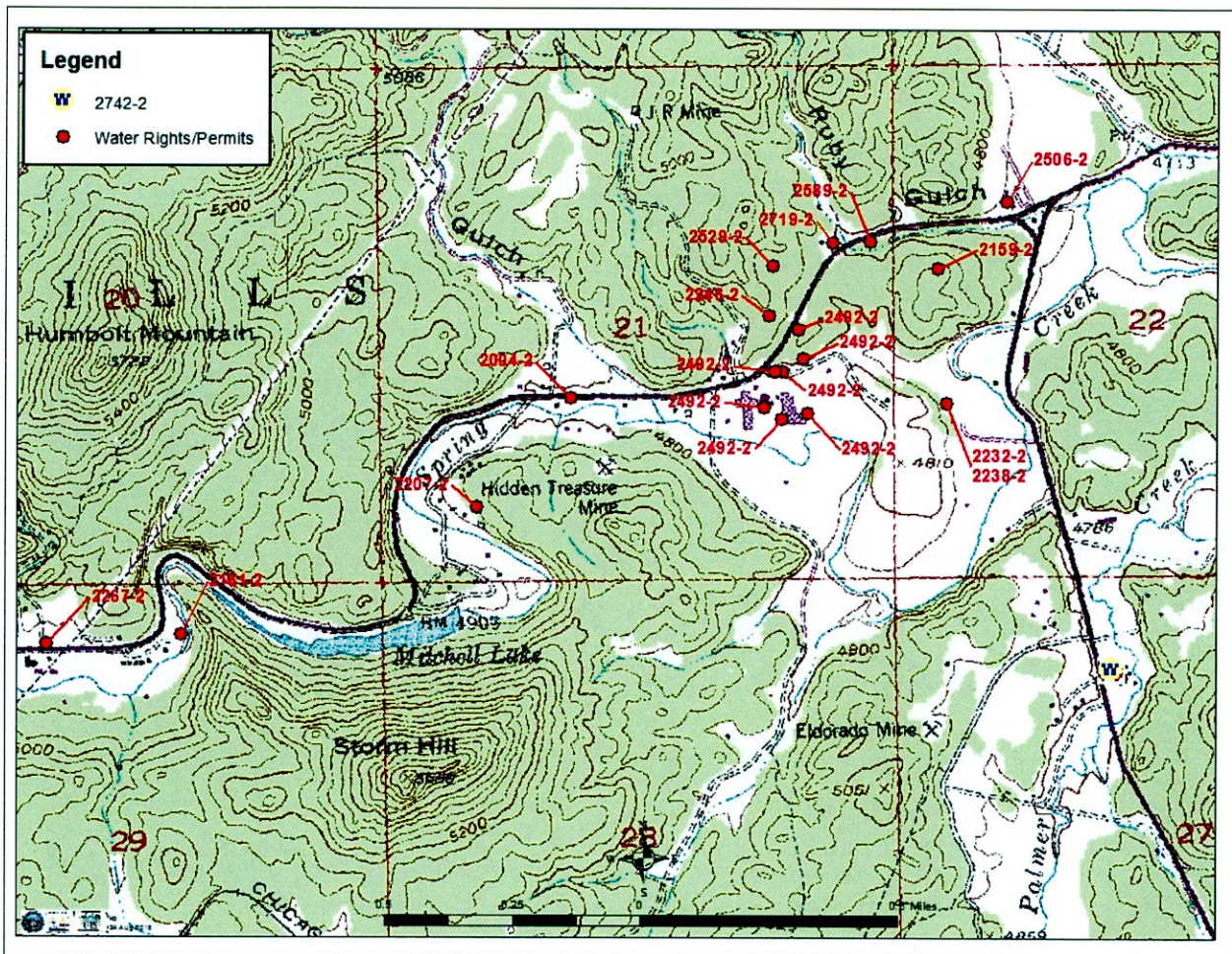
Water level data from the observation wells identify fluctuations of over 50 feet in response to varying climatic conditions, rising during wet years and gradually declining water levels during dry years. In general, the temporal effects of pumping are masked by climatic conditions indicating that recharge to and natural discharge from the Precambrian Crystalline Rock aquifer greatly exceeds well withdrawals, and additional water is available for well withdrawals to capture. Therefore, this proposed appropriation is not expected to cause withdrawals to exceed recharge in the crystalline rock aquifer in the area of the well site.

IMPAIRMENT OF EXISTING RIGHTS:

There are a number of domestic wells completed into the Precambrian aged crystalline rock aquifer in this area. Existing water rights/permits appropriating water from this aquifer in this area are shown in Table 1 and Figure 1.

PERMIT NO	NAME	PRIORITY DATE	USE	CFS
2004-2	GUSTAVE A ORLOSKE	01/01/1948	COM	0.02
2159-2	DAISEY ENTERPRISE LLC	01/01/1945	COM	0.07
2161-2	LODE STONE MOTEL	01/24/1991	COM/DOM	0.017
2207-2	ROBINS ROOST CABINS	08/01/1953	COM	0.02
2232-2	MOUNTAIN VIEW LODGE	06/11/1992	COM	0.034
2238-2	LARRY & KAREN MOORE	07/28/1992	COM/DOM	0.022
2246-2	GORDON W COLLINS	09/16/1992	COM	0.022
2267-2	LARRY & KAREN MOORE	01/01/1953	COM	0.1
2492-2	RUSHMORE FOREST PRODUCTS	10/31/2002	IND/DOM	0.52
2506-2	DAISEY ENTERPRISE LLC	05/22/2003	COM	0.01
2529-2	PRAIRIE BERRY LLC	04/14/2004	COM	0.056
2589-2	ROLLAND AND DAWNETTE OWENS	05/25/2006	COM	0.022
2649-2	VOORHEES HOSPITALITY LLC	03/24/2010	COM/DOM	0.02
2719-2	PRAIRIE BERRY LLC	10/15/2013	COM	0.06

Table 1. Water Rights/Permits in the vicinity of the well that Application No. 2742-2 proposes as a water source.

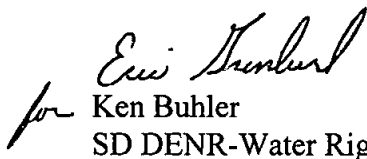


The relatively low pump rate associated with this application, (approximately 16 gpm) is not expected to result in significant drawdown. The drawdown that will result from pumping a well completed into the crystalline rock aquifer is dependent on aquifer characteristics in the immediate vicinity of the well bore. Since secondary porosity and permeability features of this aquifer dictate the shape and orientation of a well's drawdown cone well interference is not necessarily dependent on distance between wells. Since the porosity of the Crystalline aquifer is small, 0.03-0.10, (Driscoll and others, 2002) drawdown from a pumped well or wells, may extend over a fairly widespread area. Precise drawdown effects at the well site would require additional data and testing. It is possible that drawdown from this proposed well could be measurable in nearby wells, however interference should not be significant considering the small diversion rate proposed.

ARSD 74:02:04:20(6) defines an adequate well as a well constructed to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer. An adversely impacted domestic well is defined by ARSD 74:02:04:20(7) as a well in which the pump intake was set at least 20 feet below the top of the aquifer and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs. Since the porosity of the Crystalline Rock aquifer is low, 20 feet of saturated thickness may not be sufficient for a well to be a reliable water supply. In other words, in this hydrogeologic setting, wells that are "adequate" by definition may not be a reliable water supply. Under these circumstances it can be argued that any measurable interference (drawdown) from a competing well is actually an adverse impact. However, with natural water level fluctuations in this aquifer measured in excess of 50' at the Water Rights' Observation well; well interference of a few feet could be considered insignificant.

CONCLUSIONS:

1. This application proposes to divert water at a maximum rate of 0.036 cfs from one existing well completed into the Crystalline Rock aquifer for commercial use.
2. The well that is to be used to supply this appropriation was completed in the 1950s and has presumably been in use since.
3. Water Right No. 2649-2 currently authorizes a maximum diversion rate of 0.02 cfs from the existing well Application No. 2742-2 proposes as a water source.
4. Precambrian aged crystalline rock is a viable aquifer in this area.
5. Information is not available to quantify a hydrologic budget for the Crystalline Rock aquifer.
6. The Precambrian aged crystalline rock aquifer is older than the Greenhorn Formation and the water is to be used for a water distribution system. Therefore, the withdrawal/recharge issue need not be considered.
7. Observation well data indicates that there is a reasonable probability that withdrawals will not exceed recharge.
8. There is a reasonable probability that any possible well interference due to the proposed diversion will not unlawfully impair existing users.


for Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

Driscoll, D.G., and Carter J.M., 2001, Hydrologic Conditions and Budgets for the Black Hills of South Dakota: U.S. Geological Survey Water-Resources Investigations Report 01-4226, 143 p.

- Driscoll, D.G., Carter, J.M., Williamson, J.E., and Putnam, L.D., 2002, Hydrology of the Black Hills Area, South Dakota: U.S. Geological Survey Water-Resources Investigations Report
- Redden, J.A., and Uzunlar, In Prep, Geologic Map of the Hill City Quadrangle, South Dakota, S.D. DENR-Geological Survey: 7.5 Minute Series Geologic Quadrangle Map, Scale 1:24000
- Water Rights, 2015a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights, 2015b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights, 2015c. Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Sept. 19 L2095538
NOTICE OF APPLICATION
NO. 2742-2 to Appropriate Water
Notice is given that Voorhees Hospitality LLC, c/o Charles Voorhees, 12720 US Hwy 16, Rapid City SD 57702 has filed an application for a water permit to appropriate an additional 0.036 cubic feet of water per second (cfs) to what is currently authorized by Water Right No. 2649-2. Water Right No. 2649-2 authorizes 0.02 cfs from one well completed into the Precambrian aged Crystalline Rock Aquifer located in the NE 1/4 NW 1/4 Section 27-T1S-R5E. This application proposes to appropriate an additional 0.036 cfs from the existing well and/or an additional well (Precambrian aged Crystalline Rock) approximately 40 feet deep to be located in the NE 1/4 NW 1/4 Section 27-T1S-R5E. This application, if approved, and Water Right No. 2649-2 will authorize a total diversion rate of 0.056 cfs (25 gallons per minute) at an annual volume up to 10 acre feet of water for domestic use and commercial use at the Whispering Winds Cottages and Campsites.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2742-2 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 September 28, 2015.

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

(Published once at the total approximate cost of \$62.72).

Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington

SS:

RECEIVED

OCT 05 2015

WATER RIGHTS
PROGRAM

Brandyn Crawford being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Rapid City Journal, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each week for one successive week, the first publication there of being on the 19th day of September that the fees charged for the publication there of are 62 dollars and 72 cents.

Brandyn Crawford

Subscribed and sworn to before me this 30th day of September, 2015.

Dustin Rice

Notary public

DUSTIN RICE

July 1, 2020

My commission expires



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, September 09, 2015 8:14 AM
To: 'legals@rapidcityjournal.com'
Subject: NO. 2742-2, Voorhees Hospitality LLC
Attachments: 2742-2public.short.docx; FORM8 FRM.doc

Attached is a notice to be published on September 17, 2015.

Voorhees Hospitality LLC, C/o Charles Voorhees, 12720 US Hwy 16, Rapid City SD 57702 (c 605 391-3534) 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.

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

Karen Schlaak
Water Rights Program
523 E Capitol Ave
Pierre SD 57501
Phone: 605 773-3352



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

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

September 8, 2015

Voorhees Hospitality LLC
Charles Voorhees
12720 US Hwy 16
Rapid City SD 57702

Dear Mr. Voorhees:

Water Permit Application No. 2742-2 for commercial and domestic use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Rapid City Journal printed at Rapid City SD (Ph # 605-394-8300). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish the Notice on September 17, 2015. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2742-2 to Appropriate Water

Notice is given that Voorhees Hospitality LLC, c/o Charles Voorhees, 12720 US Hwy 16, Rapid City SD 57702 has filed an application for a water permit to appropriate an additional 0.036 cubic feet of water per second (cfs) to what is currently authorized by Water Right No. 2649-2. Water Right No. 2649-2 authorizes 0.02 cfs from one well completed into the Precambrian aged Crystalline Rock Aquifer located in the NE 1/4 NW 1/4 Section 27-T1S-R5E. This application proposes to appropriate an additional 0.036 cfs from the existing well and/or an additional well (Precambrian aged Crystalline Rock) approximately 40 feet deep to be located in the NE 1/4 NW 1/4 Section 27-T1S-R5E. This application, if approved, and Water Right No. 2649-2 will authorize a total diversion rate of 0.056 cfs (25 gallons per minute) at an annual volume up to 10 acre feet of water for domestic use and commercial use at the Whispering Winds Cottages and Campsites.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2742-2 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 September 28, 2015.

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

Published once at the total approximate cost of_____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

OCT 09 2015

Voorhees Hospitality LLC
Charles Voorhees
12720 US Hwy 16
Rapid City SD 57702

Dear Mr. Voorhees:

Enclosed is Water Permit No. 2742-2 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

2742-2

07-92

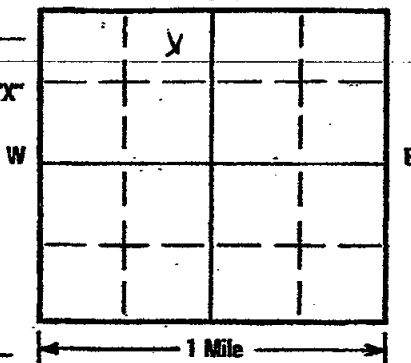
Location NE ¼ NW ¼ Sec 27 Twp 15 Rg 5E

County Pennington

Please mark well location with an "X"

Well-Completion Date

3/22/16



LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 160 ft. from septic (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary Downhole Hammer

CASING DATA:

☒ Steel ☐ Plastic ☐ Other

If other describe

Set 31' 6" 6" steel

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	0	29	8 3/4
LB/FT	IN	29	140	6
LB/FT	IN			

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
Portland	3	lb./gal	29	5
		lb./gal		

Describe grouting procedure through trim pipe

SCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter IN Length FEET

Material

Slot Size Set From Feet to Feet

Other information

WAS A PACKER OR SEAL USED? ☐ YES ☐ NO

If so, what material?

Describe packer(s) and location?

DISINFECTION: Was well disinfected upon completion? w/ chlorine sol.

YES, How:

Laboratory sent to for water quality analysis

NO, Why Not?

Well Owner: Voorhees Hospitality LLC

Business Name:

Address: 12720 US Hwy 16

Rapid City SD 57702

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Drift	0	24
Hard grey schist	24	36
Grey schist fract. 5gpm	36	37
Hard grey schist	37	62
Grey schist fract. 10 gpm	62	64
Hard grey schist	64	90
Grey schist fract. 20 gpm	90	92
Hard grey schist	92	111
Grey schist fract 30 gpm	111	113
Hard grey schist	113	140

STATIC WATER LEVEL 30 Feet

If flowing: closed in pressure PSI

GPM flow 30 through inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced Flowrate GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped

Describe: w/ air

☐ Bailed☐ Other

Pumping Level Below Land Surface

ft. After Hrs. pumped GPM

ft. After Hrs. pumped GPM

If pump installed, pump rate GPM

REMARKS

RECEIVED

APR - 8 2016

WATER RIGHTS PROGRAM

C. S. M. W. B. AB

This well was drilled under license # 324

And this report is true and accurate.

Drilling firm Dependable Drilling Inc

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Chuck Voorhees / Whispering Winds Cottages

Date: 4/6/16

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 2742-2

I have this day, May 9 2017 made a thorough examination of the water use system constructed by **Voorhees Hospitality LLC, 12720 US Hwy 16, Rapid City, SD 57702** of Permit No. **2742-2**, bearing the priority of **8/10/2015** authorizing the diversion of **.036** cu. ft. per second of the water from one well for **commercial and domestic** purposes, in **Pennington** County.

Inspection contact & relationship to permit holder, if applicable:

Charles Voorhees, owner
whisperingwindsblackhills.com
605-391-3534

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Alexander Drilling (3/2016)
- 2) No. of Wells 2
- 3) Depth(s) 140 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 6"
- 2) Length 31 feet (+2' – 29')
- 3) Type Steel

Screen:

- 1) Type n/a
- 2) Length - feet
- 3) Static water level 30 feet

Pump:

- 1) Make Grundfos
- 2) Model 25S20-11
- 3) Size 4"
- 4) Capacity 25 GPM
- 5) Horsepower rating 2 hp

Note: The well was air tested at 30 gpm

Well information taken from report written by Aaron Tieman dated November 27, 2012 for Water Right No. 2649-2:

Well: 38 feet deep
Drilled: 1950's
Driller Unknown – No log available

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

The well pumps to a nearby pressure tank with a 40-60 psi setting and then to nearby cabins and RV sites.

C. Works used to apply water to beneficial use:

The well serves a managers living quarters, 3 two-bedroom cabins, 6 single room cabins and 8 RV sites.

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: **Yes, water use is reported annually**
- 2) Exceptions to compliance are: **none**

E. Condition and Location:

The system is in **good** condition . Diversion points are located as follows:

- (2742-2) 1,045' S and 2,310' E of the NW corner Section 27 T1S, R5E (43.937848, -103.509776)
- (2649-2) 1,000'S and 2,300'E of the NW corner Section 27, T1S, R5E (43.937844, -103.509821)

1. The works are capable of diverting and conveying to the place of use **.056** cu. ft. per second (25 gpm) of water which is to be used for **commercial** use and the license should be issued for **.056 cfs**.
(0.02 cfs has March 24, 2010 priority date and 0.036 cfs has August 10, 2015 priority date)
2. All structures, wells and lands on map: **Yes**

F. Comments or other permit(s) associated with the project: Water Permit No. 2742-2 appropriated an additional .036 cfs (16 gpm) to what was authorized by Water Right No. 2649-2. Water Right 2649-2 authorized .02 cfs (9gpm) from one well located in the NE ¼ NW ¼ S27 T1S R5E. Permit 2742-2 authorized a total diversion of 0.056 cfs (25 gpm) from the existing well and/or an additional well. The well authorized under License 2649-2 is currently used only as a back-up source.



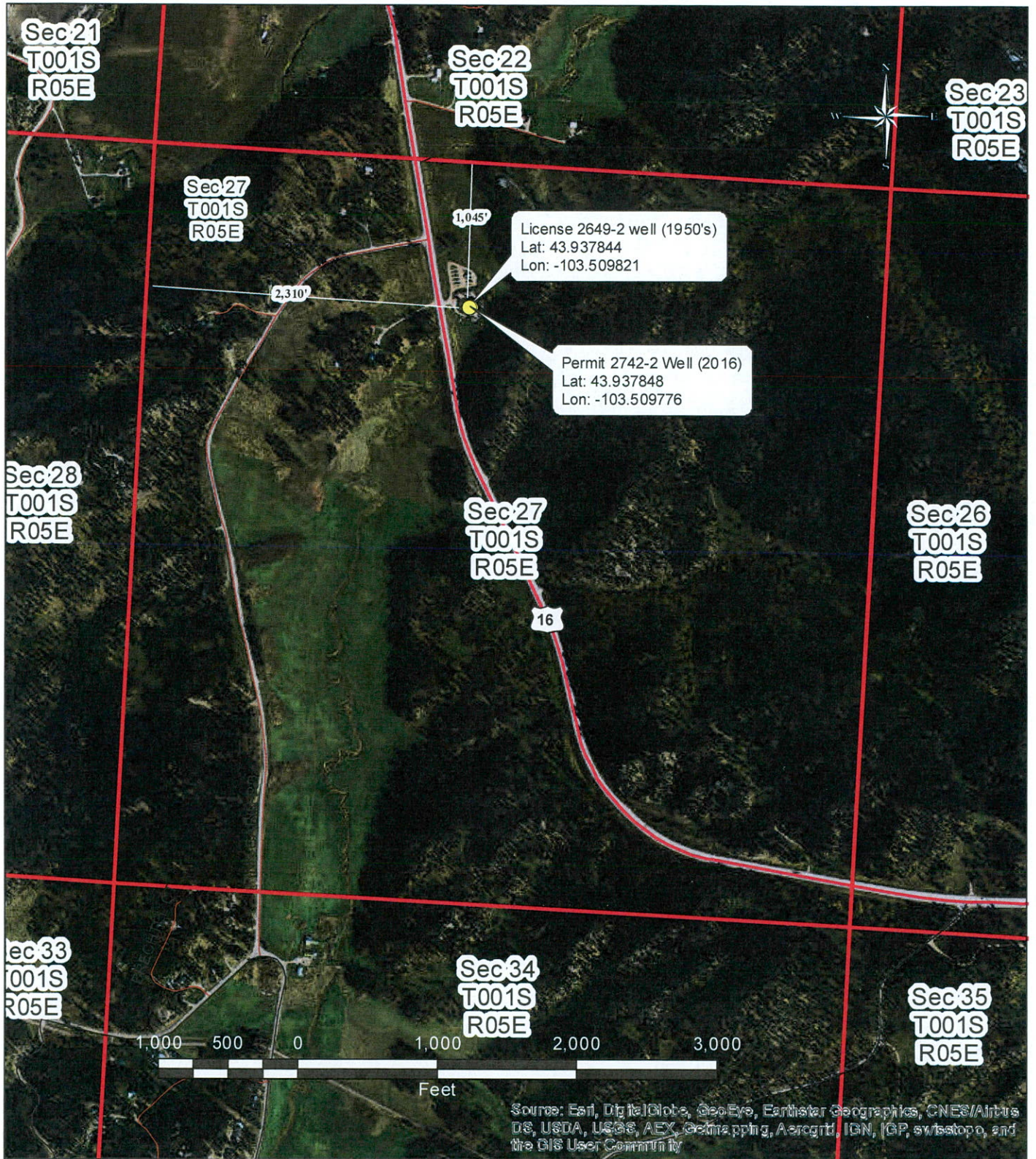
Steven Quissell
Water Rights Inspector
DENR, Water Rights Program

Date report completed: **5/10/2017**



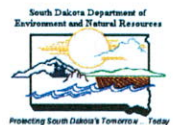
2016 well in lower right, 1950's well in upper left

Water Right #2742-2
Voorhees Hospitality LLC
5/9/2017



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program



2742-2

SD EForm - 1311LD V1

Form 10

**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**

MAIL TO: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352

Date 5/9/17

FROM:

CHARLES VOORHEES
(name)12720 US Hwy 16
(address)Rapio City S.D. 57702
(city) (state) (zip)605-391-3534
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 2742-2 states that the water use system is to be constructed by

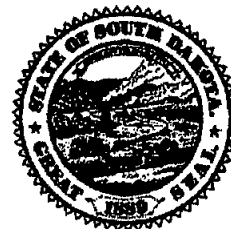
9/28/20, and water is to be put to beneficial use by 9/28/24
(date) (date)

The water use system was completed on 3/22/16
(date)

Applying the water to beneficial use was completed on 3/22/16
(date)

You may schedule an investigation so that the water license may be issued.

X Chad/only



2742-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

AUG 03 2017

2742-2
2649-2

Charles Voorhees
Voorhees Hospitality LLC
12720 US Hwy 16
Rapid City SD 57702

Dear Mr. Voorhees:

Enclosed is Water License No. 2742-2. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, 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

enclosures

Note: Upon licensing, the applicable portions of Water Right No. 2649-2 were incorporated into Water License No. 2742-2.

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2742-2**

(1) Voorhees Hospitality LLC, 12720 US Hwy 16, Rapid City SD 57702 made Application No. 2742-2, August 10, 2015 for a water permit to divert 0.036 cubic feet of water per second (cfs) from ground water, one existing well and one new well (Precambrian aged Crystalline Rock Aquifer), Pennington County, South Dakota for commercial and domestic use purposes. Permit No. 2742-2, with a priority date of August 10, 2015 was approved September 28, 2015 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 28, 2020 and for the application to beneficial use of said water on or before September 28, 2024.

Water Right No. 2649-2, with a priority date of March 24, 2010, authorizes 0.02 cfs from one well. Water Permit No. 2742-2 increased the diversion authority from the existing well and authorized the addition of a second well located in the same vicinity. No. 2649-2 and No. 2742-2 authorize a total diversion of 0.056 cfs (25 gallons per minute) with an annual volume of up to 10 acre feet of water.

The applicable portions of Water Right No. 2649-2 are incorporated into this Water License No. 2742-2. A priority date of March 24, 2010 is retained for 0.02 cfs and a priority date of August 10, 2015 is retained for 0.036 cfs.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.056 cubic feet of water per second for beneficial use. The location of the diversion points are:

- **From 2742-2:** 1,045'S & 2,310'E of the NW corner of Section 27, T1S, R5E (NE ¼ NW ¼);
- **From 2649-2:** 1,000'S & 2,300'E of the NW corner of Section 27, T1S, R5E (NE ¼ NW ¼)*.

** The well originally approved under Water Right No. 2649-2 is used as a back-up source.*

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use. The wells supply water for domestic and commercial use at the Whispering Winds cottages and campsites.

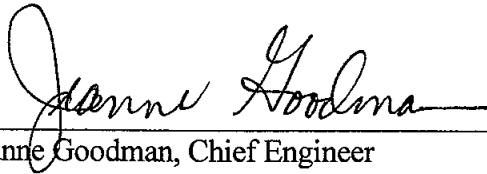
(4) Pursuant to South Dakota Water Law 46-5-30.1 Voorhees Hospitality LLC, 12720 US Hwy 16, Rapid City SD 57702 the holder and/or owner of Incorporated Water Right No. 2742-2 is issued a license to appropriate water, the right to use 0.056 cubic feet of water per second from ground water, two wells (Precambrian aged Crystalline Rock Aquifer) with priority dates of March 24, 2010 (0.02 cfs) and August 10, 2015 (0.036 cfs) from the location specified in (2) of this license for domestic use and commercial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Right No. 2742-2 and subject to the following qualifications:

- The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

continued

- The well authorized by Permit No. 2742-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *The well was drilled in March, 2016 by Alexander Drilling Inc. A copy of the well completion report is on file with the Water Rights Program.*
- Water Right No. 2649-2 and No. 2742-2 combined authorize a total annual diversion of 10 acre feet of water.
- Voorhees Hospitality LLC shall report to the Chief Engineer annually the amount of water withdrawn from the Precambrian aged Crystalline Rock aquifer.



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

AUG 03 2017

date





DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 22, 2021

No. 2742-2

Dan Roth
12720 S Highway 16
Rapid City SD 57002

Dear Mr. Roth:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right No. 2742-2. The water right is currently listed in the name of Voorhees Hospitality LLC. For your information, I have also included a copy of the water right and a map for you to keep.

The transfer form should be completed, checked over for accuracy, and **signed by the new owner.** Upon completion, return the form to our office with a required filing fee of \$50.00.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

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

enclosures

PAID

APR 16 2021

Ck# 1015

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

APR 16 2021

WATER RIGHTS
PROGRAM

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

No. 2742-2

Date: 4/13/21

I/We request that Water Right/Permit No. 2742-2

formerly owned by: Voorhees Hospitality LLC

be transferred to: (name & address) ELK Black Elk Resort LLC

Telephone No. 605-574-9533

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

2 wells located in the NE 1/4 NW 1/4 Section 27-T1S-R5E

I/We understand that the validity of Water Right/Permit No. 2742-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

X I/We Samuel E. Lott, the new owner, certify that the above information is true and correct.

X Samuel E. Lott
(Signed by new owner)

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

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

2742-2

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Environment and Natural Resources

Date April 16, 2021RECEIVED OF Black Elk Resort LLC 12720 S Hwy 16 Rapid City SD 57702

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. _____ after period of seven years.	\$
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$
Fee for Filing Transfer Form <u>2742-2</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$50.00

By Eric Gronlund
 Chief Engineer
 VM



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 19, 2021

2742-2

Daniel Roth
Black Elk Resort LLC
12720 S Hwy 16
Rapid City Sd 57702

Dear Mr. Roth:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Right No. 2742-2.

The ownership change has been completed. Water Right No. 2742-2 formerly held by Voorhees Hospitality LLC is now listed under Black Elk Resort LLC.

Enclosed for your records is a receipt for the filing fee that was paid. If I can answer any questions for you, please let me know.

Sincerely,

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

Enclosure



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 7, 2024

2742-2

J&A Recreation LLC
DBA Black Elk Resort
c/o Justin Buhler
PO BOX 335
Rapid City SD 57709

Dear Mr. Buhler:

I have received your "Notice of Transfer of Ownership" form and the required fees. Enclosed is a receipt of payment for your records.

Water Right No. 2742-2 previously held by Black Elk Resort LLC, c/o Dan & Lora Roth, is now listed under J&A Recreation LLC, DBA Black Elk Resort, c/o Justin Buhler. I have also updated your contact information in our system.

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

If you have any questions, please contact me.

Sincerely,

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

enclosure

PAID

MAY 06 2024

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Ck# 125

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

Rec't#

Water Right/Permit No. 2742-2

Date: 4-27-24

I/We request that Water Right/Permit No. 2742-2 formerly owned by:
Black Elk Resort LLC (Dan & Lora Roth) be transferred to:

New Owner Name: J + A Recreation LLC DBA Black Elk Resort
Address: PO Box 335 mobile: 605-430-8115
City, State, Zip: Rapid City SD 57709 email: justin@blackelkresort.com

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

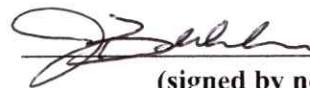
12720 US Hwy 16, Rapid City, SD 57702
Whispering Winds Subdivision, Lot 1, Pennington County, South Dakota

☒ I understand that the validity of Water Right/Permit No. 2742-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

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

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

I, Justin Buhler, president, the new owner, certify that the above information is true and correct. J + A Recreation LLC



(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five-year construction period has expired. Once a water permit is developed, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following 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.

RECEIVED

MAY 06 2024

OFFICE OF
WATER

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date May 6, 2024

RECEIVED OF Black Elk Resort PO Box 335 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	\$ _____
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>2742-2</u>	<u>\$50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	<u>\$50.00</u>

By Eric Gronlund
Chief Engineer
me



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

June 11, 2024

NOTICE OF HEARING

TO: J & A Recreation, LLC., DBA Black Elk Resort, Justin Buhler, PO Box 335, Rapid City SD 57709

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

SUBJECT: Violation of Permit Qualification to Report Annual Water Use

Our records indicate your 2023 annual water use has not been submitted for Water Right No. 2742-2. The request to report water use for 2023 was dated January 5, 2024. Two follow-up attempts to get the required water use report have gone unanswered. The Water Management Board has directed owners of water permits who have not submitted the 2023 water use reporting be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Right No. 2742-2 qualification:

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

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

1. Suspend or cancel Water Right No. 2742-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

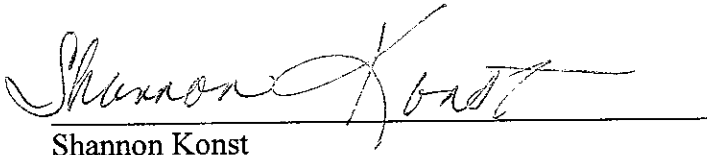
If the water use report(s) is (are) received in this office before the **July 10, 2024** hearing, you will no longer be in violation of your permit and your name will be removed from the Board agenda. You may submit your water use report by providing the information to Rachel Rodriguez at (605) 773-3352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

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

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing, dated June 11, 2024, concerning violation water use reporting qualification in the matter of Water Right No. 2742-2 was served by U.S. certified mail, postage prepaid, upon the following on June 11, 2024.

J & A Recreation, LLC., DBA Black Elk Resort
Justin Buhler
PO Box 335
Rapid City SD 57709

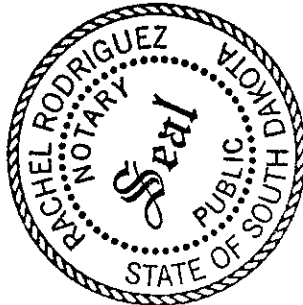


Shannon Konst
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11 day of June, 2024.


Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



File

Message

Help

Acrobat

Tell me what you want to do

Delete

Archive

Forward

Respond

Teams

Quick Steps

Move

Tags

Editing

Immersive

Zoom

Zoom

Reply with Scheduling Poll

Find Time

Translator

Add-in

RE: [EXT] J & A Recreation, LLC DBA Black Elk Resort Notice

RR

Rodriguez, Rachel

To Justin Buhler

Retention Policy

2 Year Delete (Default) (2 years)

Reply

Reply All

Forward

Fri 06/21/2024 9:44 AM

Good Morning Justin,

Excellent! I will remove you from the board management meeting list. Please remember that this is an annual requirement. The initial letter is sent every January and there is no form to complete, you can simply reply via email.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us

The seal of the South Dakota Department of Natural Resources is circular. It features a central illustration of a landscape with a river, mountains, and a sun. The words "SOUTH DAKOTA" are at the top and "DEPARTMENT OF NATURAL RESOURCES" are at the bottom of the seal.