

WATER PERMIT NO. 2813-2

Name of Applicant: **Mineral Mountain Resources (US) Inc.**

Address: **c/o Bennett Main & Gubbrud, 618 State St, Belle Fourche SD 57717** Phone: **605 892-2011**

Amount of Water Claimed: **0.022 cfs (3.68 AF)** Total Acres: **NA**

Source of Water Supply: **groundwater (one well)**

Water to be used for: **commercial and industrial use** County: **Pennington**

Type of Waste Disposal System:

Location: **1/2 mile southeast of Rochford**

PRIORITY Date Received: **3-9-20**

Application/License Fee: **\$ 300**

Corrected Application Received: **8-21-20**

Period of Annual Use: **January 1 – December 31**

Remarks:

Diversion Point: **NW 1/4 SW 1/4 Sec 24-T2N-R3E**

Land to be Irrigated: **NA**

Depth of Well: **700 feet deep**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

			24		
	⊗				

Reviewed and the Number Assigned on: **8-21-20**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 2813-2

Date of first receipt of application March 9, 2020.

Date of return to applicant for corrections, amendments or changes March 11, 2020.

Date of receipt of corrected application August 14, 2020.

The Water Management Board approved Water Permit No. 2813-2 on May 5, 2021 for Mineral Mountain Resources (SD) Inc, Kevin Leonard, 2049 Yukon Harbor Rd SE, Port Orchard WA 98366 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. 2813-2 appropriates 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW 1/4 SW 1/4 Section 24-T2N-R3E about one-half of a mile southeast of Rochford SD. The permit identifies the water use as commercial and industrial uses for exploratory drilling. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.
2. The water appropriated shall be used for the purpose of commercial and industrial uses and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is August 14, 2020.
5. One-fifth of the construction is to be completed on or before November 5, 2023.
6. All construction is to be completed on or before May 5, 2026.
7. Water is to be put to beneficial use on or before May 5, 2030.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer.
3. Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

SEP 28 2021
date



RECEIVED

MAR 09 2020

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2813-2</u> (office use only) Hydrologic Unit <u>10120111</u>
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Rapid City Journal</u>
	<u>Black Hills Pioneer</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. _____		

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

- Name to Appear on Water Permit Mineral Mountain Resources (SD) Inc.
Mailing Address % Bennet, Main & Grubbrude 618 State St. Belle Fourche SD 57717
(Address) (City) (State) (Zip Code)
Phone 605-392-2011 Mobile _____ Email bellelaw@bellelaw.com
- Amount of water claimed 0.022 *CFS or 10 **GPM and 3.68 ***AF or 1,200,000 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)
- Source of water supply New water well
- Location of point of diversion NW 1/4 SW 1/4 Section 24 - T22N - R3E 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? Patented & Unpatented Mineral Claims - refer to Table attached
(example - NW 1/4 section 12-T104N-R53W)
- County or counties where water will be used Pennington & Lawrence
- Annual period during which water is to be used January - December
- 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)

Exploration activity will be carried out in the greater Rochford area, on patented & unpatented mineral claims owned & under control of Mineral Mountain Resources (SD) Inc. Water will be used to lubricate & cool the drill bit and flush core cuttings from the drill hole to poly-lined sumps located in close proximity to the drill hole.

I, [Signature] Name of Person Project Manager Title (if applicable), the applicant, certify under

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.

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 Alexander Drilling, Inc.
(if yes, please provide copies of logs)

b) If existing wells, how many 0 Provide copy of log(s), if available. Drilled by _____

For either Existing or Proposed Wells:

c) Well Depth (required) 700 Depth to Top of Water Bearing Material 30 Depth to Water from Surface 30

d) Distance to nearest domestic well on applicant's property n/a Property owned by others ? 1 mile

2. Wastewater Disposal System Information - no waste water disposal associated w/ application

a) Type of System (i.e. septic tank, drain field) _____

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

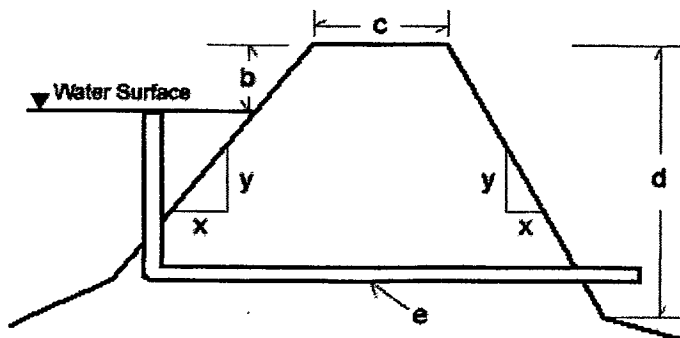
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



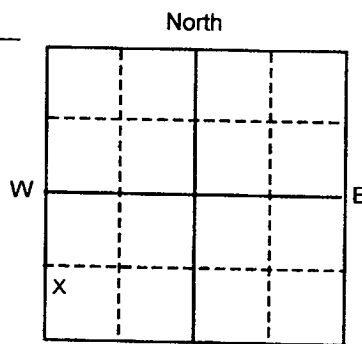
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW ¼ SW ¼ Sec 24 Twp 2N Rg 3E

County Pennington

Please mark well location with an "X"



Well Completion Date

February 7, 2020

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
ft. from 1/4 mile (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 40' of 6" 160 pvc

WEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	0.0 FT	38.0 FT	8.75 IN
LB/FT	IN	38.0 FT	700.0 FT	6.00 IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Portland II	4	Lb/gal	38.0 Ft	6.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure through trimmie pipe

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches 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?

☐ Yes, How? _____

☒ No, Why Not? _____

 up to which water
 ality sample sent for analysis

Test hole

Well Owner: Mineral Mountain Resources (SD) Inc.

Business Name: _____

Address: Ste 401-1195 West Broadway

City, State, Zip: Vancouver, BC, Canada V6h 3X5

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Broken Schist	0	30
Hard grey schist	30	48
Schist fracture 2-3 gpm	48	50
Hard grey schist	50	210
Schist fracture 5 gpm	210	212
Hard grey schist	212	338
Schist fracture 8 gpm	338	340
Hard grey schist	340	630
Schist fracture 9-10 gpm	630	632

STATIC WATER LEVEL 30.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow 9.0 through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ 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

Formation continued:

Hard grey schist 632-700

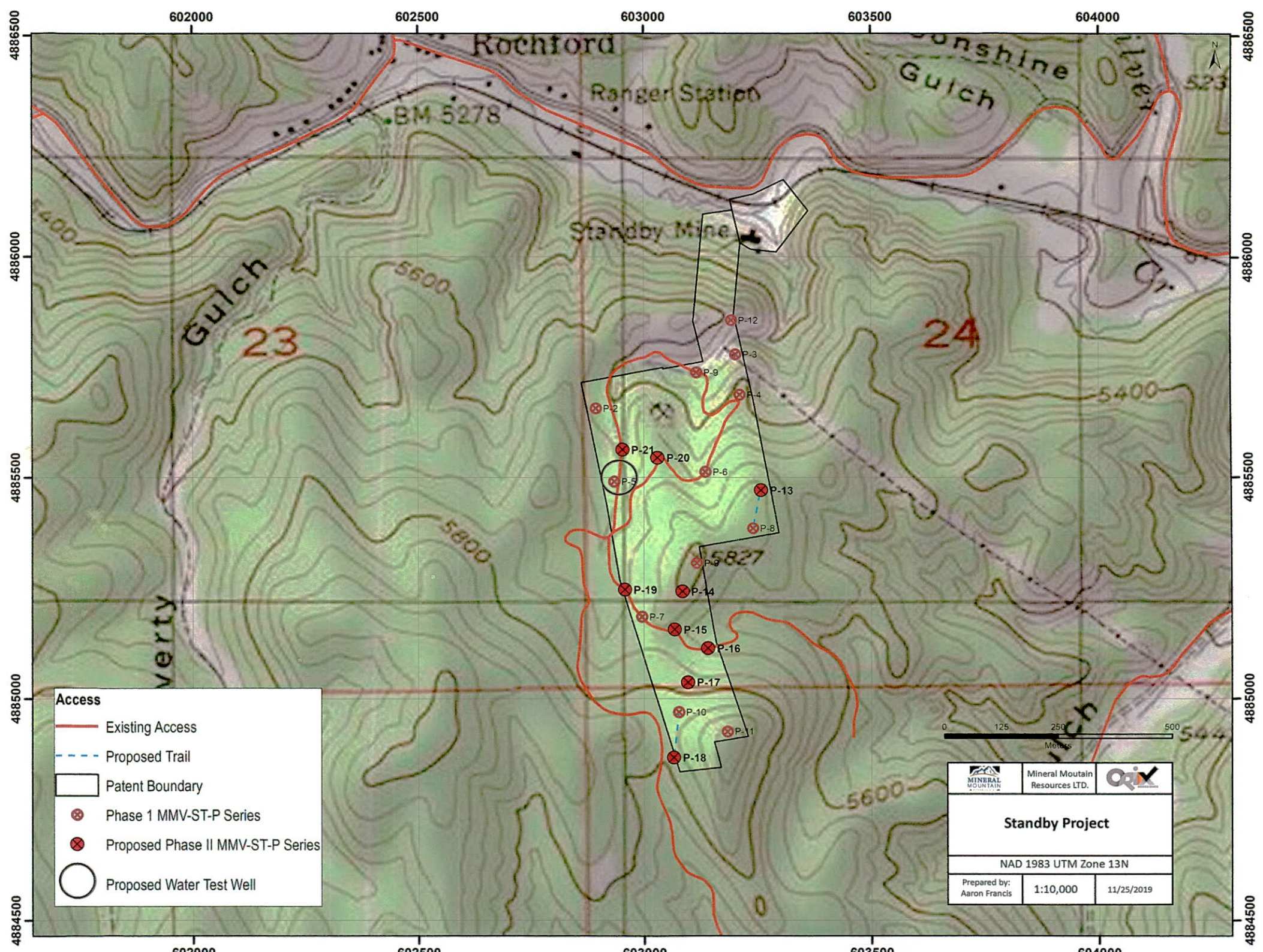
This well was drilled under license # 324 and this report is true and accurate.

Drilling firm: Alexander Drilling, Inc.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: _____



602000 602500 603000 603500 604000

4886500 4886000 4885500 4885000 4884500

Rochford

BM 5278

Ranger Station

Standby Mine

Sunshine Gulch

23

24

5400

5600

5800

5827

5444

5600

Access

- Existing Access
- Proposed Trail
- Patent Boundary
- Phase I MMV-ST-P Series
- Proposed Phase II MMV-ST-P Series
- Proposed Water Test Well



	Mineral Mountain Resources LTD.	
Standby Project		
NAD 1983 UTM Zone 13N		
Prepared by: Aaron Francis	1:10,000	11/25/2019

2N 3E
Section: 14

2N 3E
Section: 13

2N 4E
Section: 18

2N 3E
Section: 23

2N 3E
Section: 24

2N 4E
Section: 19

2N 3E
Section: 26

2N 3E
Section: 25

2N 4E
Section: 30

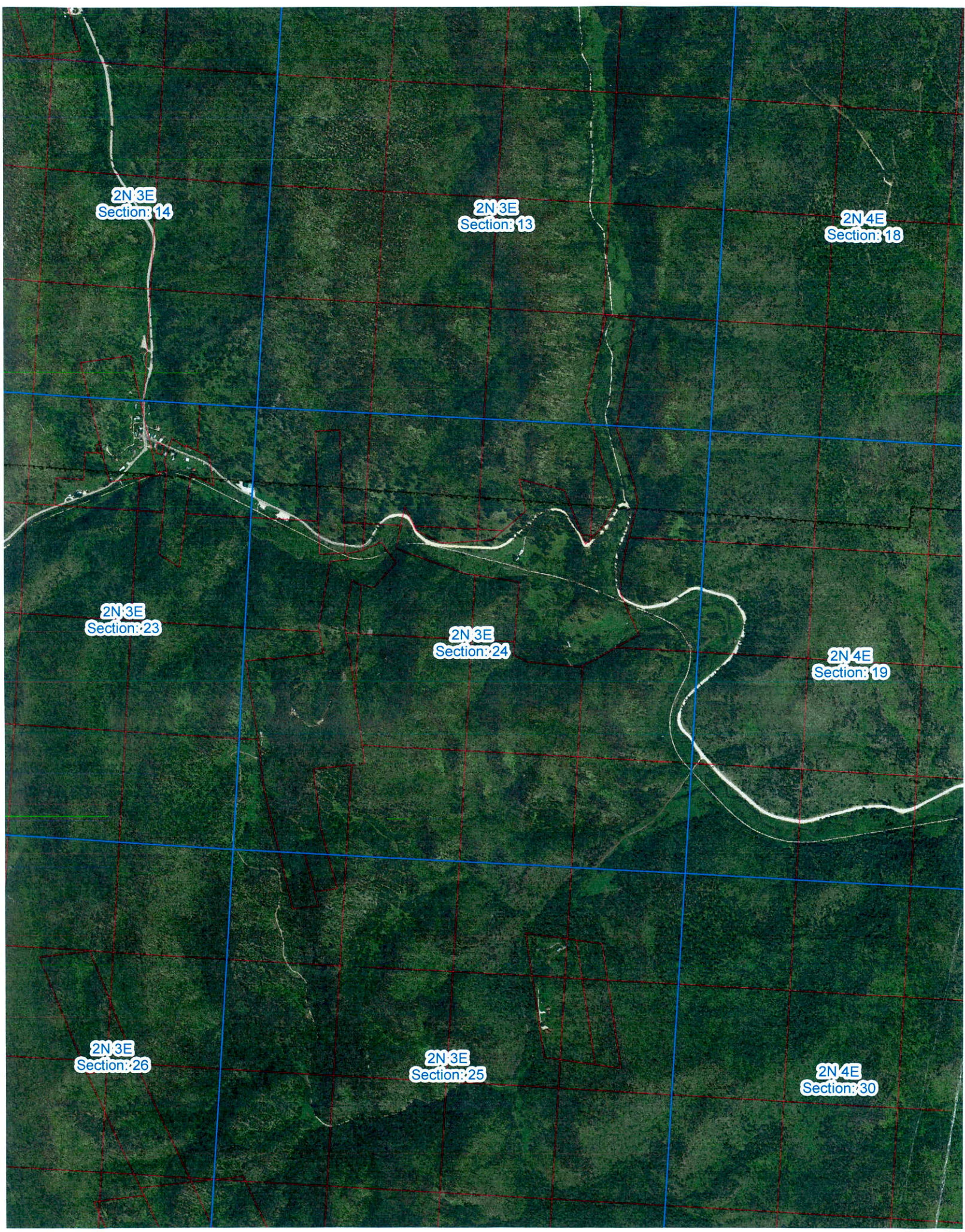


Table 1

Drill Sites - under PoO / EA Application (pending approval)	REGIONAL	Unpatented Mineral Claims	Section, Township and Range
			NE 1/4 Section 12 - T 001N - R 003E SE 1/4 Section 1 - T 001N - R 003E SW 1/4 Section 25 - T 002N - R 003E NW 1/4 Section 25 - T 002N - R 003E NE 1/4 Section 25 - T 002N - R 003E SE 1/4 Section 24 - T 002N - R 003E NE 1/4 Section 24 - T 002N - R 003E SE 1/4 Section 13 - T 002N - R 003E NE 1/4 Section 13 - T 002N - R 003E NE 1/4 Section 13 - T 002N - R 004E SW 1/4 Section 7 - T 002N - R 004E SE 1/4 Section 12 - T 002N - R 003E NW 1/4 Section 7 - T 002N - R 004E NE 1/4 Section 12 - T 002N - R 003E NW 1/4 Section 11 - T 002N - R 003E NE 1/4 Section 14 - T 002N - R 003E SW 1/4 Section 14 - T 002N - R 003E SW 1/4 Section 23 - T 002N - R 003E SW 1/4 Section 23 - T 002N - R 003E NW 1/4 Section 26 - T 002N - R 003E SE 1/4 Section 26 - T 002N - R 003E NE 1/4 Section 35 - T 002N - R 003E SW 1/4 Section 26 - T 002N - R 003E NW 1/4 Section 35 - T 002N - R 003E NE 1/4 Section 35 - T 002N - R 003E
Drill Sites - approved under DENR Permits NI 423 and NI 427	STANDBY	Patented Claims	Section, Township and Range
			NW 1/4 Section 24 - T 002N - R 003E SW 1/4 Section 24 - T 002N - R 003E NW 1/4 Section 25 - T 002N - R 003E

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date August 21, 2020

RECEIVED OF Mineral Mt. Resources Inc., 616 State St. Belle Fourche SD 57717

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

Fee for Application for Permit No. <u>2813-2</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>2813-2</u>	\$200.00
Fee for Filing Transfer Form _____	\$
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	\$300.00

By Eric Gronlund
Chief Engineer vm

Gronlund, Eric

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Monday, November 25, 2019 10:17 AM
To: Goodman, Jeanne; Gronlund, Eric
Cc: Matthew Naasz
Subject: [EXT] Authorization to Complete a Water Test Well

Good Morning

I wish to request authorization to complete a water test well pursuant to ARSD 74.02.04.21 on the Standby property, Rochford SD. The approximate location of the test well will be 60229500 mE , 4885500 mN and it is contemplated that it will be drilled to a vertical depth of between 200 to 300 feet.

Yours sincerely,

Kevin Leonard

Project Manager

Mineral Mountain Resources (SD) Inc.

253-327-4263

Gronlund, Eric

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Tuesday, November 26, 2019 2:23 PM
To: Gronlund, Eric
Subject: Re: [EXT] Authorization for Water Test Well - Standby Property

Eric

Please send correspondence to
2049 Yukon Harbor Rd SE
Port Orchard, Wa 98366

Thank you,
Kevin Leonard

On Tue, Nov 26, 2019, 11:43 AM Gronlund, Eric <Eric.Gronlund@state.sd.us> wrote:

Is the correct address to send correspondence regarding this request to Mineral Mountain Resources, Suite 401, 1195 West Broadway, Vancouver BC, Canada V6H 3X5?

Eric

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Tuesday, November 26, 2019 8:33 AM
To: Goodman, Jeanne <Jeanne.Goodman@state.sd.us>; Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: Matthew Naasz <mnaasz@gpna.com>
Subject: [EXT] Authorization for Water Test Well - Standby Property

Good Morning

This is a request for authorization to complete a water test well pursuant to ARSD 74.02.04.21 on the Standby property, Rochford SD. The test well will be located in

Twp 2 N, Range 3 E, Section 24 (60229500 mE ,4885500 mN), refer to map attached. It is estimated that the hole will be drilled to a vertical depth of between 200 to 300 feet.

Yours sincerely,



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

December 5, 2019

Mineral Mountain Resources (SD) Inc.
c/o Kevin Leonard
2049 Yukon Harbor Rd SE
Port Orchard, WA 98366

Dear Mr. Leonard:

As requested, pursuant to South Dakota Well Construction Standard 74:02:04:21, you are authorized to have a South Dakota Licensed Well Driller construct a test well to be completed into the Precambrian aged Crystalline Rock aquifer (vertical depth of approximately 200 to 300 feet) prior to approval of a water permit. The test well will be located in the NW ¼ SW ¼ Section 24-T02N-R03E. All test wells must be constructed in accordance with the SD Well Construction Standards. Any test holes or test wells that are abandoned must be plugged pursuant to the SD Well Construction Standards.

Authorization must be obtained before any water from the well can be pumped. This authorization can be either a temporary permit for the use of public water for testing or a standard water right permit. Approval of this test well does not assure issuance of a temporary permit for the use of public water or a standard water permit.

A temporary permit for the use of public water may be requested if the purpose is solely to conduct a test to determine the pumping capability anticipated from the well. The water pumped during the test may not be put to a beneficial use, including any use in exploration drilling. Upon filing a request for a temporary permit for testing, a determination will be made whether to issue the temporary permit or defer issuance and present the application to the Water Management Board for action.

If you have questions, call Eric Gronlund at (605) 773-3352.

Sincerely,


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

CC: DENR-Minerals and Mining Program
Matthew Naasz, Gunderson, Palmer, Nelson, Ashmore, LLP
Ann Mines Bailey, Assistant Attorney General



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 30, 2020

Mineral Mountain Resources (SD) Inc.
c/o Kevin Leonard
2049 Yukon Harbor Rd SE
Port Orchard, WA 98366

Dear Mr. Leonard:

Per your January 30, 2020 request and pursuant to South Dakota Well Construction Standard 74:02:04:21, you are authorized to have a South Dakota Licensed Well Driller deepen your test well up to 700 feet. This is to be the same test well in the same location as was previously approved for construction in my December 4, 2019 letter and deepened in my January 28, 2020 letter. A copy of both letters is enclosed for your convenience. All of the same requirements and restrictions that were mentioned in the December 4, 2019 letter still apply.

If you have questions, call Eric Gronlund at (605) 773-3352.

Sincerely,



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

enclosure

CC: DENR-Minerals and Mining Program
Matthew Naasz, Gunderson, Palmer, Nelson, Ashmore, LLP
Ann Mines Bailey, Assistant Attorney General



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

March 11, 2020

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St
Belle Fourche SD 57717

Dear Sir:

Thank you for submitting the *Application for a Permit to Appropriate Water* on behalf of Mineral Mountain Resources Inc. In order to complete the application, the following is required:

- The application requests an appropriation of 10 gallons per minute (gpm). In addition to the pump rate, the application needs to include the annual volume in either gallons/year or acre feet/year. It is unlikely that 10 gpm will be pumped continuously during an entire year. In calculating the annual volume, be reasonable but calculate for the maximum annual volume of use from the well at full development.
- The legal description of the point of diversion on the application and map indicate the well is in the NW 1/4 SW 1/4 Section 24-T2N-R3E. The SD Well Completion Report indicates the well is in the SW 1/4 SW 1/4 Section 24. Do you agree the location on the well completion report should be NW 1/4 SW 1/4 Section 24?
- A review of the Secretary of State's corporation website finds Bennett, Main & Gubbrud listed as the registered agent for Mineral Mountain Resources (SD) Inc. DENR will need the application to be signed by the registered agent or a statement of authority from the registered agent that the person signing the application has the authority to act on behalf of Mineral Mountain Resources on all matters involving the water permit application.
- Commercial use of water, as defined by ARSD 74:02:01:01(1) tends to identify uses of water more consistent with drinking or sanitary uses in operation of the business. Given that, do you want to change the proposed use to industrial or add industrial as another proposed use.
- On the Supplemental Information form, you checked, "Drilling new well(s)." It is our understanding you intend to use the existing test well that has been drilled to 700 feet deep. Is that correct?

March 11, 2020

Mineral Mountain Resources (SD) Inc.

Page 2

- For the "Wastewater Disposal System Information" on the Supplemental Information form, please specify whether or not there is any wastewater disposal system associated with this application.
- The application/license fee will be \$300.00.

If you have any questions, please contact Ron Duvall or me.

Sincerely,



Karen Schlaak

Water Rights Program

605 773-3352

karen.schlaak@state.sd.us

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 11, 2020

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St
Belle Fourche SD 57717

Dear Sir:

On March 9, 2020, on behalf of Mineral Mountain Resources, you submitted *an Application for Permit to Appropriate Water Within the State of South Dakota*. You were notified what additional information was required to complete the application. A copy of that letter is enclosed.

To date, we have not received the required information.

If you have any questions, please contact Ron Duvall or me.

Sincerely,

A handwritten signature in black ink that reads "Karen Schlaak".

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

enclosures



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 25, 2020

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St
Belle Fourche SD 57717

Dear Sir:

On March 9, 2020, on behalf of Mineral Mountain Resources, you submitted an *Application for Permit to Appropriate Water Within the State of South Dakota*.

This letter is a reminder that we have not received the additional information required to complete the application. Enclosed is a copy of our March 11th letter advising what is required and a copy of the application.

If you have any questions, please contact Ron Duvall or me.

Sincerely,

Karen Schlaak

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

enclosures

Duvall, Ron

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Friday, August 14, 2020 12:11 PM
To: Duvall, Ron
Subject: [EXT] Application for Appropriation of Water

Good Morning Mr Duvall,

Please find the response below to the questions outlined in the letter of March 11, 2020.

Item # **1,200,000 gallons per year** at a maximum pumping rate of 600 gallons per hour.

Item # 2 I agree the location on the well completion report should be NW 1/4 SW 1/4 Section 24 - T2N-R3E.

Item # 3 The requirement that our firm, Bennet, Main & Gubbrud as the corporation's registered agent, needs to provide a statement of authority is misplaced by the Division. Nevertheless, we are happy to cooperate. I'm not sure what the Statement of Authority should provide but we will gladly cooperate in providing or signing a statement.

Please let us know how the Department wants us to handle the requested Statement of Authority.

Item # 4 please add **industrial** as another proposed use of the permit.

Item # 5 we are using the **existing test well** that has been drilled to a depth of 700 feet.

Item # 6 there is **no waste water disposal system** associated with this application.

Sincerely,

Kevin Leonard PGO
Project Manager - Rochford Project
Mineral Mountain Resources (SD) Inc.

Duvall, Ron

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Friday, August 14, 2020 3:30 PM
To: Duvall, Ron
Subject: Fwd: [EXT] Authorization

Good Afternoon Mr Duvall

Please find authorization from Brad Baker, VP Corporate Development and Director of Mineral Mountain Resources.

Thank you,
Kevin Leonard
Project Manager - Rochford Project

----- Forwarded message -----

From: Brad Baker <bbaker@mineralmtn.com>
Date: Fri, Aug 14, 2020 at 1:11 PM
Subject: Authorization
To: leonardkwl@gmail.com <leonardkwl@gmail.com>
Cc: Nelson Baker <nbaker@mineralmtn.com>

To whom it may concern,

Kevin Leonard, has the authority to submit the water permit application received by the Water Rights Program on March 9, 2020, and authority to act on the company's (Mineral Mountain Resources SD inc) behalf in the processing of the application.

Sincerely,

Brad Baker

VP Corporate Development & Director

Mineral Mountain Resources Ltd.
Suite 401 - 1195 Broadway
Vancouver, B.C. V6H 3X5
Tel 604-714-0111 ext.205 Cell 604-760-0092
bbaker@mineralmtn.com
www.mineralmtn.com



Suite 401-1195 West Broadway
Vancouver, BC V6H 3X5
Tel 604.714.0111
Fax 604.714.1119

August 14, 2020

Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota
57501-3182 USA

Attention: Ron Duvall

Dear Mr. Duvall:

Kevin Leonard, has the authority to submit the water permit application received by the Water Rights Program on March 9, 2020, and authority to act on the company's (Mineral Mountain Resources SD Inc.) behalf in the processing of the application.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brad Baker", with a stylized, flowing script.

Brad Baker

VP Corporate Development & Director

Mineral Mountain Resources Ltd.
Suite 401 - 1195 Broadway
Vancouver, B.C. V6H 3X5
Tel 604-714-0111 ext.205 Cell 604-760-0092
bbaker@mineralmntn.com
www.mineralmntn.com

Duvall, Ron

From: Duvall, Ron
Sent: Tuesday, August 25, 2020 11:43 AM
To: Kevin Leonard
Subject: RE: [EXT] Public Notice of Drill Sites

Mr. Leonard:

Thank you for the information. However, it is not clear which township and range values go with which sections. I have put the township and range values with the sections that I believe are correct but I am not certain. Please confirm that I have accurately applied the correct township and range values with all the sections as shown below:

Section 1-T1N-R3E

Sections 11, 12, 13; all in T2N-R3E (NOTE: Table 1 attached to the application also shows a Section 12 being in T1N-R3E, please confirm 2N-3E is correct; the table also shows a Section 13 being in T2N-R4E, please confirm 2N-3E is correct)

Section 18-T2N-R4E (NOTE: Section 18 is not in Table 1, 2N-4E is a guess based on Section 18 being an adjoining section to Section 7 which is listed in Table 1, please confirm the correct township and range values)

Sections 23, 24, 25 and 26; all in T2N-R3E

Sections 35 and 36; both in T2N-R3E

Regarding the public notice, I want it to be clear that the draft public notice I am putting together for Mineral Mountain is a courtesy afforded to all applicants for water right permits. However, the public notice is Mineral Mountain's public notice, not DENR's. I expect your application to be contested once it goes to public notice and I expect the content of the public notice to be scrutinized and subject to attack. Given that, I advise you to contact your legal counsel concerning the content of the public notice, in general, and specifically concerning the amount of detail you want to provide as to the place of use. At this point, it appears you want to list entire sections in the public notice with perhaps a reference to those sections all being covered by Plan of Operations submittals over the past 3 years covered by the Northern Hills and Mystic Ranger Districts on Mineral Mountain's unpatented mineral claims. However, I am not going to assume what Mineral Mountain wants for exact wording which is why I advise you to involve your legal counsel. If your legal counsel wants to consult with our legal counsel, Ann Mines Bailey, her phone is 605-773-3215. Also, please be advised that our email correspondence to this point will be made part of the file for Application No. 2813-2.

Thank you,

Ron Duvall
Water Rights Program
605.773.3352
denr.sd.gov



DENR
SOUTH DAKOTA

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Monday, August 24, 2020 10:02 AM
To: Duvall, Ron <Ron.Duvall@state.sd.us>
Subject: [EXT] Public Notice of Drill Sites

Mr Duvall

The areas to include in the public notice for drill sites where the water may be used based on our Plan of Operations submittals over the past 3 years covered by the Northern Hills and Mystic Ranger Districts on Mineral Mountain's unpatented mineral claims are as follows:

Counties: Pennington and Lawrence

Rochford District

Township: 1 N and 2 N

Range: 3 E and 4 E

Section 1

Sections 11, 12, 13

Section 18

Sections 23, 24, 25 and 26

Sections 35 and 36

Yours truly,

Kevin Leonard P Geo.

Project Manager - Rochford Project

Mineral Mountain Resources (SD) Inc.

AUG 26 2020

WATER RIGHTS
PROGRAM

TABLE A: Drill Site Location – Cochrane

No	Drill Site	UTM Easting	UTM Northing	Section	Claim #	TSR	Number of Holes per Site
1	CR-17-A	601827	4883409	26	VC-193	T2N – R3E	10
2	CR-17-B	601840	4883389	35	VC-193	T2N – R3E	10
3	CR-17-C	601863	4883377	35	VC-193	T2N – R3E	10
4	CR-17-D	601879	4883350	35	VC-193	T2N – R3E	10
5	CR-17-E	601908	4883332	35	VC-193	T2N – R3E	10
6	CR-17-F	601923	4883306	35	VC-193	T2N – R3E	10
7	CR-17-G	601954	4883253	35	VC-193	T2N – R3E	10
8	CR-17-H	602007	4883171	35	VC-193	T2N – R3E	10
9	CR-17-I	602128	4883034	35	VC-233	T2N – R3E	10
10	CR-17-J	601879	4882511	35	VC-284	T2N – R3E	10
11	CR-17-K	601293	4883677	26	VC-129	T2N – R3E	10
12	CR-17-L	601328	4883597	26	VCB-91	T2N – R3E	10
13	CR-17-M	602094	4883115	35	VC-233	T2N – R3E	10
14	CR-17-N	602198	4882917	35	VC-287	T2N – R3E	10
15	CR-17-P	601822	4882793	35	VC285	T2N – R3E	10
16	CR-17-Q	601867	4882603	35	VC-285	T2N – R3E	10
17	CR-17-R	601877	4882418	35	VC-284	T2N – R3E	10
18	CR-17-S	601565	4882121	35	VC-281	T2N – R3E	10
19	CR-17-T	601634	4882046	35	VC-281	T2N – R3E	10
20	CR-17-U	601659	4881958	35	VC-281	T2N – R3E	10

**III PROPERTY or AREA
PROPOSED MYSTIC DISTRICT DRILL SITES**

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**WATER RIGHTS
PROGRAM**

TABLE 1

	Drill Hole	MC#	Claim #	Section	Township	Range
1	RD-P-01	233594	VCB 88	12	T.1 N.	R.3 E.
2	RD-P-02	233591	VCB 85	12	T.1 N.	R.3 E.
3	RD-P-03	233589	VCB 83	12	T.1 N.	R.3 E.
4	RD-P-04	233611	VCB 105	1	T.1 N.	R.3 E.
5	RD-P-07	232554	VCA 32	1	T.1 N.	R.3 E.
6	RD-P-08	233576	VCB 70	1	T.1 N.	R.3 E.
7	RD-P-09	232548	VCA 26	36	T.2 N.	R.3 E.
8	RD-P-38	228620	VC386	23	T.1 N.	R.3 E.
9	RD-P-39	228556	VC 305	23	T.2 N.	R.3 E.
10	RD-P-40	228459	VC 146	26	T.2 N.	R.3 E.
11	RD-P-41	228459	VC 146	26	T.2 N.	R.3 E.
12	RD-P-42	228450	VC 137	26	T.2 N.	R.3 E.
13	RD-P-43	228519	VC 238	26	T.2 N.	R.3 E.
14	RD-P-44	228519	VC 238	26	T.2 N.	R.3 E.
15	RD-P-45	228548	VC 239	35	T.2 N.	R.3 E.
16	RD-P-46	228550	VC 290	35	T.2 N.	R.3 E.
17	RD-P-47	228551	VC 289	35	T.2 N.	R.3 E.

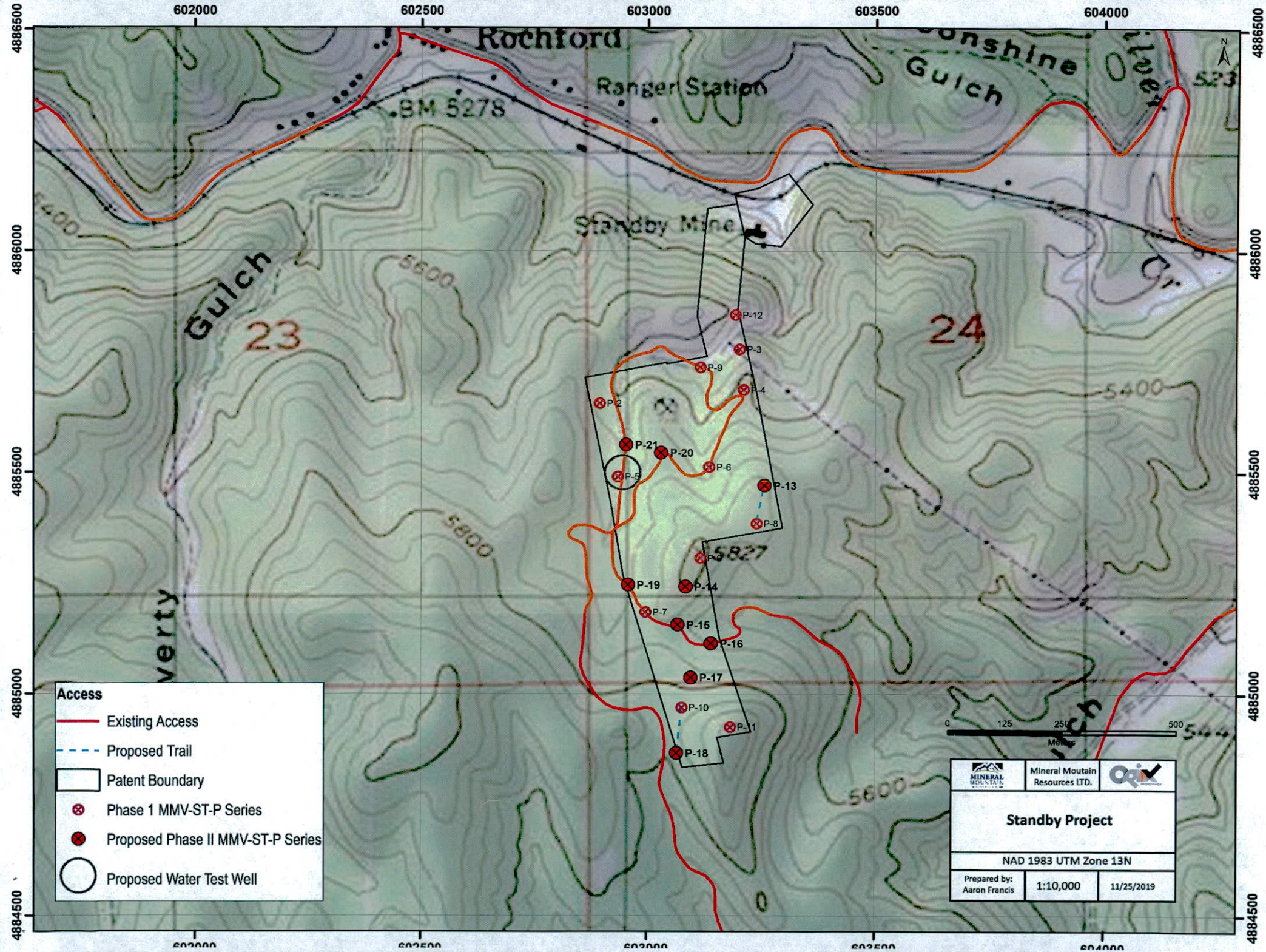
TABLE A: Drill Site Location – Phase 3 Program

Drill Site	UTM Easting	UTM Northing	Section	TSR	Number of Holes per Site
MMV-ST-P-22	603220	4885744	24	T2N – R3E	5
MMV-ST-P-23	603228	4885711	24	T2N – R3E	5
MMV-ST-P-24	603237	4885666	24	T2N – R3E	5
MMV-ST-P-25	603243	4885618	24	T2N – R3E	5
MMV-ST-P-26	603251	4885578	24	T2N – R3E	5
MMV-ST-P-27	603260	4885532	24	T2N – R3E	5
MMV-ST-P-28	602268	4885487	24	T2N – R3E	5
MMV-ST-P-29	603276	4885441	24	T2N – R3E	5
MMV-ST-P-30	603284	4885405	24	T2N – R3E	5
MMV-ST-P-31	603156	4885769	24	T2N – R3E	5
MMV-ST-P-32	603168	4885724	24	T2N – R3E	5
MMV-ST-P-33	603175	4885686	24	T2N – R3E	5
MMV-ST-P-34	603181	4885649	24	T2N – R3E	5
MMV-ST-P-35	603193	4885597	24	T2N – R3E	5
MMV-ST-P-36	603202	4885541	24	T2N – R3E	5
MMV-ST-P-37	603214	4885491	24	T2N – R3E	5
MMV-ST-P-38	603221	4885442	24	T2N – R3E	5
MMV-ST-P-39	603234	4885385	24	T2N – R3E	5
MMV-ST-P-40	603114	4885740	24	T2N – R3E	5
MMV-ST-P-41	603126	4885702	24	T2N – R3E	5
MMV-ST-P-42	603132	4885655	24	T2N – R3E	5
MMV-ST-P-43	603138	4885618	24	T2N – R3E	5
MMV-ST-P-44	603149	4885570	24	T2N – R3E	5
MMV-ST-P-45	603160	4885511	24	T2N – R3E	5
MMV-ST-P-46	603169	4885463	24	T2N – R3E	5
MMV-ST-P-47	603180	4885415	24	T2N – R3E	5
MMV-ST-P-48	603186	4885360	24	T2N – R3E	5
MMV-ST-P-49	603072	4885722	24	T2N – R3E	5
MMV-ST-P-50	603083	4885673	24	T2N – R3E	5
MMV-ST-P-51	603086	4885636	24	T2N – R3E	5
MMV-ST-P-52	603096	4885593	24	T2N – R3E	5
MMV-ST-P-53	603103	4885542	24	T2N – R3E	5
MMV-ST-P-54	603115	4885489	24	T2N – R3E	5
MMV-ST-P-55	603125	4885436	24	T2N – R3E	5
MMV-ST-P-56	603140	4885396	24	T2N – R3E	5
MMV-ST-P-57	603140	4885370	24	T2N – R3E	5
MMV-ST-P-58	603037	4885734	24	T2N – R3E	5
MMV-ST-P-59	603044	4885692	24	T2N – R3E	5
MMV-ST-P-60	603044	4885651	24	T2N – R3E	5
MMV-ST-P-61	603058	4885613	24	T2N – R3E	5
MMV-ST-P-62	603069	4885561	24	T2N – R3E	5
MMV-ST-P-63	603076	4885508	24	T2N – R3E	5
MMV-ST-P-64	603084	4885455	24	T2N – R3E	5
MMV-ST-P-65	603097	4885405	24	T2N – R3E	5
MMV-ST-P-66	603107	4885350	24	T2N – R3E	5

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Access

- Existing Access
- Proposed Trail
- Patent Boundary
- Phase 1 MMV-ST-P Series
- Proposed Phase II MMV-ST-P Series
- Proposed Water Test Well



	Mineral Mountain Resources LTD.	
Standby Project		
NAD 1983 UTM Zone 13N		
Prepared by: Aaron Francis	1:10,000	11/25/2019

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WATER RIGHTS
PROGRAM

III PROPERTY or AREA
PROPOSED NORTHERN HILLS DRILL SITES

TABLE 1

	Drill Hole	MC#	Section	Claim #	Township	Range
1	RD-P-12	232536	36	VCA 14	T.2 N.	R.3 E.
2	RD-P-13	229396	25	R 86	T.2 N.	R.3 E.
3	RD-P-15	229396	25	R 86	T.2 N.	R.3 E.
4	RD-P-16	229394	25	R 77	T.2 N.	R.3 E.
5	RD-P-18	233541	24	VCB 38	T.2 N.	R.3 E.
6	RD-P-19	233505	25	VC 161	T.2 N.	R.3 E.
7	RD-P-20	233607	24	VCB 101	T.2 N.	R.3 E.
8	RD-P-21	233542	25	VCB 36	T.2 N.	R.3 E.
9	RD-P-22	233546	25	VCB 40	T.2 N.	R.3 E.
10	RD-P-23	232422	25	R 97	T.2 N.	R.3 E.
11	RD-P-26	228677	13	VC 445	T.2 N.	R.3 E.
12	RD-P-27	228667	13	VC 435	T.2 N.	R.3 E.
13	RD-P-28	228668	13	VC 436	T.2 N.	R.3 E.
14	RD-P-29	228651	13	VC 419	T.2 N.	R.3 E.
15	RD-P-30	228659	18	VC 427	T.2 N.	R.4 E.
16	RD-P-31	228656	7	VC 424	T.2 N.	R.4 E.
17	RD-P-32	228641	12	VC 409	T.2 N.	R.3 E.
18	RD-P-33	228641	12	VC 409	T.2 N.	R.4 E.
19	RD-P-34	228638	12	VC 406	T.2 N.	R.3 E.
20	RD-P-35	228557	11	VC 306	T.2 N.	R.3 E.
21	RD-P-36	228591	14	VC 353	T.2 N.	R.3 E.
22	RD-P-37	228599	14	VC 361	T.2 N.	R.3 E.

Duvall, Ron

From: Duvall, Ron
Sent: Thursday, August 27, 2020 1:42 PM
To: Kevin Leonard
Subject: RE: [EXT] Proposed Drill Sites - Rochford District
Attachments: 2813-2.aug_RD.docx

Mr. Leonard,

Thank you for the list of drill sites. I am attaching the first part of what will become your public notice (see yellow highlight) which gets published in local newspapers. Draft language has been inserted in the attachment as to the legal description of the well, amount of water being claimed, and proposed use of the water. Please review that language in the attachment and make any needed corrections. At the end of this information in the attachment, I would like you or your legal counsel to insert "the proposed place or places of use of the water or facilities" (see yellow highlight shown below excerpted from South Dakota Codified Law 46-2A-4). After inserting the needed language and making any other needed corrections/additions, please return the document to me and we will get the rest of the language inserted that is required by statute. Before the notice gets published, you will be afforded another opportunity for review of the public notice.

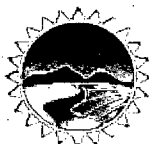
Again, you may wish to consult with your legal counsel as to the detail necessary to describe the proposed place of use. This public notice is your public notice and Mineral Mountain will need to be able to defend what gets noticed because this application will likely get contested. If your intent is to publish exactly what you provided me in your last email, then please insert those locations into the attached MS Word document. Our experience with newspapers is that they prefer receiving the notice in a WORD document for publication in their paper -- providing them the PDF pages you provided to me may not meet their requirements.

46-2A-4. Publication of application and recommendation of chief engineer - Time for publication and contents of notice. Except in the case of an application for a well driller license or a well pump installer license, if a recommendation is to approve or defer an application or if an applicant has filed a petition to oppose a recommendation to deny an application, the applicant shall publish notice of the application and recommendation at least once in at least one official newspaper in each county where the water will be diverted or used or where project works will be located. The official newspaper shall be selected by the chief engineer and shall be a newspaper designated as an official newspaper pursuant to 7-18-3. If the official newspaper is a weekly newspaper, then the notice shall also be published at least once in a daily newspaper. The daily newspaper selected by the chief engineer shall be located as near as possible to the location where the water will be diverted or used. Public notice of the application shall also be posted on the department's website until final action is taken on the application. The publication shall be at least twenty days before the first day of the Water Management Board meeting at which the matter is noticed to be heard. No application for a permit, license, or amendment may be considered and approved by the board until proof of all required publications has been filed with the chief engineer. The notice, which shall be provided by the chief engineer to the applicable newspapers, shall include the following, as applicable:

- (1) The name and address of the applicant;
- (2) A brief description of the project, including, where applicable, the proposed place or places of use of the water or facilities, including the point of diversion, the amount of water to be used and the purpose for which the water or facility is to be used;

Thank you,

Ron Duvall
Water Rights Program
605.773.3352
denr.sd.gov



DENR
SOUTH DAKOTA

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Wednesday, August 26, 2020 3:17 PM
To: Duvall, Ron <Ron.Duvall@state.sd.us>
Subject: [EXT] Proposed Drill Sites - Rochford District

Mr Duvall

Herein attached below are drill sites being proposed to both the DENR (EXNI) and the USFS (PoO) that water from the Standby well could be used.

Kevin

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Monday, August 31, 2020 12:46 PM
To: Duvall, Ron <Ron.Duvall@state.sd.us>
Subject: [EXT] Exploratory Drill sites - Rochford Project

Good Morning Mr Duvall

Please find a revised list of proposed drill sites, located regionally on Mineral Mountain's unpatented mineral claims and within the Standby privately-owned patented claims.

Thank you for your assistance in this matter.

Kevin Leonard

Mineral Mineral Resources (SD) Inc.

Kevin Leonard

Project Manager

Mineral Mountain Resources (SD) Inc.

253-327-4263

2020-21 Proposed Drill Sites - Rochford Project SD

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Number	Drill Site	Claim #	Section	Township	Range	Comments
1	RD-P-01	VCB 88	12	T.1 N.	R.3 E.	Regional - MMV Claims
2	RD-P-02	VCB 85	12	T.1 N.	R.3 E.	Regional - MMV Claims
3	RD-P-03	VCB 83	12	T.1 N.	R.3 E.	Regional - MMV Claims
4	RD-P-04	VCB 105	1	T.1 N.	R.3 E.	Regional - MMV Claims
5	RD-P-07	VCA 32	1	T.1 N.	R.3 E.	Regional - MMV Claims
6	RD-P-08	VCB 70	1	T.1 N.	R.3 E.	Regional - MMV Claims
7	RD-P-09	VCA 26	36	T.2 N.	R.3 E.	Regional - MMV Claims
8	RD-P-38	VC386	23	T.1 N.	R.3 E.	Regional - MMV Claims
9	RD-P-39	VC 305	23	T.2 N.	R.3 E.	Regional - MMV Claims
10	RD-P-40	VC 146	26	T.2 N.	R.3 E.	Regional - MMV Claims
11	RD-P-41	VC 146	26	T.2 N.	R.3 E.	Regional - MMV Claims
12	RD-P-42	VC 137	26	T.2 N.	R.3 E.	Regional - MMV Claims
13	RD-P-43	VC 238	26	T.2 N.	R.3 E.	Regional - MMV Claims
14	RD-P-44	VC 238	26	T.2 N.	R.3 E.	Regional - MMV Claims
15	RD-P-45	VC 239	35	T.2 N.	R.3 E.	Regional - MMV Claims
16	RD-P-46	VC 290	35	T.2 N.	R.3 E.	Regional - MMV Claims
17	RD-P-47	VC 289	35	T.2 N.	R.3 E.	Regional - MMV Claims
18	RD-P-12	VCA 14	36	T.2 N.	R.3 E.	Regional - MMV Claims
19	RD-P-13	R 86	25	T.2 N.	R.3 E.	Regional - MMV Claims
20	RD-P-15	R 86	25	T.2 N.	R.3 E.	Regional - MMV Claims
21	RD-P-16	R 77	25	T.2 N.	R.3 E.	Regional - MMV Claims
22	RD-P-18	VCB 38	24	T.2 N.	R.3 E.	Regional - MMV Claims
23	RD-P-19	VC 161	25	T.2 N.	R.3 E.	Regional - MMV Claims
24	RD-P-20	VCB 101	24	T.2 N.	R.3 E.	Regional - MMV Claims
25	RD-P-21	VCB 36	25	T.2 N.	R.3 E.	Regional - MMV Claims
26	RD-P-22	VCB 40	25	T.2 N.	R.3 E.	Regional - MMV Claims
27	RD-P-23	R 97	25	T.2 N.	R.3 E.	Regional - MMV Claims
28	RD-P-26	VC 445	13	T.2 N.	R.3 E.	Regional - MMV Claims
29	RD-P-27	VC 435	13	T.2 N.	R.3 E.	Regional - MMV Claims
30	RD-P-28	VC 436	13	T.2 N.	R.3 E.	Regional - MMV Claims
31	RD-P-29	VC 419	13	T.2 N.	R.3 E.	Regional - MMV Claims
32	RD-P-30	VC 427	18	T.2 N.	R.4 E.	Regional - MMV Claims
33	RD-P-31	VC 424	7	T.2 N.	R.4 E.	Regional - MMV Claims
34	RD-P-32	VC 409	12	T.2 N.	R.3 E.	Regional - MMV Claims
35	RD-P-33	VC 409	12	T.2 N.	R.4 E.	Regional - MMV Claims
36	RD-P-34	VC 406	12	T.2 N.	R.3 E.	Regional - MMV Claims
37	RD-P-35	VC 306	11	T.2 N.	R.3 E.	Regional - MMV Claims
38	RD-P-36	VC 353	14	T.2 N.	R.3 E.	Regional - MMV Claims
39	RD-P-37	VC 361	14	T.2 N.	R.3 E.	Regional - MMV Claims
40	CR-17-A	VC-193	26	T.2 N.	R.3 E.	Regional - MMV Claims
41	CR-17-B	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
42	CR-17-C	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
43	CR-17-D	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
44	CR-17-E	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
45	CR-17-F	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
46	CR-17-G	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
47	CR-17-H	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
48	CR-17-I	VC-233	35	T.2 N.	R.3 E.	Regional - MMV Claims
49	CR-17-J	VC-284	35	T.2 N.	R.3 E.	Regional - MMV Claims
50	CR-17-K	VC-129	26	T.2 N.	R.3 E.	Regional - MMV Claims
51	CR-17-L	VCB-91	26	T.2 N.	R.3 E.	Regional - MMV Claims
52	CR-17-M	VC-233	35	T.2 N.	R.3 E.	Regional - MMV Claims
53	CR-17-N	VC-287	35	T.2 N.	R.3 E.	Regional - MMV Claims
54	CR-17-P	VC285	35	T.2 N.	R.3 E.	Regional - MMV Claims
55	CR-17-Q	VC-285	35	T.2 N.	R.3 E.	Regional - MMV Claims
56	CR-17-R	VC-284	35	T.2 N.	R.3 E.	Regional - MMV Claims
57	CR-17-S	VC-281	35	T.2 N.	R.3 E.	Regional - MMV Claims
58	CR-17-T	VC-281	35	T.2 N.	R.3 E.	Regional - MMV Claims
59	CR-17-U	VC-281	35	T.2 N.	R.3 E.	Regional - MMV Claims

AUG 31 2020

WATER RIGHTS
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Number	Drill Site	Claim #	Section	Township	Range	Comments
1	MMV-ST-P-22		24	T.2 N.	R.3 E.	Standby Patents
2	MMV-ST-P-23		24	T.2 N.	R.3 E.	Standby Patents
3	MMV-ST-P-24		24	T.2 N.	R.3 E.	Standby Patents
4	MMV-ST-P-25		24	T.2 N.	R.3 E.	Standby Patents
5	MMV-ST-P-26		24	T.2 N.	R.3 E.	Standby Patents
6	MMV-ST-P-27		24	T.2 N.	R.3 E.	Standby Patents
7	MMV-ST-P-28		24	T.2 N.	R.3 E.	Standby Patents
8	MMV-ST-P-29		24	T.2 N.	R.3 E.	Standby Patents
9	MMV-ST-P-30		24	T.2 N.	R.3 E.	Standby Patents
10	MMV-ST-P-31		24	T.2 N.	R.3 E.	Standby Patents
11	MMV-ST-P-32		24	T.2 N.	R.3 E.	Standby Patents
12	MMV-ST-P-33		24	T.2 N.	R.3 E.	Standby Patents
13	MMV-ST-P-34		24	T.2 N.	R.3 E.	Standby Patents
14	MMV-ST-P-35		24	T.2 N.	R.3 E.	Standby Patents
15	MMV-ST-P-36		24	T.2 N.	R.3 E.	Standby Patents
16	MMV-ST-P-37		24	T.2 N.	R.3 E.	Standby Patents
17	MMV-ST-P-38		24	T.2 N.	R.3 E.	Standby Patents
18	MMV-ST-P-39		24	T.2 N.	R.3 E.	Standby Patents
19	MMV-ST-P-40		24	T.2 N.	R.3 E.	Standby Patents
20	MMV-ST-P-41		24	T.2 N.	R.3 E.	Standby Patents
21	MMV-ST-P-42		24	T.2 N.	R.3 E.	Standby Patents
22	MMV-ST-P-43		24	T.2 N.	R.3 E.	Standby Patents
23	MMV-ST-P-44		24	T.2 N.	R.3 E.	Standby Patents
24	MMV-ST-P-45		24	T.2 N.	R.3 E.	Standby Patents
25	MMV-ST-P-46		24	T.2 N.	R.3 E.	Standby Patents
26	MMV-ST-P-47		24	T.2 N.	R.3 E.	Standby Patents
27	MMV-ST-P-48		24	T.2 N.	R.3 E.	Standby Patents
28	MMV-ST-P-49		24	T.2 N.	R.3 E.	Standby Patents
29	MMV-ST-P-50		24	T.2 N.	R.3 E.	Standby Patents
30	MMV-ST-P-51		24	T.2 N.	R.3 E.	Standby Patents
31	MMV-ST-P-52		24	T.2 N.	R.3 E.	Standby Patents
32	MMV-ST-P-53		24	T.2 N.	R.3 E.	Standby Patents
33	MMV-ST-P-54		24	T.2 N.	R.3 E.	Standby Patents
34	MMV-ST-P-55		24	T.2 N.	R.3 E.	Standby Patents
35	MMV-ST-P-56		24	T.2 N.	R.3 E.	Standby Patents
36	MMV-ST-P-57		24	T.2 N.	R.3 E.	Standby Patents
37	MMV-ST-P-58		24	T.2 N.	R.3 E.	Standby Patents
38	MMV-ST-P-59		24	T.2 N.	R.3 E.	Standby Patents
39	MMV-ST-P-60		24	T.2 N.	R.3 E.	Standby Patents
40	MMV-ST-P-61		24	T.2 N.	R.3 E.	Standby Patents
41	MMV-ST-P-62		24	T.2 N.	R.3 E.	Standby Patents
42	MMV-ST-P-63		24	T.2 N.	R.3 E.	Standby Patents
43	MMV-ST-P-64		24	T.2 N.	R.3 E.	Standby Patents
44	MMV-ST-P-65		24	T.2 N.	R.3 E.	Standby Patents
45	MMV-ST-P-66		24	T.2 N.	R.3 E.	Standby Patents

Duvall, Ron

From: Kevin Leonard <leonardkwl@gmail.com>
Sent: Thursday, September 17, 2020 4:11 PM
To: Duvall, Ron
Subject: Re: [EXT] FW: Exploratory Drill sites - Rochford Project

Hello Ron

No corrections needed. We can proceed.

Thanks

Kevin Leonard
Mineral Mountain Resources

On Tue, Sep 15, 2020 at 2:36 PM Duvall, Ron <Ron.Duvall@state.sd.us> wrote:

Mr. Leonard,

I have copied and pasted the legal descriptions you provided (attached spreadsheet) into a partial draft of a public notice which is attached for your review. You will note I highlighted a couple of the provided legal descriptions in yellow. The reason is because the section number is the same but the township is different. I only point this out to confirm that the township values are correct as provided and the sites are actually 6 miles apart. Please let me know if you see anything needing correction. Once the staff report and Chief Engineer's recommendation are complete, you will be provided those documents along with a final version of the public notice.

Please let me know if you have any questions.

Thank you,

Ron Duvall

Water Rights Program

605.773.3352

denr.sd.gov



DENR
SOUTH DAKOTA

NOTICE OF APPLICATION NO. 2813-2 to Appropriate Water

Notice is given that Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717 has filed an application for a water permit to appropriate 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW 1/4 SW 1/4 Section 24-T2N-R3E about three-quarters of a mile southeast of Rochford SD. The application identifies the water use as commercial and industrial uses for exploratory drilling. Exploratory drilling will occur in section 1-T1N-R3E (3 drill sites); section 7-T2N-R4E (1 drill site); section 11-T2N-R3E (1 drill site); section 12-T1N-R3E (3 drill sites); section 12-T2N-R3E (3 drill sites); section 13-T2N-R3E (4 drill sites); section 14-T2N-R3E (2 drill sites); section 18-T2N-R4E (1 drill site); section 23-T1N-R3E (1 drill site); section 23-T2N-R3E (1 drill site); section 24-T2N-R3E (47 drill sites); section 25-T2N-R3E (7 drill sites); section 26-T2N-R3E (8 drill sites); section 35-T2N-R3E (20 drill sites); section 36-T2N-R3E (2 drill sites).



DENR
SOUTH DAKOTA

**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. 2813-2, Mineral Mountain Resources (SD) 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. 2813-2, Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717.

The Chief Engineer is recommending APPROVAL of Application No. 2813-2 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 well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer.
3. Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling.

See report on application for additional information.

Eric Gronlund, Chief Engineer
October 21, 2020

REPORT ON PERMIT APPLICATION NO. 2813-2

Mineral Mountain Resources (SD) Inc.

OCT 15, 2020

Water Permit Application No. 2813-2 requests the appropriation of 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet per second (cfs) (10 gallons per minute) from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW ¼ SW ¼ Section 24-T2N-R3E for commercial and industrial uses for exploratory drilling. The well site is located approximately one half mile southeast of Rochford SD. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

Aquifer: Crystalline Rock (CRSL)

Hydrogeology

The Crystalline Rock aquifers consists of localized aquifers in the Precambrian aged core of the Black Hills, where extensive fractures and weathering zones allow for the transmission of water (Driscoll & Carter, 2001). The Crystalline Rock aquifer is estimated to have an outcrop area of 540,000 acres (Rahn P. H., 1979). The Crystalline Rock that this application is completed into is composed of black graphitic slate and schist (Redden, Nichols, & Terry, 2015). The Crystalline Rock aquifer has very low primary porosity, so water movement in the aquifer is through secondary porosity (fractures, joints, and faults) (Rahn P. H., 1979). Secondary porosity for the Crystalline Rock aquifer is highly variable and uneven and therefore is site-specific. Rahn (1979) estimated an effective porosity containing recoverable groundwater primarily in cracks and joints that occur within a depth of 500 feet of ground surface to be one percent of the outcrop areas of the aquifer resulting in an estimated 2,700,000 acre-feet of recoverable water in storage for the Crystalline Rock aquifer in western South Dakota.

The well completion report included with the application indicates broken schist from ground surface to 30 feet, hard gray shale from 30 to 48 feet, schist fracture 2-3 gpm from 48 to 50 feet, hard grey shist from 50 to 210, schist fracture 5 gpm from 210 to 212 feet, hard grey shist from 212 to 338 feet, schist fracture 8 gpm from 338 to 340 feet, hard grey shist from 340 to 630 feet, schist fracture 9-10 gpm from 630 to 632 feet, and hard grey schist from 632 to 700 feet. The well completion report also indicated a static water level of 30 feet below ground surface (Water Rights, 2020b).

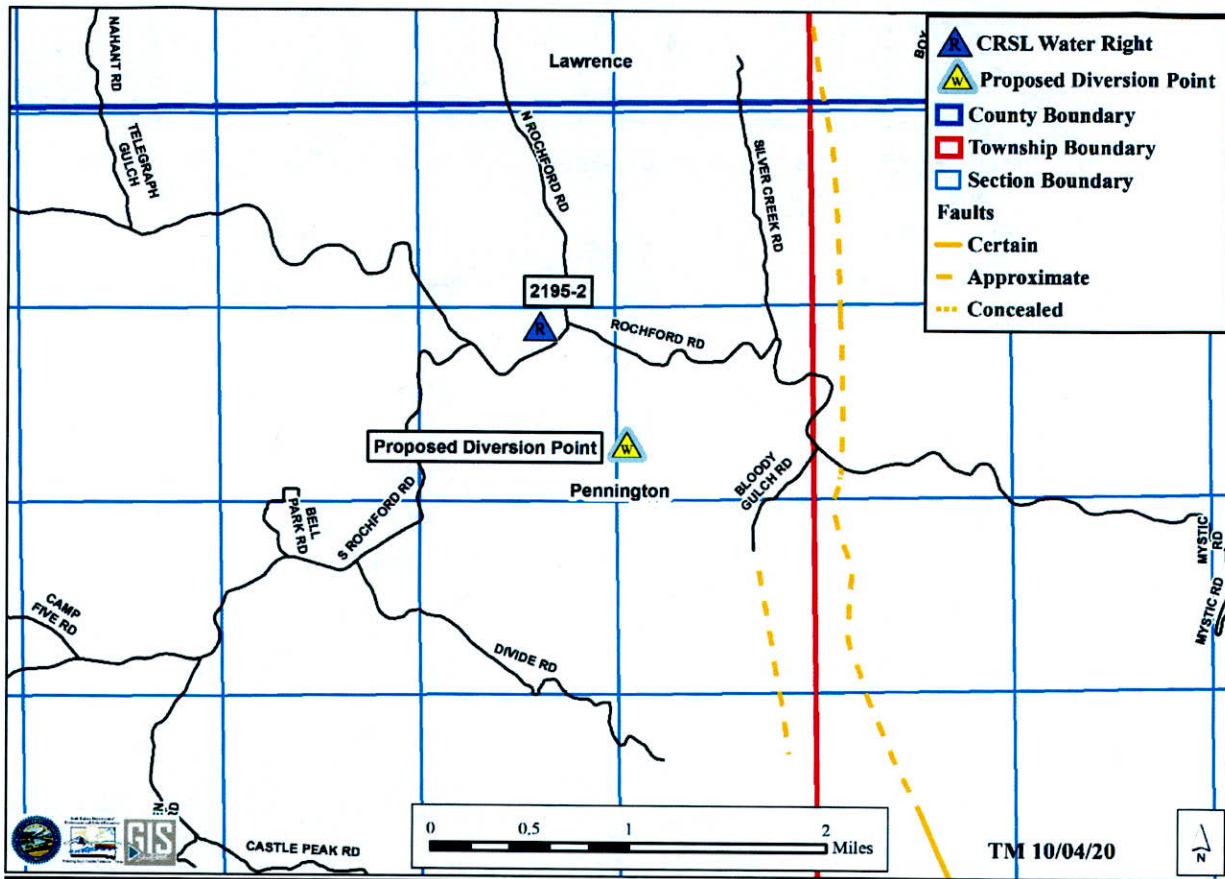


Figure 1: Map showing the location of the proposed diversion point, nearby water rights/permits completed into the Crystalline Rock aquifer, and fault locations (Water Rights, 2020a; Redden, Nichols, & Terry, 2015)

South Dakota Codified Law 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 potential impacts to existing rights within the Crystalline Rock aquifer.

Water Availability

SDCL 46-6-3.1 is considered when evaluating the probability of unappropriated water from an aquifer and states, “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.” The Crystalline Rock aquifer is older and lower than the Greenhorn Formation; however, there is no water distribution system involved.

Hydrologic Budget

Recharge

The Crystalline Rock aquifers receive recharge from the infiltration of precipitation and streamflow losses on the outcrop area (Driscoll & Carter, 2001). Driscoll & Carter (2001) estimated the recharge to the entirety of the Crystalline Rock aquifers for the years 1950-1998 within the core of the Black Hills to be equal to the average withdrawals (3,600 ac-ft/yr). Driscoll and Carter (2001) concluded that the recharge to the Crystalline Rock aquifers must be much larger than estimated to account for discharge to streams. Driscoll and Carter (2001) stated, in regard to the Crystalline Rock aquifers, "Recharge conditions are highly transient and have large spatial variability; thus, quantification is not attempted." While looking at faults and other significant geological features may allow for some limiting of areal extent, there is not sufficient data available to attempt a delineation of the localized Crystalline Rock aquifer with any level of certainty. Therefore, there is no average annual recharge estimate available for the localized Crystalline Rock aquifer the applicant proposes to use.

Withdrawals

Currently, the nearest water right/permit (Water Right No. 2195-2 for Moonshine Gulch Saloon) authorized to withdraw water from the Crystalline Rock aquifer is approximately 0.8 miles to the northwest of the proposed diversion point, with the next nearest water right/permit being approximately 7.6 miles to the southeast of the proposed diversion point (Water Rights, 2020a). The amount of water that can be expected to be withdrawn by Water Right No. 2195-2 can be estimated assuming that the water right will pump at the maximum permitted diversion rate (0.015 cfs) 60 percent of the time resulting in 6.52 ac-ft/yr. This application, if approved, would authorize the appropriation of 3.68 ac-ft/yr assuming the application will use the entire permitted volume annually.

There are a number of well completion reports on file with the DENR-Water Rights Program for domestic wells that appear to be completed into the Crystalline Rock aquifer in the area of the proposed diversion point (Water Rights, 2020b). It is also likely there are other domestic wells completed into the Crystalline Rock aquifer in this area that are not on file with the Water Rights Program. In general, the volume of water pumped by domestic users is not significant to a hydrologic budget due to limited diversion rate (less than 18 gpm). Furthermore, in the Crystalline Rock aquifer it is common for most wells to produce less than 10 gpm with many users frequently getting less than 5 gpm from their wells. However, due to the unpredictable nature of the fracturing that comprises the localized Crystalline Rock aquifers, it is difficult to determine exactly how large a component of the hydrologic budget domestic use may represent.

Observation Well Data

In determining the availability of unappropriated water for a permit application, Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer.

The SD DENR-Water Rights Program maintains two observation wells that have historically been considered completed into the Crystalline Rock aquifer in western South Dakota (Water Rights, 2020c). Observation well CU-86A is located approximately 24.3 miles southeast, and observation well PE-95D is located approximately 19.5 miles southeast of the proposed well sites. Kilts W. K. (2018) determined that observation well PE-95D is open to both the Deadwood Formation and the Crystalline Rock. It is uncertain how representative observation well PE-95D is of either the Deadwood or Crystalline Rock aquifers. For this reason, only observation well CU-86A will be used for analysis. Figure 2 shows the hydrograph for observation well CU-86A.

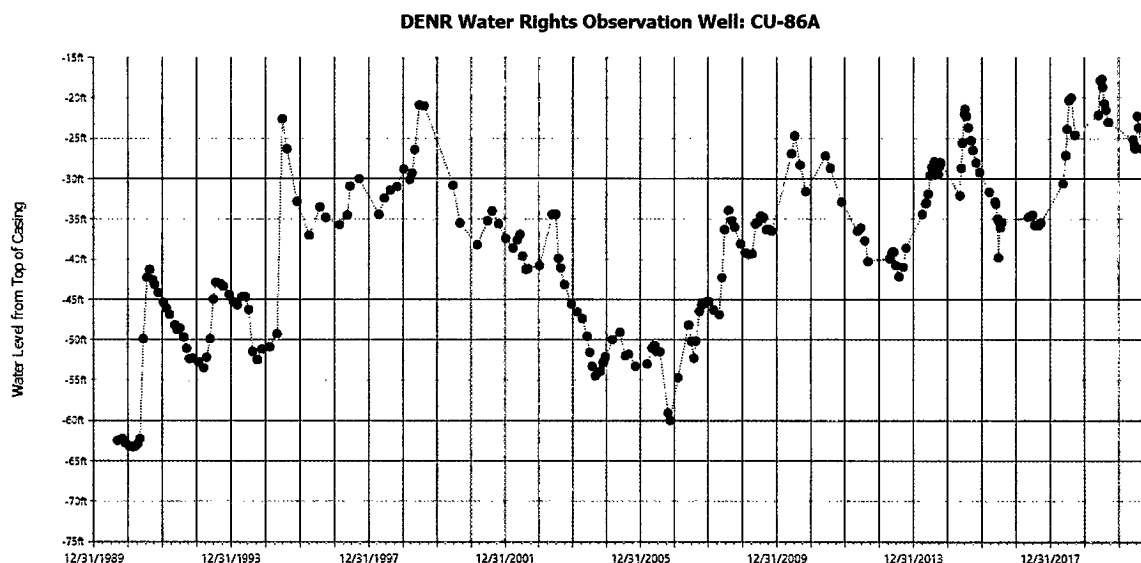


Figure 2: Hydrograph for observation well CU-86A (24.3 miles southeast) (Water Rights, 2020c).

Water levels shown in the observation well change in response to climatic conditions declining during drier periods and rising during wetter periods and show no or minimal responses to pumping. Any responses to pumping are relatively short term and are masked by recharge to and natural discharge from the aquifer. Over the period of record, the water levels for observation well CU-86A have fluctuated 45 feet. Recharge to and natural discharge from aquifers can be captured for pumping. Water level data for observation well CU-86A shows the Crystalline Rock aquifer receives recharge, and while the observation well is not close to the proposed diversion point, it still shows that the Crystalline Rock aquifers receive recharge.

Driscoll and Carter (2001) stated recharge to the Crystalline Rock aquifer must be much greater than the estimated 3,600 ac-ft/yr to account for the groundwater discharge that contributes to the base flow to many streams and is supported by the hydrograph for observation well CU-86A (Figure 2), which shows the water level generally rising over its period of record despite increased development of the aquifer.

When considering the hydrograph for observation well CU-86A, Driscoll's and Carter's (2001) commentary regarding recharge to the Crystalline Rock aquifer, the continued development of the Crystalline Rock aquifer, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation.

Potential For Unlawful Impairment Of Existing Water Rights

The nearest well completion report on file with SD DENR-Water Rights Program is approximately 0.5 miles to the northeast of the proposed diversion point for this application (Water Rights, 2020b). There are likely other wells completed into the Crystalline Rock aquifer within approximately 1 mile of the proposed diversion point for this application that are not on file with the SD DENR-Water Rights Program.

The nearest water right/permit (Water Right No. 2195-2) currently authorized to withdraw water from the Crystalline Rock aquifer is approximately 0.8 miles to the northwest of the proposed diversion point (Figure 1), with the next nearest water right/permit being approximately 7.6 miles to the southeast of the proposed diversion point (Water Rights, 2020a). Considering the proximity of Water Right No. 2195-2 to nearby domestic users (approximately 0.2 miles southeast) in the area without any reports of well interference and the limited diversion rate requested by this application, there is a reasonable probability this application can be developed without unlawful impairment to nearby adequate wells (Water Rights, 2020a; Water Rights, 2020b; Water Rights, 2019e).

An adequate well as defined in ARSD 74:02:04:20(6):

“A well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.”

Due to the very low primary porosity of the Crystalline Rock aquifer and the highly variable and uneven nature of secondary porosity, 20 feet of saturated thickness may not be sufficient for a dependable water supply. Without conducting an aquifer pumping test, the precise drawdown effects caused by pumping a well cannot be determined. Over the period of record, the water levels for observation well CU-86A (Figure 2) have fluctuated 45 feet due to climatic conditions. Pump depth requirements are detailed in ARSD 74:02:04:60(2) which states “The depth of the pump setting shall be determined by dividing the specific capacity into the required yield and adding at least 10 additional feet to maintain pump inlet submergence below the maximum anticipated drawdown, where possible.”

There has only been one reported instance of well interference in Pennington County for wells completed into the Crystalline Rock aquifer. This involved Water Right No. 2572-2 during the permit's initial development. The water right was limited to a maximum diversion rate of 18 gallons per minute, the limit for reasonable domestic use, by the Chief Engineer in October 2006. The permit holder reported to the Water Rights Program that the issue was resolved sometime before January 2009, and there have not been any other reports of well interference issues since then (Water Rights, 2019e).

Considering the continued development of the Crystalline Rock aquifer without a significant history of well interference complaints, the hydrograph for observation well CU-86A (Figure 2) and the natural fluctuations in water levels over the period of record, Driscoll's and Carter's (2001)

commentary regarding recharge to the Crystalline Rock aquifer, the protection afforded to adequate wells by South Dakota Water Law, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation. If this application is approved, a qualification requiring the applicant to control their withdrawals so there is not a reduction of needed water supplies in adequate wells should be included.

Conclusions

1. Water Permit Application No. 2813-2 requests the appropriation of 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet per second (cfs) from one well completed into the Crystalline Rock aquifer (700 feet deep) located approximately one-half mile southeast of Rochford SD for exploratory drilling.
2. There is a reasonable probability that the diversion proposed by this application will not unlawfully impair adequate wells for existing water rights and domestic use.
3. There is a reasonable probability unappropriated water is available for this proposed appropriation.



Timothy Magstadt
Natural Resources Engineer II
SD DENR – Water Rights Program

Reviewed by:



Adam Mathiowetz, PE
Natural Resources Engineer III
SD DENR-Water Rights Program

References

- Carter, J. M., Driscoll, D. G., & Hamade, G. R. (2001). *Estimated Recharge to the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota and Wyoming, Water Years 1931-98; Water-Resources Investigations Report 00-4278*. Rapid City, South Dakota: United States Geological Survey.
- Driscoll, D. G., & Carter, J. M. (2001). *Hydrologic Conditions and Budgets for the Black Hills of South Dakota, Through Water Year 1998; Water-Resources Investigations Report 01-4226*. Rapid City, South Dakota: U.S. Geological Survey.
- Kilts, W. K. (2018). *Report to the Chief Engineer Water Permit No. 2789-2 Rushmore Cave*. Pierre, South Dakota: SD DENR-Water Rights Program.
- Rahn, P. H. (1979). *Ground Water Resources of Western South Dakota*. Rapid City: Department of Geology and Geological Engineering South Dakota School of Mines and Technology.
- Redden, J. A., Nichols, C. E., & Terry, M. P. (2015). *Geologic Map of the Rochford Quadrangle, South Dakota 7.5 Minute Series Geologic Quadrangle Map 25: Scale 1:24,000*. Vermillion, South Dakota: SD DENR-Geological Survey.
- Water Rights. (2019e). *Pennington County Complaint/Investigation File*. Pierre, South Dakota: SD DENR-Water Rights Program, Joe Foss Bldg.
- Water Rights. (2020a). *Water Right/Permit Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2020b). *Well Completion Report Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2020c). *Observation Well Database*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.

ERRATA SHEET

The Following Corrections and Clarifications Apply to: Report on Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Original Report Issuance Date: October 15, 2020

This Errata Sheet is Issued On: January 25, 2021

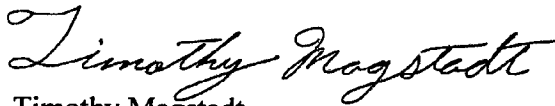
Corrections:

1. The estimated outcrop area cited in the report on page one under the Hydrogeology section in the second sentence of the first paragraph is 574,000 acres instead of 540,000 acres.
2. The estimated amount of recoverable water cited in the report on page one under the Hydrogeology section in the last sentence of the first paragraph should be 2,900,000 acre feet instead of 2,700,000 acre-feet.

Explanation:

Originally the 2,900,000 acre-feet of recoverable water (this was the correct value) was listed in the report. However, it was noted during the review process that the 2,900,000 acre-feet did not match up to the 540,000 acres in the report. The recoverable water was recalculated based on the 540,000 acres which resulted in 2,700,000 acre-feet of recoverable water that is currently in the report. The source of the error was the listing of the 540,000 acres which compounded into the error when calculating the amount of recoverable water.

These values were not used to calculate any other quantities in the report and are used primarily as an overview of the Crystalline Rock aquifers. This does not change my conclusions stated in the report.



Timothy Magstadt

Natural Resources Engineer II

SD DENR – Water Rights Program

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, October 27, 2020 8:29 AM
To: Kevin Leonard
Cc: bellelaw@bellelaw.com
Subject: Water Permit Application No. 2813-2, Mineral Mountain Resources
Attachments: 0119.pdf

Mr. Leonard,

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the papers as soon as possible to authorize publication and arrange for payment.

At your request, this information is being mailed today to the address on the application which is c/o Bennett, Main & Gubbrud and also Mineral Mountain Resources, Vancouver Canada.

Karen Schlaak

Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, October 26, 2020 4:15 PM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 2813-2, Mineral Mountain Resources
Attachments: 2813-2public.wmb1.docx; FORM8.FRM.doc

Attached is a notice to be published on November 4, 2020.

Mineral Mountain Resources (SD) Inc, c/o Bennett Main & Gubbrud, 618 State St, Belle Fourche SD 57717 (605 892-2011) 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

Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, October 26, 2020 4:16 PM
To: Legals (legals@bhpioneer.com)
Subject: 2813-2, Mineral Mountain Resources
Attachments: 2813-2public.wmb1.docx; FORM8.FRM.doc

Attached is a notice to be published on November 4, 2020.

Mineral Mountain Resources (SD) Inc, c/o Bennett Main & Gubbrud, 618 State St, Belle Fourche SD 57717 (605 892-2011) 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

Water Rights Program
(605) 773-3352



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**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.**

October 27, 2020

Mineral Mountain Resources (SD) Inc
c/o Bennett, Main & Gubbrud
618 State St
Belle Fourche SD 57717

Dear Sir:

Water Permit Application No. 2813-2 for industrial and commercial 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 # 605 394-8336) and the Black Hills Pioneer printed at Spearfish SD (Ph # 605 642-2761). You will need to contact the newspapers 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 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 publishers have been instructed to publish your notice. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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.

c: Kevin Leonard

Instruction to Newspaper – Publish the Notice on November 4, 2020. Mineral Mountain Resources is responsible for payment.

NOTICE OF APPLICATION NO. 2813-2 to Appropriate Water

Notice is given that Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717 has filed an application for a water permit to appropriate 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW 1/4 SW 1/4 Section 24-T2N-R3E about one-half of a mile southeast of Rochford SD. The application identifies the water use as commercial and industrial uses for exploratory drilling. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that “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 Chief Engineer’s recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board.” In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2813-2 with qualifications 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. The Chief Engineer’s recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 2:00 pm on December 2, 2020 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 23, 2020.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 2, 2020 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by November 23, 2020. If an automatic delay is

requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 16, 2020. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published once at an approximate cost of_____.

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NOV 16 2020

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:

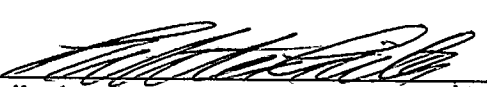
COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice Of Application

No. 2813-2

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 4th day of Nov, 2020, and the last publication on the _____ day of _____, _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 59.14, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.


Subscribed and sworn to before me this 10th day of Nov, 2020


Notary Public, Butte County, South Dakota

My commission expires: 3-21-2023

COPIES OF THIS AFFIDAVIT
AND NOTICE OF APPLICATION
SHALL BE FILED IN THE
OFFICE OF THE CLERK OF
COURT, BUTTE COUNTY,
SOUTH DAKOTA

**NOTICE OF
APPLICATION
NO. 2813-2 to
Appropriate Water**

Notice is given that Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717 has filed an application for a water permit to appropriate 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one well completed into the Crystal-line Rock aquifer (700 feet deep) located in the NW 1/4 SW 1/4 Section 24-T2N-R3E about one-half of a mile southeast of Rochford SD. The application identifies the water use as commercial and industrial uses for exploratory drilling. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2813-2 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 2:00 pm on December 2, 2020 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 23, 2020.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in the

application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are

not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 2, 2020 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by November 23, 2020. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 16, 2020. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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Published once at the total approximate cost of \$61.45.

#584
Nov 4

Affidavit of Publication

STATE OF SOUTH DAKOTA

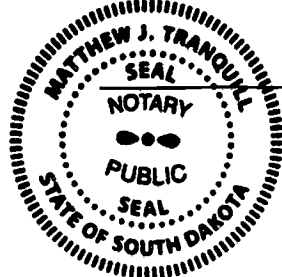
County of Pennington

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 4th day of Nov 2020 that the fees charged for the publication there of are 115 dollars and 95 cents.

Sheri Sponder

Subscribed and sworn to before me this 19th day of November, 2020.



Matthew J. Tranquill

Notary public

December 5, 2025

My commission expires

November 4 L20006
NOTICE OF APPLICATION

NO. 2813-2 to Appropriate Water
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NOV 23 2020

WATER RIGHTS
PROGRAM

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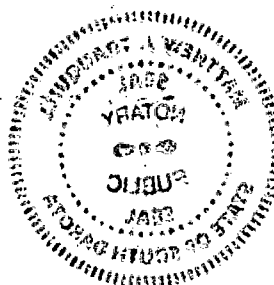
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(Published once at an approximate cost of \$115.95)



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NOV 09 2020

WATER RIGHTS
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Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application by MMR.

I am concerned about this application because I am interested and depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills, and especially along their eastern slope.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- Studies have shown that the Rapid Creek watershed is hydrologically connected to at least the Madison and Minnelusa aquifers. The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.

- The creeks flow year round and are fisheries, including Rapid Creek's world-class trout fishery.
- This is not a beneficial use of water.
- Waters in the project area flow downstream into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. I not only drink water downstream from the Lake, but enjoy the lake for recreational purposes.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources and will likely destroy cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project, especially as it is in a hydrologically and culturally sensitive area and could have far-reaching impacts. A full analysis of the potential and cumulative impacts of this project is required.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate to cover the cost of damage to the environment, water, economy, and roads. This bond would not cover even a small percentage of the cost of curing a drill bit break in the drill shaft, as has happened near Wasta in recent years, or the abandonment of the project, as happened in Harding County recently.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown -- and whose environmental record, ethical record, and financial status are also unknown.

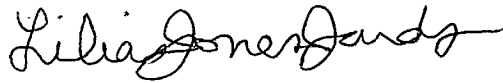
I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lili Jones-Jard".

Lili Jones-Jard, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

November 11, 2020

Chief Engineer Eric Gronlund
Water Rights Program
Foss Building
523 E Capitol
Pierre, SD 57501

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NOV 16 2020

WATER RIGHTS
PROGRAM

RE: Petition to Contest and Oppose Mineral Mountain Resources (SD) Inc.'s water permit application 2813-2

Dear Chief Engineer Eric Gronlund:

I am writing to contest and oppose Mineral Mountain Resources (SD) Inc.'s water permit application 2813-2.

I live in Rapid City. I am concerned about Mineral Mountain Resources (SD) Inc.'s proposal to appropriate 1.2 million gallons of water for several reasons:

- 1) I am concerned about qualitative (and by extension, quantitative) impacts to the Rapid Creek watershed (which is Rapid City's water supply) should any accidents or spills occur.
- 2) I am concerned about quantitative impacts to the Rapid Creek watershed should this quantity of water be removed, even if no accidents or spills occur.
- 3) There is no mention of the impacts of this proposal to cultural or historic resources in the area.
- 4) There is no mention of contact or consultation with, or consent from, the 16 Tribal Nations on the Black Hills National Forest Tribal/THPO mailing list, regarding this proposal. Proper permission has not been granted for this appropriation of water.

My concerns arise from information from several sources, including but not limited to: my knowledge of waterways in this area, MMR's application, information relating to MMR's current and previous activities, relevant research publications, and relevant case law.

I am contesting the Chief Engineer's Recommendation of Approval of Application 2813-2. I am requesting that the Board not grant approval for this appropriation of water.

I also request that the public hearing scheduled for December 2, 2020, be pushed back to allow me adequate time to prepare my case in this matter.

I understand that this contested case would unfold according to the Administrative Rules of South Dakota Chapter 74:50:02, and the regulations governing the South Dakota Department of Environment and Natural Resources.

Please keep me informed of all proceedings and documents related to this application.

Submitted by:
Julie Santella
422 Columbus St, Apt 1
Rapid City, SD

 11/11/2020

Copy sent to:
Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche, SD 57717

JAY DAVIS LAW OFFICE

710 N. LaCrosse St. #1
Rapid City, SD 57701
November 17, 2020

JEREMIAH J. DAVIS, ATTORNEY AT LAW

Telephone: (605) 519-5128
Fax: (605) 355-9319

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

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NOV 19 2020

WATER RIGHTS
PROGRAM

RE: Application #2813-2 to Appropriate Water (Mineral Mountain Resources)

Dear Mr. Gronlund:

As a resident and water user in Rapid City, I am hereby requesting that a contested case be initiated in the above-referenced matter, and that I be admitted as an intervener in the application by MMR. This application concerns me because I depend upon clean drinking water, and also hope that our community can maintain its wildlife and natural resources, as well as a tourism industry that depends upon the protection of our natural environment in the Black Hills.

As you know, this region has a long and storied history of gold mining operations, many of which have caused long-term harm to the environment and some of which have developed into Superfund sites. I oppose the MMR application because I believe that their proposed exploration, and any large-scale gold or other mineral mine, will inevitably harm our economy and environment.

I do not believe that MMR's proposal is a beneficial use of water, or in the public interest. It may result in the destruction of existing water rights in the central Black Hills. The \$20,000 bond paid by MMR to conduct potentially unlimited drilling is clearly inadequate protection for our resources. Lake Pictola, which provides our domestic water in Rapid City and which is a cherished recreational resource, is directly threatened by exploration and gold mining by MMR. The Minnelusa and Madison formations downstream from the proposed project area are directly threatened. There needs to be more extensive environmental analysis, including study of the geology and hydrology of the project area.

I am hereby requesting that there be a public hearing on this matter, and that it be held in Rapid City, in the area that is threatened by this proposed development. Please delay the hearing for at least 20 days. Please keep me informed of all proceedings and documents related to MMR's application. Thank you for your consideration in this matter.

Sincerely,



Jeremiah J. Davis
Attorney at Law

cc: Mineral Mountain Resources (SD) Inc. c/o Bennett, Main & Gubbrud

WILLIAM C. BIRD
JOHN C. BIRD

PHOTOGRAPH

[illegible]

mentioned. There needs to be more extensive environmental impact study of the the water users and water conservation programs from the proposed project area and directly affected recreational resources is directly threatened by exploration and field mining projects. Lake Pacific water provides one domestic water in Pacific City and water is a priority to conduct biologically monitored drilling is clearly inadequate protection for our water in the protection of existing water rights in the coastal block. The 250,000 acre biologically monitored drilling that MMR's biological is a potential use of water on the Pacific project. It was

and this, in essence, holds all capital markets together with their interdependence on the economy and
subsequently, since I oppose the Minsky application because I believe that open biological exploration
under such changed conditions is not a to the environment and some of the other more delicate and
the I don't know this region has a long and storied history of bold mining operations, many of

possibly that depends upon the protection of our national environment in the Black Hills
 where our community can maintain its wildlife and natural resources as well as a tourism
 industry. This applies in concern the resources I depend upon from drinking water and also
 fisheries in the above-referenced manner and that I be admitted as an intervenor in the application
 of a water right and water user in Rapid City. I am hereby requesting that a contested case be

DEB. 711 COLUMBIA:

ИЗДАНИЕ 1988, 2-3 И АВТОРИТЕТ И СТИ (ПРИЛОЖЕНИЕ КОМПЛЕКТ)

FIGURE 20-23201

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СДЕЛАННОЕ МНЕИ КИРИЛ ПОСЛАНО

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PROGRAM
WATER RIGHTS

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NOV 20 2020

WATER RIGHTS
PROGRAM

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe 'Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.

- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Mark LaCompte
PO BOX 175
Timber Lake, SD 57656

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

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NOV 20 2020
WATER RIGHTS
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Thank you.

Sincerely,

Julie Benedict
1115 McGuigan Rd.
Spearfish, SD 57783

A handwritten signature in black ink, appearing to read 'Julie Benedict', written over the printed name and address.

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

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NOV 23 2020
WATER RIGHTS
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund,

As a downstream resident of the proposed project area, I am concerned about this application because we depend upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. As Rapid City is one of the larger cities in South Dakota, risking clean drinking water to its residents is unethical.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. My well is in the Minnelusa aquifer and thus this proposed project puts a risk to mine as well as many others drinking water.
- Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.

- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose the proposed project and want the permit application to be denied. Since this matter substantially impacts the people and environment of Pennington County, I request a Public Hearing be moved to Rapid City with an option for online participation due to COVID-19.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Rajni Lerman

Hot Springs, SD

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

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NOV 25 2020

WATER RIGHTS
PROGRAM



Black Hills Group
Sierra Club
P.O. Box 1624
Rapid City, SD 57709

21 November 2020

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain
Resources

Dear Mr. Gronlund:

The purpose of the Sierra Club and its Black Hills Group is to explore, enjoy, and protect the earth's wild places. Our members use the outdoors and the wild country of the Black Hills and Northern Great Plains for recreation and renewal. We rely on the watershed of Rapid Creek for our drinking water, agricultural uses, and recreational activities. The knowledge that healthy environments and intact wild country exist, sustains us. Our members want to practice and promote the responsible use of Earth's ecosystems and resources. And to that end we work to educate and use grassroots activism to protect and restore the quality of the natural and human environment.

We have consistently opposed gold mining in the Rapid Creek Watershed.

As a downstream residents of the proposed project area, we oppose and contest the proposed project and want the permit application to be denied.

We ask for a hearing to be held on this matter, and that the hearing be delayed until after December 2, 2020.

We also request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Our members oppose this application because additional large scale exploration and mining of gold in the central Black Hills threaten the quality of the Rapid Creek Watershed, including the aquifers upon which our water supply depends. The agricultural economy and the outdoor recreation industry depend on water resources. Granting this permit would affect land use, including Pe'Sla, lands sacred to the Oceti Sakowin, and threatens wildlife habitat, quality of life in the region.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

The Sierra Club, on behalf of its more than 1,200 members in South Dakota, opposes this application because the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. Our concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water we use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. This is one of the places where we recreate.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

Please keep us informed of all proceedings and documents related to this application.

Thank you.

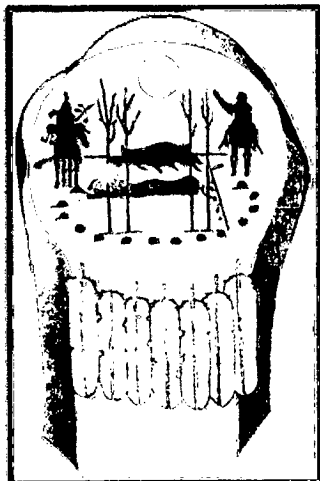
Sincerely,



Suzanne Iudicello Martley

On behalf of Black Hills Group Sierra Club Executive Committee

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717



Oglala Lakota

Cultural Affairs & Historic Preservation

P.O. Box 320 Pine Ridge, SD 57770 (mailing)

E. Hwy 18, Pine Ridge, SD 57770 (physical)

(605) 867-5624 business; (605) 867-2818 fax

Email: t.brings@oglala.com

Advisory Council:

Garvard Good Plume, Jr. - Founding Member

Robert Two Crow - Member

Doug Bissonette-Member

Leola One Feather-Member

Dr. Hannon LaGarry - Ex-Officio Member

In Honor

(In Spirit) Elaine Quiver - Founding Member

(In Spirit) Wilmer Mesteth - Founding Member

Personnel:

Thomas Brings-THPO

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NOV 25 2020

WATER RIGHTS
PROGRAM

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
 - Existing rights may be unlawfully impaired.
 - This is not a beneficial use of water.

"Preserving our Identity in the Land."

- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
 - The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
 - This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

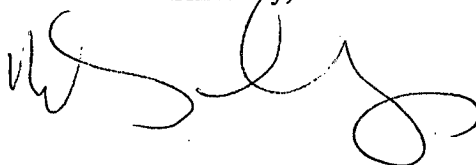
I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

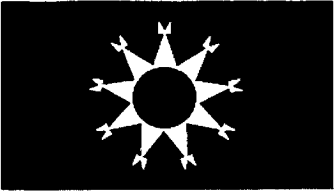
Thank you.

Sincerely,



Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs and Historic Preservation Office
Oglala Sioux Tribe

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 5771



Oglala Sioux Tribe
Natural Resources Regulatory Agency
Water Resources Department
P.O. Box 320
Pine Ridge, SD 57770
Phone: (605) 867-5624
Fax: (605) 867-2818



Water Resources Department
Reno L. Red Cloud Sr.
ostnrrawrd@gwtc.net

November 23, 2020

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NOV 25 2020

**WATER RIGHTS
PROGRAM**

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

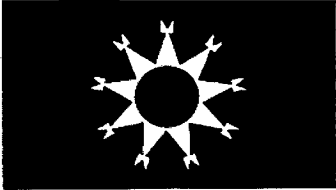
As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

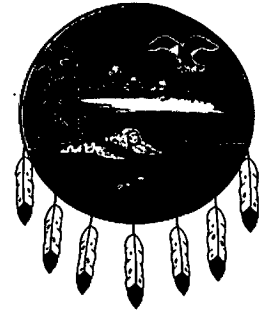
As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.



Oglala Sioux Tribe
Natural Resources Regulatory Agency
Water Resources Department
P.O. Box 320
Pine Ridge, SD 57770
Phone: (605) 867-5624
Fax: (605) 867-2818



Water Resources Department
Reno L. Red Cloud Sr.
ostnrrawrd@gwtc.net

(Page Two)

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,


Reno L. Red Cloud Sr
Oglala Sioux Water Resources Department / Administrator
P.O. Box 320
Pine Ridge, SD 57770
Phone:

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

LAW OFFICE OF BRUCE ELLISON
P.O. Box 2508
Rapid City, SD 57709
(605) 348-1117
Belli4law@aol.com

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NOV 25 2020
WATER RIGHTS
PROGRAM

November 23, 2020

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills including threats to our water resources generally and my specific domestic water resources in the Rapid Creek Watershed.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting. The State has so far been unable or unwilling to regulate this industry in a manner which actually protects our water resources, warranting denial of any pending and future exploration, water, or mining permits which potentially will impact them.

LAW OFFICE OF BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

(605) 348-1117

Belli4law@aol.com

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other heavy metal mineral mine would harm public health, the economy, and the environment. My concerns include:

- The Chief Engineer's Recommendations to the Water Management Board for approval of the water appropriation permit under SDCL 46-2A-9 are not based upon substantial evidence.
- The Report to the Chief Engineer as to the four factors to be determined by the Board under SDCL 46-2A-9 devoid current and substantial supporting evidence.
- Most of the geology and hydrology of the immediate area remains substantially unstudied and unknown, so the presence of unappropriated water is unknown. This includes the particular fracture created water reservoir from which applicant wants to withdraw water
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- The actual recharge rate of the fracture created reservoir remains substantially unstudied and unknown.
- Existing rights may be unlawfully impaired. These existing rights include Treaty Rights, existing well water rights, water rights of nature.
- The project will significantly interfere with wildlife propagation through part of each year,
- The project will interfere with public's use of this multiple use forest service area,
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the Rapid Creek Watershed, and includes the domestic water supply of Rapid City and along Rapid Creek.
- From the limited hydrology studies of the project area, it appears that there are water pathways from area to Cleghorn Springs and other flowing and alluvial water resources in the eastern central part of the Black Hills.

LAW OFFICE OF BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

(605) 348-1117

Belli4law@aol.com

- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola or further downstream creeks.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's, the general Rapid Creek Watershed's, and Ellsworth Air Force Base's water. I get my well water from the Minnelusa formation and alluvial water from Rapid Creek.
- The proximity of proposed drilling pads to Pe 'Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- Granting this permit application would be contrary to the DENR's significant responsibilities to protect the Public Trust responsibilities to protect the waters within South Dakota's borders for current and future generations
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- I respectfully request that since the issues in this this permit application involve water resources in Pennington County, that when a hearing is held in this matter, that pursuant to Resolution of the Pennington County Board of Commissions, that the hearing be held in Rapid City, SD.
- That any hearing be either conducted remotely via ZOOM or other communication methods the Water Management Board has used within the past six months for hearings.

LAW OFFICE OF BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

(605) 348-1117

Belli4law@aol.com

- That should any hearings be held in person, that federal Center for Disease Control (CDC) guidelines, and not any less restrictive guidelines issued by the Governor or State of South Dakota, be strictly adhered to.
- That any scheduled hearing date be postponed for at least 90 days to permit requests for and compliance with discovery needed in this matter.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Bruce Ellison and on behalf of
Nakca Bagn-Ellison, Aaron Ellison, Samuel Ellison, and Abbey Ellison

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Duvall, Ron

From: ostnrrawrd@gwtc.net
Sent: Monday, November 23, 2020 10:51 AM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Letter to Eric Gronlund, Chief Engineer - Mineral Mtn. Intervener
Attachments: MINERAL MTN letter intervener01699420201123095449.pdf

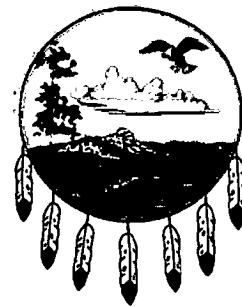
My name is Reno L. Red Cloud Sr., and I am the Oglala Sioux Tribe, Water Resources Department / Administrator, I am requesting to be an intervener on Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources.

Your consideration of my request will be greatly appreciated. I can be contacted at:

Reno L. Red Cloud Sr.
OST Water Resources Department / Administrator
P.O. Box 320
Pine Ridge, SD 57770
Phone: (605) 867-5624 – office
Cell: (605) 454-3918
Fax: (605) 867-2818
E-mail: ostnrrawrd@gwtc.net



Oglala Sioux Tribe
Natural Resources Regulatory Agency
Water Resources Department
P.O. Box 320
Pine Ridge, SD 57770
Phone: (605) 867-5624
Fax: (605) 867-2818



Water Resources Department
Reno L. Red Cloud Sr.
ostnrrawrd@gwtc.net

November 23, 2020

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RECEIVED

NOV 23 2020

WATER RIGHTS
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

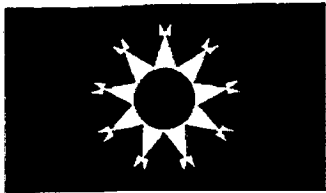
As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

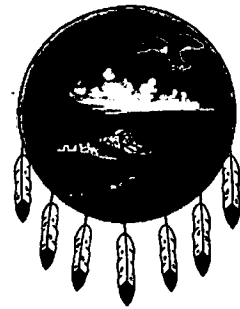
As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.



Oglala Sioux Tribe
Natural Resources Regulatory Agency
Water Resources Department
P.O. Box 320
Pine Ridge, SD 57770
Phone: (605) 867-5624
Fax: (605) 867-2818



Water Resources Department
Reno L. Red Cloud Sr.
ostnrrawrd@gwtc.net

(Page Two)

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources Department / Administrator
P.O. Box 320
Pine Ridge, SD 57770
Phone:

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Via
email

LAW OFFICE OF BRUCE ELLISON

**P.O. Box 2508
Rapid City, SD 57709
(605) 348-1117
Belli4law@aol.com**

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NOV 23 2020

**WATER RIGHTS
PROGRAM**

- That should any hearings be held in person, that federal Center for Disease Control (CDC) guidelines, and not any less restrictive guidelines issued by the Governor or State of South Dakota, be strictly adhered to.
- That any scheduled hearing date be postponed for at least 90 days to permit requests for and compliance with discovery needed in this matter.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Bruce Ellison and on behalf of
Nakca Bagn-Ellison, Aaron Ellison, Samuel Ellison, and Abbey Ellison

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

LAW OFFICE OF BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

(605) 348-1117

Belli4law@aol.com

- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola or further downstream creeks.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's, the general Rapid Creek Watershed's, and Ellsworth Air Force Base's water. I get my well water from the Minnelusa formation and alluvial water from Rapid Creek.
- The proximity of proposed drilling pads to Pe 'Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- Granting this permit application would be contrary to the DENR's significant responsibilities to protect the Public Trust responsibilities to protect the waters within South Dakota's borders for current and future generations
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- I respectfully request that since the issues in this this permit application involve water resources in Pennington County, that when a hearing is held in this matter, that pursuant to Resolution of the Pennington County Board of Commissions, that the hearing be held in Rapid City, SD.
- That any hearing be either conducted remotely via ZOOM or other communication methods the Water Management Board has used within the past six months for hearings.

LAW OFFICE OF BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

(605) 348-1117

Belli4law@aol.com

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other heavy metal mineral mine would harm public health, the economy, and the environment. My concerns include:

- The Chief Engineer's Recommendations to the Water Management Board for approval of the water appropriation permit under SDCL 46-2A-9 are not based upon substantial evidence.
- The Report to the Chief Engineer as to the four factors to be determined by the Board under SDCL 46-2A-9 devoid current and substantial supporting evidence.
- Most of the geology and hydrology of the immediate area remains substantially unstudied and unknown, so the presence of unappropriated water is unknown. This includes the particular fracture created water reservoir from which applicant wants to withdraw water
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- The actual recharge rate of the fracture created reservoir remains substantially unstudied and unknown.
- Existing rights may be unlawfully impaired. These existing rights include Treaty Rights, existing well water rights, water rights of nature.
- The project will significantly interfere with wildlife propagation through part of each year,
- The project will interfere with public's use of this multiple use forest service area,
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the Rapid Creek Watershed, and includes the domestic water supply of Rapid City and along Rapid Creek.
- From the limited hydrology studies of the project area, it appears that there are water pathways from area to Cleghorn Springs and other flowing and alluvial water resources in the eastern central part of the Black Hills.

Via
email

LAW OFFICE OF BRUCE ELLISON
P.O. Box 2508
Rapid City, SD 57709
(605) 348-1117
Belli4law@aol.com

November 23, 2020

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**WATER RIGHTS
PROGRAM**

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills including threats to our water resources generally and my specific domestic water resources in the Rapid Creek Watershed.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting. The State has so far been unable or unwilling to regulate this industry in a manner which actually protects our water resources, warranting denial of any pending and future exploration, water, or mining permits which potentially will impact them.

Duvall, Ron

From: Gronlund, Eric
Sent: Monday, November 23, 2020 10:38 AM
To: Duvall, Ron; Mines Bailey, Ann
Subject: FW: [EXT] WAP Application No. 2813-2
Attachments: 11-23-20 INTERV.LET.pdf

Mr. Ellison indicates he mailed this also.

From: belli4law@aol.com <belli4law@aol.com>
Sent: Monday, November 23, 2020 10:30 AM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Subject: re: [EXT] WAP Application No. 2813-2

re: WAP Application No. 2813-2
Challenge to Application

Mr. Gronlund:

Attached please find for filing and service on yourself and Chief Engineer the opposition and challenge to this WAP application by myself and on behalf of my adult children.

The original has been sent this date by U.S. mail.

Thank you.

Bruce Ellison

Duvall, Ron

From: Jerry Wilson <wilson57069@gmail.com>
Sent: Sunday, November 22, 2020 10:44 AM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Atten: Eric Gronlund

Follow Up Flag: Flag for follow up
Flag Status: Flagged

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**WATER RIGHTS
PROGRAM**

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As the retired managing editor of *South Dakota Magazine*, I know how important the protection of the Black Hills is to the economy of South Dakota, where tourism is our second greatest industry. But beyond economic concerns, the Black Hills and all of our state's resources are the most precious things we have, and no generation of people have the right to destroy or harm those critical resources for future generations. Therefore, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.

- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City, and that interveners who live in other parts of the state be allowed to participate remotely.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Jerry Wilson
30959 Frog Creek Road
Vermillion, SD 57059

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Duvall, Ron

From: dowhatyouwantalways@protonmail.com
Sent: Friday, November 20, 2020 9:31 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application

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NOV 23 2020

**WATER RIGHTS
PROGRAM**

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.

- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Max P.

Sent with ProtonMail Secure Email.

Duvall, Ron

From: emmafrostcam@live.com
Sent: Friday, November 20, 2020 9:37 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application

RECEIVED

NOV 23 2020

**WATER RIGHTS
PROGRAM**

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Emma

Duvall, Ron

From: Suzanne Iudicello <suzanneiudicello49@gmail.com>
Sent: Saturday, November 21, 2020 3:52 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application
Attachments: MMR Comment21Nov2020.pdf

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NOV 23 2020

**WATER RIGHTS
PROGRAM**

The attached letter, also sent by mail to Mr. Eric Gronlund at SD DENR, is submitted on behalf of the Black Hills Group of the Sierra Club. Thank you for considering our views.

Suzanne Iudicello Martley
Member, Black Hills Group Executive Committee
Sierra Club South Dakota Chapter
<reply@emails.sierraclub.org>

Suzanne Iudicello, JD
Iudicello & Associates, Environmental Consulting
+1 605.786.2496

via
email



Black Hills Group
Sierra Club
P.O. Box 1624
Rapid City, SD 57709

21 November 2020

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

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NOV 23 2020

WATER RIGHTS
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain
Resources

Dear Mr. Gronlund:

The purpose of the Sierra Club and its Black Hills Group is to explore, enjoy, and protect the earth's wild places. Our members use the outdoors and the wild country of the Black Hills and Northern Great Plains for recreation and renewal. We rely on the watershed of Rapid Creek for our drinking water, agricultural uses, and recreational activities. The knowledge that healthy environments and intact wild country exist, sustains us. Our members want to practice and promote the responsible use of Earth's ecosystems and resources. And to that end we work to educate and use grassroots activism to protect and restore the quality of the natural and human environment.

We have consistently opposed gold mining in the Rapid Creek Watershed.

As a downstream residents of the proposed project area, we oppose and contest the proposed project and want the permit application to be denied.

We ask for a hearing to be held on this matter, and that the hearing be delayed until after December 2, 2020.

We also request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Our members oppose this application because additional large scale exploration and mining of gold in the central Black Hills threaten the quality of the Rapid Creek Watershed, including the aquifers upon which our water supply depends. The agricultural economy and the outdoor recreation industry depend on water resources. Granting this permit would affect land use, including Pe'Sla, lands sacred to the Oceti Sakowin, and threatens wildlife habitat, quality of life in the region.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

The Sierra Club, on behalf of its more than 1,200 members in South Dakota, opposes this application because the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. Our concerns include:

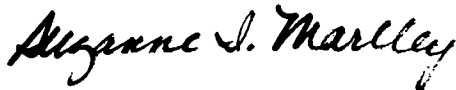
- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water we use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. This is one of the places where we recreate.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

Please keep us informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Suzanne Iudicello Martley

On behalf of Black Hills Group Sierra Club Executive Committee

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Duvall, Ron

From: Juli Ames-Curtis <mtsagemassage@yahoo.com>
Sent: Saturday, November 21, 2020 7:01 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application.
Attachments: MMR intervener letter to DENR.docx

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NOV 23 2020

**WATER RIGHTS
PROGRAM**

Attn: Eric Gronlund

Please refer to attached document for my request to be and intervener in the Mineral Mountain Resources Water Application.

Thank you for your time and consideration,
Juli Ames-Curtis
Custer, SD
mtsagemassage@yahoo.com

via
email

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

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NOV 23 2020

WATER RIGHTS
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a concerned resident of the Black Hills and someone with a degree in Resource Management, I am deeply interested in the outcome of the proposed project area. I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. I recreate in the Lake Pactola/Rapid Creek watershed as do thousands of locals and tourists.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.

- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- This is a boom and bust proposal. It has the capacity to destroy the multimillion-dollar tourist and agriculture industries in the Black Hills.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020. The hearing would be best for all interested if moved to after the holidays.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Juli Ames-Curtis
11936 Hay Creek Rd
Custer SD 57730
mtsagemassage@yahoo.com
970-391-9921

Duvall, Ron

From: Thomas Brings <t.brings@oglala.org>
Sent: Monday, November 23, 2020 12:10 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application
Attachments: Mineral Mt. Interven.pdf

I am Thomas Brings - Tribal Historic Preservation Officer for the Oglala Sioux Tribe. This is a request to be added to the list as an intervener on Application # 2813-2 to Appropriate Water; Mineral Mountain Resources. Please Respond. Thank you.

Thomas Brings-THPO
OST
CAHPO
605-867-5624-W
605-441-0801-C
t.brings@oglala.org

Via
email



Oglala Lakota

Cultural Affairs & Historic Preservation

P.O. Box 320 Pine Ridge, SD 57770 (mailing)

E. Hwy 18, Pine Ridge, SD 57770 (physical)

(605) 867-5624 business; (605) 867-2818 fax

Email: t.brings@oglala.com

Advisory Council:

Garvard Good Plume, Jr. - Founding Member

Robert Two Crow - Member

Doug Bissonette - Member

Leola One Feather - Member

Dr. Hannan LaGarry - Ex-Officio Member

In Honor

(In Spirit) Elaine Quiver - Founding Member

(In Spirit) Wilmer Mesteth - Founding Member

Personnel:

Thomas Brings-IHPO

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NOV 23 2020

WATER RIGHTS
PROGRAM

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.

"Preserving our Identity in the Land."

- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs and Historic Preservation Office
Oglala Sioux Tribe

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Duvall, Ron

From: Rick Bell <rickbell1206@gmail.com>
Sent: Monday, November 23, 2020 1:55 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Application No. 2813-2 to Appropriate Water by Mineral Mountain Resources
Attachments: 201123 DENR Ltr (MMR Intervention).docx

Dear Sirs,

Attached is my letter asking that the above-referenced case be contested and other requests.

Thank you.
R.A. Bell

Via
email

November 23, 2020

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

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NOV 23 2020

WATER RIGHTS
PROGRAM

RE: Application No. 2813-2 to Appropriate Water by Mineral Mountain Resources (MMR)

Dear Mr. Gronlund:

I am requesting that a contested case be initiated in the above matter. I am a downstream resident of the proposed project area and would also like to be admitted as an intervener in the above application by MMR.

I am concerned about this application because our way of life here in western South Dakota, both our agricultural and tourist based economies, depend on preserving the quality of water resources, land use, wildlife, etc. These things would be threatened by additional large scale exploration and mining of gold in the central Black Hills.

Existing Superfund and other former and present large-scale gold mine sites north of the proposed project show that ecosystems downstream from them are polluted with heavy metals and other contaminants.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- This project is not in the public interest and it is not a beneficial use of water.
- The presence of unappropriated water is unknown here because most of the geology and hydrology of the area is unstudied and unknown.
- Irreparable damage from the proposed drilling could occur because the route(s) of underground pathways have not been mapped from the project area.
- Therefore, existing rights may be unlawfully impaired.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Waters in the project area flow into Lake Pactola, which is a major component of the domestic water supply of Rapid City -- this is the water I use.

- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations down flow of the proposed project area.
- Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to nearby public lands and Pe'Sla threatens indigenous cultural resources.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling that they want to do in South Dakota is grossly inadequate.
- MMR have not proven themselves to be financially stable, so I believe that a high likelihood exists that that they will be unable to complete a mine – this leaves open the possibility that this project could end up in the hands of another unknown company.

I oppose and contest the proposed project. I ask that this permit application be denied. I also ask for a hearing to be held on this matter, and request that the hearing be automatically delayed for at least 20 days. The hearing should be delayed until after December 2, 2020. I further request that the hearing be held in Rapid City since it substantially impacts the people and environment of Pennington County. In addition, DENR should provide citizens the ability to attend this hearing on-line due to COVID-19.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Richard A. Bell

Richard Bell, PE
1206 Clark St.
Rapid City, SD

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717



GUNDERSON | PALMER | NELSON | ASHMORE LLP

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NOV 05 2020

WATER RIGHTS
PROGRAM

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

www.gpna.com

November 3, 2020

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

Mr. Eric Gronlund
Chief Engineer, Water Rights Program
South Dakota Department of
Environment and Natural Resources
523 East Capitol
Pierre, SD 57501

RE: Notice of Appearance, Application #2813-2
Mineral Mountain Resources (SD) Inc.
GPNA File No. 14089.0002

Chief Engineer Gronlund,

Attached please find my Notice of Appearance on behalf of Mineral Mountain Resources (SD) Inc., in application number 2813-2.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Naasz', with a stylized, flowing script.

Matthew E. Naasz

MEN:mks

Enc.

cc: Kevin Leonard via email
Ann Bailey, Asst. Attorney General

Offices in Rapid City and Pierre, South Dakota

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

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NOV 05 2020

BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.)
- APPLICATION NO. 2813-2)

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE AND BE ADVISED that Matthew E. Naasz of Gunderson,
Palmer, Nelson & Ashmore, LLP hereby notes his appearance as counsel on behalf of Mineral
Mountain Resources (SD) Inc. in the above-entitled action.

Dated: November 3, 2020

ATTORNEYS FOR MINERAL MOUNTAIN
RESOURCES, INC.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
P.O. Box 8045
Rapid City, SD 57709
Telephone: (605) 342-1078
Telefax: (605) 342-9503
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on November 3, 2020, a true and correct copy of a **NOTICE OF APPEARANCE** was served upon the following individuals by U.S. Mail, postage prepaid:

Eric Gronlund
Chief Engineer, Water Rights Program
South Dakota Department of
Environment and Natural Resources
523 East Capitol
Pierre, SD 57501

Ann F. Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501

By: /s/ Matthew E. Naasz
Matthew E. Naasz

Gronlund, Eric

From: Walsh, Brian
Sent: Monday, November 16, 2020 7:46 AM
To: Gronlund, Eric; Duvall, Ron
Cc: Walsh, Brian
Subject: FW: [EXT] Water Management Board
Attachments: PENNCO RESOLUTION - Water Mgmt Board - Final 4-18.pdf

Eric – for you. Thanks!

NOTE: When replying to this email do NOT click the person's [\[mailto:myname@email.com\]](mailto:myname@email.com) address since this may result in your reply being undeliverable. Either copy and paste just the email address (e.g. myname@email.com) or type just the address into your reply message.

From: Liliias Jarding <liliiasjarding@gmail.com>
Sent: Saturday, November 14, 2020 4:40 PM
To: DENR-INTERNET INFORMATION <DENRINTERNET@state.sd.us>
Subject: [EXT] Water Management Board

Greetings --

Attached please find a resolution from the Pennington County Commission. It requests that any WMB hearings on gold mining-related water permits in the area be held in Rapid City. This is relevant to Mineral Mountain Resources' pending water permit application.

If you have any questions, please let me know.

Liliias Jarding
605-787-2872

PENNINGTON COUNTY RESOLUTION

A RESOLUTION TO REQUEST THE STATE WATER MANAGEMENT BOARD TO CONDUCT PUBLIC HEARING(S) IN PENNINGTON COUNTY FOR THE POTENTIAL ISSUANCE OF ANY TEMPORARY OR PERMANENT WATER USE PERMIT BY ANY MINERAL MINING OPERATION

WHEREAS, the Pennington County Board of Commissioners is the legislative and governing body of Pennington County, SD and has the responsibility to provide for the safety and welfare of all residents of Pennington County; and

WHEREAS, most residents of Pennington County are provided drinking water through the Rapid Creek Watershed, Pactola Lake and Deerfield Lake; and

WHEREAS, for Pennington County residents, visitors and travellers water quality in our natural drinking water system is essential for safe drinking water, and Rapid City draws "raw water" from Rapid Creek at the Mountain View and Jackson Municipal Water Stations; and

WHEREAS, clean drinking water for Pennington County residents, visitors and travellers is the highest use of water from our Pennington County watersheds, including Rapid Creek, Pactola Lake and Deerfield Lake; and

WHEREAS, exploratory operations for mineral mining has occurred in the Black Hills in proximity to Rapid Creek; and

WHEREAS, although mineral rights are property rights and are protected by the U.S. Constitution, the rights of others affected by mineral operations must also be protected. Laws are necessary to regulate mining in order to protect water, air, natural resources, aesthetics and the welfare of the public; and

WHEREAS, the Pennington County Board of Commissioners is in the process of developing an ordinance to oversee mineral mining in Pennington County; and

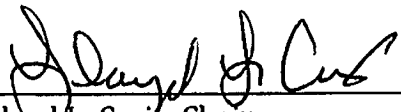
WHEREAS, water uses in South Dakota require water rights permits. The permits are under the authority of the State Water Management Board who issues, denies or cancels water permits, establishes surface and groundwater quality standards, approves groundwater discharge permits, establishes drinking water standards, sets ordinary high water marks, regulates water use, establishes safety of dams standards, validates vested water right claims, issues water quality variances, establishes well construction standards, establishes standards for above and below ground storage tanks and underground injection wells; and

NOW THEREFORE BE IT RESOLVED, the Pennington County Board of Commissioners feels it is critical for the State Water Management Board to conduct public hearing(s) where the people who may be most affected are located prior to the issuance of any temporary or permanent water use permit by any mineral mining operation, which could potentially impact the drinking water supplies; and

NOW THEREFORE BE IT FURTHER RESOLVED, the Pennington County Board of Commissioners respectfully requests the South Dakota Department of Environment and Natural Resources via the State Water Management Board to conduct public hearing(s) in Rapid City for the potential issuance of any temporary or permanent water use permit by any mineral mining operation, which could potentially impact the drinking water supplies in Pennington County including Rapid Creek, Pactola Lake, Deerfield Lake and appurtenant watersheds.

Dated this 17 day of April, 2018.




Lloyd LaCroix, Chair
Pennington County Commission


Pennington County Auditor/Deputy



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 25, 2020

NOTICE

TO: Mineral Mountain Resources (SD) Inc. Matthew E. Naaz, Counsel
c/o Bennett, Main & Gubbrud Gunderson, Palmer, Nelson &
618 State St. Ashmore, LLP
Belle Fourche SD 57717 P.O. Box 8045
Rapid City SD 57709

Interested Persons (see attached list)

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DENR, Water Rights Program

SUBJECT: Automatic Delay of Hearing on Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Interested persons opposed to Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc. submitted documents in response to the public notice published November 4, 2020. Several of the documents requested the chief engineer to grant an automatic delay of the hearing scheduled December 2, 2020, as provided by SDCL 46-2A-5 and 46-2A-4(9). Therefore, the hearing on Application No. 2813-2 is automatically delayed and will NOT be held on December 2, 2020.

The Board hearing to consider Application No. 2813-2 will tentatively be scheduled for a date yet-to-be-determined next year. The Board will formalize their next meeting date at the December 2, 2020 meeting. Future notice of the time and place of the hearing for Application No. 2813-2 will be provided.

Notices, orders and other pleadings filed in the matter of Water Permit Application No. 2813-2 are posted on DENR's contested case page at <https://denr.sd.gov/contested.aspx>.

Questions regarding the hearing process may be directed to Ron Duvall at (605) 773-3352.

c: Ann Mines Bailey, Assistant Attorney General

List of Interested Persons regarding Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnekahta Ave.
Hot Springs SD 57747

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer SD 57730

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

Emma
emmafrostdcam@live.com

Max P.
dowhatyouwantalways@protonmail.com

Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City SD 57709

Reno L. Red Cloud Sr
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

Richard Bell, PE
1206 Clark St.
Rapid City, SD 57701

CERTIFICATION

I hereby certify that on November 25, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated November 25, 2020, regarding an automatic delay of the hearing for Water Permit Application No. 2813-2, as addressed below and on the attached interested person list for persons with a mailing address. Otherwise, service was provided by email at the address provided:

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St.
Belle Fourche SD 57717

Matthew E. Naaz, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

Interested Persons (see attached list)

Sent Inter-office to:

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



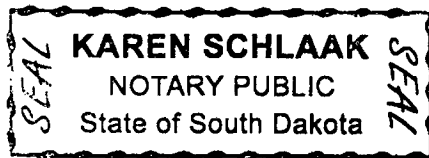
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 25th day of November, 2020.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025





OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
<http://atg.sd.gov/>

JASON R. RAVNSBORG
ATTORNEY GENERAL

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DEC 21 2020

**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

December 18, 2020

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

Julie Santella
422 Columbus St., Apt. 1
Rapid City, SD 57701

Max P.
dowhatyouwantalways@protonmail.com

Jeremiah J. Davis
710 N. LaCrosse St., #1
Rapid City, SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake, SD 57656

Rajni Lerman
2244 Minnekahta Ave
Hot Springs, SD 57747

Black Hills Group, Sierra Club
c/o Suzanne Ludicello Martley
P.O. Box 1624
Rapid City, SD 57709

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City, SD 57709

Emma
emmafrostcam@live.com

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge, SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic
Preservation Office
P.O. Box 320
Pine Ridge, SD 57770

Richard Bell, PE
1206 Clark St.
Rapid City, SD 57701

Julie Benedict
1115 McGuigan Rd.
Spearfish, SD 57783

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer, SD 57730

Jerry Wilson
30959 Frog Creek Road
Vermillion, SD 57059

David M. McVey
Counsel for Water Rights Program
1302 East Highway 14, Ste. 1
Pierre, SD 57501
Hand-delivered & Word Copy

Matt Naasz
Gunderson, Palmer, Nelson & Ashmore LLP
Counsel for Mineral Mountain Resources
P.O. Box 8045
Rapid City, SD 57709

Re: *In the Matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.*

To Whom it May Concern:

Enclosed please find a copy of the Notice of Appearance, Motion for an Order of Clarification, Motion for Procedural Order and Proposed Procedural and Scheduling Order along with the Certificate of Service in the above-entitled matter.

Sincerely,


Ann F. Mines Bailey
Assistant Attorney General

AFM/cmw

Enclosures

cc w/enc: Ron Duvall, DENR Water Rights Program (*Interoffice mail*)

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STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
PERMIT APPLICATION NO. 2813-2,	)	NOTICE OF APPEARANCE
MINERAL MOUNTAIN RESOURCES	)	
(SD), INC.	)	

Comes now, the undersigned counsel, Ann F. Mines Bailey and notices her appearance as counsel for the Chief Engineer and the South Dakota Department of Environment and Natural Resources Water Rights Program. Counsel requests that copies of all further pleadings, affidavits, or motions in the above-entitled matter be served upon them at the address indicated below.

Dated this 18th day of December 2020.


Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

Counsel for Chief Engineer and Water Rights Program

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WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
PERMIT APPLICATION NO. 2813-2,	)	
MINERAL MOUNTAIN RESOURCES	)	MOTION FOR AN
(SD), INC.	)	ORDER OF CLARIFICATION

Pending before the Water Management Board (Board) is Water Permit Application No. 2813-2 for Mineral Mountain Resources (SD), Inc. (Mineral Mountain). Mineral Mountain is seeking the appropriation of 3.68 acre-feet of water with a maximum diversion rate of 0.022 cubic feet per second (cfs). In accordance with SDCL § 46-2A-4, this matter was noticed in the newspaper and on the Department website and an opportunity was provided wherein interested persons could intervene in the matter and request a contested case proceeding before the Board. This public notice was issued on November 4, 2020.¹ The Notice specifically provided, in pertinent part, as follows:

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 23, 2020.

¹ The period of time in which an interested person could intervene ended on November 23, 2020.

The petition may be informal, but shall be in writing and shall 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.

(Attached hereto as Exhibit A). Thus, the requirements of a petition to intervene include that the petition be in writing, contain the petitioner's interests, bear the petitioner's signature and be mailed or personally delivered. *See id.* *See also* SDCL §§ 46-2A-4 and 46-2A-6.

Among the documents received in response to the public notice of the above-entitled application were a number of emails purporting to be petitions to intervene. The majority of those emails were followed up by the mailing of a written petition. However, five of these emails were not followed by a written, signed petition to intervene. (Attached hereto as Exhibits B (an email from Richard Bell), C (an email from Juli Ames-Curtis), D (an email from Emma at emmafrostcam@live.com), E (an email from Max P. at dowhatyouwantalways@protonmail.com), and F (an email from Jerry Wilson)). Water Rights now seeks an order from the Board declaring that these five emails do not constitute petitions to intervene.

First, all five of these documents were not served in accordance with statute. South Dakota Codified Law, section 46-2A-6 provides,

[t]he originals of all pleadings, including petitions to contest, petitions to intervene, and motions, shall be filed with the chief engineer and served upon other parties, either personally or by mail. The chief engineer shall provide copies to all Water Management Board members. Service and filing by mail shall be deemed complete upon mailing.

The public was placed on notice of this requirement as only a mailing address was provided as means by which a petition could be submitted. Thus, none of the five emails are proper petitions and those individuals who submitted these documents are not entitled to fully participate in the contested case proceedings.²

Second, two of the emails lacked the basic requirements of a petition – a name and a mailing address. Exhibits D and E provide only a first name and no mailing addresses as required by both the Notice and SDCL § 46-2A-4(5). This is particularly troublesome in light of the fact that SDCL § 46-2A-6 (as set forth above) requires that all pleadings, including motions, be either personally served or mailed. The lack of a mailing address prevents the parties from complying with the statute.

Finally, four of the emails (Exhibits C, D, E, and F) lack a signature as required by both the Notice and the statute. *See* SDCL § 46-2A-4. While this may seem perfunctory, it is nonetheless a legal requirement for an individual to intervene in a water permit application.

Accordingly, it is hereby requested that the Board issue an order clarifying that these emails are not proper petitions and that the individuals who submitted these emails are not entitled to participate in the contested case proceedings as parties with all the rights inherent in that status.

Dated this 18th day of December, 2020.

² These individuals, however, could be called as witnesses by other parties.



Ann F. Mines Bailey

Assistant Attorney General

Mickelson Criminal Justice Center

1302 East Highway 14, Suite 1

Pierre, South Dakota 57501

Telephone: (605) 773-3215

Counsel for Chief Engineer and Water Rights Program

NOTICE OF APPLICATION NO. 2813-2 to Appropriate Water

Notice is given that Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717 has filed an application for a water permit to appropriate 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW 1/4 SW 1/4 Section 24-T2N-R3E about one-half of a mile southeast of Rochford SD. The application identifies the water use as commercial and industrial uses for exploratory drilling. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

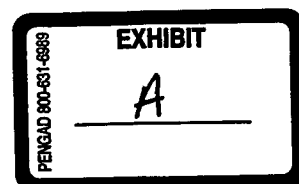
South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2813-2 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 2:00 pm on December 2, 2020 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 23, 2020.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due



process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 2, 2020 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by November 23, 2020. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 16, 2020. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Via
email

November 23, 2020

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RECEIVED

NOV 23 2020

WATER RIGHTS
PROGRAM

RE: Application No. 2813-2 to Appropriate Water by Mineral Mountain Resources (MMR)

Dear Mr. Gronlund:

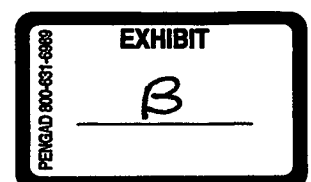
I am requesting that a contested case be initiated in the above matter. I am a downstream resident of the proposed project area and would also like to be admitted as an intervener in the above application by MMR.

I am concerned about this application because our way of life here in western South Dakota, both our agricultural and tourist based economies, depend on preserving the quality of water resources, land use, wildlife, etc. These things would be threatened by additional large scale exploration and mining of gold in the central Black Hills.

Existing Superfund and other former and present large-scale gold mine sites north of the proposed project show that ecosystems downstream from them are polluted with heavy metals and other contaminants.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- This project is not in the public interest and it is not a beneficial use of water.
- The presence of unappropriated water is unknown here because most of the geology and hydrology of the area is unstudied and unknown.
- Irreparable damage from the proposed drilling could occur because the route(s) of underground pathways have not been mapped from the project area.
- Therefore, existing rights may be unlawfully impaired.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Waters in the project area flow into Lake Pactola, which is a major component of the domestic water supply of Rapid City -- this is the water I use.



- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations down flow of the proposed project area.
- Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to nearby public lands and Pe'Sla threatens indigenous cultural resources.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling that they want to do in South Dakota is grossly inadequate.
- MMR have not proven themselves to be financially stable, so I believe that a high likelihood exists that that they will be unable to complete a mine – this leaves open the possibility that this project could end up in the hands of another unknown company.

I oppose and contest the proposed project. I ask that this permit application be denied. I also ask for a hearing to be held on this matter, and request that the hearing be automatically delayed for at least 20 days. The hearing should be delayed until after December 2, 2020. I further request that the hearing be held in Rapid City since it substantially impacts the people and environment of Pennington County. In addition, DENR should provide citizens the ability to attend this hearing on-line due to COVID-19.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Richard A. Bell

Richard Bell, PE
1206 Clark St.
Rapid City, SD

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Via
email

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RECEIVED

NOV 23 2020

WATER RIGHTS
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

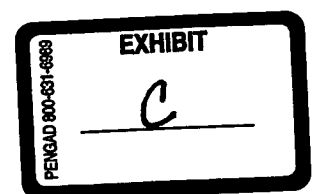
As a concerned resident of the Black Hills and someone with a degree in Resource Management, I am deeply interested in the outcome of the proposed project area. I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. I recreate in the Lake Pactola/Rapid Creek watershed as do thousands of locals and tourists.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.



- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- This is a boom and bust proposal. It has the capacity to destroy the multimillion-dollar tourist and agriculture industries in the Black Hills.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020. The hearing would be best for all interested if moved to after the holidays.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Juli Ames-Curtis
11936 Hay Creek Rd
Custer SD 57730
mtsagemassage@yahoo.com
970-391-9921

Duvall, Ron

From: emmafrostdcam@live.com
Sent: Friday, November 20, 2020 9:37 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application

RECEIVED

NOV 23 2020

**WATER RIGHTS
PROGRAM**

Dear Mr. Gronlund:

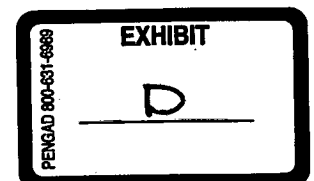
As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.



- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Emma

Duvall, Ron

From: dowhatyouwantalways@protonmail.com
Sent: Friday, November 20, 2020 9:31 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application

RECEIVED

NOV 23 2020

**WATER RIGHTS
PROGRAM**

Dear Mr. Gronlund:

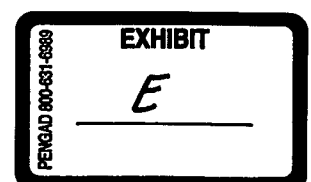
As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.



- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Max P.

Sent with ProtonMail Secure Email.

Duvall, Ron

From: Jerry Wilson <wilson57069@gmail.com>
Sent: Sunday, November 22, 2020 10:44 AM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Atten: Eric Gronlund

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RECEIVED

NOV 23 2020

WATER RIGHTS
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

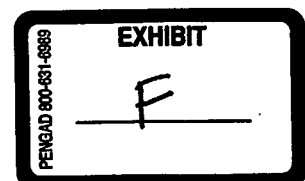
As the retired managing editor of *South Dakota Magazine*, I know how important the protection of the Black Hills is to the economy of South Dakota, where tourism is our second greatest industry. But beyond economic concerns, the Black Hills and all of our state's resources are the most precious things we have, and no generation of people have the right to destroy or harm those critical resources for future generations. Therefore, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.



- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City, and that interveners who live in other parts of the state be allowed to participate remotely.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Jerry Wilson
30959 Frog Creek Road
Vermillion, SD 57059

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

RECEIVED

DEC 21 2020

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
PERMIT APPLICATION NO. 2813-2,	)	
MINERAL MOUNTAIN RESOURCES	)	MOTION FOR
(SD), INC.	)	PROCEDURAL ORDER

COME NOW the Chief Engineer and the Water Rights Program and request the Prehearing Chair enter a Procedural Order regarding the conduct of the hearing to be held on March 3-4, 2021. In this matter there are several intervening parties. In order to secure a more efficient proceeding for all and in light of the ongoing COVID-19 pandemic, the Chief Engineer and the Water Rights Program propose the following.

First, the Chief Engineer and Water Rights recognize that not every interested person who has submitted a petition to intervene is interested in presenting evidence and questioning witnesses. Accordingly, the Chief Engineer requests that an opportunity be given to the intervenors whereby they may elect on or before January 15, 2021, to participate in a more limited capacity in that they would be able to view the proceedings remotely and provide a statement during closing arguments.

For those intervenors who wish to fully participate in the hearing (i.e. cross examine witnesses, admit evidence, etc.), the Chief Engineer would request an Order outlining the following:

1. Any party who will be represented at the formal contested case proceeding by an attorney shall be required to have their attorney file a Notice of Appearance in this matter. While individuals may appear *pro se* at hearings before the Water Management Board, all entities must be represented by counsel. Furthermore, all non-resident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL § 16-18-2.
2. Each party must disclose in writing the names of all expert witnesses it intends to call as a witness at the contested case hearing no later than January 29, 2021. Each party must include in this submission copies of any *curricula vitae* as well as copies of any expert report prepared by the expert witness. If the expert has not prepared a report, the party must disclose a summary of the anticipated testimony the expert will provide, including the methodology upon which the expert relied.
3. Each party must disclose in writing the names of each witness the party anticipates calling to testify during the hearing on or before February 15, 2021.
4. Any motions must be filed on or before February 9, 2021. Response briefs may be filed within ten days of the filing of a motion but not later than February 19, 2021. If necessary, a hearing before the prehearing chairman could then be scheduled prior to the March meeting.

5. Each party must provide to all other parties a list identifying all exhibits that party intends to offer as evidence in its case in chief at the hearing and copies of said exhibits on or before February 19, 2021. The copies may be provided by electronic means. The Chief Engineer routinely offers the administrative file as an exhibit and would request that it not be required to provide a copy of the file to the parties. The file, however, is available at the Water Rights office for inspection and portions of the file are available at DENR's One-Stop Contested Case Proceedings site at <http://denr.sd.gov/contested.aspx>.

6. Each party must mark in advance of the hearing all exhibits the party intends to introduce at the hearing in its case in chief with the proposed exhibit identifiers as set forth below:¹

Applicant – A through Z

Chief Engineer – 1-99

Dr. Liliias Jones Jarding – 100-199

Julie Santella – 200-299

Jeremiah J. Davis - 300-399

Mark LaCompte – 400-499

Julie Benedict – 500-599

Rajni Lerman – 600-699

¹ Exhibit identifiers have not been assigned to Richard Bell, Juli Ames-Curtis, Emma, Max P. or Jerry Wilson as they are not proper parties to this action as set forth in the Motion for an Order of Clarification.

Sierra Club, Black Hills Group 700-799

Thomas Brings – 800-899

Reno Red Cloud – 900-999

Bruce Ellison – 1000-1099

7. Each party to the contested case proceedings must prepare and provide a sufficient number of copies of exhibits, with the exception of the administrative file, for use at the hearing.
8. All original pleadings are to be sent by regular first-class mail to Ron Duvall, DENR Water Rights Program, Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota 57501-3182. Parties shall also be required to serve copies of all pleadings on all other parties and upon the Board's Counsel, Assistant Attorney General David McVey.
10. Furthermore, in an effort to comply with the guidelines set forth by the Centers for Disease Control, such as social distancing, the Chief Engineer and Water Rights Program request that the parties submit their exhibits, properly numbered, by 5 p.m. (central time) on February 19, 2020, to the administrator responsible for organizing the hearing in order to effectuate the provision of those exhibits to Board members who may be attending the meeting remotely. It is also requested that the Prehearing Chairman order the parties to provide the administrator the number of people that

will be in attendance so that the room could be set up in a manner which would allow for social distancing.

A proposed Order is submitted with this motion for the Prehearing Chairman's consideration.

Dated this 18th day of December, 2020.

A handwritten signature in black ink, appearing to read "Ann F. Mines Bailey", written over a horizontal line.

Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

Counsel for Chief Engineer and Water Rights Program

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCESWATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
PERMIT APPLICATION NO. 2813-2,	)	
MINERAL MOUNTAIN RESOURCES	)	PROPOSED
(SD), INC.	)	PROCEDURAL AND
		SCHEDULING ORDER

Upon due consideration of the motions pending and in an effort to provide guidance and structure for the parties, the following Procedural Order shall be entered.

It is ORDERED:

1. That on or before **January 15, 2021**, each intervenor shall submit in writing to Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, whether they wish to fully participate in the contested case proceedings (i.e., examine witnesses, admit evidence, etc.) or if they wish to participate in a limited capacity (i.e., make a statement during closing arguments).
2. All attorneys who will be representing any party at the formal contested case proceeding shall file a Notice of Appearance in this matter. Further, all non-resident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2. The Order granting *pro hac vice* shall be filed with the Water Management Board.

3. The following pre-hearing schedule and obligations apply to Applicant, Water Rights, and all other parties who elect to fully participate in the contested case proceedings:

a. Each party must disclose in writing the names of all expert witnesses it intends to call as a witness at the contested case hearing no later than **January 29, 2021**. Each party must include in this submission copies of any *curricula vitae* as well as copies of any expert report prepared by the expert witness. If the expert has not prepared a report, the party must disclose a summary of the anticipated testimony the expert will provide, including the methodology upon which the expert relied.

b. Each party must disclose in writing the names of each witness the party anticipates calling to testify during the hearing on or before **February 15, 2021**.

c. Any motions must be filed on or before **February 9, 2021**. Response brief may be filed within ten days after the motion but no later than **February 19, 2021**. If necessary, a hearing before the prehearing chairman may be scheduled prior to the March meeting.

d. Each party must provide to all other parties a list identifying all exhibits that party intends to offer as evidence in its case in chief at the hearing and copies of said exhibits, with the exception of the administrative file, on or before **February 19, 2021**. The exhibits shall be marked as set forth below prior to disclosure. The copies may be provided by electronic means; however, provision of a hyperlink or internet address is not sufficient to meet

the disclosure requirement. **A copy of exhibits must also be provided to Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, Ron.Duvall@state.sd.us on or before 5 p.m. central time on February 19, 2020.**

e. Prior to disclosure, each party must mark each exhibit the party intends to introduce at the hearing in its case in chief with the proposed exhibit identifiers as set forth below:¹

Applicant – A through Z

Chief Engineer – 1-99

Dr. Liliias Jones Jarding – 100-199

Julie Santella – 200-299

Jeremiah J. Davis - 300-399

Mark LaCompte – 400-499

Julie Benedict – 500-599

Rajni Lerman – 600-699

Sierra Club, Black Hills Group 700-799

Thomas Brings – 800-899

Reno Red Cloud – 900-999

Bruce Ellison – 1000-1099

¹ Exhibit identifiers have not been assigned to Richard Bell, Juli Ames-Curtis, Emma, Max P. or Jerry Wilson as they are not proper parties to this action as set forth in the Motion for an Order of Clarification.

f. Each party to the contested case proceedings must prepare and provide a sufficient number of copies of exhibits, with the exception of the administrative file, for use at the hearing. The parties shall contact Ron Duvall after February 26, 2020, for the precise number of copies required as the number of copies required is dependent upon the number of Board members who will be personally present at the hearing.

g. All original pleadings are to be sent by regular first-class mail to Ron Duvall, DENR Water Rights Program, Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota 57501-3182. Parties shall also be required to serve copies of all pleadings on all other parties and upon the Board's Counsel, Assistant Attorney General David McVey.

4. All parties shall notify Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, Ron.Duvall@state.sd.us **on or before 5 p.m. central time on February 26, 2020**, as to the number of individuals who will be physically present for the hearing on that party's behalf.

Dated this ____ day of December, 2020.

Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)	
PERMIT APPLICATION NO. 2813-2,)	CERTIFICATE OF SERVICE
MINERAL MOUNTAIN RESOURCES)	
(SD), INC.	

The undersigned hereby certifies that true and correct copies of the Notice of Appearance, Motion for an Order of Clarification, Motion for Procedural Order and Proposed Procedural and Scheduling Order in the above matter was served by U.S. mail, first class, postage prepaid, or via email upon the following on this 18th day of December 2020:

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge, SD 57770

Julie Santella
422 Columbus St., Apt. 1
Rapid City, SD 57701

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic
Preservation Office
P.O. Box 320
Pine Ridge, SD 57770

Jeremiah J. Davis
710 N. LaCrosse St., #1
Rapid City, SD 57701

Richard Bell, PE
1206 Clark St.
Rapid City, SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake, SD 57656

Julie Benedict
1115 McGuigan Rd.
Spearfish, SD 57783

Rajni Lerman
2244 Minnekahta Ave
Hot Springs, SD 57747

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer, SD 57730

Black Hills Group, Sierra Club
c/o Suzanne Ludicello Martley
P.O. Box 1624
Rapid City, SD 57709

Jerry Wilson
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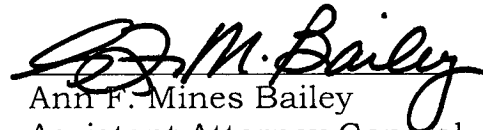
And on the same date, the original was filed with:

Ron Duvall
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Ann F. Mines Bailey
Assistant Attorney General

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DEC 21 2020

BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.)
- APPLICATION NO. 2813-2)

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE AND BE ADVISED that Matthew E. Naasz of Gunderson,
Palmer, Nelson & Ashmore, LLP hereby notes his appearance as counsel on behalf of Mineral
Mountain Resources (SD) Inc. in the above-entitled action.

Dated: December 18, 2020

ATTORNEYS FOR MINERAL MOUNTAIN
RESOURCES, INC.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
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Rapid City, SD 57709
Telephone: (605) 342-1078
Telefax: (605) 342-9503
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on December 18, 2020, a true and correct copy of a **NOTICE OF APPEARANCE** was served upon the following individuals by Email and U.S. Mail, postage prepaid:

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South Dakota Department of
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By: /s/ Matthew E. Naasz
Matthew E. Naasz

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

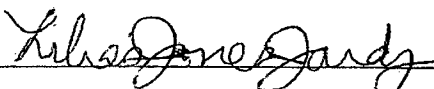
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DEC 28 2020
WATER RIGHTS
PROGRAM

IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 2813-2, MINERAL	)	MOTION
MOUNTAIN RESOURCES (SD), INC.	)	

COMES NOW Liliias Jones Jarding, Ph.D., an Intervenor, and requests that the hearing in this matter be held in Rapid City, S.D. At least eleven (11) of the Intervenor's and the attorney for the applicant are located in western South Dakota, as are the exploration location and the waters that are the subject of this matter.

In addition, the Pennington County Board of Commissioners has passed a Resolution (Attachment A) stating that the governing body requests the Water Management Board to hold public hearings in Rapid City for any mineral mining operation water permit that could impact the drinking water supplies in the Rapid Creek watershed. The current application impacts waters in the Rapid Creek watershed, whose boundaries are shown in Attachment B.

Dated this 26th day of December 2020.



Liliias Jones Jarding, Ph.D.
Intervenor

PENNINGTON COUNTY RESOLUTION

A RESOLUTION TO REQUEST THE STATE WATER MANAGEMENT BOARD TO CONDUCT PUBLIC HEARING(S) IN PENNINGTON COUNTY FOR THE POTENTIAL ISSUANCE OF ANY TEMPORARY OR PERMANENT WATER USE PERMIT BY ANY MINERAL MINING OPERATION

WHEREAS, the Pennington County Board of Commissioners is the legislative and governing body of Pennington County, SD and has the responsibility to provide for the safety and welfare of all residents of Pennington County; and

WHEREAS, most residents of Pennington County are provided drinking water through the Rapid Creek Watershed, Pactola Lake and Deerfield Lake; and

WHEREAS, for Pennington County residents, visitors and travellers water quality in our natural drinking water system is essential for safe drinking water, and Rapid City draws "raw water" from Rapid Creek at the Mountain View and Jackson Municipal Water Stations; and

WHEREAS, clean drinking water for Pennington County residents, visitors and travellers is the highest use of water from our Pennington County watersheds, including Rapid Creek, Pactola Lake and Deerfield Lake; and

WHEREAS, exploratory operations for mineral mining has occurred in the Black Hills in proximity to Rapid Creek; and

WHEREAS, although mineral rights are property rights and are protected by the U.S. Constitution, the rights of others affected by mineral operations must also be protected. Laws are necessary to regulate mining in order to protect water, air, natural resources, aesthetics and the welfare of the public; and

WHEREAS, the Pennington County Board of Commissioners is in the process of developing an ordinance to oversee mineral mining in Pennington County; and

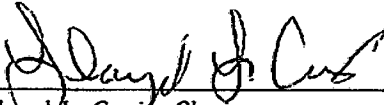
WHEREAS, water uses in South Dakota require water rights permits. The permits are under the authority of the State Water Management Board who issues, denies or cancels water permits, establishes surface and groundwater quality standards, approves groundwater discharge permits, establishes drinking water standards, sets ordinary high water marks, regulates water use, establishes safety of dams standards, validates vested water right claims, issues water quality variances, establishes well construction standards, establishes standards for above and below ground storage tanks and underground injection wells; and

NOW THEREFORE BE IT RESOLVED, the Pennington County Board of Commissioners feels it is critical for the State Water Management Board to conduct public hearing(s) where the people who may be most affected are located prior to the issuance of any temporary or permanent water use permit by any mineral mining operation, which could potentially impact the drinking water supplies; and

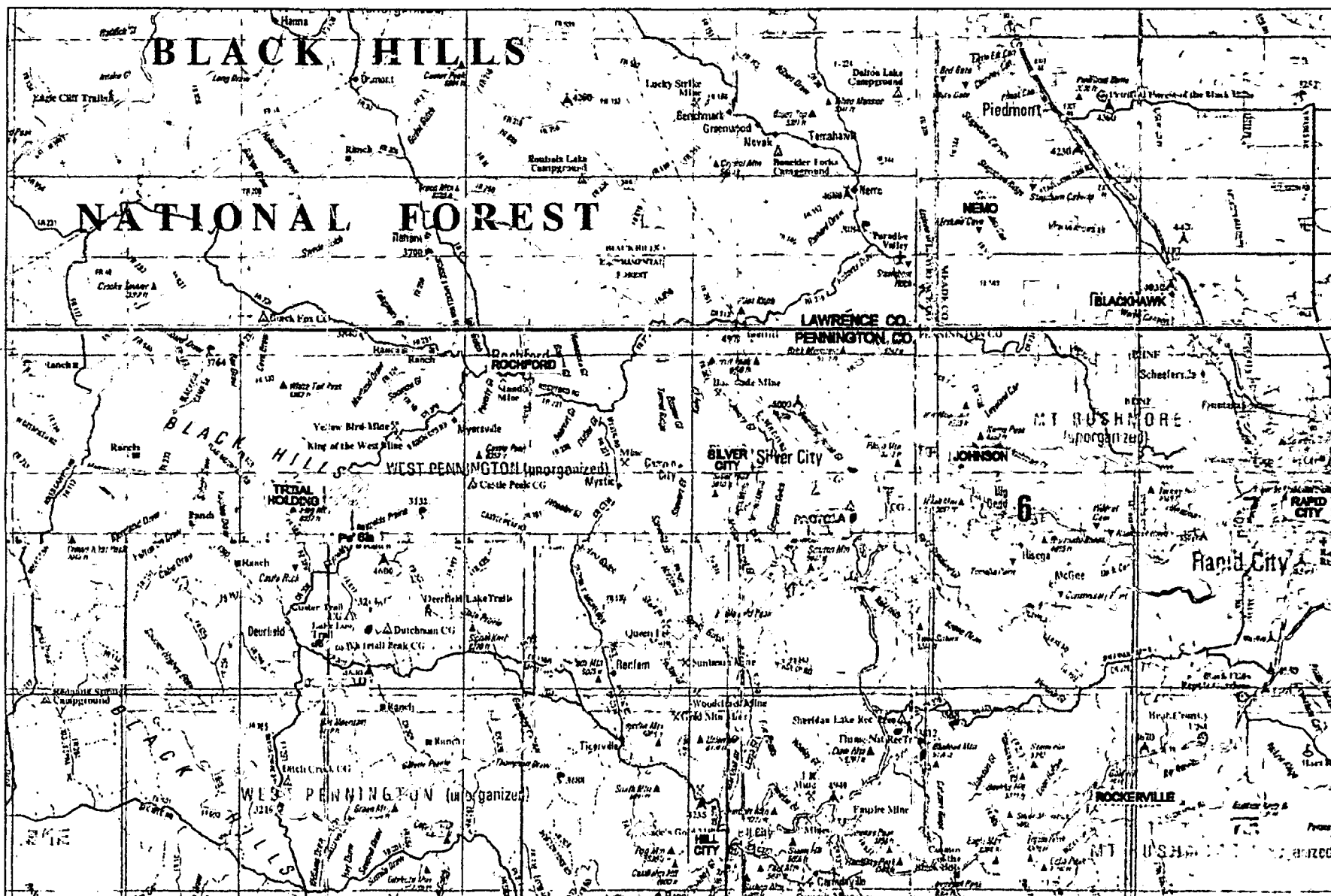
NOW THEREFORE BE IT FURTHER RESOLVED, the Pennington County Board of Commissioners respectfully requests the South Dakota Department of Environment and Natural Resources via the State Water Management Board to conduct public hearing(s) in Rapid City for the potential issuance of any temporary or permanent water use permit by any mineral mining operation, which could potentially impact the drinking water supplies in Pennington County including Rapid Creek, Pactola Lake, Deerfield Lake and appurtenant watersheds.

Dated this 17 day of April, 2018.




Lloyd LaCroix, Chair
Pennington County Commission


Pennington County Auditor/Deputy



**RAPID CREEK WATERSHED
PENNINGTON COUNTY, SD**

05/25/20

RECEIVED

DEC 28 2020

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 2813-2, MINERAL	)	CERTIFICATE OF SERVICE
MOUNTAIN RESOURCES (SD), INC.	)	

The undersigned hereby certifies that true and correct copies of the Motion in the above matter was served by U.S. mail, first class, postage prepaid, or via email upon the following on this 26th day of December 2020.

Julie Santella
422 Columbus Street, Apt. 1
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Thomas Brings
Tribal Historic Preservation Officer
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Joe Foss Building
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Pierre, SD 57501

Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, SD 57501

Re: Permit Application Dec 22, 2020
2013-2 Mineral Mtn Resources

Ron Duvall,

I do not wish to participate
in the contested case proceedings
and I will not be in attendance
at the hearing. I remain in
opposition to the permit.

Julie
Benedict

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DEC 28 2020

WATER RIGHTS
PROGRAM



OFFICE OF ATTORNEY GENERAL

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Pierre, South Dakota 57501-8501
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JASON R. RAVNSBORG
ATTORNEY GENERAL

RECEIVED

DEC 28 2020

**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

December 23, 2020

Lilias Jones Jarding, Ph.D.
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Matt Naasz
Gunderson, Palmer, Nelson & Ashmore LLP
Counsel for Mineral Mountain Resources
P.O. Box 8045
Rapid City, SD 57709

Re: *In the Matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.*

To Whom it May Concern:

Enclosed please find a copy of the Correction to Motion for Procedural Order and Proposed Procedural Order and Certificate of Service in the above-entitled matter.

Sincerely,



Ann F. Mines Bailey
Assistant Attorney General

AFM/cmw

Enclosures

cc w/enc: Ron Duvall, DENR Water Rights Program (*Interoffice mail*)

DEC 28 2020

WATER RIGHTS
PROGRAMSTATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	CORRECTION TO
PERMIT APPLICATION NO. 2813-2,	)	MOTION FOR PROCEDURAL
MINERAL MOUNTAIN RESOURCES	)	ORDER AND PROPOSED
(SD), INC.	)	PROCEDURAL ORDER

On December 18, 2020, the undersigned counsel filed a Motion for Procedural Order and a Proposed Procedural Order for consideration by the Prehearing Chairman. The Motion and Proposed Order contemplated setting certain deadlines. Subsequently, it has been pointed out that the paragraph 10 of the Motion proposes a February 19, 2020 deadline. Likewise, the Proposed Order has deadlines proposes deadlines for the year 2020 in paragraphs 3d, 3f, and 4. These errors were inadvertent and the deadlines were meant to be for those dates in the year 2021. Accordingly, the undersigned counsel files this correction and asks the prehearing chair to set the deadline in paragraph 3d for February 19, 2021, in paragraph 3f for February 26, 2021, and in paragraph 4 for February 26, 2021.

Dated this 23rd day of December, 2020.



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Telephone: (605) 773-3215

Counsel for Chief Engineer and Water Rights Program

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)	
PERMIT APPLICATION NO. 2813-2,)	CERTIFICATE OF SERVICE
MINERAL MOUNTAIN RESOURCES)	
(SD), INC.	

The undersigned hereby certifies that a true and correct copy of the Correction to Motion for Procedural Order and Proposed Procedural Order in the above matter was served by U.S. mail, first class, postage prepaid, or via email upon the following on this 23rd day of December 2020:

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Ann F. Mines Bailey
Assistant Attorney General

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DEC 31 2020

BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.) MINERAL MOUNTAIN RESOURCES
- APPLICATION NO. 2813-2) (SD) INC.'S MOTION TO DISMISS
PETITIONS IN INTERVENTION

COMES NOW Mineral Mountain Resources (SD) Inc. ("Mineral Mountain"), by and through its undersigned counsel, and hereby respectfully submits its Motion to Dismiss Petitions in Intervention of all Intervenor for failure to allege an interest in the subject proceedings sufficient to establish intervention of right.

FACTUAL AND PROCEDURAL HISTORY

Mineral Mountain has filed application no. 2813-2, seeking to appropriate 0.022 cfs (10 gpm) from one well completed into the Crystalline Rock aquifer. The well is 700 feet deep. The well site is located approximately one half mile southeast of Rochford, SD. Mineral Mountain requests to use the water for commercial and industrial purposes associated with mineral exploration. Specifically, as set forth in the application, "water will be used to lubricate and cool the drill bit and flush core cuttings from the drill hole." The drilling operation intends to use a state-of-the-art closed-loop drilling fluid system, a Solids Removal Unit, to minimize water consumption.

The Chief Engineer has recommended approval of this application. Notice of the application and the Chief Engineer's recommended approval were published as required by statute. In response, several petitions in opposition were received. As the petitions in opposition do not articulate an interest in the subject proceedings – groundwater in the Crystalline Rock

aquifer - sufficient to allow intervention by the opposing parties, the petitions should be dismissed.

ARGUMENT

1. Statute allows intervention only by “interested” parties.

SDCL § 46-2A-4(4) requires that the notice of publication of application and recommendation of the Chief Engineer include the following: “A statement that any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and that the petition shall be filed with the chief engineer and applicant at least ten days before the published date for hearing.” A statement in opposition must contain: “A statement describing the petitioner’s interest in the application; the reasons for the petitioner’s opposition to or support for the application; and the signature and mailing address of the petitioner or the petitioner’s legal counsel[.]” SDCL § 46-2A-5. These statutes make clear that it is only “interested” parties who may petition to intervene in proceedings before the Water Management Board.

The South Dakota Supreme Court has determined that the criteria for intervention in judicial proceedings applies in administrative proceedings. *In re Union Carbide Corp.*, 308 N.W.2d 753, 759 (S.D. 1981). The criteria for intervening as of right in judicial proceedings is found in SDCL § 15-6-24(a). Anyone may intervene in an action when one of the following has been established: “(1) when a statute of the state confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties.” SDCL § 15-6-24(a).

The South Dakota water rights statutes do not confer an unconditional right of intervention, which would allow intervention pursuant to SDCL § 15-6-24(a)(1). As noted above, only “any interested person” may file a petition in opposition in order to participate in the hearing. SDCL § 46-2A-4(4). And the petition must articulate the petitioner’s interest in the application. SDCL § 46-2A-4(5).

SDCL § 15-6-24(a)(2) allows intervention only when the applicant can demonstrate an interest in “the subject of the action.” This statute uses the same language as SDCL § 46-2A-4 to describe a party who may intervene in the matter – “interested.”¹ The interest required must be such that the applicant will either gain or lose by the Board’s decision.

In order to determine whether a would-be intervenor has articulated an interest sufficient to establish the right to intervene, a three-part test is utilized: “(1) the party must have a recognized interest in the subject matter of the litigation; (2) that interest must be one that might be impaired by the disposition of the litigation; and (3) the interest must not be adequately protected by the existing parties.” *In the Matter of the Adoption of a Child Known as D.M.*, 2006 S.D. 15, ¶ 5. The first step in determining the adequacy of a petition for intervention is determining whether the would-be intervenors “have a recognized interest in the subject matter of the litigation.” *Id.* at ¶ 6. Before a party can intervene, “they must be able to show that they have a recognized interest in the litigation. Their interest must be of such direct and immediate character that they will either gain or lose by the direct legal operation and effect of the [order]. Their interest must also arise from a claim to the subject matter of the action and it must be direct, substantial and legally protectable.” *Id.* (internal citations omitted).

¹ SDCL § 46-2A-23, the statute describing the procedure for publication of notice of the recommendation of the Chief Engineer, also includes the term “interested person.”

South Dakota's administrative procedures are even more restrictive. According to SDCL § 1-26-17.1: "A person who is not an original party to a contested case and whose pecuniary interests would be directly and immediately affected by an agency's order made upon the hearing may become a party to the hearing by intervention, if timely application therefor is made." *Id.* None of the individuals or entities who have filed a petition in opposition have articulated a pecuniary interest that may be "directly and immediately affected" by this Board's decision on this application.

None of the individuals or entities who submitted petitions in opposition to Mineral Mountain's pending application has established a recognized interest in the litigation. As required by SDCL § 46-2A-4(5)(a), each petition in opposition must include "a statement describing the petitioner's interest in the application." The petitions on file do not establish a recognized legal interest in this application. Rather, each of the petitions expresses the "reasons for the petitioner's opposition" as required by SDCL § 46-2A-4(5)(b). The petitions must express both the interests in the application, and the reasons for opposition. Expressing only reasons for opposing the application is insufficient.

Fifteen petitions for intervention have been filed with the water rights program in this application. *See*, petitions in intervention, attached hereto as Exhibits A-N. The text of the petitions are very similar. None of the petitions articulate an interest in the subject matter of this application, water from the Crystalline Rock Aquifer. Instead, the petitions provide only the reasons petitioners oppose the application. For example, several of the petitions in intervention preface their list of concerns with "I oppose this application because I believe the proposed

exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment.” Exhibits A–N.²

None of these interests are in any way relevant to the South Dakota Water Management Board’s inquiry in this matter, the availability of water from the Crystalline Rock Aquifer. The concerns articulated by intervenors are addressed by other offices within the South Dakota Department of Environment and Natural Resources.

2. The Board of Minerals and Environment has jurisdiction over Mineral Exploration.

SDCL Chapter 45-6C governs mineral exploration in South Dakota. Section two of this chapter begins: “the relatively unknown and as yet largely undeveloped mineral resources of this state consist in major proportion of minerals below the surface. The exploration for and discovery of these minerals by means of drilling and other methods of detecting mineral deposits are necessary for the economic development of the state and the nation. Every effort should be used to promote and encourage the exploration for mineral resources, but to prevent the waste and spoilage of the land which would deny its future use and productivity.” This is a clear statement by the South Dakota Legislature that underground mineral exploration is in the public interest to the citizens of South Dakota.

The mineral exploration chapter goes on to discuss at length the procedure an explorer must follow in order to conduct an exploration operation within the state of South Dakota. In order to conduct such operation the explorer must file with the Department of Environment and Natural Resources a “notice of intent to conduct an exploration operation on a form approved by the Board of Minerals and Environment.” SDCL § 45-6C-6. Several sections then discuss restrictions that may be placed on a mineral exploration operation. Those restrictions include

² The similarities in the petitions in intervention illustrate the lack of the individuals’ interests in the subject matter of the application. The individual intervenors have all expressed their reasons for opposing the application without expressing any interest in the water from the Crystalline Rock Aquifer.

restrictions concerning site disturbances based upon restrictions from the state archeologist (SDCL § 45-6C-11) and restrictions concerning riparian habitat or threatened or endangered species provided upon consultation with the Department of Game Fish and Parks (SDCL §45-6C-10).

Most importantly for present purposes, SDCL § 45-6C-12 provides: “the operator shall abide by any restrictions regarding water rights or water pollution control as notified, in writing, by the Department of Environment and Natural Resources within 30 days of filing of the notice.” The Board of Minerals and Environment may also require the operator to provide information regarding water quality from domestic wells in the area. SDCL § 45-6C-18. It is through the Exploration Notice of Intent (EXNI) process that water pollution control issues are addressed, not through application to the Water Management Board to appropriate water.

The statutes also articulate the office within DENR responsible for regulating mineral exploration, including those items listed in Chapter 45-6C. “The Board of Minerals and Environment shall carry out and administer the provisions of this chapter.” SDCL § 45-6C-47. It is the Board of Minerals and Environment who is tasked with, and has jurisdiction over the various concerns articulated in the petitions to intervene. The Water Management Board is tasked with, and has jurisdiction over, determining whether sufficient water is available to satisfy the request of the applicant. *See* SDCL § 46-2-11.

3. Mineral Mountain Resource’s EXNI.

Mineral Mountain Resources submitted an EXNI in compliance with the obligations of Chapter 45-6C. According to the applicable statutes, the Board of Minerals and Environment analyzed the application and imposed restrictions on the exploration project.

In August 27, 2020 Mineral Mountain Resources submitted an exploration notice of intent with the South Dakota DENR Minerals and Mining Program. After evaluating the information provided, including supplemental information submitted on two occasions in September 2020, the Minerals and Mining Program issued a Restriction Letter on October 5, 2020. The Restriction letter is attached hereto as Exhibit O.

Several of the restrictions in the Restriction Letter made clear that the “interests” identified by the intervenors in the present application were addressed by the Minerals and Mining Program. For example, restriction no. 1 states “this project shall be conducted and reclaimed in such a manner as to prevent any violation of the beneficial uses of specified water quality criteria of any water resources in the area.” Restriction no. 2 goes on to say “no discharge of water or sediments into Rapid Creek or tributaries to Rapid Creek is permitted. Any water will be maintained in tanks or discharged away from the stream channels and into a settling pond or flat vegetated area to allow suspended solids to settle out. In the event that it is necessary to discharge into Rapid Creek or a tributary of Rapid Creek, a South Dakota Surface Water Discharge Permit must be obtained.” As the restriction letter makes clear, it is the Minerals and Mining Program, not the Water Rights Program who has jurisdiction over water discharge and other environmental concerns associated with this exploration project.

Petitioners in this matter have expressed their reasons for opposing this application. But none of the petitioners have expressed any legally protected interest in the subject matter of this contested case. The petitions for intervention make clear that the only reason intervenors oppose this application are issues outside the jurisdiction of the Water Management Board. The administrative body with jurisdiction regarding those issues is the Board of Minerals and Environment. The Board of Minerals and Environment has considered the relevant information

and issued restrictions addressing the concerns of the intervenors in this matter. Those concerns are not relevant in this contested case proceeding where availability of water to satisfy the application will be considered. The petitions in intervention do not establish an interest in the subject matter of these proceedings - water availability from the Crystalline Rock Aquifer - to allow the intervenors in this matter to participate as parties in this contested case proceeding.

CONCLUSION

For the reasons states above, petitioners in opposition have failed to articulate an interest sufficient to permit them to intervene in the pending application. Their petitions should, therefore, be dismissed.

Respectfully submitted this 29th day of December 2020.

ATTORNEYS FOR MINERAL MOUNTAIN
RESOURCES, INC.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
P.O. Box 8045
Rapid City, SD 57709
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CERTIFICATE OF SERVICE

I hereby certify on December 29, 2020, a true and correct copy of a **MINERAL MOUNTAIN RESOURCES (SD) INC.'S MOTION TO DISMISS PETITIONS IN INTERVENTION** was served upon the following individuals by Email and U.S. Mail, postage prepaid:

Eric Gronlund
Chief Engineer, Water Rights Program
South Dakota Department of
Environment and Natural Resources
523 East Capitol
Pierre, SD 57501

Ann F. Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources Department/Administrator
P.O. Box 320
Pine Ridge SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

Richard Bell, PE
1206 Clark St.
Rapid City, SD 57701

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnkahta Ave.
Hot Springs SD 57747

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer SD 57730

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

Emma
emmafrostdcam@live.com

Max .
dowhatyouwantalways@protonmail.com

Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City SD 57709

By: /s/ Matthew E. Naasz
Matthew E. Naasz

EXHIBIT**A****RECEIVED****NOV 09 2020****WATER RIGHTS
PROGRAM**

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervenor in the above application by MMR.

I am concerned about this application because I am interested and depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills, and especially along their eastern slope.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- Studies have shown that the Rapid Creek watershed is hydrologically connected to at least the Madison and Minnelusa aquifers. The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.

- The creeks flow year round and are fisheries, including Rapid Creek's world-class trout fishery.
- This is not a beneficial use of water.
- Waters in the project area flow downstream into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. I not only drink water downstream from the Lake, but enjoy the lake for recreational purposes.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources and will likely destroy cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project, especially as it is in a hydrologically and culturally sensitive area and could have far-reaching impacts. A full analysis of the potential and cumulative impacts of this project is required.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate to cover the cost of damage to the environment, water, economy, and roads. This bond would not cover even a small percentage of the cost of curing a drill bit break in the drill shaft, as has happened near Wasta in recent years, or the abandonment of the project, as happened in Harding County recently.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown -- and whose environmental record, ethical record, and financial status are also unknown.

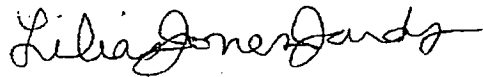
I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lili Jones-Jard".

Lili Jones-Jard, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

November 11, 2020

Chief Engineer Eric Gronlund
Water Rights Program
Foss Building
523 E Capitol
Pierre, SD 57501

RECEIVED

NOV 16 2020

WATER RIGHTS
PROGRAM

EXHIBIT

B

RE: Petition to Contest and Oppose Mineral Mountain Resources (SD) Inc.'s water permit application 2813-2

Dear Chief Engineer Eric Gronlund:

I am writing to contest and oppose Mineral Mountain Resources (SD) Inc.'s water permit application 2813-2.

I live in Rapid City. I am concerned about Mineral Mountain Resources (SD) Inc.'s proposal to appropriate 1.2 million gallons of water for several reasons:

- 1) I am concerned about qualitative (and by extension, quantitative) impacts to the Rapid Creek watershed (which is Rapid City's water supply) should any accidents or spills occur.
- 2) I am concerned about quantitative impacts to the Rapid Creek watershed should this quantity of water be removed, even if no accidents or spills occur.
- 3) There is no mention of the impacts of this proposal to cultural or historic resources in the area.
- 4) There is no mention of contact or consultation with, or consent from, the 16 Tribal Nations on the Black Hills National Forest Tribal/THPO mailing list, regarding this proposal. Proper permission has not been granted for this appropriation of water.

My concerns arise from information from several sources, including but not limited to: my knowledge of waterways in this area, MMR's application, information relating to MMR's current and previous activities, relevant research publications, and relevant case law.

I am contesting the Chief Engineer's Recommendation of Approval of Application 2813-2. I am requesting that the Board not grant approval for this appropriation of water.

I also request that the public hearing scheduled for December 2, 2020, be pushed back to allow me adequate time to prepare my case in this matter.

I understand that this contested case would unfold according to the Administrative Rules of South Dakota Chapter 74:50:02, and the regulations governing the South Dakota Department of Environment and Natural Resources.

Please keep me informed of all proceedings and documents related to this application.

Submitted by:
Julie Santella
422 Columbus St, Apt 1
Rapid City, SD

 11/11/2020

Copy sent to:
Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche, SD 57717

JAY DAVIS LAW OFFICE

710 N. LaCrosse St. #1
Rapid City, SD 57701
November 17, 2020

JEREMIAH J. DAVIS, ATTORNEY AT LAW

EXHIBIT

C

Telephone: (605) 519-5128
Fax: (605) 355-9319

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

RECEIVED

NOV 19 2020

WATER RIGHTS
PROGRAM

RE: Application #2813-2 to Appropriate Water (Mineral Mountain Resources)

Dear Mr. Gronlund:

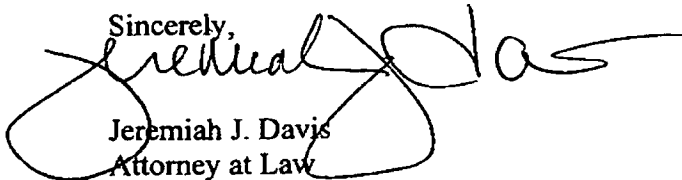
As a resident and water user in Rapid City, I am hereby requesting that a contested case be initiated in the above-referenced matter, and that I be admitted as an intervener in the application by MMR. This application concerns me because I depend upon clean drinking water, and also hope that our community can maintain its wildlife and natural resources, as well as a tourism industry that depends upon the protection of our natural environment in the Black Hills.

As you know, this region has a long and storied history of gold mining operations, many of which have caused long-term harm to the environment and some of which have developed into Superfund sites. I oppose the MMR application because I believe that their proposed exploration, and any large-scale gold or other mineral mine, will inevitably harm our economy and environment.

I do not believe that MMR's proposal is a beneficial use of water, or in the public interest. It may result in the destruction of existing water rights in the central Black Hills. The \$20,000 bond paid by MMR to conduct potentially unlimited drilling is clearly inadequate protection for our resources. Lake Pactola, which provides our domestic water in Rapid City and which is a cherished recreational resource, is directly threatened by exploration and gold mining by MMR. The Minnelusa and Madison formations downstream from the proposed project area are directly threatened. There needs to be more extensive environmental analysis, including study of the geology and hydrology of the project area.

I am hereby requesting that there be a public hearing on this matter, and that it be held in Rapid City, in the area that is threatened by this proposed development. Please delay the hearing for at least 20 days. Please keep me informed of all proceedings and documents related to MMR's application. Thank you for your consideration in this matter.

Sincerely,



Jeremiah J. Davis
Attorney at Law

cc: Mineral Mountain Resources (SD) Inc. c/o Bennett, Main & Gubbrud

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RECEIVED

NOV 20 2020

WATER RIGHTS
PROGRAM

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe 'Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.

- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Mark LaCompte
PO BOX 175
Timber Lake, SD 57656

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Duvall, Ron

From: dowhatyouwantalways@protonmail.com
Sent: Friday, November 20, 2020 9:31 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application

RECEIVED**NOV 23 2020****WATER RIGHTS
PROGRAM**

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.

- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Max P.

Sent with ProtonMail Secure Email.

EXHIBIT**E****RECEIVED****NOV 20 2020****WATER RIGHTS
PROGRAM**

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Thank you.

Sincerely,

Julie Benedict
1115 McGuigan Rd.
Spearfish, SD 57783

A handwritten signature in black ink, appearing to read "Julie Benedict", written over the printed name and address.

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Duvall, Ron

From: emmafrostcam@live.com
Sent: Friday, November 20, 2020 9:37 PM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Mineral Mountain Resources Water Application

RECEIVED

NOV 23 2020

**WATER RIGHTS
PROGRAM**

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Emma

EXHIBIT

G

RECEIVED

NOV 25 2020

WATER RIGHTS
PROGRAM



Black Hills Group
Sierra Club
P.O. Box 1624
Rapid City, SD 57709

21 November 2020

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain
Resources

Dear Mr. Gronlund:

The purpose of the Sierra Club and its Black Hills Group is to explore, enjoy, and protect the earth's wild places. Our members use the outdoors and the wild country of the Black Hills and Northern Great Plains for recreation and renewal. We rely on the watershed of Rapid Creek for our drinking water, agricultural uses, and recreational activities. The knowledge that healthy environments and intact wild country exist, sustains us. Our members want to practice and promote the responsible use of Earth's ecosystems and resources. And to that end we work to educate and use grassroots activism to protect and restore the quality of the natural and human environment.

We have consistently opposed gold mining in the Rapid Creek Watershed.

As a downstream residents of the proposed project area, we oppose and contest the proposed project and want the permit application to be denied.

We ask for a hearing to be held on this matter, and that the hearing be delayed until after December 2, 2020.

We also request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Our members oppose this application because additional large scale exploration and mining of gold in the central Black Hills threaten the quality of the Rapid Creek Watershed, including the aquifers upon which our water supply depends. The agricultural economy and the outdoor recreation industry depend on water resources. Granting this permit would affect land use, including Pe'Sla, lands sacred to the Oceti Sakowin, and threatens wildlife habitat, quality of life in the region.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

The Sierra Club, on behalf of its more than 1,200 members in South Dakota, opposes this application because the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. Our concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water we use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. This is one of the places where we recreate.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

Please keep us informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Suzanne Iudicello Martley

On behalf of Black Hills Group Sierra Club Executive Committee

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Duvall, Ron

From: Jerry Wilson <wilson57069@gmail.com>
Sent: Sunday, November 22, 2020 10:44 AM
To: DENR-INTERNET INFORMATION
Subject: [EXT] Atten: Eric Gronlund

Follow Up Flag: Flag for follow up
Flag Status: Flagged

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NOV 23 2020

WATER RIGHTS
PROGRAM

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As the retired managing editor of *South Dakota Magazine*, I know how important the protection of the Black Hills is to the economy of South Dakota, where tourism is our second greatest industry. But beyond economic concerns, the Black Hills and all of our state's resources are the most precious things we have, and no generation of people have the right to destroy or harm those critical resources for future generations. Therefore, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.

- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City, and that interveners who live in other parts of the state be allowed to participate remotely.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Jerry Wilson
30959 Frog Creek Road
Vermillion, SD 57059

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Via
email

EXHIBIT

I

November 23, 2020

RECEIVED

NOV 23 2020

**WATER RIGHTS
PROGRAM**

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application No. 2813-2 to Appropriate Water by Mineral Mountain Resources (MMR)

Dear Mr. Gronlund:

I am requesting that a contested case be initiated in the above matter. I am a downstream resident of the proposed project area and would also like to be admitted as an intervener in the above application by MMR.

I am concerned about this application because our way of life here in western South Dakota, both our agricultural and tourist based economies, depend on preserving the quality of water resources, land use, wildlife, etc. These things would be threatened by additional large scale exploration and mining of gold in the central Black Hills.

Existing Superfund and other former and present large-scale gold mine sites north of the proposed project show that ecosystems downstream from them are polluted with heavy metals and other contaminants.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- This project is not in the public interest and it is not a beneficial use of water.
- The presence of unappropriated water is unknown here because most of the geology and hydrology of the area is unstudied and unknown.
- Irreparable damage from the proposed drilling could occur because the route(s) of underground pathways have not been mapped from the project area.
- Therefore, existing rights may be unlawfully impaired.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Waters in the project area flow into Lake Pactola, which is a major component of the domestic water supply of Rapid City -- this is the water I use.

- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations down flow of the proposed project area.
- Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to nearby public lands and Pe'Sla threatens indigenous cultural resources.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling that they want to do in South Dakota is grossly inadequate.
- MMR have not proven themselves to be financially stable, so I believe that a high likelihood exists that that they will be unable to complete a mine – this leaves open the possibility that this project could end up in the hands of another unknown company.

I oppose and contest the proposed project. I ask that this permit application be denied. I also ask for a hearing to be held on this matter, and request that the hearing be automatically delayed for at least 20 days. The hearing should be delayed until after December 2, 2020. I further request that the hearing be held in Rapid City since it substantially impacts the people and environment of Pennington County. In addition, DENR should provide citizens the ability to attend this hearing on-line due to COVID-19.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

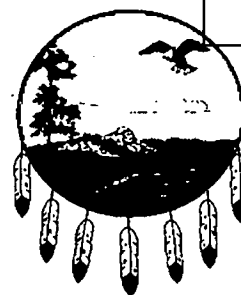
Richard A. Bell

Richard Bell, PE
1206 Clark St.
Rapid City, SD

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717



Oglala Sioux Tribe
Natural Resources Regulatory Agency
 Water Resources Department
 P.O. Box 320
 Pine Ridge, SD 57770
 Phone: (605) 867-5624
 Fax: (605) 867-2818



Water Resources Department
 Reno L. Red Cloud Sr.
 ostrnrawrd@gwtrc.net

November 23, 2020

RECEIVED

NOV 25 2020

WATER RIGHTS
 PROGRAM

Eric Gronlund, Chief Engineer
 Water Rights Program
 Foss Building
 523 East Capitol Avenue
 Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

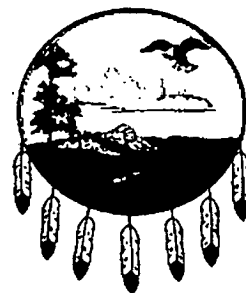
As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.



Oglala Sioux Tribe
Natural Resources Regulatory Agency
Water Resources Department
P.O. Box 320
Pine Ridge, SD 57770
Phone: (605) 867-5624
Fax: (605) 867-2818



Water Resources Department
Reno L. Red Cloud Sr.
ostnrrawrd@gwtc.net

(Page Two)

- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,


Reno L. Red Cloud Sr.
Oglala Sioux Water Resources Department / Administrator
P.O. Box 320
Pine Ridge, SD 57770
Phone:

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

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NOV 23 2020

**WATER RIGHTS
PROGRAM**

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund,

As a downstream resident of the proposed project area, I am concerned about this application because we depend upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. As Rapid City is one of the larger cities in South Dakota, risking clean drinking water to its residents is unethical.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. My well is in the Minnelusa aquifer and thus this proposed project puts a risk to mine as well as many others drinking water.
- Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.

- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose the proposed project and want the permit application to be denied. Since this matter substantially impacts the people and environment of Pennington County, I request a Public Hearing be moved to Rapid City with an option for online participation due to COVID-19.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Rajni Lerman
Hot Springs, SD

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

via
email

EXHIBIT

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NOV 23 2020

WATER RIGHTS
PROGRAM

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a concerned resident of the Black Hills and someone with a degree in Resource Management, I am deeply interested in the outcome of the proposed project area. I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola. I recreate in the Lake Pactola/Rapid Creek watershed as do thousands of locals and tourists.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.

- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- This is a boom and bust proposal. It has the capacity to destroy the multimillion-dollar tourist and agriculture industries in the Black Hills.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020. The hearing would be best for all interested if moved to after the holidays.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,

Juli Ames-Curtis
11936 Hay Creek Rd
Custer SD 57730
mtsagemassage@yahoo.com
970-391-9921

RECEIVED

NOV 25 2020

**WATER RIGHTS
PROGRAM**

**LAW OFFICE OF BRUCE ELLISON
P.O. Box 2508
Rapid City, SD 57709
(605) 348-1117
Belli4law@aol.com**

November 23, 2020

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills including threats to our water resources generally and my specific domestic water resources in the Rapid Creek Watershed.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting. The State has so far been unable or unwilling to regulate this industry in a manner which actually protects our water resources, warranting denial of any pending and future exploration, water, or mining permits which potentially will impact them.

LAW OFFICE OF BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

(605) 348-1117

Belli4law@aol.com

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other heavy metal mineral mine would harm public health, the economy, and the environment. My concerns include:

- The Chief Engineer's Recommendations to the Water Management Board for approval of the water appropriation permit under SDCL 46-2A-9 are not based upon substantial evidence.
- The Report to the Chief Engineer as to the four factors to be determined by the Board under SDCL 46-2A-9 devoid current and substantial supporting evidence.
- Most of the geology and hydrology of the immediate area remains substantially unstudied and unknown, so the presence of unappropriated water is unknown. This includes the particular fracture created water reservoir from which applicant wants to withdraw water
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- The actual recharge rate of the fracture created reservoir remains substantially unstudied and unknown.
- Existing rights may be unlawfully impaired. These existing rights include Treaty Rights, existing well water rights, water rights of nature.
- The project will significantly interfere with wildlife propagation through part of each year,
- The project will interfere with public's use of this multiple use forest service area,
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the Rapid Creek Watershed, and includes the domestic water supply of Rapid City and along Rapid Creek.
- From the limited hydrology studies of the project area, it appears that there are water pathways from area to Cleghorn Springs and other flowing and alluvial water resources in the eastern central part of the Black Hills.

LAW OFFICE OF BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

(605) 348-1117

Belli4law@aol.com

- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola or further downstream creeks.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's, the general Rapid Creek Watershed's, and Ellsworth Air Force Base's water. I get my well water from the Minnelusa formation and alluvial water from Rapid Creek.
- The proximity of proposed drilling pads to Pe 'Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.
- Granting this permit application would be contrary to the DENR's significant responsibilities to protect the Public Trust responsibilities to protect the waters within South Dakota's borders for current and future generations
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.
- I respectfully request that since the issues in this this permit application involve water resources in Pennington County, that when a hearing is held in this matter, that pursuant to Resolution of the Pennington County Board of Commissions, that the hearing be held in Rapid City, SD.
- That any hearing be either conducted remotely via ZOOM or other communication methods the Water Management Board has used within the past six months for hearings.

LAW OFFICE OF BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

(605) 348-1117

Belli4law@aol.com

- That should any hearings be held in person, that federal Center for Disease Control (CDC) guidelines, and not any less restrictive guidelines issued by the Governor or State of South Dakota, be strictly adhered to.
- That any scheduled hearing date be postponed for at least 90 days to permit requests for and compliance with discovery needed in this matter.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

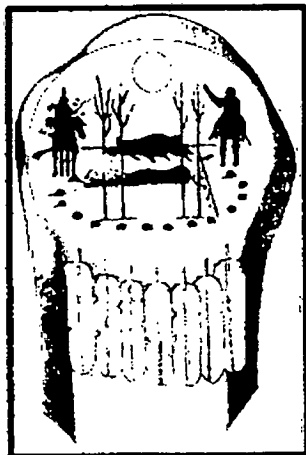
Thank you.

Sincerely,



Bruce Ellison and on behalf of
Nakca Bagn-Ellison, Aaron Ellison, Samuel Ellison, and Abbey Ellison

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717



Oglala Lakota

Cultural Affairs & Historic Preservation

P.O. Box 320 Pine Ridge, SD 57770 (mailing)

E. Hwy 18, Pine Ridge, SD 57770 (physical)

(605) 867-5624 business; (605) 867-2818 fax

Email: t.brings@oglala.com

Advisory Council:

Garvard Good Plume, Jr. - Founding Member

Robert Two Crow - Member

Doug Bissonette - Member

Leola One Feather - Member

Dr. Hannon LaGarry - Ex-Officio Member

In Honor

(In Spirit) Elaine Quiver - Founding Member

(In Spirit) Wilmer Messteth - Founding Member

Personnel:

Thomas Brings-THPO

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NOV 25 2020

WATER RIGHTS
PROGRAM

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.

"Preserving our Identity in the Land."

- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
 - The proximity of proposed drilling pads to Pe' Sla and nearby public lands threatens indigenous cultural resources.
 - This project is not in the public interest.
- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days. Please delay the hearing until after December 2, 2020.

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs and Historic Preservation Office
Oglala Sioux Tribe

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 5771

EXHIBIT**O****RECEIVED****NOV 20 2020****WATER RIGHTS
PROGRAM**

Eric Gronlund, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: Application Number 2813-2 to Appropriate Water; Mineral Mountain Resources

Dear Mr. Gronlund:

As a downstream resident of the proposed project area, I am requesting that a contested case be initiated in the above matter and that I be admitted as an intervener in the above application by MMR.

I am concerned about this application because I depend for my way of life upon the quality of our domestic and other water resources, land use, wildlife, health, and preservation of our agricultural and tourist based economy in western South Dakota. These are threatened by additional large scale exploration and mining of gold in the central Black Hills.

As the ecosystems downstream/downflow from existing Superfund and other former and present large-scale gold mine sites north of the proposed project show, mining gold and other heavy metals is inherently polluting.

I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment. My concerns include:

- Most of the geology and hydrology of the immediate area remains unstudied and unknown, so the presence of unappropriated water is unknown.
- The actual width and height and route(s) of underground pathways have not been mapped from the project area and there could be irreparable damage from the proposed drilling.
- Existing rights may be unlawfully impaired.
- This is not a beneficial use of water.
- Waters in the project area flow into Lake Pactola, a major component of the domestic water supply of Rapid City. This is the water I use.
- The tributaries and topography contribute to the likelihood that a spill from the proposed drill sites would flow into Lake Pactola.
- Major aquifers are recharged by Rapid Creek, including the Minnelusa and Madison formations downflow of the proposed project area. Exploration or mining accidents could contaminate all three sources of Rapid City's and Ellsworth Air Force Base's water.
- The proximity of proposed drilling pads to Pe 'Sla and nearby public lands threatens indigenous cultural resources.
- This project is not in the public interest.

- The total magnitude of this proposed project requires greater environmental analysis and scrutiny than a small exploration project.
- The \$20,000.00 bond paid by MMR to conduct any amount of drilling it wants in South Dakota is grossly inadequate.
- MMR is financially unstable and unable to complete a mine, leaving the possibility that this project could end up in the hands of another company that is currently unknown.

I oppose and contest the proposed project and want the permit application to be denied. I ask for a hearing to be held on this matter, and I request that the hearing be automatically delayed for at least 20 days

I further request that since this matter substantially impacts the people and environment of Pennington County, that the hearing be held in Rapid City.

Please keep me informed of all proceedings and documents related to this application.

Thank you.

Sincerely,



Mark LaCompte
PO BOX 175
Timber Lake, SD 57656

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

October 5, 2020

Kevin Leonard
Mineral Mountain Resources (SD), Inc
Suite 401
1195 West Broadway
Vancouver, BC V6H 3X5

Re: **EXNI 435 for Mineral Mountain Resources Exploration Drilling in Section 24; T2N-R3E, Pennington County**

Dear Mr. Leonard:

The department is in receipt of the Exploration Notice of Intent (EXNI) that you filed with our office on August 27, 2020, with supplemental information submitted on September 11 and September 25, 2020. The department has determined the Notice of Intent to be procedurally complete. Based on our review of your Notice, we determined the following restrictions are required:

1. This project shall be conducted and reclaimed in such a manner as to prevent any violation of the beneficial uses of specified water quality criteria of any water resources in the area. Several drill sites in the area are located near an unnamed tributary of Rapid Creek. In accordance with Chapter 74:51, this tributary is assigned the following beneficial uses:
 - 9) Wildlife propagation, recreation, and stock watering waters; and
 - 10) Irrigation waters.

Please note that Rapid Creek is assigned the following beneficial uses:

- 1) Domestic water supply waters;
 - 2) Coldwater permanent fish life propagation waters;
 - 7) Immersion recreation waters;
 - 8) Limited-contact recreation waters
 - 9) Wildlife propagation, recreation, and stock watering waters; and
 - 10) Irrigation waters.
2. No discharge of water or sediments into Rapid Creek or tributaries of Rapid Creek is permitted. Any water will be maintained in tanks or discharged away from the stream channels and into a settling pond or flat vegetated area to allow suspended solids to settle

out. In the event that it is necessary to discharge into Rapid Creek or a tributary of Rapid Creek, a South Dakota Surface Water Discharge permit must be obtained.

3. To ensure optimal soil erosion protection, all affected lands shall have adequate sedimentation and erosion control measures applied pursuant to SDCL 45-6C-32 and according to Best Mineral Management Practices. These measures shall be in the form of waterbar construction on access roads where appropriate; revegetation of roads; road embankment slopes; and the installation of straw bale or silt fence sediment filters wherever necessary.
4. All topsoil shall be salvaged and stockpiled whenever possible for use in reclamation.
5. When drilling fluids are used and/or when ground water is encountered during drilling, the drilling fluids shall be sufficiently contained to prevent overland flow or discharge to any waters of the state. If water tanks are used in lieu of mud pits, they shall also be sufficiently contained.
6. During periods of active exploration drilling, Mineral Mountain shall provide, via email, a weekly schedule outlining when and where holes will be drilled so the department can plan inspections and witness plugging activities.
7. All test holes shall be capped, sealed and plugged according to ARSD 74:11:08 (Plugging Standards) immediately following drilling and probing.
8. If surface casing is used in exploration holes, the following requirements shall be met:
 - a) Prior to removal of surface casing, the hole shall be plugged in accordance with ARSD 74:11:08 to a level just below the bottom of the surface casing;
 - b) Following step a), the casing will be removed (when possible) or cut off at least one foot below the ground surface; and
 - c) The remainder of the hole will be plugged in accordance with ARSD 74:11:08.
9. Mineral Mountain shall notify the department, in writing, when exploration drilling penetrates an aquifer. Notification shall be provided as soon as possible, but not more than 90 days after penetration of the aquifer. Notification shall include the location of the test hole penetrating the aquifer.
10. The following seed mix shall be used for reclamation of the affected areas:

13%	Annual ryegrass
25%	Slender wheatgrass
30%	Western wheatgrass
2%	Prairie junegrass
30%	Canada Wild Rye

11. Mineral Mountain shall avoid any bones, artifacts, foundation remains, or other evidence of previously unrecorded past human use during exploration activities. For specific direction regarding avoidance of these sites, please contact the SD Archaeological Research Center.
12. If any artifacts or other archaeological or cultural resources are discovered during exploration activities, the activities shall be temporarily halted and the state archaeologist notified at once.
13. Mineral Mountain shall notify the Department of Game, Fish and Parks if any previously unidentified bat habitat is found during exploration activities.
14. Mineral Mountain shall notify the Department of Game, Fish and Parks of any raptor nests within the vicinity of exploration activities to verify the nesting raptor does not require special restrictions.

Please note that we have assigned your Notice of Intent the following number: **EXNI-435**. This Notice allows you to conduct only the type and amount of work which is hereby being approved. Any additional work must be covered by the submission of a new Notice to our office. Mineral Mountain Resources may commence with the operation contingent upon compliance with the above restrictions.

Thank you for your interest in and consideration for the natural resources of South Dakota.

Sincerely,

\s/

Roberta Hudson
Engineering Manager I
Minerals and Mining Program
Telephone: (605) 773-4201
E-mail: roberta.hudson@state.sd.us

cc: Stan Michals, Department of Game, Fish and Parks
Lisa Nesselbeck, Archaeological Research Center
Mark Keenihan, Rapid City Office

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DEC 31 2020

BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.) MINERAL MOUNTAIN RESOURCES
- APPLICATION NO. 2813-2) (SD) INC.'S JOINDER OF SOUTH
) DAKOTA DEPARTMENT OF
) ENVIRONMENT AND NATURAL
) RESOURCES WATER RIGHTS
) PROGRAM'S MOTION FOR
) PROCEDURAL AND SCHEDULING
) ORDER

Mineral Mountain Resources (SD) Inc. ("Mineral Mountain"), by and through its attorney of record, Matthew E. Naasz of Gunderson, Palmer, Nelson & Ashmore, LLP, hereby respectfully joins the Motion for Procedural and Scheduling Order filed by the South Dakota Department of Environment and Natural Resources Water Rights Program in the above-captioned matter.

Counsel for Mineral Mountain has reviewed the Motion for Procedural and Scheduling Order, and has determined that a procedural and scheduling order would be appropriate in this matter. Mineral Mountain has no objection to the procedural and scheduling order proposed by DENR. The matters included in DENR's proposed procedural and scheduling order are appropriate, as are the proposed deadlines.

Respectfully submitted this 29th day of December 2020.

ATTORNEYS FOR MINERAL MOUNTAIN
RESOURCES, INC.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
P.O. Box 8045
Rapid City, SD 57709
Telephone: (605) 342-1078
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on December 29, 2020, a true and correct copy of a **MINERAL MOUNTAIN RESOURCES (SD) INC.'S JOINDER OF SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WATER RIGHTS PROGRAM'S MOTION FOR PROCEDURAL AND SCHEDULING ORDER** was served upon the following individuals by Email and U.S. Mail, postage prepaid:

Eric Gronlund
Chief Engineer, Water Rights Program
South Dakota Department of
Environment and Natural Resources
523 East Capitol
Pierre, SD 57501

Ann F. Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources Department/Administrator
P.O. Box 320
Pine Ridge SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

Richard Bell, PE
1206 Clark St.
Rapid City, SD 57701

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnkahta Ave.
Hot Springs SD 57747

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer SD 57730

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

Emma
emmafrostcam@live.com

Max .
dowhatyouwantalways@protonmail.com

Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City SD 57709

By: /s/ Matthew E. Naasz
Matthew E. Naasz

RECEIVED

JAN 19 2021

WATER RIGHTS
PROGRAM

January 15, 2021

Ron Duvall
DENR Water Rights Program
Foss Building
523 E Capitol
Pierre, SD 57501-3182

RE: Participation in upcoming contested case proceedings in the matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.

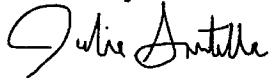
Dear Ron Duvall,

I am writing to let you and your program know that I would like to reserve my right to fully participate in the contested case proceedings relating to Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.

Thank you for your attention to this matter.

Please keep me informed of all proceedings and documents related to this application.

Submitted by:



1/15/21

Julie Santella
422 Columbus St, Apt 1
Rapid City, SD



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 21, 2021

NOTICE OF ENTRY OF ORDER

TO: Mineral Mountain Resources (SD) Inc. Matthew E. Naaz, Counsel
c/o Bennett, Main & Gubbrud Gunderson, Palmer, Nelson &
618 State St. Ashmore, LLP
Belle Fourche SD 57717 P.O. Box 8045
Rapid City SD 57709
Interested Persons (see attached list)

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DENR, Water Rights Program

SUBJECT: Pre-hearing Officer's Procedural and Scheduling Order in the matter of Water Permit
Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Enclosed is Pre-Hearing Officer Freeman's procedural and scheduling order in the matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Notices, orders and other pleadings filed in the matter of Water Permit Application No. 2813-2 are posted on DENR's contested case page at <https://denr.sd.gov/contested.aspx>.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey, Assistant Attorney General
David McVey, Assistant Attorney General

List of Interested Persons regarding Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnekahta Ave.
Hot Springs SD 57747

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer SD 57730

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

Emma
emmafrostcam@live.com

Max P.
dowhatyouwantalways@protonmail.com

Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City SD 57709

Reno L. Red Cloud Sr
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

Richard Bell, PE
1206 Clark St.
Rapid City, SD 57701

CERTIFICATION

I hereby certify that on January 21, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated January 21, 2021, regarding a procedural and scheduling order in the matter of Water Permit Application No. 2813-2, as addressed below and on the attached interested person list for persons with a mailing address. Otherwise, service was provided by email at the address provided:

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St.
Belle Fourche SD 57717

Matthew E. Naaz, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

Interested Persons (see attached list)

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Vickie Maberry

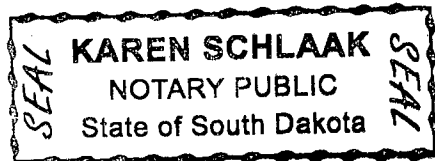
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 21st day of January, 2021.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2025



Duvall, Ron

From: Duvall, Ron
Sent: Thursday, January 21, 2021 11:05 AM
To: dowhatyouwantalways@protonmail.com
Subject: Notice of Entry of Procedural and Scheduling Order regarding Application No. 2813-2, Mineral Mountain Resources (SD) Inc.
Attachments: 2813-2_ord.pdf

The attached document and others related to this matter are available at: <https://denr.sd.gov/ccdocs.aspx?CCID=CCID92>

Thank you,

Ron Duvall
Water Rights Program
605.773.3352
denr.sd.gov



DENR
SOUTH DAKOTA

Duvall, Ron

From: Duvall, Ron
Sent: Thursday, January 21, 2021 11:04 AM
To: emmafrostcam@live.com
Subject: Notice of Entry of Procedural and Scheduling Order regarding Application No. 2813-2, Mineral Mountain Resources (SD) Inc.
Attachments: 2813-2_ord.pdf

The attached document and others related to this matter are available at: <https://denr.sd.gov/ccdocs.aspx?CCID=CCID92>

Thank you,

Ron Duvall
Water Rights Program
605.773.3352
denr.sd.gov



DENR
SOUTH DAKOTA

JAN 21 2021

WATER RIGHTS
PROGRAMSTATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
PERMIT APPLICATION NO. 2813-2,	)	
MINERAL MOUNTAIN RESOURCES	)	PROPOSED
(SD), INC.	)	PROCEDURAL AND
		SCHEDULING ORDER

Upon due consideration of the motions pending and in an effort to provide guidance and structure for the parties, the following Procedural Order shall be entered.

It is ORDERED:

1. That on or before **January 29, 2021**, each intervenor shall submit in writing to Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, whether they wish to fully participate in the contested case proceedings (i.e., examine witnesses, admit evidence, etc.) or if they wish to participate in a limited capacity (i.e., make a statement during closing arguments).
2. All attorneys who will be representing any party at the formal contested case proceeding shall file a Notice of Appearance in this matter. Further, all non-resident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2. The Order granting *pro hac vice* shall be filed with the Water Management Board.

3. The following pre-hearing schedule and obligations apply to Applicant, Water Rights, and all other parties who elect to fully participate in the contested case proceedings:

a. Each party must disclose in writing the names of all expert witnesses it intends to call as a witness at the contested case hearing no later than **January 29, 2021**. Each party must include in this submission copies of any *curricula vitae* as well as copies of any expert report prepared by the expert witness. If the expert has not prepared a report, the party must disclose a summary of the anticipated testimony the expert will provide, including the methodology upon which the expert relied.

b. Each party must disclose in writing the names of each witness the party anticipates calling to testify during the hearing on or before **February 15, 2021**.

c. Any motions must be filed on or before **February 9, 2021**. Response brief may be filed within ten days after the motion but no later than **February 19, 2021**. If necessary, a hearing before the prehearing chairman may be scheduled prior to the March meeting.

d. Each party must provide to all other parties a list identifying all exhibits that party intends to offer as evidence in its case in chief at the hearing and copies of said exhibits, with the exception of the administrative file, on or before **February 19, 2021**. The exhibits shall be marked as set forth below prior to disclosure. The copies may be provided by electronic means; however, provision of a hyperlink or internet address is not sufficient to meet

the disclosure requirement. **A copy of exhibits must also be provided to Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, Ron.Duvall@state.sd.us on or before 5 p.m. central time on February 19, 2020.**

e. Prior to disclosure, each party must mark each exhibit the party intends to introduce at the hearing in its case in chief with the proposed exhibit identifiers as set forth below:¹

Applicant – A through Z

Chief Engineer – 1-99

Dr. Lillas Jones Jarding – 100-199

Julie Santella – 200-299

Jeremiah J. Davis - 300-399

Mark LaCompte – 400-499

Julie Benedict – 500-599

Rajni Lerman – 600-699

Sierra Club, Black Hills Group 700-799

Thomas Brings – 800-899

Reno Red Cloud – 900-999

Bruce Ellison – 1000-1099

f. Each party to the contested case proceedings must prepare and provide a sufficient number of copies of exhibits, with the exception of the

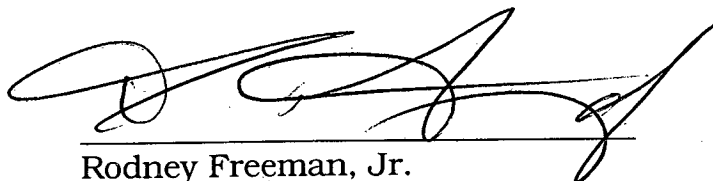
¹ Exhibit identifiers have not been assigned to Richard Bell, Juli Ames-Curtis, Emma, Max P. or Jerry Wilson as they are not proper parties to this action as set forth in the Motion for an Order of Clarification.

administrative file, for use at the hearing. The parties shall contact Ron Duvall after February 26, 2020, for the precise number of copies required as the number of copies required is dependent upon the number of Board members who will be personally present at the hearing.

g. All original pleadings are to be sent by regular first-class mail to Ron Duvall, DENR Water Rights Program, Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota 57501-3182. Parties shall also be required to serve copies of all pleadings on all other parties and upon the Board's Counsel, Assistant Attorney General David M. McVey.

4. All parties shall notify Ron Duvall, DENR Water Rights Program, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182, Ron.Duvall@state.sd.us **on or before 5 p.m. central time on February 26, 2020**, as to the number of individuals who will be physically present for the hearing on that party's behalf.

Dated this 19 day of January 19, 2021.

A handwritten signature in black ink, appearing to read 'Rodney Freeman, Jr.', written over a horizontal line.

Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
<http://atg.sd.gov/>

JASON R. RAVNSBORG
ATTORNEY GENERAL

RECEIVED

JAN 22 2021

**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

January 21, 2021

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

Julie Santella
422 Columbus St., Apt. 1
Rapid City, SD 57701

Max P.
dowhatyouwantalways@protonmail.com

Jeremiah J. Davis
710 N. LaCrosse St., #1
Rapid City, SD 57701

Mark LaCompte
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Black Hills Group, Sierra Club
c/o Suzanne Ludicello Martley
P.O. Box 1624
Rapid City, SD 57709

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources
Department/Administrator
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Jerry Wilson
30959 Frog Creek Road
Vermillion, SD 57059

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City, SD 57709

Emma
emmafrostdcam@live.com

David M. McVey
Counsel for Water Rights Program
1302 East Highway 14, Ste. 1
Pierre, SD 57501
Hand-delivered

Matt Naasz
Gunderson, Palmer, Nelson & Ashmore LLF
Counsel for Mineral Mountain Resources
P.O. Box 8045
Rapid City, SD 57709

Re: *In the Matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.*

To Whom it May Concern:

Enclosed please find a copy of the Response to Motion to Hold Hearing in Rapid City, South Dakota along with the Certificate of Service in the above-entitled matter.

Sincerely,



Ann F. Mines Bailey
Assistant Attorney General

AFM/klg

Enclosures

cc w/enc: Ron Duvall, DENR Water Rights Program (*Interoffice mail*)

JAN 22 2021

WATER RIGHTS
PROGRAMSTATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 2813-2, MINERAL	)	RESPONSE TO MOTION
MOUNTAIN RESOURCES (SD), INC.	)	TO HOLD HEARING IN
	)	RAPID CITY, SOUTH DAKOTA

The above entitled matter is scheduled to be heard by the Water Management Board at its March 3-4, 2021 meeting. In setting that meeting date at the December 2020 meeting, the Board considered where the March 2021 meeting should be held given that several petitioners in this matter had requested the hearing be held in Rapid City, South Dakota. Ultimately, the Board concluded that Pierre, South Dakota, was the most appropriate location as it is certain that the technology is available for Board members to appear remotely, as well as allowing those intervenors who do not wish to fully participate in the hearing to appear remotely, and a broader opportunity for the public to listen without traveling or being physically present.

Pending before the Board is a motion by Dr. Liliias Jarding, an intervenor in the above entitled matter, requesting that the Board hold the hearing in Rapid City. It is the position of the Chief Engineer and the Water Rights Program that Pierre is still the most appropriate location. Dr. Jarding notes

that eleven of the intervenors are located in western South Dakota, presumably arguing that it would be inconvenient for them to travel. It is unknown, however, how many of those intervenors plan to fully participate in the hearing. Dr. Jarding also notes that the Pennington County Commission passed a resolution several years ago in 2018 requesting that the State conduct public hearings in Rapid City for the potential issuance of any water permit for any mineral mining operation* which could potentially impact the drinking water supplies of Pennington County.

There are other items of business tentatively scheduled for the March 2021 meeting in addition to this hearing. Relocating the meeting would require the travel of not just Water Rights staff for this matter, but also all staff involved in other matters tentatively scheduled to be heard. Additionally, those who are parties to other matters to be heard by the Board during this meeting will also be required to travel further, as opposed to Pierre which is centrally located. Weighing most heavily in favor of holding this meeting in Pierre, however, is the availability of technology in the meeting rooms. Currently from Pierre, accommodations are able to be made for those Board members who need to appear remotely. The proceedings are able to be streamed live to listeners across the state. Additionally, there is access to the necessary space to comply with CDC guidelines and appropriately space participants who are

*The Board is not bound by this resolution and is not required to hold public hearings in any particular locale for any water permit sought to be used in mining operations. Furthermore, the entity seeking this water permit is not conducting a mining operation but is conducting mineral exploration. Mineral exploration is a different process.

personally present. Accordingly, it is requested that the Board order that the March 2021 meeting be held in Pierre, South Dakota, as originally planned.

Dated this 21st day of January 2021.


Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

*Counsel for Chief Engineer and Water
Rights Program*

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)	
PERMIT APPLICATION NO. 2813-2,)	CERTIFICATE OF SERVICE
MINERAL MOUNTAIN RESOURCES)	
(SD), INC.	

The undersigned hereby certifies that true and correct copy of the Response to Motion to Hold Hearing in Rapid City, South Dakota, in the above matter was served by U.S. mail, first class, postage prepaid, or via email upon the following on this 21st day of January 2021:

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge, SD 57770

Julie Santella
422 Columbus St., Apt. 1
Rapid City, SD 57701

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic
Preservation Office
P.O. Box 320
Pine Ridge, SD 57770

Jeremiah J. Davis
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Rapid City, SD 57701

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Juli Ames-Curtis
11936 Hay Creek Rd.
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Black Hills Group, Sierra Club
c/o Suzanne Ludicello Martley
P.O. Box 1624
Rapid City, SD 57709

Jerry Wilson
30959 Frog Creek Road
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Rapid City, SD 57709

Max P.
dowhatyouwantalways@protonmail.com

Emma
emmafrostdcam@live.com

Matt Naasz
Gunderson, Palmer, Nelson & Ashmore LLP
Counsel for Mineral Mountain Resources
P.O. Box 8045
Rapid City, SD 57709

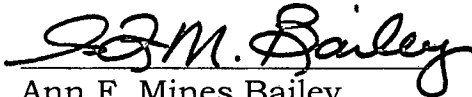
David M. McVey
Counsel for Water Rights Program
1302 East Highway 14, Ste. 1
Pierre, SD 57501

Hand-delivered

And on the same date, the original was filed with:

Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501
(Interoffice mail)

pld_afm (klg)


Ann F. Mines Bailey
Assistant Attorney General

RECEIVED

JAN 22 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 2813-2, MINERAL	)	RESPONSE TO MOTION
MOUNTAIN RESOURCES (SD), INC.	)	

COMES NOW Liliias Jones Jarding, Ph.D., an Intervenor, and responds to the applicant's Motion to Dismiss.

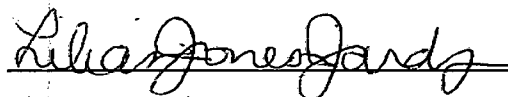
Applicant argues that the intervenors are not "interested parties." It is my position that intervenors who state that they rely on water from the Rapid Creek watershed have identified a clear interest in the proposed water permit which, as shown by Attachment B to my Motion of December 26, 2020, is about water within the boundaries of the Rapid Creek watershed. Applicant has offered no information that indicates that the allocation and use of surface or ground waters within the Rapid Creek watershed does not diminish the water available to the interested water users.

Applicant also quotes SDCL 46-6C-2, saying that it provides "a clear statement by the South Dakota Legislature that underground mineral exploration is in the public interest to the citizens of South Dakota." The quoted portion, however, is only part of the story. SDCL 46-6C-2 ends with "It is the responsibility of the state to ensure that...(2) Both during and after an exploration operation, water and other natural resources are not endangered." The statute says that protection of "water and other natural resources" is in the public interest. As the statute does not say otherwise, it should be

concluded that both water quantity and water quality should be protected, and that both ground and surface water should be protected.

Accordingly, I request that applicant's Motion to Dismiss Petitions in Intervention be denied and that intervenors be allowed to continue in that role throughout this proceeding.

Dated this 19th day of January 2021.

A handwritten signature in cursive script, reading "Liliás Jones Jardy", written over a horizontal line.

Liliás Jones Jarding, Ph.D.

Intervenor

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 2813-2, MINERAL	)	CERTIFICATE OF SERVICE
MOUNTAIN RESOURCES (SD), INC.	)	

The undersigned hereby certifies that true and correct copies of the Response to Motion in the above matter was served by U.S. mail, first class, postage prepaid, or via email upon the following on this 19th day of January 2021.

Julie Santella
422 Columbus Street, Apt. 1
Rapid City, SD 57701

Jeremiah J. Davis
710 N. LaCrosse St., #1
Rapid City, SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake, SD 57656

Rajni Lerman
2244 Minnekahta Ave.
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Black Hills Group, Sierra Club
C/o Suzanne Iudicello Martley
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dowhatyouwantalways@protonmail.com

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Gunderson, Palmer, Nelson & Ashmore LLP
Counsel for Mineral Mountain Resources

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Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, SD 57501

RECEIVED

JAN 29 2021

WATER RIGHTS
PROGRAM

BEFORE THE WATER MANAGEMENT BOARD OF THE
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES, INC. FOR) RESPONSE TO MOTION
PUBLIC WATER PERMIT NO. 2813-2) TO DISMISS

Intervenor Bruce hereby responds to the Motion to Dismiss Petitions in Intervention filed by the Applicant, Mineral Mountain Resources, Inc. ("MMR").

MMR seeks a massively expansive and intrusive exploration permit upstream from the Ellison Intervenor's land and residence and water resources in Dark Canyon. It claims the Ellison Intervenor's have no standing to raise water use and contamination issues related to the Crystalline Rock aquifer into which this foreign company wants to drill in pursuit of gold and other minerals.

SDCL 42A-2-3 states in pertinent part: "It is hereby declared that **all water within the state is the property of the people of the state...**" (Emphasis added). This includes the Crystalline Rock aquifer west and upstream from our land and residence.

Respectfully, the Motion is specious and should be denied.

Dated this 26th of January, 2021.

Respectfully submitted,


/s/ Bruce Ellison

BRUCE ELLISON

PO Box 2508

8265 Dark Canyon Road

Rapid City, SD 57702

(605) 348-1117

Belli4law@aol.com

CERTIFICATE OF SERVICE

It is hereby certified that on January 26, 2021, a true and correct copy of a NOTICE OF APPEARANCE was emailed to ron.duvall@state.sd.us and mailed U.S. postage paid to Ron Duvall, DENR Water Rights Program, Foss Building, 523 E. Capitol Ave, Pierre, SD 57501-3182 and served upon the following individuals by e-mail or U.S. postage paid:

Eric Gronlund

Chief Engineer, Water Rights Program

SD Department of Environment

And Natural Resources

eric.gronlund@state.sd.us

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david.mcvey@state.sd.us

By: /s/ Bruce Ellison

Bruce Ellison

RECEIVED

FEB 01 2021

WATER RIGHTS
PROGRAM

418 N. 44th Street

Rapid City, SD 57702

January 27, 2021

Ron Duvall

DENR Water Rights Program

Foss Building, 523 East Capitol Avenue

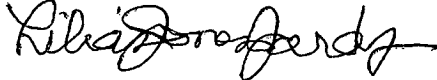
Pierre, SD 57501-3182

Dear Mr. Duvall:

This letter is to inform you that I do intend to fully participate in the contested case proceedings in the matter of Mineral Mountain Resources' water permit application No. 2813-2.

If you have any additional questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Lillas Jones Jarding", written in a cursive style.

Lillas Jones Jarding

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
<http://atg.sd.gov/>

JASON R. RAVNSBORG
ATTORNEY GENERAL

RECEIVED

FEB 02 2021

**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

January 29, 2021

Lilias Jones Jarding, Ph.D.
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Rapid City, SD 57702

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c/o Suzanne Ludicello Martley
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Emma
emmafrostdcam@live.com

David M. McVey
Counsel for Water Rights Program
1302 East Highway 14, Ste. 1
Pierre, SD 57501
Hand-delivered

RECEIVED

FEB 02 2021

**WATER RIGHTS
PROGRAM**

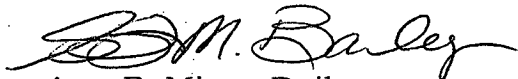
Matt Naasz
Gunderson, Palmer, Nelson & Ashmore LLP
Counsel for Mineral Mountain Resources
P.O. Box 8045
Rapid City, SD 57709

Re: *In the Matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.*

To Whom it May Concern:

Enclosed please find a copy of the Chief Engineer's Expert Witness Disclosure along with the Certificate of Service in the above-entitled matter.

Sincerely,



Ann F. Mines Bailey
Assistant Attorney General

AFM/klg

Enclosures

cc w/enc: Ron Duvall, DENR Water Rights Program (*Interoffice mail*)

RECEIVED

FEB 02 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS PROGRAM
WATER MANAGEMENT BOARD

IN THE MATTER WATER APPLICATION)
NO.2813-2, MINERAL MOUNTAIN,)
)
)

CHIEF ENGINEER'S
EXPERT WITNESS
DISCLOSURE

Pursuant to the Procedural and Scheduling Order dated March 4, 2020, the
Chief Engineer hereby provides the names of his expert witnesses:

1. Timothy Magstadt, Engineer, South Dakota Department of Environment
and Natural Resources, Water Rights Program. A copy of his report regarding this
application and upon which the Chief Engineer's recommendation is based and
accompanying errata sheet are attached hereto.

2. Eric Gronlund, Chief Engineer, South Dakota Department of
Environment and Natural Resources, Water Rights Program. Mr. Gronlund has not
authored a report in this matter. Mr. Gronlund will testify as to his adoption of the
former Chief Engineer's recommendation to approve the application for a water permit
in the above-entitled matter. The recommendation which Mr. Gronlund adopts is
attached hereto.

The curricula vitae for each of these individuals is also attached hereto.

Dated this 29th day of January, 2021.



Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

TIMOTHY MAGSTADT

GEOLOGICAL ENGINEER

EDUCATION

**SOUTH DAKOTA SCHOOL OF
MINES AND TECHNOLOGY
RAPID CITY, SD**

Bachelor of Science // 2017
Geological Engineering
Dean's List

SKILLS

Hard Skills:
Team and Project Leadership
Cost Benefit Analysis
Risk Assessment
Economic Analysis
Field work

Soft Skills:
Problem Solving
Collaboration
Adaptability
Creativity
Time Management

TECHNOLOGY

Industry Software:
Esri ArcGis
Avenza GPS and Mapping Software
Schlumberger Petrel
iStore Petroleum Software
General Software:
Google Earth
Google Sketchup
AutoCad
Microsoft Suit

WORK EXPERIENCE

STATE OF SOUTH DAKOTA // July 2018 to present
Natural Resources Engineer II

Currently working in the Water Rights Program with the development of the state's ground water and surface water resources by reviewing water availability, writing technical reports, and inspecting dams.

Key Achievements:

- Expert witness for the water rights program.
- Aquifer materials mapping and estimating aquifer thicknesses using Esri ArcGIS.
- Recharge and discharge calculations for aquifers.
- Writing technical reports on water resources.
- Self-taught excel VBA programming language
- Increased productivity by using excel VBA to write programs that generated report graphs, tables, and aquifer calculations.
- Field work dam inspection, assessment and condition report.
- Drone operator for field assessment of dams.
- Field work measuring lake levels using a self-leveling laser.
- Field work measuring the South Dakota observation well network.

DIGITALOIL.CONSULTING // Nov 2017 to June 2018
Geological Engineer

Application Development using Python to aid in the interpretation of well logs to identify net pay and estimate original hydrocarbons in place. Evaluating opportunities and preparing estimates of production and reserves used in ranking and economic analysis.

Key Achievements:

- Certification in "Capstone: Retrieving, processing, and visualizing Data with Python"
- Certification in "Python for Everybody Specialization"
- Certification in "Using Databases with Python"

THE INFORMATION STORE (iStore) // Aug-Dec 2015
Geological Engineering Technical Support

Provided remote gee-technical support to a team of petroleum professionals utilizing Petroleum Industry software to visualize data for several large oil fields. This included producing stick charts, isopach maps, contour maps, production bubble maps and log cross-sections.

Key Achievements:

- Analyzed and visualized data for several large oil fields.
- Generated presentation summarizing the analysis of data including software screenshots of historical production, fields maps, bubble maps and well logs.
- Created Excel spreadsheets summarizing reservoir production and data for several oil fields.

REPORT ON PERMIT APPLICATION NO. 2813-2

Mineral Mountain Resources (SD) Inc.

OCT 15, 2020

Water Permit Application No. 2813-2 requests the appropriation of 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet per second (cfs) (10 gallons per minute) from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW ¼ SW ¼ Section 24-T2N-R3E for commercial and industrial uses for exploratory drilling. The well site is located approximately one half mile southeast of Rochford SD. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

Aquifer: Crystalline Rock (CRSL)

Hydrogeology

The Crystalline Rock aquifers consists of localized aquifers in the Precambrian aged core of the Black Hills, where extensive fractures and weathering zones allow for the transmission of water (Driscoll & Carter, 2001). The Crystalline Rock aquifer is estimated to have an outcrop area of 540,000 acres (Rahn P. H., 1979). The Crystalline Rock that this application is completed into is composed of black graphitic slate and schist (Redden, Nichols, & Terry, 2015). The Crystalline Rock aquifer has very low primary porosity, so water movement in the aquifer is through secondary porosity (fractures, joints, and faults) (Rahn P. H., 1979). Secondary porosity for the Crystalline Rock aquifer is highly variable and uneven and therefore is site-specific. Rahn (1979) estimated an effective porosity containing recoverable groundwater primarily in cracks and joints that occur within a depth of 500 feet of ground surface to be one percent of the outcrop areas of the aquifer resulting in an estimated 2,700,000 acre-feet of recoverable water in storage for the Crystalline Rock aquifer in western South Dakota.

The well completion report included with the application indicates broken schist from ground surface to 30 feet, hard gray shale from 30 to 48 feet, schist fracture 2-3 gpm from 48 to 50 feet, hard grey schist from 50 to 210, schist fracture 5 gpm from 210 to 212 feet, hard grey schist from 212 to 338 feet, schist fracture 8 gpm from 338 to 340 feet, hard grey schist from 340 to 630 feet, schist fracture 9-10 gpm from 630 to 632 feet, and hard grey schist from 632 to 700 feet. The well completion report also indicated a static water level of 30 feet below ground surface (Water Rights, 2020b).

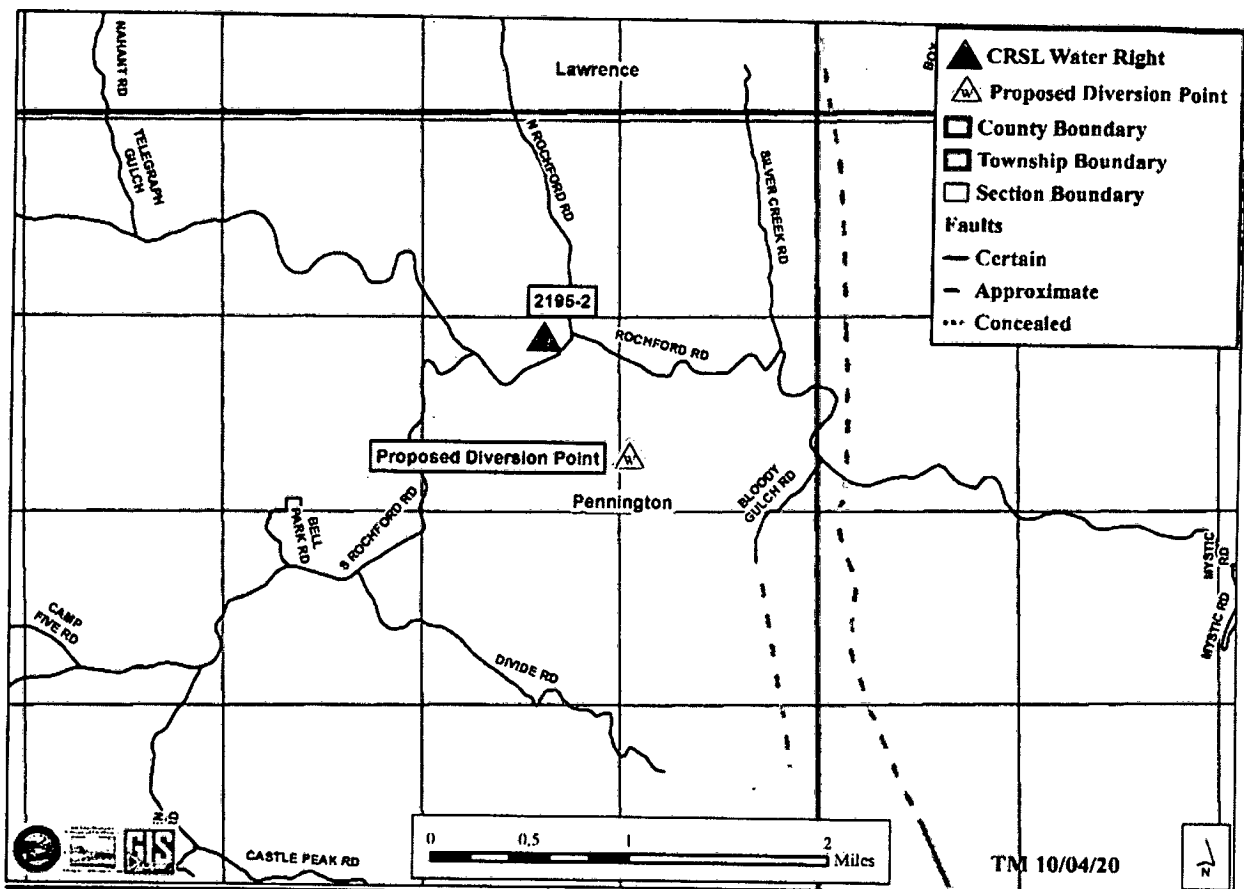


Figure 1: Map showing the location of the proposed diversion point, nearby water rights/permits completed into the Crystalline Rock aquifer, and fault locations (Water Rights, 2020a; Redden, Nichols, & Terry, 2015)

South Dakota Codified Law 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 potential impacts to existing rights within the Crystalline Rock aquifer.

Water Availability

SDCL 46-6-3.1 is considered when evaluating the probability of unappropriated water from an aquifer and states, "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." The Crystalline Rock aquifer is older and lower than the Greenhorn Formation; however, there is no water distribution system involved.

Hydrologic Budget

Recharge

The Crystalline Rock aquifers receive recharge from the infiltration of precipitation and streamflow losses on the outcrop area (Driscoll & Carter, 2001). Driscoll & Carter (2001) estimated the recharge to the entirety of the Crystalline Rock aquifers for the years 1950-1998 within the core of the Black Hills to be equal to the average withdrawals (3,600 ac-ft/yr). Driscoll and Carter (2001) concluded that the recharge to the Crystalline Rock aquifers must be much larger than estimated to account for discharge to streams. Driscoll and Carter (2001) stated, in regard to the Crystalline Rock aquifers, "Recharge conditions are highly transient and have large spatial variability; thus, quantification is not attempted." While looking at faults and other significant geological features may allow for some limiting of areal extent, there is not sufficient data available to attempt a delineation of the localized Crystalline Rock aquifer with any level of certainty. Therefore, there is no average annual recharge estimate available for the localized Crystalline Rock aquifer the applicant proposes to use.

Withdrawals

Currently, the nearest water right/permit (Water Right No. 2195-2 for Moonshine Gulch Saloon) authorized to withdraw water from the Crystalline Rock aquifer is approximately 0.8 miles to the northwest of the proposed diversion point, with the next nearest water right/permit being approximately 7.6 miles to the southeast of the proposed diversion point (Water Rights, 2020a). The amount of water that can be expected to be withdrawn by Water Right No. 2195-2 can be estimated assuming that the water right will pump at the maximum permitted diversion rate (0.015 cfs) 60 percent of the time resulting in 6.52 ac-ft/yr. This application, if approved, would authorize the appropriation of 3.68 ac-ft/yr assuming the application will use the entire permitted volume annually.

There are a number of well completion reports on file with the DENR-Water Rights Program for domestic wells that appear to be completed into the Crystalline Rock aquifer in the area of the proposed diversion point (Water Rights, 2020b). It is also likely there are other domestic wells completed into the Crystalline Rock aquifer in this area that are not on file with the Water Rights Program. In general, the volume of water pumped by domestic users is not significant to a hydrologic budget due to limited diversion rate (less than 18 gpm). Furthermore, in the Crystalline Rock aquifer it is common for most wells to produce less than 10 gpm with many users frequently getting less than 5 gpm from their wells. However, due to the unpredictable nature of the fracturing that comprises the localized Crystalline Rock aquifers, it is difficult to determine exactly how large a component of the hydrologic budget domestic use may represent.

Observation Well Data

In determining the availability of unappropriated water for a permit application, Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer.

The SD DENR-Water Rights Program maintains two observation wells that have historically been considered completed into the Crystalline Rock aquifer in western South Dakota (Water Rights, 2020c). Observation well CU-86A is located approximately 24.3 miles southeast, and observation well PE-95D is located approximately 19.5 miles southeast of the proposed well sites. Kilts W. K. (2018) determined that observation well PE-95D is open to both the Deadwood Formation and the Crystalline Rock. It is uncertain how representative observation well PE-95D is of either the Deadwood or Crystalline Rock aquifers. For this reason, only observation well CU-86A will be used for analysis. Figure 2 shows the hydrograph for observation well CU-86A.

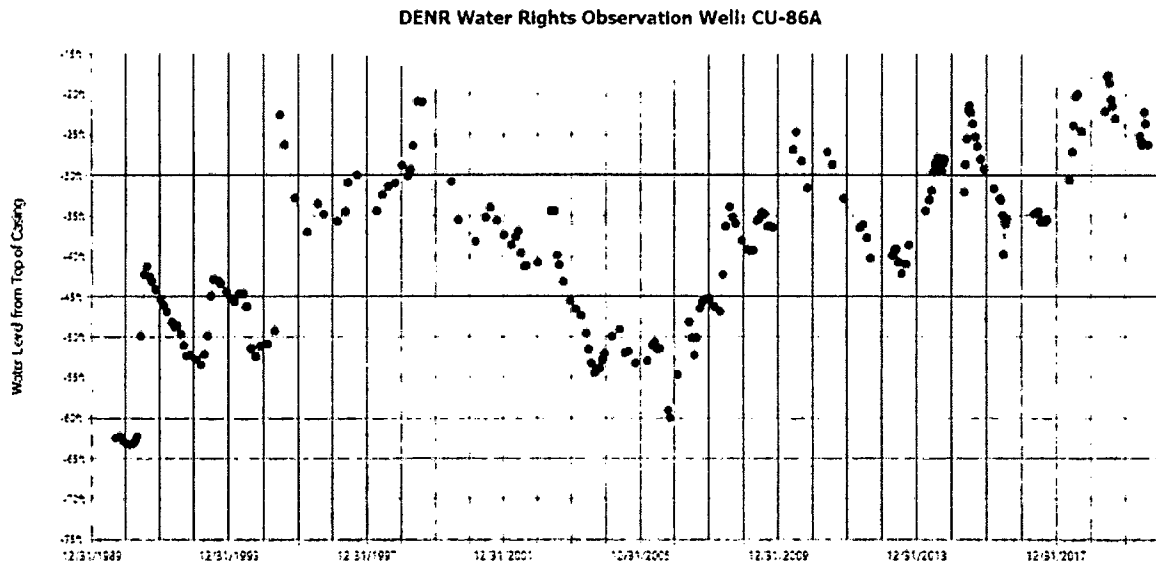


Figure 2: Hydrograph for observation well CU-86A (24.3 miles southeast) (Water Rights, 2020c).

Water levels shown in the observation well change in response to climatic conditions declining during drier periods and rising during wetter periods and show no or minimal responses to pumping. Any responses to pumping are relatively short term and are masked by recharge to and natural discharge from the aquifer. Over the period of record, the water levels for observation well CU-86A have fluctuated 45 feet. Recharge to and natural discharge from aquifers can be captured for pumping. Water level data for observation well CU-86A shows the Crystalline Rock aquifer receives recharge, and while the observation well is not close to the proposed diversion point, it still shows that the Crystalline Rock aquifers receive recharge.

Driscoll and Carter (2001) stated recharge to the Crystalline Rock aquifer must be much greater than the estimated 3,600 ac-ft/yr to account for the groundwater discharge that contributes to the base flow to many streams and is supported by the hydrograph for observation well CU-86A (Figure 2), which shows the water level generally rising over its period of record despite increased development of the aquifer.

When considering the hydrograph for observation well CU-86A, Driscoll's and Carter's (2001) commentary regarding recharge to the Crystalline Rock aquifer, the continued development of the Crystalline Rock aquifer, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation.

Potential For Unlawful Impairment Of Existing Water Rights

The nearest well completion report on file with SD DENR-Water Rights Program is approximately 0.5 miles to the northeast of the proposed diversion point for this application (Water Rights, 2020b). There are likely other wells completed into the Crystalline Rock aquifer within approximately 1 mile of the proposed diversion point for this application that are not on file with the SD DENR-Water Rights Program.

The nearest water right/permit (Water Right No. 2195-2) currently authorized to withdraw water from the Crystalline Rock aquifer is approximately 0.8 miles to the northwest of the proposed diversion point (Figure 1), with the next nearest water right/permit being approximately 7.6 miles to the southeast of the proposed diversion point (Water Rights, 2020a). Considering the proximity of Water Right No. 2195-2 to nearby domestic users (approximately 0.2 miles southeast) in the area without any reports of well interference and the limited diversion rate requested by this application, there is a reasonable probability this application can be developed without unlawful impairment to nearby adequate wells (Water Rights, 2020a; Water Rights, 2020b; Water Rights, 2019e).

An adequate well as defined in ARSD 74:02:04:20(6):

“A well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.”

Due to the very low primary porosity of the Crystalline Rock aquifer and the highly variable and uneven nature of secondary porosity, 20 feet of saturated thickness may not be sufficient for a dependable water supply. Without conducting an aquifer pumping test, the precise drawdown effects caused by pumping a well cannot be determined. Over the period of record, the water levels for observation well CU-86A (Figure 2) have fluctuated 45 feet due to climatic conditions. Pump depth requirements are detailed in ARSD 74:02:04:60(2) which states “The depth of the pump setting shall be determined by dividing the specific capacity into the required yield and adding at least 10 additional feet to maintain pump inlet submergence below the maximum anticipated drawdown, where possible.”

There has only been one reported instance of well interference in Pennington County for wells completed into the Crystalline Rock aquifer. This involved Water Right No. 2572-2 during the permit's initial development. The water right was limited to a maximum diversion rate of 18 gallons per minute, the limit for reasonable domestic use, by the Chief Engineer in October 2006. The permit holder reported to the Water Rights Program that the issue was resolved sometime before January 2009, and there have not been any other reports of well interference issues since then (Water Rights, 2019e).

Considering the continued development of the Crystalline Rock aquifer without a significant history of well interference complaints, the hydrograph for observation well CU-86A (Figure 2) and the natural fluctuations in water levels over the period of record, Driscoll's and Carter's (2001)

commentary regarding recharge to the Crystalline Rock aquifer, the protection afforded to adequate wells by South Dakota Water Law, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation. If this application is approved, a qualification requiring the applicant to control their withdrawals so there is not a reduction of needed water supplies in adequate wells should be included.

Conclusions

1. Water Permit Application No. 2813-2 requests the appropriation of 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet per second (cfs) from one well completed into the Crystalline Rock aquifer (700 feet deep) located approximately one-half mile southeast of Rochford SD for exploratory drilling.
2. There is a reasonable probability that the diversion proposed by this application will not unlawfully impair adequate wells for existing water rights and domestic use.
3. There is a reasonable probability unappropriated water is available for this proposed appropriation.



Timothy Magstadt
Natural Resources Engineer II
SD DENR – Water Rights Program

Reviewed by:



Adam Mathiowetz, PE
Natural Resources Engineer III
SD DENR-Water Rights Program

References

- Carter, J. M., Driscoll, D. G., & Hamade, G. R. (2001). *Estimated Recharge to the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota and Wyoming, Water Years 1931-98; Water-Resources Investigations Report 00-4278*. Rapid City, South Dakota: United States Geological Survey.
- Driscoll, D. G., & Carter, J. M. (2001). *Hydrologic Conditions and Budgets for the Black Hills of South Dakota, Through Water Year 1998; Water-Resources Investigations Report 01-4226*. Rapid City, South Dakota: U.S. Geological Survey.
- Kilts, W. K. (2018). *Report to the Chief Engineer Water Permit No. 2789-2 Rushmore Cave*. Pierre, South Dakota: SD DENR-Water Rights Program.
- Rahn, P. H. (1979). *Ground Water Resources of Western South Dakota*. Rapid City: Department of Geology and Geological Engineering South Dakota School of Mines and Technology.
- Redden, J. A., Nichols, C. E., & Terry, M. P. (2015). *Geologic Map of the Rochford Quadrangle, South Dakota 7.5 Minute Series Geologic Quadrangle Map 25: Scale 1:24,000*. Vermillion, South Dakota: SD DENR-Geological Survey.
- Water Rights. (2019e). *Pennington County Complaint/Investigation File*. Pierre, South Dakota: SD DENR-Water Rights Program, Joe Foss Bldg.
- Water Rights. (2020a). *Water Right/Permit Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2020b). *Well Completion Report Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2020c). *Observation Well Database*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.

ERRATA SHEET

The Following Corrections and Clarifications Apply to: Report on Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Original Report Issuance Date: October 15, 2020

This Errata Sheet is Issued On: January 25, 2021

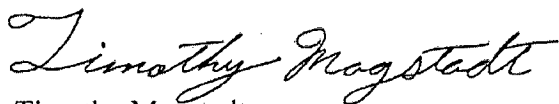
Corrections:

1. The estimated outcrop area cited in the report on page one under the Hydrogeology section in the second sentence of the first paragraph is 574,000 acres instead of 540,000 acres.
2. The estimated amount of recoverable water cited in the report on page one under the Hydrogeology section in the last sentence of the first paragraph should be 2,900,000 acre feet instead of 2,700,000 acre-feet.

Explanation:

Originally the 2,900,000 acre-feet of recoverable water (this was the correct value) was listed in the report. However, it was noted during the review process that the 2,900,000 acre-feet did not match up to the 540,000 acres in the report. The recoverable water was recalculated based on the 540,000 acres which resulted in 2,700,000 acre-feet of recoverable water that is currently in the report. The source of the error was the listing of the 540,000 acres which compounded into the error when calculating the amount of recoverable water.

These values were not used to calculate any other quantities in the report and are used primarily as an overview of the Crystalline Rock aquifers. This does not change my conclusions stated in the report.



Timothy Magstadt

Natural Resources Engineer II

SD DENR – Water Rights Program

Eric S. Gronlund PE
Chief Engineer
SD-DENR, Water Right Program

Education

1. B.S. Agricultural Engineering, South Dakota State University (December 1983).
2. Other Courses
 - Corps of Engineer's HEC-2 Modeling
 - Western States Engineers Spring Workshops
 - Western SD Hydrology Conferences
 - Arc View training

Career Experience

TITLE: Chief Engineer, Water Rights Program, DENR (February 2020 - Present)
ORGANIZATION: DENR – Division of Environmental Services, Water Rights Program
MAJOR DUTIES: Administer the Program, which coordinates the appropriate of water resources in South Dakota to protect the public welfare and interest in the development of the water resources and determine in what way the water of the state should be developed for the greatest public benefit.

TITLE: Engineering Manager I (2019 – February 2020)
ORGANIZATION: DENR – Division of Environmental Services, Water Rights Program
MAJOR DUTIES: Provide engineering and program management for the appropriation of water in South Dakota including coordinating, planning and directing processing of water permit applications. Coordinate activity of the Water Management Board in conducting contested case hearings. Establish goals for team members conducting review of applications to appropriate water, conducting licensing investigations and complaint investigations. Provide technical engineering guidance to staff engineers in review of application to appropriate water. Technical review of staff engineer's reports on applications to ensure criteria for issuance of permit are met. Direct public notice process and issuance of approved water right permits. Oversee licensing of water permits determining the level of development of permitted water use systems. Presentations of water right law and regulations. Team leader directing work of three staff engineers and four water right inspectors.

TITLE: Natural Resources Engineering Specialist or Engineer III (1990 – 2018)
ORGANIZATION: DENR – Division of Environmental Services, Water Rights Program
MAJOR DUTIES: Administer day to day operation of the water right permitting process. This includes review of application completeness, review of the engineering aspects of proposed projects, participation in the report writing process, preparation of public notice and scheduling. Knowledge of the water rights regulations. Communicate the water right regulations and permitting process to citizens and other agencies. Provide advice on engineering principles and the application of state water rights law. Conduct water permit licensing investigations and complaint investigations. Review engineering studies and provide technical assistance.

TITLE: Natural Resources Engineer III (1984 – 1989)
ORGANIZATION: DENR- Division of Technical and Financial Assistance
MAJOR DUTIES: Manage major project development, including state liaison on project development and grant administration for water projects throughout South Dakota. Team member for the James River Restoration Project with specific responsibility for the hydraulic analysis of project alternatives using HEC-2 modeling. Review engineering studies and provide technical assistance.

TITLE: Research Assistant (summer seasonal 1978 – 1983)
ORGANIZATION: SDSU – West River Research and Extension Center
MAJOR DUTIES: Conduct range research including field sampling, data processing, soil sampling, surveying and data analysis.

Registrations

SD Licensed Professional Engineer (Certification No. 7104)

Testimony Before SD Water Management Board

Routinely provide testimony before the SD Board of Water Management Board on pending applications, declaratory rulings, cancellation proceeding, deferred applications and review of future use permits included but not limited to:

- Provide testimony on contested water permit applications regarding the process, completeness, public notice, scheduling and review as needed.
- Homestake Mining Company vested water right application Nos. 1587-1, 1588-1, 1589-1, 1590-1, 1591-1, 1592-1 and 1594-1.
- Water Permit Application Nos. 43A-1 and 43B-1, Homestake Mining Company for instream flow
- Water Permit Application No. 2362-2, Provo Township and No. 2388-2, Mark Hutton
- Violation of Water Permit No. 1735-1, Steve Bauer
- Water Permit Application No. 8013-3, Riverside Hutterian Brethren
- Water Permit Application 7239-3, Hanson County Dairy
- Water Permit Application No. 7520-3, JH Gunderson & GA Shiefen
- Cancellation consideration
- Review of Future Use Permits



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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
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PIERRE, SOUTH DAKOTA 57501-3182
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**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2813-2, Mineral Mountain Resources (SD) 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. 2813-2, Mineral Mountain Resources (SD) Inc., c/o Bennett, Main & Gubbrud, 618 State St, Belle Fourche SD 57717.

The Chief Engineer is recommending APPROVAL of Application No. 2813-2 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 well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer.
3. Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling.

See report on application for additional information.

Eric Gronlund, Chief Engineer
October 21, 2020

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
PERMIT APPLICATION NO. 2813-2,	)	CERTIFICATE OF SERVICE
MINERAL MOUNTAIN RESOURCES	)	
(SD), INC.		

The undersigned hereby certifies that a true and correct copy of the Chief Engineer's Expert Witness Disclosure, in the above matter was served by U.S. mail, first class, postage prepaid, or via email upon the following on this 29th day of January 2021:

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources
Department/Administrator
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Pine Ridge, SD 57770

Julie Santella
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Rapid City, SD 57701

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Black Hills Group, Sierra Club
c/o Suzanne Ludicello Martley
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Rapid City, SD 57709

Jerry Wilson
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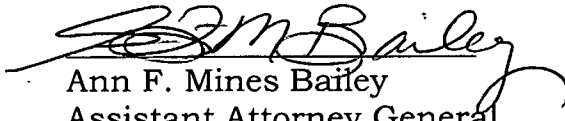
Emma
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Matt Naasz
Gunderson, Palmer, Nelson & Ashmore LLP
Counsel for Mineral Mountain Resources
P.O. Box 8045
Rapid City, SD 57709

David M. McVey
Counsel for Water Rights Program
1302 East Highway 14, Ste. 1
Pierre, SD 57501
Hand-delivered

And on the same date, the original was filed with:

Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501
(Interoffice mail)


Ann F. Mines Bailey
Assistant Attorney General

pld_afm (klg)

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WATER RIGHTS
PROGRAM

**BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.)
– APPLICATION NO. 2813-2)
)
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**MINERAL MOUNTAIN
RESOURCES (SD) INC.'S
EXPERT DISCLOSURE**

Pursuant to the Procedural and Scheduling Order entered in this matter on January 19, 2021, by Rodney Freeman, Jr., Hearing Officer, South Dakota Water Management Board, the Applicant, Mineral Mountain Resources (SD) Inc., through its attorney, Matthew E. Naasz of Gunderson, Palmer, Nelson & Ashmore, submits its Expert Disclosure.

Applicant intends to call the following witness as an expert in the above-entitled matter:

Crystal M. Hocking, PG PE
RESPEC
3824 Jet Drive
Rapid City, SD

Ms. Hocking is a professional engineer and professional geologist. She will testify about the characteristics, hydrology, and availability of water in the Precambrian or Crystalline Rock Aquifer (“Crystalline Rock Aquifer”), and the likelihood of unlawful impairment of existing water rights should this application be granted. A copy of her CV is attached as **Exhibit 1**.

Summary Statement of the Anticipated Testimony

Ms. Hocking will offer testimony and an opinion that supports the Department’s Report and the Recommendation to the Chief Engineer that there is reasonable probability that there is unappropriated water available for the proposed use, and that the proposed diversion can be developed without unlawful impairment of existing rights. Ms. Hocking’s testimony will also include her opinion that, based on the best information reasonably available, it is not probable that the quantity of water withdrawn annually from the Crystalline Rock Aquifer will exceed the quantity of the average estimated annual recharge to that aquifer.

Methodology Used to Reach Opinion

Ms. Hocking relied on her education and experience, including specifically her experience with the Precambrian Crystalline Rock Aquifer, in evaluating the application, and the Report to the Chief Engineer, to arrive at her conclusions. Ms. Hocking also utilized her knowledge of Black Hills hydrogeology and the specific site characteristics.

Documents reviewed

- i. Application No. 2813-2 by Mineral Mountain Resources (SD) Inc., for Permit to Appropriate Water within the State of South Dakota (7 pages);
- ii. Recommendation of Chief Engineer for Water Permit Application No. 2813-2 (7 pages, file: 2813-2_rec.pdf);

References

- Driscoll, D.G., & Carter, J. M. (2001). *Hydrologic Conditions and Budgets for the Black Hills of South Dakota, Through Water Year 1998; Water-Resources Investigations Report 01-4226*. Rapid City, South Dakota: U.S. Geological Survey.

Respectfully submitted this 29th day of January, 2021.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
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Rapid City, SD 57709
Telephone: (605) 342-1078
Telefax: (605) 342-9503
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on January 29th, 2021, a true and correct copy of **MINERAL MOUNTAIN RESOURCES (SD) INC.'S EXPERT DISCLOSURE** was mailed to the following individuals by U.S. Mail, postage prepaid:

by Email and U.S. Mail, postage prepaid:

Eric Gronlund
Chief Engineer, Water Rights Program
South Dakota Department of
Environment and Natural Resources
523 East Capitol
Pierre, SD 57501

Ann F. Bailey
Assistant Attorney General
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Reno L. Red Cloud Sr.
Oglala Sioux Water Resources Department/Administrator
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By: /s/ Matthew E. Naasz
Matthew E. Naasz



EXHIBIT
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CRYSTAL M. HOCKING, PG, PE

PROJECT MANAGER

OVERVIEW

Ms. Hocking is a Professional Geologist and Professional Engineer. She has supported a myriad of activities including environmental site assessments, hydrogeological characterizations, groundwater modeling, geologic mapping, geospatial analyses, and mine permit application preparation and technical review. Ms. Hocking has worked on writing and reviewing several large-scale mine permit applications and has working knowledge of permitting regulations in several states.

PROJECT EXPERIENCE

Wharf Mine Hydrogeology and Groundwater Modeling, Lead, South Dakota. Ms. Hocking has knowledge of the hydrogeology and groundwater flow system at the Wharf Mine site based on over 10 years of projects for the mine. Groundwater flow is predominantly fracture-driven flow within the Precambrian bedrock, but also within the overlying Paleozoic and Tertiary units. In support of groundwater discharge permits, Ms. Hocking has conducted fate and transport modeling in a saturated system using MODFLOW. She has created and updated the site conceptual and three-dimensional groundwater models several times over the past decade. These models are used to determine the water quality impacts of waste rock and spent ore disposal, primarily focused on impacts to nitrate, fluoride, selenium, and arsenic. Ms. Hocking has assisted in siting new production wells, improved groundwater quality and water-level monitoring systems, and used predictive models to allow the mine to revise their rock disposal plans. In support of local and state mine expansion permits, Ms. Hocking has evaluated and summarized site hydrogeologic conditions.

Aquifer Pumping Test and Impacts Analysis, East Sioux Quarry, Rowena, South Dakota. LG Everest retained RESPEC to evaluate impacts to groundwater from deepening and expansion of their existing East Sioux Quarry. RESPEC conducted two aquifer pumping tests to evaluate the hydraulic conductivity of the upper and lower Sioux Quartzite. The pump test results were analyzed and reviewed to assess potential impacts to the local water table and nearby well owners.

Hydrogeological Site Characterization of the Dewey Burdock Proposed in Situ Uranium Mine, Edgemont, South Dakota. For a proposed in situ uranium mine in the southern Black Hills, Ms. Hocking was involved in planning, conducting, and reporting detailed hydrogeological site investigations. For this project, Ms. Hocking collected field samples, performed statistical water quality analysis, completed aquifer-pumping test design, implementation, and analysis, interpreted geophysical logs, and generated a 3D geologic model. Ms. Hocking wrote geology and groundwater reports for insertion into state and federal permit applications. She also testified as an expert groundwater witness and has drafted both temporary discharge permits and groundwater rights applications for the client.

Hydrogeologic Atlas of the Northern Black Hills, South Dakota. The goal of this project was to map the groundwater sources within Butte, Meade, and Lawrence Counties of the northern Black Hills, South Dakota. The study focused on four major aquifers in the region: Inyan Kara Group, Minnelusa Formation, Madison Limestone, and Deadwood Formation. Compiling existing data sources from structural contour maps, oil and gas wells, monitoring wells, and hundreds of water well logs, Ms. Hocking generated a suite of elevation (structure) contour and depth-to-aquifer maps.

Hydrogeology of the Middle North Platte, Belle Fourche, Niobrara/Lower North Platte, and Medicine Bow Watershed Studies, Wyoming. Ms. Hocking was the project geologist for completing the watershed studies and responsible for completing the geologic and groundwater sections of the study reports. Ms.

TECHNICAL EXPERTISE

- / Hydrogeological Site Characterization
- / Environmental and Mine Permitting
- / Technical Writing
- / GIS Analysis

EDUCATION

- / MS in Geology and Geological Engineering, South Dakota School of Mines & Technology, Rapid City, SD (2007)
- / BS in Geological Engineering, South Dakota School of Mines & Technology, Rapid City, SD (2014)
- / BS in Geology, South Dakota School of Mines & Technology, Rapid City, SD (2005)

REGISTRATIONS & LICENSES

- / Professional Engineer in South Dakota (No. 13165), Wyoming (No. 16253), Maine (No. 15295), New Jersey (24GE05546200), New Hampshire (16423), and Florida (No. 87563)
- / Professional Geologist in Wyoming (No. 3794), Louisiana (No. 184), Texas (No. 12482), and New York (No. 491)

PROFESSIONAL MEMBERSHIPS

- / Society for Mining, Metallurgy & Exploration (SME)
- / International Association for Geoscience Diversity

CERTIFICATIONS & TRAINING

- / OSHA 40-Hour HAZWOPER
- / MSHA 32-Hour Miner Training
- / First Aid and CPR

HONORS & AWARDS

- / SDSMT Outstanding Recent Graduate (2015)

WORK HISTORY

- / RESPEC (2007–Present)
- / South Dakota School of Mines & Technology (2004–2007)
- / US Geological Survey (2005)

Hocking also provided expertise for the site-specific geologic investigations needed for any proposed projects, as well as oversight of watershed study reports and quality control throughout the process.

Groundwater Modeling and Well Pressure Analysis, Confidential Client, Louisiana. For this client, Ms. Hocking constructed a reservoir simulation to model hazardous waste plume migration and pressure for a Class 1 UIC permit for EPA region 6 at a site in Louisiana. The reservoir simulation was built in SWIFT (Sandia Waste Isolation Flow and Transport in Fractured Media). Multiple runs were simulated in SWIFT to model plume migration for a waste stream above and below the density of the reservoir brine and build a composite plume geometry based on the permitted injection rate and a 10,000-year migration post-operations. Additional wells were included in the simulation based on current and past injection into the same sand interval from other operators in the area that might influence the waste stream migration. A pressure buildup simulation was created in Predict-W to model the pressure cone of influence from operational injection rates. A critical pressure was calculated based on well logs for abandoned wells in the area of the new injection and using mud weights; the critical pressure is a limit to restrict possible communication between other potential reservoirs in existing wells and the waste stream.

Gilt Edge Mine Superfund Site Tailings Sampling, Lead, South Dakota. As Project Manager, Ms. Hocking developed and executed a sampling and analysis plan / quality assurance project plan for mapping and characterizing bank material along Strawberry Creek at the Gilt Edge Mine Superfund Site. RESPEC helped design and execute the EPA approved sampling plan, mapping, and sample collection. Tailings samples were collected and analyzed to estimate the volume of tailings material in the project area and evaluate water quality impacts of historic tailings.

Wharf Large Scale Mine Expansion Permitting and Environmental Assessment (EA), Lead, South Dakota. Wharf Resources is a heap-leach gold mining operation in the northern Black Hills of South Dakota. In preparation for Green Mountain expansion, RESPEC was involved in all aspects of permitting the mining project, including successfully obtaining county and state mining permits. As project manager, Ms. Hocking coordinated schedules and budgets and facilitated communication with local and state agencies, as well as with the mine and environmental studies contractors. For the mine expansion, she was responsible for compiling the entire permit applications for county land-use and state mining permits, including writing sections on geology and groundwater, reviewing and summarizing all baseline studies, and coordinating with the mine to incorporate operational and reclamation plans into the permit application. Ms. Hocking also performed an analysis of alternatives and environmental impacts of the project to write an Environmental Assessment (EA) for lands that are administered by the Bureau of Land Management (BLM) and located within the project area.

FRA Categorical Exclusions, South Dakota and South-Western Minnesota. Ms. Hocking is the Project Manager for four individual Categorical Exclusions being prepared for railroad improvement projects for submission to the Federal Railroad Administration (FRA) by Civil Design Inc. Three of these projects are located in eastern South Dakota and one is located near Belle Fourche, South Dakota. These projects involve railroad and track maintenance, bridge repair, and new segments of track. As part of preparing the Categorical Exclusion information and assessment documents, Ms. Hocking is serving as Project Manager and performed impacts analysis for the majority of environmental resources.

Barretts Minerals Environmental Impact Statement, Dillon, Montana. Barretts Minerals, Inc. proposed an amendment to their mine permit to expand their existing talc mining operation. RESPEC was retained by Montana Department of Environmental Quality to perform scoping, prepare the Draft EIS, respond to public comment, and prepare the Final EIS. Ms. Hocking was the Project Manager, coordinating with DEQ, BML, and resource specialists to prepare the EIS. She also was involved in resource analysis and writing sections of the EIS on impacts to geology, geotechnical engineering, transportation, air quality, and noise.

Geotechnical Investigation, Dell Rapids Quarry, South Dakota. LG Everest retained RESPEC to evaluate the overburden slope angle that could be developed in their proposed quarry expansion area. Ms. Hocking developed and implemented a field exploration and laboratory testing program for the site. After review and analysis of the site data, Ms. Hocking performed an engineering analysis and preliminary slope design.

Phase I Environmental Assessments, Sioux Falls, South Dakota. Ms. Hocking completed Phase 1 assessments and a regulatory compliance review for seven aggregate sites in southeastern South Dakota and northwestern Iowa. The assessments included environmental records review, site reconnaissance, and interviews with site operators and regulatory agencies. The assessments were completed for LG Everest as part of a due-diligence evaluation of the properties.

Deep Borehole Draft EA, Haakon County, South Dakota. For the Department of Energy (DOE) efforts to research methods of nuclear waste disposal, RESPEC was involved in Phase I planning that included public outreach and EA support for a proposed

deep borehole project site in South Dakota. Ms. Hocking led RESPEC's team to provide the DOE with the information necessary to generate an EA document. As project manager, Ms. Hocking coordinated with numerous environmental disciplines to collect baseline data and draft sections for the EA document. The project was terminated before completion because of changes in federal administration priorities.

Sand Creek Seepage Analysis, Colorado Springs, Colorado. RESPEC worked with the City of Colorado Springs to restore approximately 2,500 feet of severely degraded channel. As part of the project team, Ms. Hocking conducted seepage and hydraulic analyses of five proposed rigid-grade control structures, which included evaluating streambed stability.

Block Modeling, CRH Cement Plant Quarries, France and the Philippines. Ms. Hocking conducted block modeling of limestone quarries to mine design and optimized cement plant feed for surface limestone quarries.

Roadstone Arklow Talc Quarry Geological Review, County Wicklow, Ireland. RESPEC conducted a desktop study of Roadstone Arklow Talc Quarry geology; the study's purpose was to identify intrusions with potential asbestos minerals and then develop and implement a geochemical sampling plan. As part of the project team, Ms. Hocking reviewed the local and regional site geology and summarized the field program results.

US Sinkhole Hydrogeology and Subsidence Response, Louisiana. RESPEC provided field engineering and hydrogeologic support a major solution-mining operator to characterize and monitor a sinkhole that developed on a salt dome in the Gulf Coast region. As part of this multidisciplinary study, RESPEC has been involved with drilling investigations, three-dimensional (3D) seismic surveys, microseismic monitoring, physical and chemical hydrogeologic investigations, gas emissions monitoring and analysis, and subsidence surveys. Amidst snakes and alligators, RESPEC engineers and scientists traveled by airboat to maintain and monitor in-place inclinometers, tiltmeters, swamp water levels, and gas detection instrumentation. Ms. Hocking supported many aspects of this project, including but not limited to GIS database development and mapping, 3D stratigraphic modeling, field support, pumping test analyses, shallow gas monitoring and sampling, subsidence analyses, and monitoring and remediation work plans.

Cavern and Mining Induced Subsidence Analysis, Various Clients, New Mexico, Texas, and Louisiana. Ms. Hocking conducted geohydrological, structural, and subsidence analyses on several projects including at the I&W brine cavern in Carlsbad, New Mexico; Sheffield Brine Station in Pecos County, Texas; and Avery Island Mine in Avery Island, Louisiana. The land subsidence and tilt data analyses included performing data quality assurance/quality control (QA/QC), processing, interpolating, and reporting.

Wyoming Department of Environmental Quality (WDEQ) Land Quality Division (LQD) ISR Permitting Review and Support Services. RESPEC conducted comprehensive, multidisciplinary technical reviews of two separate mine permit applications in accordance with all applicable statutes, rules, guidelines, and memoranda of understanding (MOU) and in compliance with the applicable timelines for the WDEQ LQD. RESPEC provided professional support to the LQD in identifying deficiencies in the in situ mining permit applications and specifying the information necessary to correct those deficiencies. These reviews covered the following items: adjudication, land use, history, cultural resources, climatology, geology, hydrology, soils, vegetation, wildlife, wetlands, alluvial valleys, mine plans, and reclamation plans. Additionally, RESPEC revised LQD guidelines for in situ mine permitting and the state decision document (SDD) format. Ms. Hocking was the project manager and provided expert support for review of the two mine permit applications and revisions to the in situ guidelines and SDD, including scoping meetings with industry and regulators.

SELECTED PUBLICATIONS AND PRESENTATIONS

Goodman, W.M., and C.M. Hocking, 2020. "Water in the Hole! Development of Shaft Grouting Methods to Seal Devonian Limestone and Sandstone Aquifers in the First Shaft of the Detroit Salt Mine (1906-1907)," *Solution Mining Research Institute Fall Meeting*.

Ratigan, J.L., C.M. Hocking, and B.P. Bormes, 2020. Cavern Geometric Assessment and Salt Dome Mapping Anse La Butte Salt Dome, Louisiana, Topical Report REC-028 (Revision 1); prepared by Ratigan Engineering & Consulting, LLC, Rapid City, SD and RESPEC, Rapid City, SD; prepared for Cargill, Inc., Breaux Bridge, LA, Chevron U.S.A. Inc., Covington, LA, and Enterprise Products, Houston, TX.

Ratigan, J.L., C.M. Hocking, and B.P. Bormes, 2019. Cavern Geometric Assessment and Salt Dome Mapping LOOP, LLC Clovelly Salt Dome, Louisiana, Topical Report REC-066; prepared by Ratigan Engineering & Consulting, LLC, Rapid City, SD and RESPEC, Rapid City, SD; prepared for Louisiana Offshore Oil Port (LOOP) LLC, Covington, LA.

- Hocking, C. M. and C. K. Vandam, 2019. *Sampling and Analysis Plan / Quality Assurance Project Plan Strawberry Creek Tailings Sampling Project at the Gilt Edge Mine*, RSI-2962, prepared by RESPEC, Rapid City, SD, for Agnico Eagle (USA), Ltd., Reno, NV, and US Environmental Protection Agency, Denver, CO.
- Goodman, W. M. and C. M. Hocking, 2017. "Early Salt Exploration and Production Efforts at Anse La Butte Salt Dome: 1890s to 1920s," *Solution Mining Research Institute Fall 2017 Technical Conference*, Münster, Germany, September 24–27.
- Goodman, W. M., and C. M. Hocking, 2016. "Anthony F. Lucas: America's First Great Salt Dome Explorationist and His Role in the Development of the Louisiana Salt Mining Industry," *Solution Mining Research Institute Spring Meeting*, Galveston, TX, April 25–26, pp. 1–19.
- Knight, J. P., C. M. Hocking, P. H. Smith, and W. M. Goodman, 2015. *Passive Vent Well and Knight Gas Cap January–February 2015 Monthly Field Activity and Data Summary*, RSI-2516, prepared by RESPEC, Rapid City, SD, for Louisiana Department of Natural Resources, Baton Rouge, LA.
- Smith, P. H., J. P. Knight, C. M. Hocking, and W. M. Goodman, 2014. *Passive Vent Well and Knight Gas Cap Installation Report and Field Data Summary for July–August 2014*, RSI-2460, prepared by RESPEC, Rapid City, SD, for the Louisiana Department of Natural Resources, Baton Rouge, LA.
- Hocking, C., W. DeYonge, E. Krantz, and P. Finley, 2014. *Tilt Monitoring at Basic Energy Services, LP, Sheffield Brine Stations, Millard, North Field, Pecos County, Texas*, RSI-2413, prepared by RESPEC, Rapid City, SD, for Nabors Completion and Production Services, Co., Midland, TX.
- Van Sambeek, L. L., C. M. Hocking, and E. L. Krantz, 2013. *Comparison of Historical and Recent InSAR and Conventional Survey-Measured Subsidence at Napoleonville Dome and Bayou Corne, Louisiana*, RSI-2331, prepared by RESPEC, Rapid City, SD, for United Brine Services Company, LLC, Houston, TX.
- Wallace, M. G., K. O. Johnson, J. D. Osnes, E. L. Krantz, and C. M. Hocking, 2013. "Hydrogeological and Geochemical Evaluations in Support of Mine Water Management for the Jurong Rock Cavern Project, Singapore," *International Mine Water Association 2013 Annual Conference*, Golden, CO, August 5–9.
- Hocking, C. M., 2013. *Depth to Top of the Madison Limestone: Butte, Meade, and Lawrence Counties, South Dakota*, prepared by RESPEC, Rapid City, SD, for Belle Fourche River Watershed Partnership, Belle Fourche, SD.
- Wallace, M. G., C. M. Hocking, C. Mendonca, and F. Jurica, 2011. *Hydrogeological Design Report for the Jurong Rock Cavern Project*, RSI-2126, Revision 1A, prepared by RESPEC, Albuquerque, NM; and PB Energy Storage Services, Inc., Houston, TX, for PB Energy Storage Services, Inc., Houston, TX.
- Wallace, M. G. and C. Hocking, 2011. *Hydrogeological Model Report for the Jurong Rock Cavern Project*, RSI-2115, prepared by RESPEC, Albuquerque, NM, for PB Energy Storage Services, Inc., Houston, TX.
- McCutcheon, C. M., C. M. Hocking, T. P. French, and J. K. Oswald, 2010. *Wharf Resources 2010 Expansion Project Meteorological Characterization*, RSI-2129, prepared by RESPEC, Rapid City, SD, for Wharf Resources (USA), Inc., Lead, SD.
- Hocking, C. M., 2010. *Groundwater Characterization Study of the Wharf Expansion Project Area*, RSI-2173, prepared by RESPEC, Rapid City, SD, for Wharf Resource (USA), Inc., Lead, SD.
- Hocking, C. M., E. L. Krantz, and G. J. Josten, 2010. *South Dakota Statewide Assessment of Forest Resources*, RSI-2139, prepared by RESPEC, Rapid City, SD, and South Dakota Department of Agriculture, Rapid City, SD, for South Dakota Department of Agriculture, Pierre, SD.
- Henard, D. A., L. L. Van Sambeek, M. G. Wallace, W. M. Goodman, C. M. Hocking, C. A. Barber, and E. L. Krantz, 2009. *Geohydrological and Structural Analysis and Monitoring I&W Cavern, Carlsbad, New Mexico, Status Report No. 1*, RSI-2060, prepared by RESPEC, Rapid City, SD, for New Mexico Oil Conservation Division, Santa Fe, NM.
- Hocking, C. M. and M. D. Minnick, 2009. "3D Geologic Modeling of an In Situ Uranium Project, South Dakota," *Geological Society of America Annual Conference*, Portland, OR, October 18–21.
- Hoyer, D., C. M. Hocking, and M. Hollenbeck, 2008. "Permits, Surface Water/Groundwater Baseline Sampling, and Analysis of Dewey-Burdock In Situ Uranium Project in Fall River County, South Dakota," presented at the *World Environmental & Water Resources Congress*, Honolulu, HI, May 12–16.
- Hocking, C. M., 2007. *Geohydrology of the Madison Limestone in the Hayward Quadrangle, Pennington and Custer Counties, South Dakota*, Unpublished MS Thesis, South Dakota School of Mines and Technology, Rapid City, SD.
- Pellowski, C. J., A. L. Lisenbee, and C. M. Hocking, 2005. *Geologic Map of the Hermosa NW Quadrangle* (unpublished).



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 5, 2021

NOTICE OF HEARING

TO: Mineral Mountain Resources (SD) Inc. Matthew E. Naaz, Counsel
c/o Bennett, Main & Gubbrud Gunderson, Palmer, Nelson &
618 State St. Ashmore, LLP
Belle Fourche SD 57717 P.O. Box 8045
Rapid City SD 57709

Interested Persons (see attached list)

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DENR, Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

The Water Management Board will conduct a hearing to consider Application No. 2813-2 at 10:15 AM (Central Time), on Wednesday, March 3, 2021, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda. The location of the hearing may be subject to change depending on the outcome of a ruling on a pending motion regarding the hearing location. Notice of the outcome of any ruling on the location of the hearing will be provided to all interested persons.

Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. Applicable provisions of the public notices published in the Rapid City Journal and Black Hills Pioneer on November 4, 2020, still apply.

Notices, orders and other pleadings filed in the matter of Water Permit Application No. 2813-2 are posted on DENR's contested case page at <https://denr.sd.gov/contested.aspx>.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 5, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated February 5, 2021, regarding the scheduling of a hearing in the matter of Water Permit Application No. 2813-2, as addressed below and on the attached interested person list for persons with a mailing address. Otherwise, service was provided by email at the address provided:

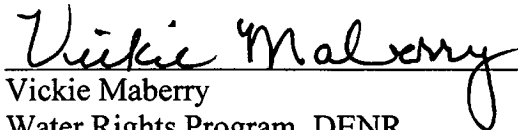
Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St.
Belle Fourche SD 57717

Matthew E. Naaz, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

Interested Persons (see attached list)

Sent Inter-office to:

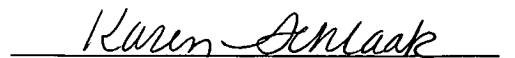
Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



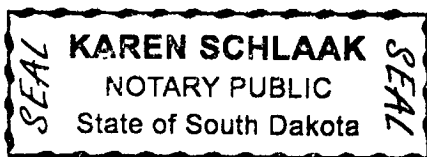
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 5th day of February, 2021.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



List of Interested Persons regarding Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnekahta Ave.
Hot Springs SD 57747

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer SD 57730

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

Emma
emmafrostdcam@live.com

Max P.
dowhatyouwantalways@protonmail.com

Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City SD 57709

Reno L. Red Cloud Sr
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

Richard Bell, PE
1206 Clark St.
Rapid City, SD 57701



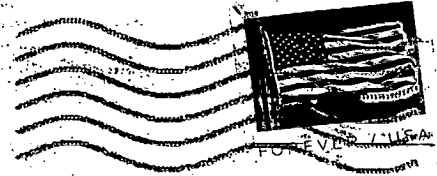
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

RETURN SERVICE REQUESTED

DAKOTA CENTRAL 573

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WATER RIGHTS
PROGRAM

JULIE SANTELLA
422 COLUMBUS ST., APT 1
RAPID CITY SD 57701

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RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

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**BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.)
- APPLICATION NO. 2813-2)

RECEIVED

FEB 11 2021

**WATER RIGHTS
PROGRAM**

**MINERAL MOUNTAIN
RESOURCES (SD) INC.'S MOTION
IN LIMINE TO PRECLUDE
EVIDENCE REGARDING MINING
AND POSSIBLE SURFACE WATER
DISCHARGE**

Applicant Mineral Mountain Resources (SD) Inc. ("Mineral Mountain"), by and through its undersigned counsel of record, hereby moves the South Dakota Water Management Board ("Board") to preclude evidence and argument at the hearing on this matter regarding future mining activity at or near the diversion point; and to further preclude evidence and argument regarding potential surface water discharge at the drilling locations.

1. Introduction

Mineral Mountain Resources (SD), Inc., seeks to appropriate 10 gallons of water per minute for mineral exploration in the Black Hills, near Rochford, South Dakota. As stated in the application on file, the requested water will be used to lubricate and cool the drill bit and flush cuttings from the drill hole. The Chief Engineer has recommended approval of the application. This motion seeks an order formally precluding evidence and argument of mining and potential surface water discharge at the drilling locations. As evidence on these topics are not of consequence to this Board's decision, any such evidence is not relevant and therefore not admissible. *See* SDCL § 19-19-401 - 402.

2. Evidence and argument regarding mining is not relevant

Many of the intervenors' petitions mention opposition to large scale gold or other mineral mining. *See, e.g.,* petitions of intervention from Liliias Jones Jarding, Ph.D; Jerimiah Davis;

Mark LaCompte; Julie Benedict; Rajni Lerman; Richard Bell; Julie Ames-Curtis; Emma Frost; Max P.; Jerry Wilson; Suzanne Ludicello Martley; Thomas Brings; Reno Red Cloud Sr.; Bruce Ellison. The language commonly used in these petitions is: "I oppose this application because I believe the proposed exploration and any resulting large scale gold or other mineral mine would harm public health, the economy, and the environment."

This is not an application for a permit to use water in support of a mining operation. It is most certainly not a permit to use water at a "large scale gold" mine.

The application makes clear that this is an application to use water for mineral exploration purposes. Based on the application, the Board's inquiry is well-known, and found at 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 Board will be asked to apply these well-known elements to this application. Nothing about large scale gold mining is relevant to whether water is available, impairment of existing rights, or whether using water to lubricate and cool an exploration drill bit is a beneficial use and in the public interest.

Should the water requested under this application be sought to be used for mining purposes in the future, the applicant would need to file a new application or an amendment to this permit. Interested parties could petition to intervene, and a hearing will be scheduled. Evidence relevant to the application to use water for mining will be presented and considered by the Board. At that time, and not until then, this Board will be tasked with determining whether the specific application for mining purposes satisfies the standards of SDCL § 46-2A-9.

It is altogether possible that no application to use water for mining at this location is ever sought. And if it is, only then will the scope and scale of the application to use water be made known. As we consider the current application, however, guessing at what a future mining water permit may look like is wildly speculative.

Additionally, should a mining operation in this area be considered, any such operation would need approval from the Board of Minerals and Environment. The Board of Minerals and Environment is the South Dakota agency tasked with regulating mining activity. "Any person desiring to engage in a mining operation shall make written application to the Board of Minerals and Environment for a permit for each mining operation on forms furnished by the Board." SDCL § 45-6B-5. Should there come a point in the future where mining in this area is considered, an application to the Board of Minerals and Environment for a mining permit shall be required. Chapter 45-6B of the South Dakota codified laws discusses at length the requirements of an application for a mining permit. It is the South Dakota Board of Minerals and Environment that will decide if any future mining permit is appropriate, after a hearing. *See*, SDCL § 45-6B-30 – 32.

Should mining activity be pursued, the appropriate regulating agencies will consider the matter and all parties who satisfy the intervention standards will have an opportunity to be heard. Should an applicant bring forward an application to appropriate water for mining purposes, using water for mining will be an appropriate consideration before this Board. At that point, the proposed use of the water for mining will be relevant to the Board's inquiry. Not until then.

3. Potential Surface water discharge is not relevant.

Nearly each intervenor who filed a petition in this matter focused on the possibility of contamination of surface water of the Rapid Creek watershed. But the Department of

Environment and Natural Resources, through the Minerals and Mining Program, has already concluded that the exploration activity conducted by Mineral Mountain Resources (SD), Inc., must not allow any surface water discharge into the Rapid Creek watershed.

In order to actively engage in exploratory drilling, Mineral Mountain Resources (SD), Inc., was required to file an Exploration Notice of Intent ("EXNI") with DENR. Upon review of the EXNI, the Minerals and Mining Program issued a restriction letter to Mineral Mountain Resources (SD), Inc. *See Exhibit A.* Restriction 2 of that letter provides:

No discharge of water or sediments into Rapid Creek or tributaries of Rapid Creek is permitted. Any water will be maintained in tanks or discharged away from the stream channels and into a settling pond or flat vegetated area to allow suspended solids to settle out. In the event that it is necessary to discharge into Rapid Creek or a tributary of Rapid Creek, a South Dakota Surface Water Discharge Permit must be obtained.

And Restriction # 5 provides:

When drilling fluids are used and/or when ground water is encountered during drilling, the drilling fluids shall be sufficiently contained to prevent overland flow or discharge to any waters of the state. If water tanks are used in lieu of mud pits, they shall also be sufficiently contained.

These restrictions make clear that surface water discharge is not permitted, and has already been evaluated by the Minerals and Mining program.

As noted above, when evidence and argument is not of consequence in determining the action, it is irrelevant and must be excluded. SDCL § 19-19-401 – 402. The issue of potential surface water discharge is not of consequence to the present water permit application. Any potential surface water discharge does not make any of the elements of SDCL § 46-2A-9 more or less likely. And most importantly, the matter has already been determined – no surface water discharge is permitted. Therefore, any proffered evidence or argument regarding potential surface water discharge is irrelevant, and must be excluded.

4. Conclusion

Neither the possibility of future mining at the site, nor possible surface water discharge are relevant to the inquiry before this Board. Because neither of these topics are relevant, they are inadmissible and must not be heard or considered by the Water Management Board in deciding application # 2813-2. Mineral Mountain Resources (SD), Inc., respectfully requests an Order precluding evidence or argument on either mining or surface water discharge from the hearing on this matter.

Respectfully submitted this 9th day of February, 2021.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
P.O. Box 8045
Rapid City, SD 57709
Telephone: (605) 342-1078
Telefax: (605) 342-9503
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on February 9, 2021, a true and correct copy of **MINERAL MOUNTAIN RESOURCES (SD) INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE REGARDING MINING AND SURFACE WATER DISCHARGE** was served upon the following individuals as indicated below:

Ron Duval
DENR Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501
ron.duvall@state.sd.us

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Assistant Attorney General
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ann.mines@state.sd.us

Bruce Ellison
Attorney for Dakota Rural Action
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Rapid City SD 57702

Julie Santella
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Jeremiah J. Davis
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Mark LaCompte
P.O. Box 175
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Reno L. Red Cloud Sr.
Oglala Sioux Water Resources Department/Administrator
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Pine Ridge SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
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Juli Ames-Curtis
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Black Hills Group, Sierra Club
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Rapid City SD 57709

Emma
emmafrostcam@live.com

Max .
dowhatyouwantalways@protonmail.com

Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

and on the same date, the original was filed with:

Eric Gronlund, Chief Engineer
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Rodney Freeman
Prehearing Officer
South Dakota Water Management Board
523 E. Capitol Avenue

By: /s/ Matthew E. Naasz
Matthew E. Naasz

**EXHIBIT
A**



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

October 5, 2020

Kevin Leonard
Mineral Mountain Resources (SD), Inc
Suite 401
1195 West Broadway
Vancouver, BC V6H 3X5

Re: EXNI 435 for Mineral Mountain Resources Exploration Drilling in Section 24; T2N-R3E, Pennington County

Dear Mr. Leonard:

The department is in receipt of the Exploration Notice of Intent (EXNI) that you filed with our office on August 27, 2020, with supplemental information submitted on September 11 and September 25, 2020. The department has determined the Notice of Intent to be procedurally complete. Based on our review of your Notice, we determined the following restrictions are required:

1. This project shall be conducted and reclaimed in such a manner as to prevent any violation of the beneficial uses of specified water quality criteria of any water resources in the area. Several drill sites in the area are located near an unnamed tributary of Rapid Creek. In accordance with Chapter 74:51, this tributary is assigned the following beneficial uses:
 - 9) Wildlife propagation, recreation, and stock watering waters; and
 - 10) Irrigation waters.

Please note that Rapid Creek is assigned the following beneficial uses:

- 1) Domestic water supply waters;
 - 2) Coldwater permanent fish life propagation waters;
 - 7) Immersion recreation waters;
 - 8) Limited-contact recreation waters
 - 9) Wildlife propagation, recreation, and stock watering waters; and
 - 10) Irrigation waters.
2. No discharge of water or sediments into Rapid Creek or tributaries of Rapid Creek is permitted. Any water will be maintained in tanks or discharged away from the stream channels and into a settling pond or flat vegetated area to allow suspended solids to settle

out. In the event that it is necessary to discharge into Rapid Creek or a tributary of Rapid Creek, a South Dakota Surface Water Discharge permit must be obtained.

3. To ensure optimal soil erosion protection, all affected lands shall have adequate sedimentation and erosion control measures applied pursuant to SDCL 45-6C-32 and according to Best Mineral Management Practices. These measures shall be in the form of waterbar construction on access roads where appropriate; revegetation of roads; road embankment slopes; and the installation of straw bale or silt fence sediment filters wherever necessary.
4. All topsoil shall be salvaged and stockpiled whenever possible for use in reclamation.
5. When drilling fluids are used and/or when ground water is encountered during drilling, the drilling fluids shall be sufficiently contained to prevent overland flow or discharge to any waters of the state. If water tanks area used in lieu of mud pits, they shall also be sufficiently contained.
6. During periods of active exploration drilling, Mineral Mountain shall provide, via email, a weekly schedule outlining when and where holes will be drilled so the department can plan inspections and witness plugging activities.
7. All test holes shall be capped, sealed and plugged according to ARSD 74:11:08 (Plugging Standards) immediately following drilling and probing.
8. If surface casing is used in exploration holes, the following requirements shall be met:
 - a) Prior to removal of surface casing, the hole shall be plugged in accordance with ARSD 74:11:08 to a level just below the bottom of the surface casing;
 - b) Following step a), the casing will be removed (when possible) or cut off at least one foot below the ground surface; and
 - c) The remainder of the hole will be plugged in accordance with ARSD 74:11:08.
9. Mineral Mountain shall notify the department, in writing, when exploration drilling penetrates an aquifer. Notification shall be provided as soon as possible, but not more than 90 days after penetration of the aquifer. Notification shall include the location of the test hole penetrating the aquifer.
10. The following seed mix shall be used for reclamation of the affected areas:

13%	Annual ryegrass
25%	Slender wheatgrass
30%	Western wheatgrass
2%	Prairie junegrass
30%	Canada Wild Rye

11. Mineral Mountain shall avoid any bones, artifacts, foundation remains, or other evidence of previously unrecorded past human use during exploration activities. For specific direction regarding avoidance of these sites, please contact the SD Archaeological Research Center.
12. If any artifacts or other archaeological or cultural resources are discovered during exploration activities, the activities shall be temporarily halted and the state archaeologist notified at once.
13. Mineral Mountain shall notify the Department of Game, Fish and Parks if any previously unidentified bat habitat is found during exploration activities.
14. Mineral Mountain shall notify the Department of Game, Fish and Parks of any raptor nests within the vicinity of exploration activities to verify the nesting raptor does not require special restrictions.

Please note that we have assigned your Notice of Intent the following number: **EXNI-435**. This Notice allows you to conduct only the type and amount of work which is hereby being approved. Any additional work must be covered by the submission of a new Notice to our office. Mineral Mountain Resources may commence with the operation contingent upon compliance with the above restrictions.

Thank you for your interest in and consideration for the natural resources of South Dakota.

Sincerely,

\s/

Roberta Hudson
Engineering Manager I
Minerals and Mining Program
Telephone: (605) 773-4201
E-mail: roberta.hudson@state.sd.us

cc: Stan Michals, Department of Game, Fish and Parks
Lisa Nesselbeck, Archaeological Research Center
Mark Keenihan, Rapid City Office

**BEFORE THE WATER MANAGEMENT BOARD OF THE
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES, INC. FOR)
PUBLIC WATER PERMIT NO. 2813-2)**

RECEIVED

FEB 12 2021

**WATER RIGHTS
PROGRAM**

**MOTION FOR HEARING HELD UNDER CDC GUIDELINES OR IN THE
ALTERNATIVE, PERMIT FULL AND REMOTE PARTICIPATION**

Intervenors Bruce, Nakca, Aaron, Samuel, and Abbey Ellison (hereinafter, “Ellison Intervenors”) hereby move the Water Management Board (hereinafter, “WMB”) for an Order that the scheduled March 3, 2021 Hearing be held in a facility and hearing room which fully comply with CDC protocols and guidelines for conducting closed hearings for lengthy periods of time.

This Motion is based upon the following facts and circumstances:

1. The COVID-19 virus continues to infect more people and take more lives in South Dakota. The State currently has the second highest COVID-19 death rate per capita in the world.
2. The CDC states that persons over 70 years of age with one or more serious medical factors are at high risk of exposure and death or severe outcomes in in-person meetings involving persons without masks that

last more than 15 minutes at a time and are in a meeting room that is not highly and continuously ventilated through biohazard filters.

3. Intervenor Bruce Ellison and as counsel for Intervenors Nakca, Aaron, Samuel, and Abbey Ellison, is in such a high risk category.
4. The COVID-19 guidelines established by the Governor of the State do not require masks at State proceedings, amongst other failures in complying with CDC guidelines.
5. Perhaps this is why the WMB has announced that some Board members will appear remotely.
6. Although proven vaccines have been and are being distributed in South Dakota, the vaccine is not effective until at least two weeks after the individual receives his or her second of two doses.
7. The below-signed Counsel and Intervenor has been unable to obtain his first COVID-19 vaccination, despite continuous efforts.
8. Should the WMB be unwilling to ensure that the Hearing will be conducted in a manner fully complying with all CDC protocols, Ellison Intervenors alternatively request Counsel be able to fully participate remotely in the hearing.

9. The Department of Environment and Natural Resources has the audio/video capability to permit participants to appear remotely at hearings.

The Ellison Intervenors therefore contend that the Hearing should be conducted in a location and manner fully compliant with CDC Guidelines for such lengthy closed hearings or in the alternative, permit and enable their full remote participation

Dated this 9th of February, 2021.

Respectfully submitted,



/s/ Bruce Ellison

BRUCE ELLISON

PO Box 2508

8265 Dark Canyon Road

Rapid City, SD 57702

(605) 348-1117

Belli4law@aol.com

CERTIFICATE OF SERVICE

It is hereby certified that on the 9th day of February, 2021, a true and correct copy of the Motion was emailed to ron.duvall@state.sd.us and mailed U.S. postage paid to Ron Duvall, DENR Water Rights Program, Foss Building, 523 E. Capitol Ave, Pierre, SD 57501-3182 and served upon the following individuals by e-mail or U.S. postage paid:

Eric Gronlund
Chief Engineer, Water Rights Program
SD Department of Environment
And Natural Resources
eric.gronlund@state.sd.us

Matthew Naasz, Attorney for MMR
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dowhatyouwantalways@protonmail.com

Jerry Wilson

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Vermillion, SD 57059

wilson57069@gmail.com

David McVey

WMB Board Counsel

david.mcvey@state.sd.us

By: /s/ Bruce Ellison

Bruce Ellison

**BEFORE THE WATER MANAGEMENT BOARD OF THE
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES, INC. FOR)
PUBLIC WATER PERMIT NO. 2813-2)**

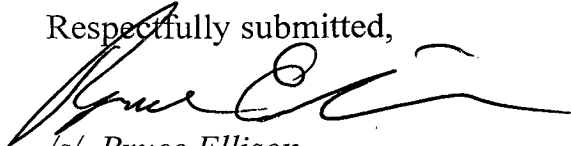
MOTION FOR TRANSFER OF HEARING TO RAPID CITY

Intervenors Bruce, Nakca, Aaron, Samuel, and Abbey Ellison (hereinafter, “Ellison Intervenors”) hereby move the Water Management Board (hereinafter, “WMB”) for an Order transferring the scheduled March 3, 2021 Hearing in this matter to Rapid City, S.D.

The Ellison Intervenors also hereby join the Motion and adopt the arguments and accompanying exhibit in the similar Motion of Dr. Liliias Jarding to transfer the venue of the Hearing to Rapid City, including but not limited to the situation in this matter of overwhelming majority of the intervenors, the applicant, and some members of the WMB live in the Rapid City area, and of even greater importance, the Pennington County Board of Commissioners by Resolution provided with Dr. Jarding’s Motion, has asked this Board to conduct hearings on applications which involve water resources within the County to be held in Rapid City, SD.

Dated this 9th of February, 2021.

Respectfully submitted,



/s/ Bruce Ellison

BRUCE ELLISON

PO Box 2508

8265 Dark Canyon Road

Rapid City, SD 57702

(605) 348-1117

Belli4law@aol.com

CERTIFICATE OF SERVICE

It is hereby certified that on the 9th day of February, 2021, a true and correct copy of the Motion was emailed to ron.duvall@state.sd.us and mailed U.S. postage paid to Ron Duvall, DENR Water Rights Program, Foss Building, 523 E. Capitol Ave, Pierre, SD 57501-3182 and served upon the following individuals by e-mail or U.S. postage paid:

Eric Gronlund
Chief Engineer, Water Rights Program
SD Department of Environment
And Natural Resources
eric.gronlund@state.sd.us

Matthew Naasz, Attorney for MMR
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Ann Mines-Bailey
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Black Hills Group, Sierra Club
c/o Suzanne Ludicello Martley
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Oglala Sioux Water Resources Dept.
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Rajni Lerman
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Emma
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Max

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Jerry Wilson

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wilson57069@gmail.com

David McVey

WMB Board Counsel

david.mcvey@state.sd.us

By: /s/ Bruce Ellison

Bruce Ellison

FEB 16 2021

WATER RIGHTS
PROGRAM

**BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.)
– APPLICATION NO. 2813-2)
)
)
)
)
)

**MINERAL MOUNTAIN
RESOURCES (SD) INC.'S
WITNESS LIST**

Pursuant to the Procedural and Scheduling Order entered in this matter on January 21, 2021, by Rodney Freeman, Jr., Hearing Officer, South Dakota Water Management Board, the Applicant, Mineral Mountain Resources (SD) Inc., through its attorney, Matthew E. Naasz of Gunderson, Palmer, Nelson & Ashmore, submits it's Witness List.

Applicant intends to call the following individuals as witnesses to testify on its behalf in the above-entitled matter:

1. Kevin Leonard, Project Manager; Mr. Leonard will testify about the proposed water use and the exploration project.
2. Crystal Hocking, P.E.; Ms. Hocking will testify consistent with her expert disclosure on file in this matter.

Applicant reserves the right to utilize witnesses offered by any other party, and to call witnesses in rebuttal.

Respectfully submitted this 12th day of February, 2021.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
P.O. Box 8045
Rapid City, SD 57709
Telephone: (605) 342-1078
Telefax: (605) 342-9503
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on February 12, 2021, a true and correct copy of **MINERAL MOUNTAIN RESOURCES (SD) INC.'S EXHIBIT LIST** was served upon the following individuals in the manner set forth below:

Ron Duval
DENR Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501
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Mark LaCompte
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Reno L. Red Cloud Sr.
Oglala Sioux Water Resources Department/Administrator
P.O. Box 320
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Thomas Brings
~~Tribal Historic Preservation Officer~~
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Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
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Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

and on the same date, the original was filed with:

Eric Gronlund, Chief Engineer
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Rodney Freeman
Prehearing Officer
South Dakota Water Management Board
523 E. Capitol Avenue

By: /s/ Matthew E. Naasz
Matthew E. Naasz



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JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

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WATER RIGHTS
PROGRAM

February 12, 2021

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1302 East Highway 14, Ste. 1
Pierre, SD 57501
Hand-delivered

Emma
emmafrostdcam@live.com

Matt Naasz
Gunderson, Palmer, Nelson & Ashmore LLP
Counsel for Mineral Mountain Resources
P.O. Box 8045
Rapid City, SD 57709

Re: *In the Matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.*

To Whom it May Concern:

Enclosed please find a copy of the Chief Engineer's Witness list along with the Certificate of Service in the above-entitled matter.

Sincerely,


Ann F. Mines Bailey
Assistant Attorney General

AFM/mb

Enclosures

cc w/enc: Ron Duvall, DENR Water Rights Program (*Interoffice mail*)

RECEIVED

FEB 16 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2813-2,)
MINERAL MOUNTAIN RESOURCES)
(SD), INC.)

CHIEF ENGINEER'S
WITNESS LIST

Pursuant to the Procedural and Scheduling Order dated January 19, 2021, the Chief Engineer hereby provides the names of those witnesses his expert witnesses:

1. Timothy Magstadt, Engineer, South Dakota Department of Environment and Natural Resources, Water Rights Program.
2. Eric Gronlund, Chief Engineer, South Dakota Department of Environment and Natural Resources, Water Rights Program.

Dated this 12th day of February 2021.


Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
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Email: Ann.MinesBailey@state.sd.us

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

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FEB 16 2021

WATER RIGHTS
PROGRAM

IN THE MATTER OF WATER)	
PERMIT APPLICATION NO. 2813-2,)	CERTIFICATE OF SERVICE
MINERAL MOUNTAIN RESOURCES)	
(SD), INC.	

The undersigned hereby certifies that a true and correct copy of the Chief Engineer's Witness List, in the above matter was served by U.S. mail, first class, postage prepaid, or via email upon the following on this 12th day of February 2021:

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

Reno L. Red Cloud Sr.
Oglala Sioux Water Resources
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P.O. Box 320
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And on the same date, the original was filed with:

Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
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(Interoffice mail)


Ann F. Mines Bailey
Assistant Attorney General

pld_afm (mb)



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FEB 19 2021

**WATER RIGHTS
PROGRAM**

JASON R. RAVNSBORG

ATTORNEY GENERAL

CHARLES D. McGUIGAN

CHIEF DEPUTY ATTORNEY GENERAL

February 18, 2021

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David M. McVey
Counsel for Water Rights Program
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
(Hand-delivered)

Re: *In the Matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.*

To Whom it May Concern:

Enclosed please find a copy of the Chief Engineer's Exhibit List, colored copies of Exhibits 3 and 4, Response to Intervenor Ellison's Motion to Hold Hearing in Rapid City, SD and Motion to Hold Hearing Remotely and the Certificate of Service in the above-entitled matter.

Sincerely,



Ann F. Mines Bailey
Assistant Attorney General

AFM/mn

Enclosures

cc w/encs: Ron Duvall, DENR Water Rights Program (*Interoffice mail*) ✓

RECEIVED

FEB 19 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER WATER	)	CHIEF ENGINEER'S
APPLICATION NO.2813-2, MINERAL	)	EXHIBIT LIST
MOUNTAIN RESOURCES (SD), INC.	)	

Pursuant to the Procedural and Scheduling Order dated January 19, 2021, the Chief Engineer hereby provides his exhibit list:

Exhibit 1: Administrative Record of Water Permit Application No. 2813-2. The paper file is available for in-person review upon request. The majority of its contents are available online at <https://denr.sd.gov/ccdocs.aspx?CCID=CCID92>.

Exhibit 2: Curriculum Vitae of Timothy Magstadt.

Exhibit 3: Area map near proposed diversion point.

Exhibit 4: Hydrograph of CU-86A (observation well).

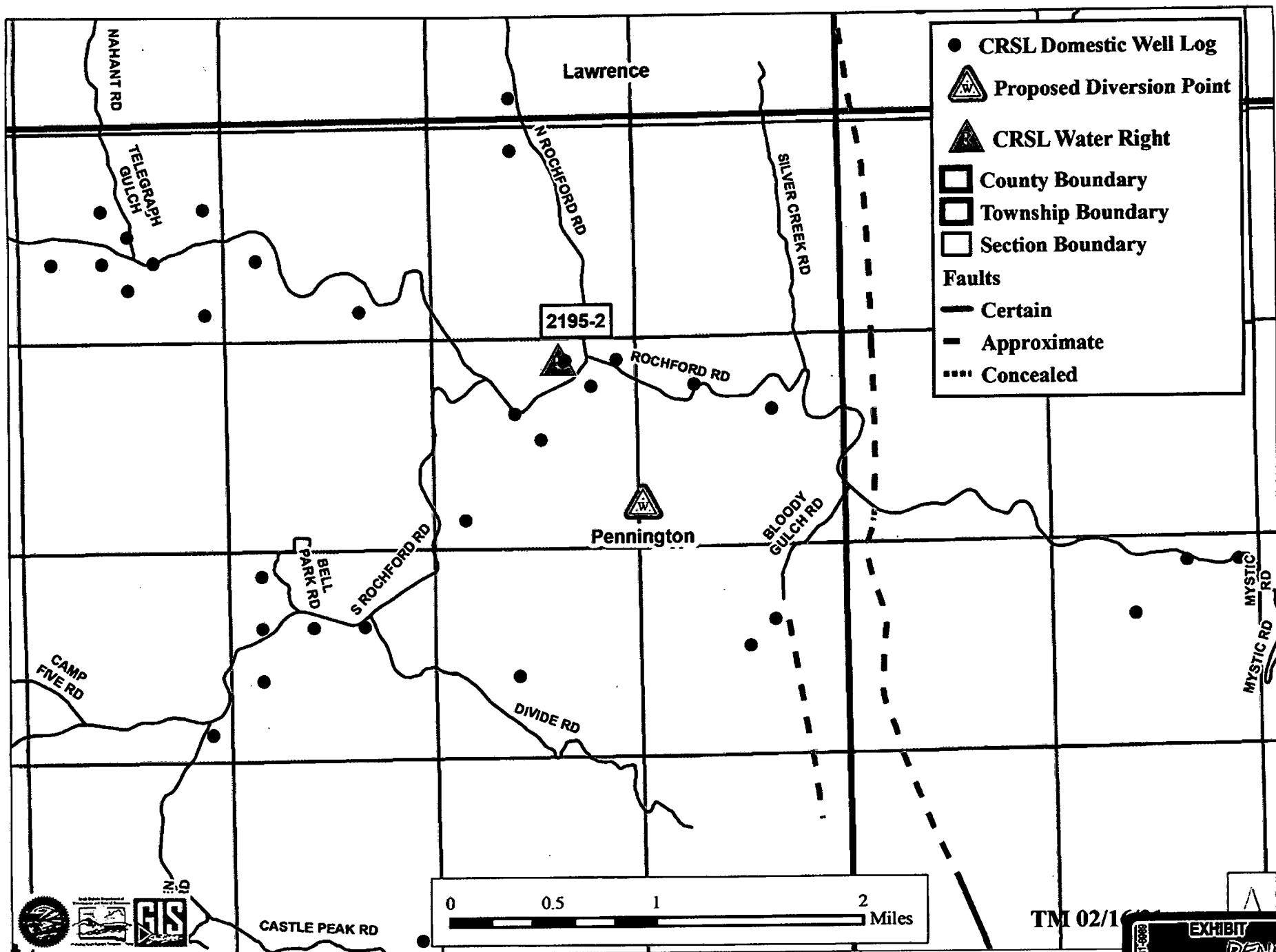
Exhibit 5: Curriculum Vitae of Eric Gronlund.

Exhibits 2 and 5 were previously provided in the Chief Engineer's January 29, 2021 Expert Witness Disclosure. Copies of Exhibits 3 and 4 are attached hereto.

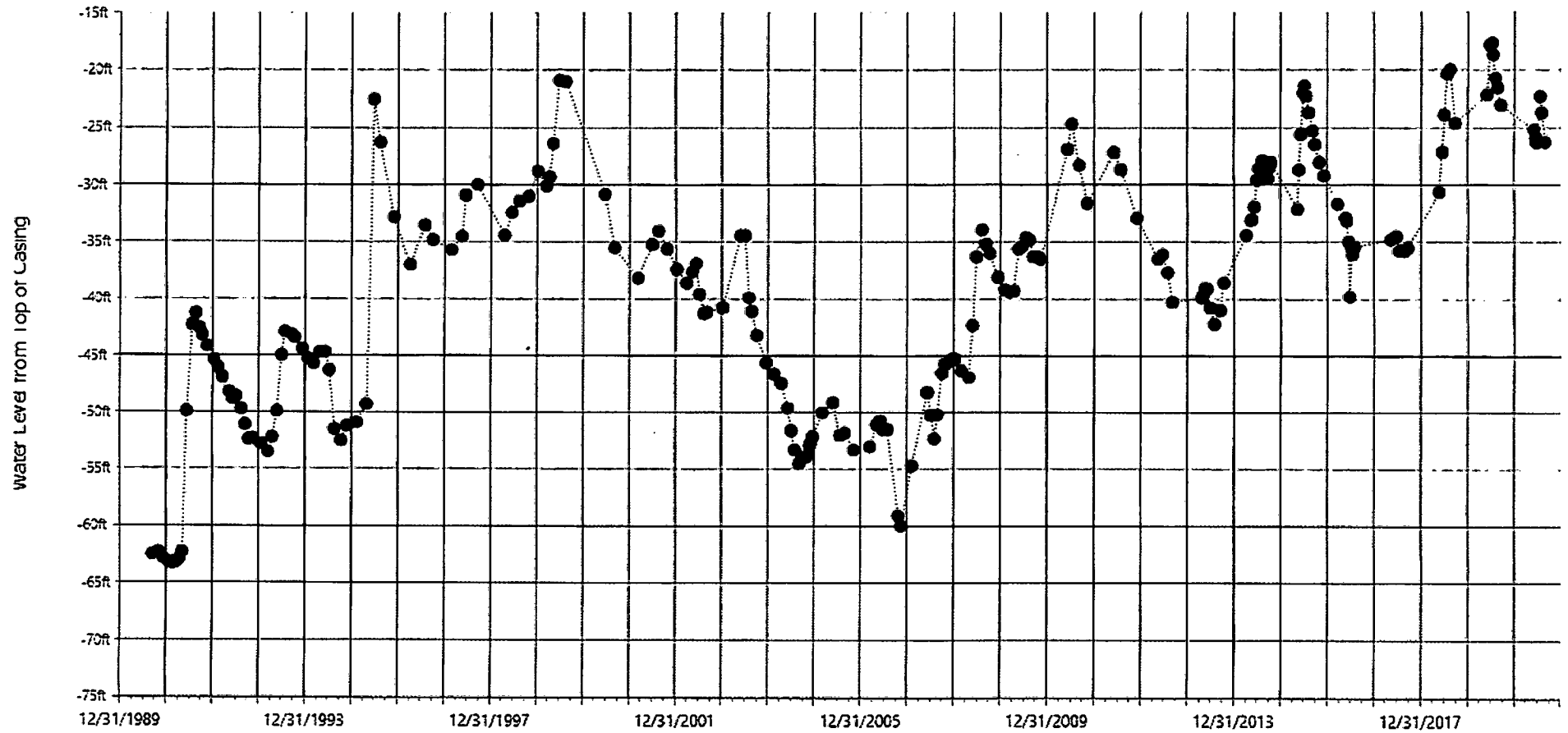
Dated this 18th day of February 2021.


Ann F. Mines Bailey
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1302 East Highway 14, Suite 1
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Telephone: (605) 773-3215

*Counsel for Chief Engineer and
Water Rights Program*



DENR Water Rights Observation Well: CU-86A



STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	RESPONSE TO INTERVENOR
APPLICATION NO. 2813-2, MINERAL	)	ELLISON'S MOTION TO HOLD
MOUNTAIN RESOURCES (SD), INC.	)	HEARING IN RAPID CITY, SD AND
	)	MOTION TO HOLD HEARING
	)	REMOTELY

Pending before the Board are two motions by Intervenor Ellison. The first is a request to change the location of the hearing in the above-entitled matter to Rapid City, SD. The second motion is for the hearing to be conducted in compliance with the Centers for Disease Control's guidelines given the COVID-19 pandemic or for the Board to allow remote participation.

The above entitled matter is scheduled to be heard by the Water Management Board at its March 3-4, 2021 meeting. In setting that meeting date at the December 2020 meeting, the Board considered where the March 2021 meeting should be held given that several petitioners in this matter had requested the hearing be held in Rapid City, SD. Ultimately, the Board concluded that Pierre, SD was the most appropriate location as it is certain that the technology is available for Board members to appear remotely, as well as allowing those intervenors who do not wish to fully participate in the hearing to appear remotely, and a broader opportunity for the public to listen without traveling or being physically present.

Similar to the motion previously filed by Dr. Liliias Jarding, also an intervenor in this matter, Mr. Ellison requests that the Board hold the hearing in Rapid City. Like Dr. Jarding's motion, Mr. Ellison's motion also notes that a number of the parties in this matter are located in western South Dakota, presumably arguing that it would be inconvenient for them to travel. It is unknown, however, how many of those intervenors plan to fully participate in the hearing. Mr. Ellison also notes that the Pennington County Commission passed a resolution several years ago in 2018 requesting that the State conduct public hearings in Rapid City for the potential issuance of any water permit for any mineral mining operation* which could potentially impact the drinking water supplies of Pennington County. Mr. Ellison has also moved for a hearing to be held either remotely or in compliance with CDC guidelines.

It is the position of the Chief Engineer and the Water Rights Program that Pierre, SD is still the most appropriate location. There are other items of business tentatively scheduled for the March 2021 meeting in addition to this hearing. Relocating the meeting would require the travel of not just Water Rights staff for this matter, but also all staff involved in other matters tentatively scheduled to be heard. Additionally, those who are parties to other matters to be heard by the Board during this meeting will also be required to travel further, as opposed to Pierre which is centrally located. Weighing most

* The Board is not bound by this resolution and is not required to hold public hearings in any particular locale for any water permit sought for use in a mining operation. Furthermore, the entity seeking this water permit is not conducting a mining operation but is conducting mineral exploration. Mineral exploration is a different process.

heavily in favor of holding this meeting in Pierre, however, is the availability of technology in the meeting rooms. Currently from Pierre, accommodations are able to be made for those Board members who need to appear remotely. The proceedings are able to be streamed live to listeners across the state. Additionally, there is access to the necessary space to comply with CDC guidelines and appropriately space participants who are personally present.

In order to implement procedures which comply with the CDC guidelines, it has been ordered by the prehearing chair that the intervenors inform staff as to whether they wished to fully participate in the above-entitled matter so that staff could reserve sufficient rooms to allow for proper spacing and movement under CDC guidelines. Thus far, only three of the intervenors have responded and of those three only two have elected to fully participate. Additionally, all parties have been ordered to provide staff with the number of people who will be present at the hearing on their behalf. Again, this is to facilitate the organization of the room in a manner which will allow for compliance with CDC guidelines.

As currently set, the meeting is to be held at the Matthews Training Center with two additional meeting rooms available should more space be required. Cleaning crews clean and disinfect by wiping down all common surfaces, including light switches, doorknobs and handles, tabletops, and chairs, etc. The tables, chairs, and podium will be sanitized prior to the meeting. As has been done in past meetings since the COVID-19 pandemic

began, sanitizing wipes will be available to participants in the hearings for their use to wipe down any areas they feel need to be sanitized.

Water Rights would not object to an intervenor appearing remotely if that intervenor did not intend to submit exhibits or participate in the examination of witnesses (i.e. calling witnesses, questioning witnesses, or lodging objections to witness testimony). Practical and technical difficulties, however, arise when parties or witnesses appear remotely. These difficulties center mainly around the admission and use of exhibits and the ability of the Board members to observe the testimony being proffered. For those reasons, Water Rights would object to parties being allowed to examine witnesses or admit exhibits while appearing remotely.

Accordingly, it is requested that the Board order that the March 2021 meeting be held in Pierre, SD as originally planned and deny these motions.

Dated this 18th day of February 2021.



Ann F. Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

*Counsel for Chief Engineer and
Water Rights Program*

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER WATER)	
APPLICATION NO.2813-2, MINERAL)	CERTIFICATE OF SERVICE
MOUNTAIN RESOURCES (SD), INC.)	

The undersigned hereby certifies that true and correct copies of the Chief Engineer's Exhibit List, Exhibits 3 and 4 and Response to Motion to Hold Hearing in Rapid City, SD and Motion to Hold Hearing Remotely, in the above matter, were served by U.S. mail, first class, postage prepaid, or via email upon the following, on this 18th day of February 2021:

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

Julie Santella
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Rapid City, SD 57701

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(Interoffice mail)


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Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

*Counsel for Chief Engineer and
Water Rights Program*

FEB 19 2021

WATER RIGHTS
PROGRAM

BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.)
- APPLICATION NO. 2813-2)
)
)
)
)
)

MINERAL MOUNTAIN
RESOURCES (SD) INC.'S
WITNESS LIST

Pursuant to the Procedural and Scheduling Order entered in this matter on January 21, 2021, by Rodney Freeman, Jr., Hearing Officer, South Dakota Water Management Board, the Applicant, Mineral Mountain Resources (SD) Inc., through its attorney, Matthew E. Naasz of Gunderson, Palmer, Nelson & Ashmore, submits it's Witness List.

Applicant intends to call the following individuals as witnesses to testify on its behalf in the above-entitled matter:

1. Kevin Leonard, Project Manager; Mr. Leonard will testify about the proposed water use and the exploration project.
2. Crystal Hocking, P.E.; Ms. Hocking will testify consistent with her expert disclosure on file in this matter.

Applicant reserves the right to utilize witnesses offered by any other party, and to call witnesses in rebuttal.

Respectfully submitted this 12th day of February, 2021.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
P.O. Box 8045
Rapid City, SD 57709
Telephone: (605) 342-1078
Telefax: (605) 342-9503
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on February 12, 2021, a true and correct copy of **MINERAL MOUNTAIN RESOURCES (SD) INC.'S EXHIBIT LIST** was served upon the following individuals in the manner set forth below:

Ron Duval
DENR Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501
ron.duvall@state.sd.us

Ann F. Mines Bailey
Assistant Attorney General
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Pierre, SD 57501

Rodney Freeman
Prehearing Officer
South Dakota Water Management Board
523 E. Capitol Avenue

By: /s/ Matthew E. Naasz
Matthew E. Naasz

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FEB 19 2021

February 17, 2021

WATER RIGHTS
PROGRAM

Ron Duvall
DENR Water Rights Program
Foss Building
523 East Capital Ave.
Pierre, SD 57501

RE: Application No. 2813-2 to Appropriate Water by Mineral Mountain Resources (MMR)

Dear Mr. Duval:

On November 23, 2020, I notified the DENR Water Rights Program that I wanted to contest the above-referenced case and sent my letter via email. I have since been told that my request was not honored because I did not follow up by sending a copy by US mail. However, I don't think this is right because I'm just a regular citizen trying to navigate your rules. The information provided email addresses and the instructions only said that it should be "mailed," which I did.

Regardless, I am still against your approval of MMR's grant the water rights they requested for their exploration project. Water belongs to all the people of this state. I'm a resident who lives downstream of the proposed project and would therefore have the potential to be adversely impacted by the proposed project should anything go awry.

I do not believe that the proposed project is in the public interest nor is it a beneficial use. MMR says that it meets both of these conditions but does not explain how. Meeting these conditions should not just be taken for granted. In the upcoming hearing, DENR should demand that that MMR demonstrate specifically how both these conditions – public interest and beneficial use -- will be met.

I am also aware of Mr. Naasz's filing dated February 9, 2021 that made a motion seeking "an order formally precluding evidence and argument of mining and potential surface water discharge at the drilling locations." I object to such an order because the ultimate purpose of any exploration is to eventually do mining. So in order to prevent them from going down this road from the start, it only makes sense to deny MMR's request for water intended for this initial exploration.

Lastly, MMR will apparently need to post a bond in the amount of only \$20,000 that will enable them to conduct any amount of drilling they want. This is grossly inadequate. They have not proven themselves to be financially stable. In addition, should any kind of major problem develop exceeding this amount, the state will then have to step in and use tax-payer funds to correct it. This is not beyond the realm of possibility -- such situations have occurred in South Dakota resulting from other drilling fiascos.

For all the reasons noted above, please deny this water usage permit application by MMR.

Sincerely,



Richard A. Bell, PE
1206 Clark St.
Rapid City, SD 57701

cc: Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State Street
Belle Fourche, SD 57717

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2813-2, MINERAL) CERTIFICATE OF SERVICE
MOUNTAIN RESOURCES (SD), INC.)

On this 17th day of February, 2021, I hereby certify that true and correct copies of my letter dated today in the above matter were served by U.S. mail, first class, postage prepaid, or via email upon the following individuals as indicated below:

Julie Santella 422 Columbus Street, Apt. 1 Rapid City, SD 57701 jasantella@gmail.com	Lilias Jones Jarding, Ph.D. 418 N. 44 th St. Rapid City, SD 57702 liliasjarding@gmail.com
Jeremiah J. Davis 710 N. Lacrosse St., #1 Rapid City, SD 57701 jeremiahjaydavis@gmail.com	Julie Benedict 1115 McGuigan Rd, Spearfish, SD 57783 julieabenedict1@gmail.com
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Rajni Lerman 2244 Minnekahta Ave. Hot Springs, SD 57747 rajni1love@gmail.com	Jerry Wilson 30959 Frog Creek Rd. Vermillion, SD 57059 wilson57069@gmail.com
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David M. McVey Counsel for Water Rights Program 1302 East Highway 14, Suite 1 Pierre, SD 57501 david.mcvey@state.sd.us	Eric Gronlund, Chief Engineer DENR Water Rights Program Joe Foss Building 523 East Capitol Avenue Pierre, SD 57501 eric.gronlund@state.sd.us
Matt Naasz Gunderson, Palmer, Nelson & Ashmore LLP Counsel for Mineral Mountain Resources P.O. Box 8045 Rapid City, SD 57709 mnaasz@gpna.com	Ann F. Mines Bailey Assistant Attorney General Mickelson Criminal Justice Center 1302 East Highway 14, Suite 1 Pierre, SD 57501 <u>ann.mines@state.sd.us</u>

By: /s/ Richard Bell
Richard Bell

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FEB 22 2021

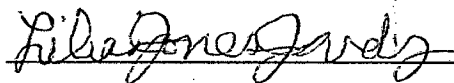
WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 2813-2, MINERAL	)	NOTICE
MOUNTAIN RESOURCES (SD), INC.	)	

COMES NOW Lillas Jones Jarding, Ph.D., an Intervenor, and notifies all parties that she will be relying on the Exhibits filed by other parties to this action, including the Ellison Intervenors, other Intervenors, and witnesses in this matter.

Dated this 18th day of February 2021.



Lillas Jones Jarding, Ph.D.

Intervenor

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 2813-2, MINERAL	)	CERTIFICATE OF SERVICE
MOUNTAIN RESOURCES (SD), INC.	)	

The undersigned hereby certifies that true and correct copies of the Motion in the above matter was served by U.S. mail, first class, postage prepaid, or via email upon the following on this 18th day of February 2021.

Julie Santella
422 Columbus Street, Apt. 1
Rapid City, SD 57701

Jeremiah J. Davis
710 N. LaCrosse St., #1
Rapid City, SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake, SD 57656

Rajni Lerman
2244 Minnekahta Ave.
Hot Springs, SD 57747

Black Hills Group, Sierra Club
C/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City, SD 57709

Reno L. Red Cloud, Sr.
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge, SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic
Preservation Office
P.O. Box 320
Pine Ridge, SD 57770

Richard Bell, PE
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Julie Benedict
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Spearfish, SD 57783

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer, SD 57730

Jerry Wilson
30959 Frog Creek Rd.
Vermillion, SD 57059

Bruce Ellison
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Emma
emmafrostdcam@live.com

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Counsel for Water Rights Program
1302 East Highway 14, Suite 1
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Max P.
dowhatyouwantalways@protonmail.com

Matt Naasz
Gunderson, Palmer, Nelson & Ashmore LLP
Counsel for Mineral Mountain Resources

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DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
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Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, SD 57501

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FEB 22 2021

WATER RIGHTS
PROGRAM

**BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.)
– APPLICATION NO. 2813-2)
)
)
)
)

**MINERAL MOUNTAIN
RESOURCES (SD) INC.'S
EXHIBIT LIST**

Pursuant to the Procedural and Scheduling Order entered in this matter on January 21, 2021, by Rodney Freeman, Jr., Hearing Officer, South Dakota Water Management Board, the Applicant, Mineral Mountain Resources (SD) Inc., through its attorney, Matthew E. Naasz of Gunderson, Palmer, Nelson & Ashmore, submits it's Exhibit List.

Applicant intends to introduce the following items as evidence at the hearing in this matter:

No.	Description	Off.	Rec.	Rej.
A.	Application No. 2813-2			
B.	Chief Engineer Report			
C.	Crystal Hocking CV			
D.	EXNI Restriction Letter			
E.	Photo of Drilling Operation to be used for drilling exploration holes			
F.	Photo of Drilling Operation			
G.	Photo of lined sumps used for water collection			
H.	Photo of Solids Removal Unit			

Applicant reserves the right to utilize exhibits offered by any other party.

Respectfully submitted this 19th day of February, 2021.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
P.O. Box 8045
Rapid City, SD 57709
Telephone: (605) 342-1078
Telefax: (605) 342-9503
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on February 19, 2021, a true and correct copy of **MINERAL MOUNTAIN RESOURCES (SD) INC.'S EXHIBIT LIST** was served upon the following individuals in the manner set forth below:

Ron Duval
DENR Water Rights Program
Foss Building
523 East Capitol Avenue
Pierre, SD 57501
ron.duvall@state.sd.us

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Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

Emma
emmafrostcam@live.com

Max .
dowhatyouwantalways@protonmail.com

Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

and on the same date, the original was filed with:

Eric Gronlund, Chief Engineer
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Rodney Freeman
Prehearing Officer
South Dakota Water Management Board
523 E. Capitol Avenue
Pierre, SD 57501

By: /s/ Matthew E. Naasz
Matthew E. Naasz

MAR 09 2020

WATER RIGHTS
PROGRAM

FILE COPY

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2813-2</u>	(office use only) Hydrologic Unit <u>10120111</u>
	Basin <u>Upper Cheyenne</u>	
	Newspaper <u>Rapid City Journal 394-8336</u>	
	<u>Black Hills Pioneer, Spearfish 442-2761</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 7, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☐ Amendment/Correction to Permit No. _____		

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

- Name to Appear on Water Permit Mineral Mountain Resources (SD) Inc
Mailing Address 1/2 Bennett, Main & Grubbside 610 State St. Belle Fourche SD 57717
(Address) (City) (State) (Zip Code)
Phone 605-292-2211 Mobile _____ Email nelson.e.bell@mmr.com
- Amount of water claimed 0.022 *CFS or 10 **GPM and 3.68 ***AF or 1,200,000 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)
- Source of water supply New water well
- Location of point of diversion NW 1/4 SW 1/4 Section 24 - T20N - R3E 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? Patented & Unpatented Mineral Claims - refer to Table attached
(example - NW 1/4 section 12-T104N-R53W)
- County or counties where water will be used Pennington & Lawrence
- Annual period during which water is to be used January - December
- 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)

Exploration activity will be carried out in the greater Rochford area, on patented & unpatented mineral claims owned & under control of Mineral Mountain Resources (SD) Inc. Water will be used to lubricate & cool the drill bit and flush core cuttings from the drill hole to poly-lined sumps located in close proximity to the drill hole.

I, [Signature] Project Manager, 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.

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 Alexander Drilling, Inc.
(if yes, please provide copies of logs)

b) If existing wells, how many 0 Provide copy of log(s), if available. Drilled by _____

For either Existing or Proposed Wells:

c) Well Depth (required) 700 Depth to Top of Water Bearing Material 30 Depth to Water from Surface 30

d) Distance to nearest domestic well on applicant's property n/a Property owned by others ? 1 mile

2. Wastewater Disposal System Information - *no waste water disposal associated w/ application*

a) Type of System (i.e. septic tank, drain field) _____

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

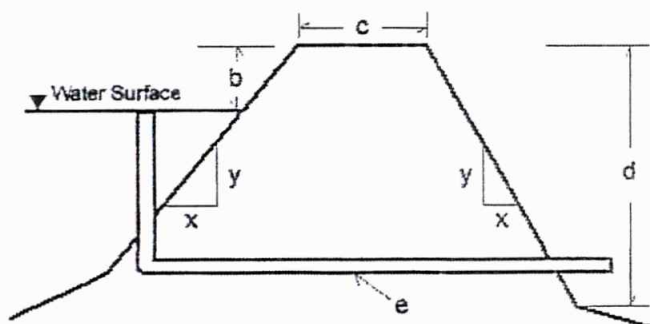
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres

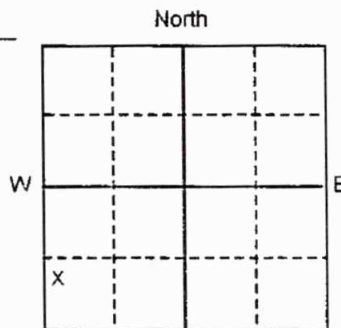


SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW ¼ SW ¼ Sec 24 Twp 2N Rg 3E

County Pennington

Please mark well
location with an "X"

Well Completion Date

February 7, 2020

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
ft. from 1/4 mile (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 40' of 6" 160 pvc

WEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	0.0 FT	38.0 FT	8.75 IN
LB/FT	IN	38.0 FT	700.0 FT	6.00 IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Portland II	4	Lb/gal	38.0 Ft	6.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
through trimmie pipe

SCREEN:

☐ Perforated pipe ☐ Manufactured
 Diameter _____ Inches 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?

☐ Yes, How?
☒ No, Why Not? Test hole
 up to which water
 quality sample sent for analysis

Well Owner: Mineral Mountain Resources (SD) Inc.

Business Name:

Address: Ste 401- 1195 West Broadway

City, State, Zip: Vancouver, BC, Canada V6h 3X5

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Broken Schist	0	30
Hard grey schist	30	48
Schist fracture 2-3 gpm	48	50
Hard grey schist	50	210
Schist fracture 5 gpm	210	212
Hard grey schist	212	338
Schist fracture 8 gpm	338	340
Hard grey schist	340	630
Schist fracture 9-10 gpm	630	632

STATIC WATER LEVEL 30.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow 9.0 through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate _____ 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

Formation continued:
Hard grey schist 632-700

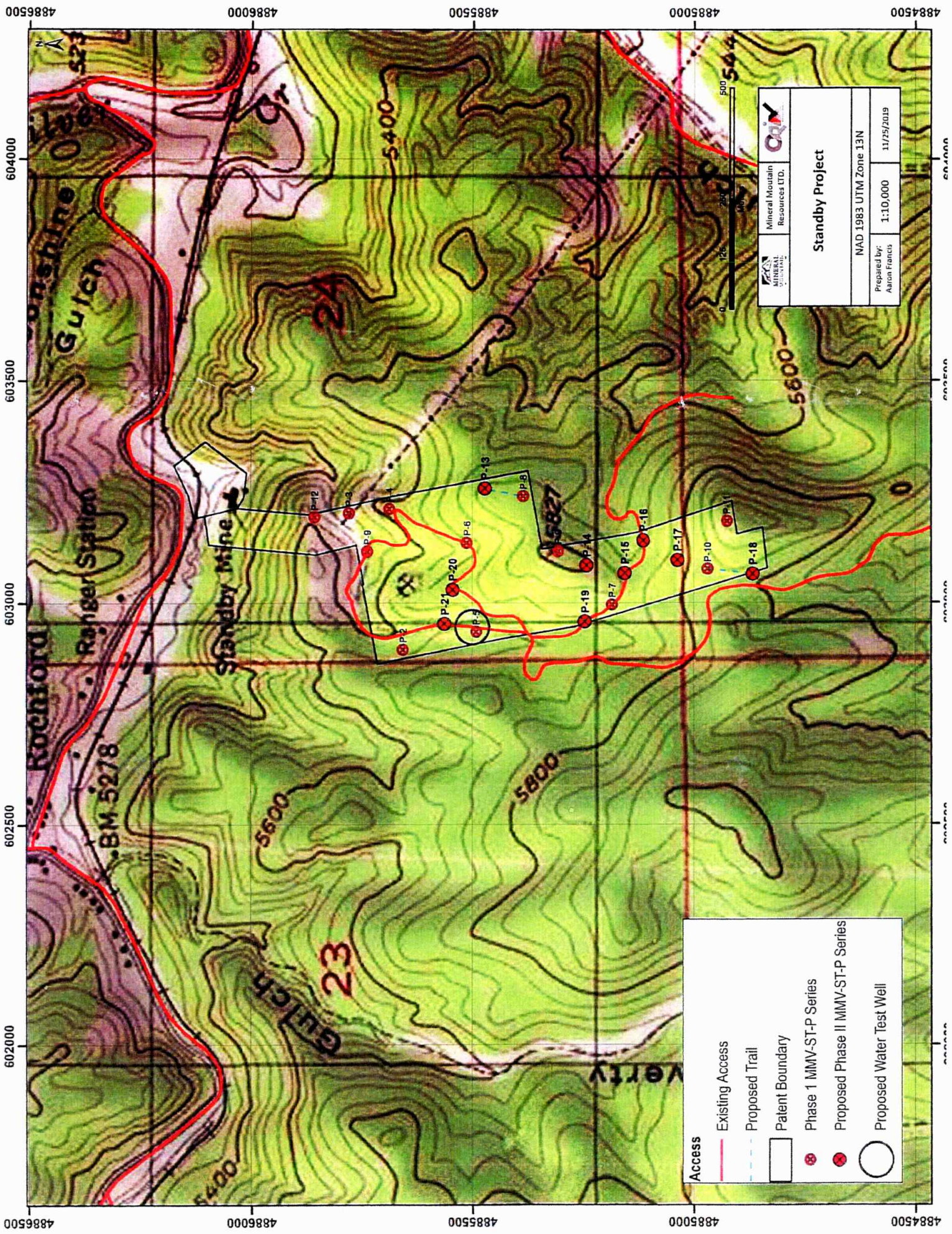
This well was drilled under license # 324 and this report is true and accurate.

Drilling firm: Alexander Drilling, Inc.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date:



 MINERAL MOUNTAIN RESOURCES LTD.	 CMA	 Standby Project
NAD 1983 UTM Zone 13N		
Prepared by: Aurion Tronics	1:10,000	11/25/2019

	Existing Access
	Proposed Trail
	Patent Boundary
	Phase 1 MMV-ST-P Series
	Proposed Phase II MMV-ST-P Series
	Proposed Water Test Well

Table 1

Drill Sites - under PoO / EA Application (pending approval)	REGIONAL	Unpatented Mineral Claims	Section, Township and Range
			NE 1/4 Section 12 - T 001N - R 003E SE 1/4 Section 1 - T 001N - R 003E SW 1/4 Section 25 - T 002N - R 003E NW 1/4 Section 25 - T 002N - R 003E NE 1/4 Section 25 - T 002N - R 003E SE 1/4 Section 24 - T 002N - R 003E NE 1/4 Section 24 - T 002N - R 003E SE 1/4 Section 13 - T 002N - R 003E NE 1/4 Section 13 - T 002N - R 003E NE 1/4 Section 13 - T 002N - R 004E SW 1/4 Section 7 - T 002N - R 004E SE 1/4 Section 12 - T 002N - R 003E NW 1/4 Section 7 - T 002N - R 004E NE 1/4 Section 12 - T 002N - R 003E NW 1/4 Section 11 - T 002N - R 003E NE 1/4 Section 14 - T 002N - R 003E SW 1/4 Section 14 - T 002N - R 003E SW 1/4 Section 23 - T 002N - R 003E SW 1/4 Section 23 - T 002N - R 003E NW 1/4 Section 26 - T 002N - R 003E SE 1/4 Section 26 - T 002N - R 003E NE 1/4 Section 35 - T 002N - R 003E SW 1/4 Section 26 - T 002N - R 003E NW 1/4 Section 35 - T 002N - R 003E NE 1/4 Section 35 - T 002N - R 003E
Drill Sites - approved under DENR Permits NI 423 and NI 427	STANDBY	Patented Claims	Section, Township and Range
			NW 1/4 Section 24 - T 002N - R 003E SW 1/4 Section 24 - T 002N - R 003E NW 1/4 Section 25 - T 002N - R 003E

2020-21 Proposed Drill Sites - Rochford Project SD

Number	Drill Site	Claim #	Section	Township	Range	Comments
1	RD-P-01	VCB 88	12	T.1 N.	R.3 E.	Regional - MMV Claims
2	RD-P-02	VCB 85	12	T.1 N.	R.3 E.	Regional - MMV Claims
3	RD-P-03	VCB 83	12	T.1 N.	R.3 E.	Regional - MMV Claims
4	RD-P-04	VCB 105	1	T.1 N.	R.3 E.	Regional - MMV Claims
5	RD-P-07	VCA 32	1	T.1 N.	R.3 E.	Regional - MMV Claims
6	RD-P-08	VCB 70	1	T.1 N.	R.3 E.	Regional - MMV Claims
7	RD-P-09	VCA 26	36	T.2 N.	R.3 E.	Regional - MMV Claims
8	RD-P-38	VC386	23	T.1 N.	R.3 E.	Regional - MMV Claims
9	RD-P-39	VC 305	23	T.2 N.	R.3 E.	Regional - MMV Claims
10	RD-P-40	VC 146	26	T.2 N.	R.3 E.	Regional - MMV Claims
11	RD-P-41	VC 146	26	T.2 N.	R.3 E.	Regional - MMV Claims
12	RD-P-42	VC 137	26	T.2 N.	R.3 E.	Regional - MMV Claims
13	RD-P-43	VC 238	26	T.2 N.	R.3 E.	Regional - MMV Claims
14	RD-P-44	VC 238	26	T.2 N.	R.3 E.	Regional - MMV Claims
15	RD-P-45	VC 239	35	T.2 N.	R.3 E.	Regional - MMV Claims
16	RD-P-46	VC 290	35	T.2 N.	R.3 E.	Regional - MMV Claims
17	RD-P-47	VC 289	35	T.2 N.	R.3 E.	Regional - MMV Claims
18	RD-P-12	VCA 14	36	T.2 N.	R.3 E.	Regional - MMV Claims
19	RD-P-13	R 86	25	T.2 N.	R.3 E.	Regional - MMV Claims
20	RD-P-15	R 86	25	T.2 N.	R.3 E.	Regional - MMV Claims
21	RD-P-16	R 77	25	T.2 N.	R.3 E.	Regional - MMV Claims
22	RD-P-18	VCB 38	24	T.2 N.	R.3 E.	Regional - MMV Claims
23	RD-P-19	VC 161	25	T.2 N.	R.3 E.	Regional - MMV Claims
24	RD-P-20	VCB 101	24	T.2 N.	R.3 E.	Regional - MMV Claims
25	RD-P-21	VCB 36	25	T.2 N.	R.3 E.	Regional - MMV Claims
26	RD-P-22	VCB 40	25	T.2 N.	R.3 E.	Regional - MMV Claims
27	RD-P-23	R 97	25	T.2 N.	R.3 E.	Regional - MMV Claims
28	RD-P-26	VC 445	13	T.2 N.	R.3 E.	Regional - MMV Claims
29	RD-P-27	VC 435	13	T.2 N.	R.3 E.	Regional - MMV Claims
30	RD-P-28	VC 436	13	T.2 N.	R.3 E.	Regional - MMV Claims
31	RD-P-29	VC 419	13	T.2 N.	R.3 E.	Regional - MMV Claims
32	RD-P-30	VC 427	18	T.2 N.	R.4 E.	Regional - MMV Claims
33	RD-P-31	VC 424	7	T.2 N.	R.4 E.	Regional - MMV Claims
34	RD-P-32	VC 409	12	T.2 N.	R.3 E.	Regional - MMV Claims
35	RD-P-33	VC 409	12	T.2 N.	R.4 E.	Regional - MMV Claims
36	RD-P-34	VC 406	12	T.2 N.	R.3 E.	Regional - MMV Claims
37	RD-P-35	VC 306	11	T.2 N.	R.3 E.	Regional - MMV Claims
38	RD-P-36	VC 353	14	T.2 N.	R.3 E.	Regional - MMV Claims
39	RD-P-37	VC 361	14	T.2 N.	R.3 E.	Regional - MMV Claims
40	CR-17-A	VC-193	26	T.2 N.	R.3 E.	Regional - MMV Claims
41	CR-17-B	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
42	CR-17-C	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
43	CR-17-D	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
44	CR-17-E	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
45	CR-17-F	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
46	CR-17-G	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
47	CR-17-H	VC-193	35	T.2 N.	R.3 E.	Regional - MMV Claims
48	CR-17-I	VC-233	35	T.2 N.	R.3 E.	Regional - MMV Claims
49	CR-17-J	VC-284	35	T.2 N.	R.3 E.	Regional - MMV Claims
50	CR-17-K	VC-129	26	T.2 N.	R.3 E.	Regional - MMV Claims
51	CR-17-L	VCB-91	26	T.2 N.	R.3 E.	Regional - MMV Claims
52	CR-17-M	VC-233	35	T.2 N.	R.3 E.	Regional - MMV Claims
53	CR-17-N	VC-287	35	T.2 N.	R.3 E.	Regional - MMV Claims
54	CR-17-P	VC285	35	T.2 N.	R.3 E.	Regional - MMV Claims
55	CR-17-Q	VC-285	35	T.2 N.	R.3 E.	Regional - MMV Claims
56	CR-17-R	VC-284	35	T.2 N.	R.3 E.	Regional - MMV Claims
57	CR-17-S	VC-281	35	T.2 N.	R.3 E.	Regional - MMV Claims
58	CR-17-T	VC-281	35	T.2 N.	R.3 E.	Regional - MMV Claims
59	CR-17-U	VC-281	35	T.2 N.	R.3 E.	Regional - MMV Claims

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2020-21 Proposed Drill Sites - Rochford Project SD

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PROGRAM

Number	Drill Site	Claim #	Section	Township	Range	Comments
1	MMV-ST-P-22		24	T.2 N.	R.3 E.	Standby Patents
2	MMV-ST-P-23		24	T.2 N.	R.3 E.	Standby Patents
3	MMV-ST-P-24		24	T.2 N.	R.3 E.	Standby Patents
4	MMV-ST-P-25		24	T.2 N.	R.3 E.	Standby Patents
5	MMV-ST-P-26		24	T.2 N.	R.3 E.	Standby Patents
6	MMV-ST-P-27		24	T.2 N.	R.3 E.	Standby Patents
7	MMV-ST-P-28		24	T.2 N.	R.3 E.	Standby Patents
8	MMV-ST-P-29		24	T.2 N.	R.3 E.	Standby Patents
9	MMV-ST-P-30		24	T.2 N.	R.3 E.	Standby Patents
10	MMV-ST-P-31		24	T.2 N.	R.3 E.	Standby Patents
11	MMV-ST-P-32		24	T.2 N.	R.3 E.	Standby Patents
12	MMV-ST-P-33		24	T.2 N.	R.3 E.	Standby Patents
13	MMV-ST-P-34		24	T.2 N.	R.3 E.	Standby Patents
14	MMV-ST-P-35		24	T.2 N.	R.3 E.	Standby Patents
15	MMV-ST-P-36		24	T.2 N.	R.3 E.	Standby Patents
16	MMV-ST-P-37		24	T.2 N.	R.3 E.	Standby Patents
17	MMV-ST-P-38		24	T.2 N.	R.3 E.	Standby Patents
18	MMV-ST-P-39		24	T.2 N.	R.3 E.	Standby Patents
19	MMV-ST-P-40		24	T.2 N.	R.3 E.	Standby Patents
20	MMV-ST-P-41		24	T.2 N.	R.3 E.	Standby Patents
21	MMV-ST-P-42		24	T.2 N.	R.3 E.	Standby Patents
22	MMV-ST-P-43		24	T.2 N.	R.3 E.	Standby Patents
23	MMV-ST-P-44		24	T.2 N.	R.3 E.	Standby Patents
24	MMV-ST-P-45		24	T.2 N.	R.3 E.	Standby Patents
25	MMV-ST-P-46		24	T.2 N.	R.3 E.	Standby Patents
26	MMV-ST-P-47		24	T.2 N.	R.3 E.	Standby Patents
27	MMV-ST-P-48		24	T.2 N.	R.3 E.	Standby Patents
28	MMV-ST-P-49		24	T.2 N.	R.3 E.	Standby Patents
29	MMV-ST-P-50		24	T.2 N.	R.3 E.	Standby Patents
30	MMV-ST-P-51		24	T.2 N.	R.3 E.	Standby Patents
31	MMV-ST-P-52		24	T.2 N.	R.3 E.	Standby Patents
32	MMV-ST-P-53		24	T.2 N.	R.3 E.	Standby Patents
33	MMV-ST-P-54		24	T.2 N.	R.3 E.	Standby Patents
34	MMV-ST-P-55		24	T.2 N.	R.3 E.	Standby Patents
35	MMV-ST-P-56		24	T.2 N.	R.3 E.	Standby Patents
36	MMV-ST-P-57		24	T.2 N.	R.3 E.	Standby Patents
37	MMV-ST-P-58		24	T.2 N.	R.3 E.	Standby Patents
38	MMV-ST-P-59		24	T.2 N.	R.3 E.	Standby Patents
39	MMV-ST-P-60		24	T.2 N.	R.3 E.	Standby Patents
40	MMV-ST-P-61		24	T.2 N.	R.3 E.	Standby Patents
41	MMV-ST-P-62		24	T.2 N.	R.3 E.	Standby Patents
42	MMV-ST-P-63		24	T.2 N.	R.3 E.	Standby Patents
43	MMV-ST-P-64		24	T.2 N.	R.3 E.	Standby Patents
44	MMV-ST-P-65		24	T.2 N.	R.3 E.	Standby Patents
45	MMV-ST-P-66		24	T.2 N.	R.3 E.	Standby Patents

REPORT ON PERMIT APPLICATION NO. 2813-2

Mineral Mountain Resources (SD) Inc.

OCT 15, 2020

Water Permit Application No. 2813-2 requests the appropriation of 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet per second (cfs) (10 gallons per minute) from one well completed into the Crystalline Rock aquifer (700 feet deep) located in the NW ¼ SW ¼ Section 24-T2N-R3E for commercial and industrial uses for exploratory drilling. The well site is located approximately one half mile southeast of Rochford SD. Exploratory drilling will occur in section 1-T1N-R3E; section 7-T2N-R4E; section 11-T2N-R3E; section 12-T1N-R3E; section 12-T2N-R3E; section 13-T2N-R3E; section 14-T2N-R3E; section 18-T2N-R4E; section 23-T1N-R3E; section 23-T2N-R3E; section 24-T2N-R3E; section 25-T2N-R3E; section 26-T2N-R3E; section 35-T2N-R3E; section 36-T2N-R3E.

Aquifer: Crystalline Rock (CRSL)

Hydrogeology

The Crystalline Rock aquifers consists of localized aquifers in the Precambrian aged core of the Black Hills, where extensive fractures and weathering zones allow for the transmission of water (Driscoll & Carter, 2001). The Crystalline Rock aquifer is estimated to have an outcrop area of 540,000 acres (Rahn P. H., 1979). The Crystalline Rock that this application is completed into is composed of black graphitic slate and schist (Redden, Nichols, & Terry, 2015). The Crystalline Rock aquifer has very low primary porosity, so water movement in the aquifer is through secondary porosity (fractures, joints, and faults) (Rahn P. H., 1979). Secondary porosity for the Crystalline Rock aquifer is highly variable and uneven and therefore is site-specific. Rahn (1979) estimated an effective porosity containing recoverable groundwater primarily in cracks and joints that occur within a depth of 500 feet of ground surface to be one percent of the outcrop areas of the aquifer resulting in an estimated 2,700,000 acre-feet of recoverable water in storage for the Crystalline Rock aquifer in western South Dakota.

The well completion report included with the application indicates broken schist from ground surface to 30 feet, hard gray shale from 30 to 48 feet, schist fracture 2-3 gpm from 48 to 50 feet, hard grey schist from 50 to 210, schist fracture 5 gpm from 210 to 212 feet, hard grey schist from 212 to 338 feet, schist fracture 8 gpm from 338 to 340 feet, hard grey schist from 340 to 630 feet, schist fracture 9-10 gpm from 630 to 632 feet, and hard grey schist from 632 to 700 feet. The well completion report also indicated a static water level of 30 feet below ground surface (Water Rights, 2020b).

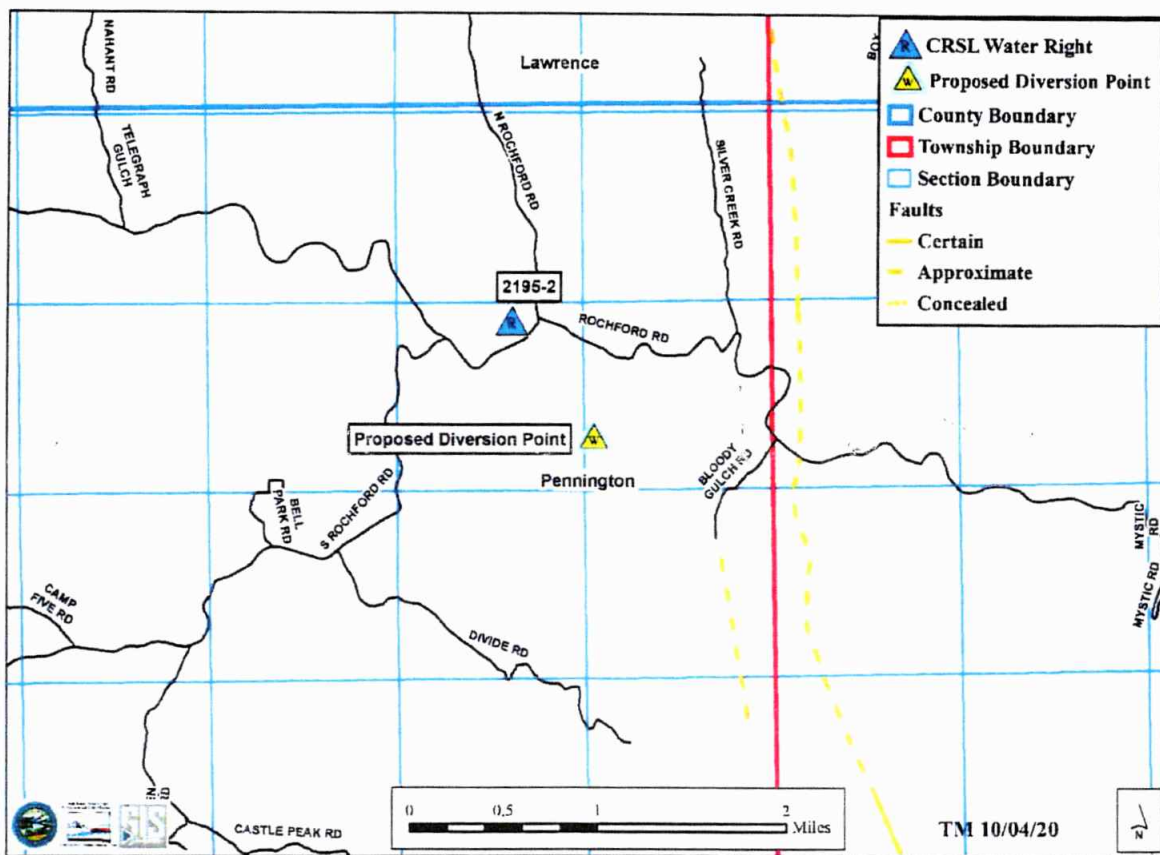


Figure 1: Map showing the location of the proposed diversion point, nearby water rights/permits completed into the Crystalline Rock aquifer, and fault locations (Water Rights, 2020a; Redden, Nichols, & Terry, 2015)

South Dakota Codified Law 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 potential impacts to existing rights within the Crystalline Rock aquifer.

Water Availability

SDCL 46-6-3.1 is considered when evaluating the probability of unappropriated water from an aquifer and states, "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." The Crystalline Rock aquifer is older and lower than the Greenhorn Formation; however, there is no water distribution system involved.

Hydrologic Budget

Recharge

The Crystalline Rock aquifers receive recharge from the infiltration of precipitation and streamflow losses on the outcrop area (Driscoll & Carter, 2001). Driscoll & Carter (2001) estimated the recharge to the entirety of the Crystalline Rock aquifers for the years 1950-1998 within the core of the Black Hills to be equal to the average withdrawals (3,600 ac-ft/yr). Driscoll and Carter (2001) concluded that the recharge to the Crystalline Rock aquifers must be much larger than estimated to account for discharge to streams. Driscoll and Carter (2001) stated, in regard to the Crystalline Rock aquifers, "Recharge conditions are highly transient and have large spatial variability; thus, quantification is not attempted." While looking at faults and other significant geological features may allow for some limiting of areal extent, there is not sufficient data available to attempt a delineation of the localized Crystalline Rock aquifer with any level of certainty. Therefore, there is no average annual recharge estimate available for the localized Crystalline Rock aquifer the applicant proposes to use.

Withdrawals

Currently, the nearest water right/permit (Water Right No. 2195-2 for Moonshine Gulch Saloon) authorized to withdraw water from the Crystalline Rock aquifer is approximately 0.8 miles to the northwest of the proposed diversion point, with the next nearest water right/permit being approximately 7.6 miles to the southeast of the proposed diversion point (Water Rights, 2020a). The amount of water that can be expected to be withdrawn by Water Right No. 2195-2 can be estimated assuming that the water right will pump at the maximum permitted diversion rate (0.015 cfs) 60 percent of the time resulting in 6.52 ac-ft/yr. This application, if approved, would authorize the appropriation of 3.68 ac-ft/yr assuming the application will use the entire permitted volume annually.

There are a number of well completion reports on file with the DENR-Water Rights Program for domestic wells that appear to be completed into the Crystalline Rock aquifer in the area of the proposed diversion point (Water Rights, 2020b). It is also likely there are other domestic wells completed into the Crystalline Rock aquifer in this area that are not on file with the Water Rights Program. In general, the volume of water pumped by domestic users is not significant to a hydrologic budget due to limited diversion rate (less than 18 gpm). Furthermore, in the Crystalline Rock aquifer it is common for most wells to produce less than 10 gpm with many users frequently getting less than 5 gpm from their wells. However, due to the unpredictable nature of the fracturing that comprises the localized Crystalline Rock aquifers, it is difficult to determine exactly how large a component of the hydrologic budget domestic use may represent.

Observation Well Data

In determining the availability of unappropriated water for a permit application, Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer.

The SD DENR-Water Rights Program maintains two observation wells that have historically been considered completed into the Crystalline Rock aquifer in western South Dakota (Water Rights, 2020c). Observation well CU-86A is located approximately 24.3 miles southeast, and observation well PE-95D is located approximately 19.5 miles southeast of the proposed well sites. Kilts W. K. (2018) determined that observation well PE-95D is open to both the Deadwood Formation and the Crystalline Rock. It is uncertain how representative observation well PE-95D is of either the Deadwood or Crystalline Rock aquifers. For this reason, only observation well CU-86A will be used for analysis. Figure 2 shows the hydrograph for observation well CU-86A.

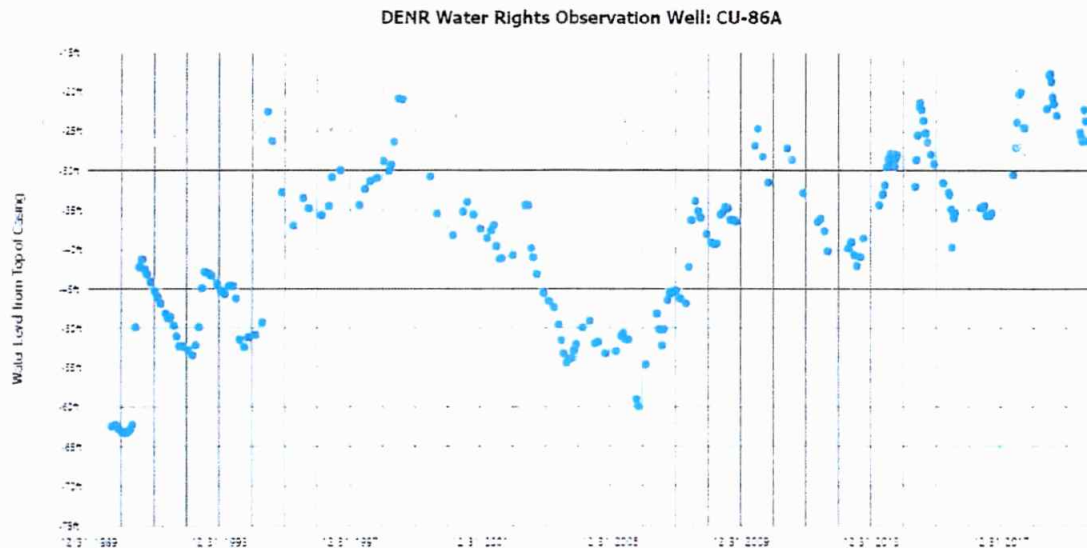


Figure 2: Hydrograph for observation well CU-86A (24.3 miles southeast) (Water Rights, 2020c).

Water levels shown in the observation well change in response to climatic conditions declining during drier periods and rising during wetter periods and show no or minimal responses to pumping. Any responses to pumping are relatively short term and are masked by recharge to and natural discharge from the aquifer. Over the period of record, the water levels for observation well CU-86A have fluctuated 45 feet. Recharge to and natural discharge from aquifers can be captured for pumping. Water level data for observation well CU-86A shows the Crystalline Rock aquifer receives recharge, and while the observation well is not close to the proposed diversion point, it still shows that the Crystalline Rock aquifers receive recharge.

Driscoll and Carter (2001) stated recharge to the Crystalline Rock aquifer must be much greater than the estimated 3,600 ac-ft/yr to account for the groundwater discharge that contributes to the base flow to many streams and is supported by the hydrograph for observation well CU-86A (Figure 2), which shows the water level generally rising over its period of record despite increased development of the aquifer.

When considering the hydrograph for observation well CU-86A, Driscoll's and Carter's (2001) commentary regarding recharge to the Crystalline Rock aquifer, the continued development of the Crystalline Rock aquifer, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation.

Potential For Unlawful Impairment Of Existing Water Rights

The nearest well completion report on file with SD DENR-Water Rights Program is approximately 0.5 miles to the northeast of the proposed diversion point for this application (Water Rights, 2020b). There are likely other wells completed into the Crystalline Rock aquifer within approximately 1 mile of the proposed diversion point for this application that are not on file with the SD DENR-Water Rights Program.

The nearest water right/permit (Water Right No. 2195-2) currently authorized to withdraw water from the Crystalline Rock aquifer is approximately 0.8 miles to the northwest of the proposed diversion point (Figure 1), with the next nearest water right/permit being approximately 7.6 miles to the southeast of the proposed diversion point (Water Rights, 2020a). Considering the proximity of Water Right No. 2195-2 to nearby domestic users (approximately 0.2 miles southeast) in the area without any reports of well interference and the limited diversion rate requested by this application, there is a reasonable probability this application can be developed without unlawful impairment to nearby adequate wells (Water Rights, 2020a; Water Rights, 2020b; Water Rights, 2019e).

An adequate well as defined in ARSD 74:02:04:20(6):

“A well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.”

Due to the very low primary porosity of the Crystalline Rock aquifer and the highly variable and uneven nature of secondary porosity, 20 feet of saturated thickness may not be sufficient for a dependable water supply. Without conducting an aquifer pumping test, the precise drawdown effects caused by pumping a well cannot be determined. Over the period of record, the water levels for observation well CU-86A (Figure 2) have fluctuated 45 feet due to climatic conditions. Pump depth requirements are detailed in ARSD 74:02:04:60(2) which states “The depth of the pump setting shall be determined by dividing the specific capacity into the required yield and adding at least 10 additional feet to maintain pump inlet submergence below the maximum anticipated drawdown, where possible.”

There has only been one reported instance of well interference in Pennington County for wells completed into the Crystalline Rock aquifer. This involved Water Right No. 2572-2 during the permit's initial development. The water right was limited to a maximum diversion rate of 18 gallons per minute, the limit for reasonable domestic use, by the Chief Engineer in October 2006. The permit holder reported to the Water Rights Program that the issue was resolved sometime before January 2009, and there have not been any other reports of well interference issues since then (Water Rights, 2019e).

Considering the continued development of the Crystalline Rock aquifer without a significant history of well interference complaints, the hydrograph for observation well CU-86A (Figure 2) and the natural fluctuations in water levels over the period of record, Driscoll's and Carter's (2001)

commentary regarding recharge to the Crystalline Rock aquifer, the protection afforded to adequate wells by South Dakota Water Law, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation. If this application is approved, a qualification requiring the applicant to control their withdrawals so there is not a reduction of needed water supplies in adequate wells should be included.

Conclusions

1. Water Permit Application No. 2813-2 requests the appropriation of 3.68 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet per second (cfs) from one well completed into the Crystalline Rock aquifer (700 feet deep) located approximately one-half mile southeast of Rochford SD for exploratory drilling.
2. There is a reasonable probability that the diversion proposed by this application will not unlawfully impair adequate wells for existing water rights and domestic use.
3. There is a reasonable probability unappropriated water is available for this proposed appropriation.



Timothy Magstadt
Natural Resources Engineer II
SD DENR – Water Rights Program

Reviewed by:



Adam Mathiowetz, PE
Natural Resources Engineer III
SD DENR-Water Rights Program

References

- Carter, J. M., Driscoll, D. G., & Hamade, G. R. (2001). *Estimated Recharge to the Madison and Minnelusa Aquifers in the Black Hills Area, South Dakota and Wyoming, Water Years 1931-98; Water-Resources Investigations Report 00-4278*. Rapid City, South Dakota: United States Geological Survey.
- Driscoll, D. G., & Carter, J. M. (2001). *Hydrologic Conditions and Budgets for the Black Hills of South Dakota, Through Water Year 1998; Water-Resources Investigations Report 01-4226*. Rapid City, South Dakota: U.S. Geological Survey.
- Kilts, W. K. (2018). *Report to the Chief Engineer Water Permit No. 2789-2 Rushmore Cave*. Pierre, South Dakota: SD DENR-Water Rights Program.
- Rahn, P. H. (1979). *Ground Water Resources of Western South Dakota*. Rapid City: Department of Geology and Geological Engineering South Dakota School of Mines and Technology.
- Redden, J. A., Nichols, C. E., & Terry, M. P. (2015). *Geologic Map of the Rochford Quadrangle, South Dakota 7.5 Minute Series Geologic Quadrangle Map 25: Scale 1:24,000*. Vermillion, South Dakota: SD DENR-Geological Survey.
- Water Rights. (2019e). *Pennington County Complaint/Investigation File*. Pierre, South Dakota: SD DENR-Water Rights Program. Joe Foss Bldg.
- Water Rights. (2020a). *Water Right/Permit Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2020b). *Well Completion Report Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2020c). *Observation Well Database*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.



EXHIBIT C



CRYSTAL M. HOCKING, PG, PE

PROJECT MANAGER

TECHNICAL EXPERTISE

- / Hydrogeological Site Characterization
- / Environmental and Mine Permitting
- / Technical Writing
- / GIS Analysis

EDUCATION

- / MS in Geology and Geological Engineering, South Dakota School of Mines & Technology, Rapid City, SD (2007)
- / BS in Geological Engineering, South Dakota School of Mines & Technology, Rapid City, SD (2014)
- / BS in Geology, South Dakota School of Mines & Technology, Rapid City, SD (2005)

REGISTRATIONS & LICENSES

- / Professional Engineer in South Dakota (No. 13165), Wyoming (No. 16253), Maine (No. 15295), New Jersey (24GE05546200), New Hampshire (16423), and Florida (No. 87563)
- / Professional Geologist in Wyoming (No. 3794), Louisiana (No. 184), Texas (No. 12482), and New York (No. 491)

PROFESSIONAL MEMBERSHIPS

- / Society for Mining, Metallurgy & Exploration (SME)
- / International Association for Geoscience Diversity

CERTIFICATIONS & TRAINING

- / OSHA 40-Hour HAZWOPER
- / MSHA 32-Hour Miner Training
- / First Aid and CPR

HONORS & AWARDS

- / SDSMT Outstanding Recent Graduate (2015)

WORK HISTORY

- / RESPEC (2007–Present)
- / South Dakota School of Mines & Technology (2004–2007)
- / US Geological Survey (2005)

OVERVIEW

Ms. Hocking is a Professional Geologist and Professional Engineer. She has supported a myriad of activities including environmental site assessments, hydrogeological characterizations, groundwater modeling, geologic mapping, geospatial analyses, and mine permit application preparation and technical review. Ms. Hocking has worked on writing and reviewing several large-scale mine permit applications and has working knowledge of permitting regulations in several states.

PROJECT EXPERIENCE

Wharf Mine Hydrogeology and Groundwater Modeling, Lead, South Dakota. Ms. Hocking has knowledge of the hydrogeology and groundwater flow system at the Wharf Mine site based on over 10 years of projects for the mine. Groundwater flow is predominantly fracture-driven flow within the Precambrian bedrock, but also within the overlying Paleozoic and Tertiary units. In support of groundwater discharge permits, Ms. Hocking has conducted fate and transport modeling in a saturated system using MODFLOW. She has created and updated the site conceptual and three-dimensional groundwater models several times over the past decade. These models are used to determine the water quality impacts of waste rock and spent ore disposal, primarily focused on impacts to nitrate, fluoride, selenium, and arsenic. Ms. Hocking has assisted in siting new production wells, improved groundwater quality and water-level monitoring systems, and used predictive models to allow the mine to revise their rock disposal plans. In support of local and state mine expansion permits, Ms. Hocking has evaluated and summarized site hydrogeologic conditions.

Aquifer Pumping Test and Impacts Analysis, East Sioux Quarry, Rowena, South Dakota. LG Everest retained RESPEC to evaluate impacts to groundwater from deepening and expansion of their existing East Sioux Quarry. RESPEC conducted two aquifer pumping tests to evaluate the hydraulic conductivity of the upper and lower Sioux Quartzite. The pump test results were analyzed and reviewed to assess potential impacts to the local water table and nearby well owners.

Hydrogeological Site Characterization of the Dewey Burdock Proposed in Situ Uranium Mine, Edgemont, South Dakota. For a proposed in situ uranium mine in the southern Black Hills, Ms. Hocking was involved in planning, conducting, and reporting detailed hydrogeological site investigations. For this project, Ms. Hocking collected field samples, performed statistical water quality analysis, completed aquifer-pumping test design, implementation, and analysis, interpreted geophysical logs, and generated a 3D geologic model. Ms. Hocking wrote geology and groundwater reports for insertion into state and federal permit applications. She also testified as an expert groundwater witness and has drafted both temporary discharge permits and groundwater rights applications for the client.

Hydrogeologic Atlas of the Northern Black Hills, South Dakota. The goal of this project was to map the groundwater sources within Butte, Meade, and Lawrence Counties of the northern Black Hills, South Dakota. The study focused on four major aquifers in the region: Inyan Kara Group, Minnelusa Formation, Madison Limestone, and Deadwood Formation. Compiling existing data sources from structural contour maps, oil and gas wells, monitoring wells, and hundreds of water well logs, Ms. Hocking generated a suite of elevation (structure) contour and depth-to-aquifer maps.

Hydrogeology of the Middle North Platte, Belle Fourche, Niobrara/Lower North Platte, and Medicine Bow Watershed Studies, Wyoming. Ms. Hocking was the project geologist for completing the watershed studies and responsible for completing the geologic and groundwater sections of the study reports. Ms.

Hocking also provided expertise for the site-specific geologic investigations needed for any proposed projects, as well as oversight of watershed study reports and quality control throughout the process.

Groundwater Modeling and Well Pressure Analysis, Confidential Client, Louisiana. For this client, Ms. Hocking constructed a reservoir simulation to model hazardous waste plume migration and pressure for a Class 1 UIC permit for EPA region 6 at a site in Louisiana. The reservoir simulation was built in SWIFT (Sandia Waste Isolation Flow and Transport in Fractured Media). Multiple runs were simulated in SWIFT to model plume migration for a waste stream above and below the density of the reservoir brine and build a composite plume geometry based on the permitted injection rate and a 10,000-year migration post-operations. Additional wells were included in the simulation based on current and past injection into the same sand interval from other operators in the area that might influence the waste stream migration. A pressure buildup simulation was created in Predict-W to model the pressure cone of influence from operational injection rates. A critical pressure was calculated based on well logs for abandoned wells in the area of the new injection and using mud weights; the critical pressure is a limit to restrict possible communication between other potential reservoirs in existing wells and the waste stream.

Gilt Edge Mine Superfund Site Tailings Sampling, Lead, South Dakota. As Project Manager, Ms. Hocking developed and executed a sampling and analysis plan/ quality assurance project plan for mapping and characterizing bank material along Strawberry Creek at the Gilt Edge Mine Superfund Site. RESPEC helped design and execute the EPA approved sampling plan, mapping, and sample collection. Tailings samples were collected and analyzed to estimate the volume of tailings material in the project area and evaluate water quality impacts of historic tailings.

Wharf Large Scale Mine Expansion Permitting and Environmental Assessment (EA), Lead, South Dakota. Wharf Resources is a heap-leach gold mining operation in the northern Black Hills of South Dakota. In preparation for Green Mountain expansion, RESPEC was involved in all aspects of permitting the mining project, including successfully obtaining county and state mining permits. As project manager, Ms. Hocking coordinated schedules and budgets and facilitated communication with local and state agencies, as well as with the mine and environmental studies contractors. For the mine expansion, she was responsible for compiling the entire permit applications for county land-use and state mining permits, including writing sections on geology and groundwater, reviewing and summarizing all baseline studies, and coordinating with the mine to incorporate operational and reclamation plans into the permit application. Ms. Hocking also performed an analysis of alternatives and environmental impacts of the project to write an Environmental Assessment (EA) for lands that are administered by the Bureau of Land Management (BLM) and located within the project area.

FRA Categorical Exclusions, South Dakota and South-Western Minnesota. Ms. Hocking is the Project Manager for four individual Categorical Exclusions being prepared for railroad improvement projects for submission to the Federal Railroad Administration (FRA) by Civil Design Inc. Three of these projects are located in eastern South Dakota and one is located near Belle Fourche, South Dakota. These projects involve railroad and track maintenance, bridge repair, and new segments of track. As part of preparing the Categorical Exclusion information and assessment documents, Ms. Hocking is serving as Project Manager and performed impacts analysis for the majority of environmental resources.

Barretts Minerals Environmental Impact Statement, Dillon, Montana. Barretts Minerals, Inc. proposed an amendment to their mine permit to expand their existing talc mining operation. RESPEC was retained by Montana Department of Environmental Quality to perform scoping, prepare the Draft EIS, respond to public comment, and prepare the Final EIS. Ms. Hocking was the Project Manager, coordinating with DEQ, BMI, and resource specialists to prepare the EIS. She also was involved in resource analysis and writing sections of the EIS on impacts to geology, geotechnical engineering, transportation, air quality, and noise.

Geotechnical Investigation, Dell Rapids Quarry, South Dakota. LG Everest retained RESPEC to evaluate the overburden slope angle that could be developed in their proposed quarry expansion area. Ms. Hocking developed and implemented a field exploration and laboratory testing program for the site. After review and analysis of the site data, Ms. Hocking performed an engineering analysis and preliminary slope design.

Phase I Environmental Assessments, Sioux Falls, South Dakota. Ms. Hocking completed Phase 1 assessments and a regulatory compliance review for seven aggregate sites in southeastern South Dakota and northwestern Iowa. The assessments included environmental records review, site reconnaissance, and interviews with site operators and regulatory agencies. The assessments were completed for LG Everist as part of a due-diligence evaluation of the properties.

Deep Borehole Draft EA, Haakon County, South Dakota. For the Department of Energy (DOE) efforts to research methods of nuclear waste disposal, RESPEC was involved in Phase I planning that included public outreach and EA support for a proposed

deep borehole project site in South Dakota. Ms. Hocking led RESPEC's team to provide the DOE with the information necessary to generate an EA document. As project manager, Ms. Hocking coordinated with numerous environmental disciplines to collect baseline data and draft sections for the EA document. The project was terminated before completion because of changes in federal administration priorities.

Sand Creek Seepage Analysis, Colorado Springs, Colorado. RESPEC worked with the City of Colorado Springs to restore approximately 2,500 feet of severely degraded channel. As part of the project team, Ms. Hocking conducted seepage and hydraulic analyses of five proposed rigid-grade control structures, which included evaluating streambed stability.

Block Modeling, CRH Cement Plant Quarries, France and the Philippines. Ms. Hocking conducted block modeling of limestone quarries to mine design and optimized cement plant feed for surface limestone quarries.

Roadstone Arklow Talc Quarry Geological Review, County Wicklow, Ireland. RESPEC conducted a desktop study of Roadstone Arklow Talc Quarry geology; the study's purpose was to identify intrusions with potential asbestos minerals and then develop and implement a geochemical sampling plan. As part of the project team, Ms. Hocking reviewed the local and regional site geology and summarized the field program results.

US Sinkhole Hydrogeology and Subsidence Response, Louisiana. RESPEC provided field engineering and hydrogeologic support a major solution-mining operator to characterize and monitor a sinkhole that developed on a salt dome in the Gulf Coast region. As part of this multidisciplinary study, RESPEC has been involved with drilling investigations, three-dimensional (3D) seismic surveys, microseismic monitoring, physical and chemical hydrogeologic investigations, gas emissions monitoring and analysis, and subsidence surveys. Amidst snakes and alligators, RESPEC engineers and scientists traveled by airboat to maintain and monitor in-place inclinometers, tiltmeters, swamp water levels, and gas detection instrumentation. Ms. Hocking supported many aspects of this project, including but not limited to GIS database development and mapping, 3D stratigraphic modeling, field support, pumping test analyses, shallow gas monitoring and sampling, subsidence analyses, and monitoring and remediation work plans.

Cavern and Mining Induced Subsidence Analysis, Various Clients, New Mexico, Texas, and Louisiana. Ms. Hocking conducted geohydrological, structural, and subsidence analyses on several projects including at the I&W brine cavern in Carlsbad, New Mexico; Sheffield Brine Station in Pecos County, Texas; and Avery Island Mine in Avery Island, Louisiana. The land subsidence and tilt data analyses included performing data quality assurance/quality control (QA/QC), processing, interpolating, and reporting.

Wyoming Department of Environmental Quality (WDEQ) Land Quality Division (LQD) ISR Permitting Review and Support Services. RESPEC conducted comprehensive, multidisciplinary technical reviews of two separate mine permit applications in accordance with all applicable statutes, rules, guidelines, and memoranda of understanding (MOU) and in compliance with the applicable timelines for the WDEQ LQD. RESPEC provided professional support to the LQD in identifying deficiencies in the in situ mining permit applications and specifying the information necessary to correct those deficiencies. These reviews covered the following items: adjudication, land use, history, cultural resources, climatology, geology, hydrology, soils, vegetation, wildlife, wetlands, alluvial valleys, mine plans, and reclamation plans. Additionally, RESPEC revised LQD guidelines for in situ mine permitting and the state decision document (SDD) format. Ms. Hocking was the project manager and provided expert support for review of the two mine permit applications and revisions to the in situ guidelines and SDD, including scoping meetings with industry and regulators.

SELECTED PUBLICATIONS AND PRESENTATIONS

Goodman, W.M., and C.M. Hocking, 2020. "Water in the Hole! Development of Shaft Grouting Methods to Seal Devonian Limestone and Sandstone Aquifers in the First Shaft of the Detroit Salt Mine (1906-1907)," *Solution Mining Research Institute Fall Meeting*.

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EXHIBIT
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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

October 5, 2020

Kevin Leonard
Mineral Mountain Resources (SD), Inc
Suite 401
1195 West Broadway
Vancouver, BC V6H 3X5

Re: EXNI 435 for Mineral Mountain Resources Exploration Drilling in Section 24; T2N-R3E, Pennington County

Dear Mr. Leonard:

The department is in receipt of the Exploration Notice of Intent (EXNI) that you filed with our office on August 27, 2020, with supplemental information submitted on September 11 and September 25, 2020. The department has determined the Notice of Intent to be procedurally complete. Based on our review of your Notice, we determined the following restrictions are required:

1. This project shall be conducted and reclaimed in such a manner as to prevent any violation of the beneficial uses of specified water quality criteria of any water resources in the area. Several drill sites in the area are located near an unnamed tributary of Rapid Creek. In accordance with Chapter 74:51, this tributary is assigned the following beneficial uses:

- 9) Wildlife propagation, recreation, and stock watering waters; and
- 10) Irrigation waters.

Please note that Rapid Creek is assigned the following beneficial uses:

- 1) Domestic water supply waters;
 - 2) Coldwater permanent fish life propagation waters;
 - 7) Immersion recreation waters;
 - 8) Limited-contact recreation waters
 - 9) Wildlife propagation, recreation, and stock watering waters; and
 - 10) Irrigation waters.
2. No discharge of water or sediments into Rapid Creek or tributaries of Rapid Creek is permitted. Any water will be maintained in tanks or discharged away from the stream channels and into a settling pond or flat vegetated area to allow suspended solids to settle

A
EXHIBIT

out. In the event that it is necessary to discharge into Rapid Creek or a tributary of Rapid Creek, a South Dakota Surface Water Discharge permit must be obtained.

3. To ensure optimal soil erosion protection, all affected lands shall have adequate sedimentation and erosion control measures applied pursuant to SDCL 45-6C-32 and according to Best Mineral Management Practices. These measures shall be in the form of waterbar construction on access roads where appropriate; revegetation of roads; road embankment slopes; and the installation of straw bale or silt fence sediment filters wherever necessary.
4. All topsoil shall be salvaged and stockpiled whenever possible for use in reclamation.
5. When drilling fluids are used and/or when ground water is encountered during drilling, the drilling fluids shall be sufficiently contained to prevent overland flow or discharge to any waters of the state. If water tanks area used in lieu of mud pits, they shall also be sufficiently contained.
6. During periods of active exploration drilling, Mineral Mountain shall provide, via email, a weekly schedule outlining when and where holes will be drilled so the department can plan inspections and witness plugging activities.
7. All test holes shall be capped, sealed and plugged according to ARSD 74:11:08 (Plugging Standards) immediately following drilling and probing.
8. If surface casing is used in exploration holes, the following requirements shall be met:
 - a) Prior to removal of surface casing, the hole shall be plugged in accordance with ARSD 74:11:08 to a level just below the bottom of the surface casing;
 - b) Following step a), the casing will be removed (when possible) or cut off at least one foot below the ground surface; and
 - c) The remainder of the hole will be plugged in accordance with ARSD 74:11:08.
9. Mineral Mountain shall notify the department, in writing, when exploration drilling penetrates an aquifer. Notification shall be provided as soon as possible, but not more than 90 days after penetration of the aquifer. Notification shall include the location of the test hole penetrating the aquifer.
10. The following seed mix shall be used for reclamation of the affected areas:

13%	Annual ryegrass
25%	Slender wheatgrass
30%	Western wheatgrass
2%	Prairie junegrass
30%	Canada Wild Rye

11. Mineral Mountain shall avoid any bones, artifacts, foundation remains, or other evidence of previously unrecorded past human use during exploration activities. For specific direction regarding avoidance of these sites, please contact the SD Archaeological Research Center.
12. If any artifacts or other archaeological or cultural resources are discovered during exploration activities, the activities shall be temporarily halted and the state archaeologist notified at once.
13. Mineral Mountain shall notify the Department of Game, Fish and Parks if any previously unidentified bat habitat is found during exploration activities.
14. Mineral Mountain shall notify the Department of Game, Fish and Parks of any raptor nests within the vicinity of exploration activities to verify the nesting raptor does not require special restrictions.

Please note that we have assigned your Notice of Intent the following number: EXNI-435. This Notice allows you to conduct only the type and amount of work which is hereby being approved. Any additional work must be covered by the submission of a new Notice to our office. Mineral Mountain Resources may commence with the operation contingent upon compliance with the above restrictions.

Thank you for your interest in and consideration for the natural resources of South Dakota.

Sincerely,

\s/

Roberta Hudson
Engineering Manager I
Minerals and Mining Program
Telephone: (605) 773-4201
E-mail: roberta.hudson@state.sd.us

cc: Stan Michals, Department of Game, Fish and Parks
Lisa Nesselbeck, Archaeological Research Center
Mark Keenihan, Rapid City Office



EXHIBIT
E



EXHIBIT
F

EXHIBIT
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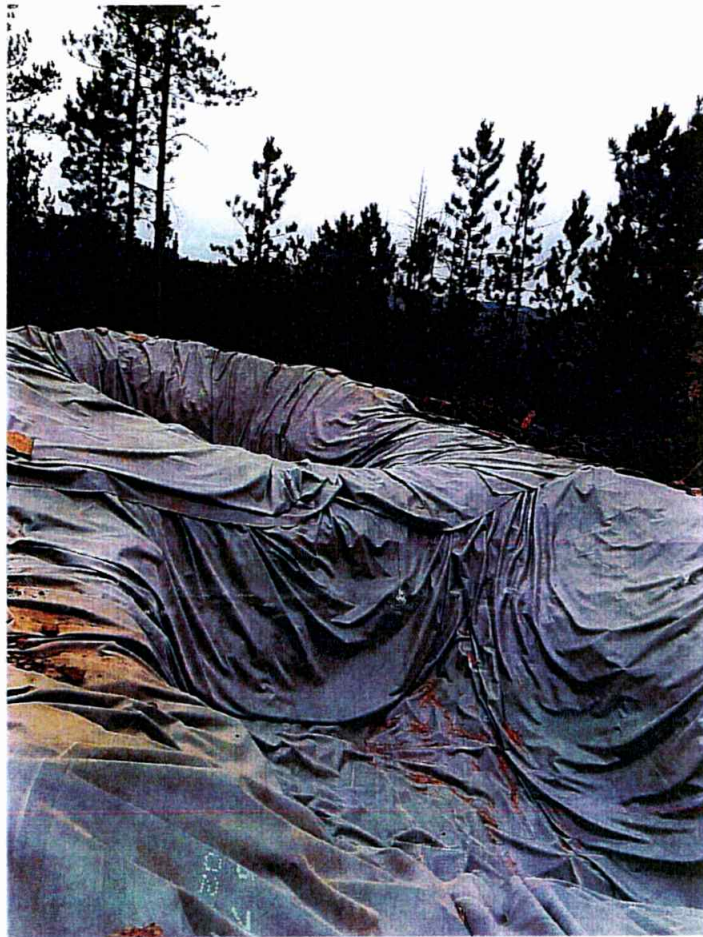
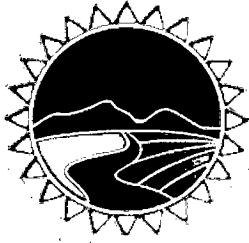


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DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 24, 2021

NOTICE OF ENTRY OF ORDER

TO: Mineral Mountain Resources (SD) Inc. Matthew E. Naasz, Counsel
c/o Bennett, Main & Gubbrud Gunderson, Palmer, Nelson &
618 State St. Ashmore, LLP
Belle Fourche SD 57717 P.O. Box 8045
 Rapid City SD 57709

Interested Persons (see attached list)

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DENR, Water Rights Program

SUBJECT: Pre-hearing Officer's Orders in the matter of Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

Enclosed are Pre-Hearing Officer Freeman's Orders in the matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

- Order on Motion in Limine to Preclude Evidence
- Order on Motion for Clarification
- Order on Motion to Hold Hearing in Rapid City
- Order on Motion to Hold Hearing Under CDC Guidelines or, in the alternative, Permit Full and Remote Participation
- Order on Mineral Mountain Motion to Dismiss Petitions in Intervention

Notices, orders and other pleadings filed in the matter of Water Permit Application No. 2813-2 are posted on DENR's contested case page at <https://denr.sd.gov/contested.aspx>.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey, Assistant Attorney General
David McVey, Assistant Attorney General

List of Interested Persons regarding Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnekahta Ave.
Hot Springs SD 57747

Juli Ames-Curtis
11936 Hay Creek Rd.
Custer SD 57730

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

Emma
emmafroscam@live.com

Max P.
dowhatyouwantalways@protonmail.com

Jerry Wilson
30959 Frog Creek Road
Vermillion SD 57059

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City SD 57709

Reno L. Red Cloud Sr
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

Richard Bell, PE
1206 Clark St.
Rapid City, SD 57701

CERTIFICATION

I hereby certify that on February 24, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Orders dated February 24, 2021, regarding orders in the matter of Water Permit Application No. 2813-2, as addressed below and on the attached interested person list for persons with a mailing address. Otherwise, service was provided by email at the address provided:

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St.
Belle Fourche SD 57717

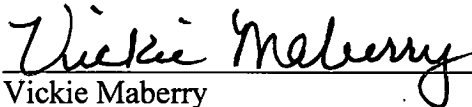
Matthew E. Naasz, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

Interested Persons (see attached list)

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



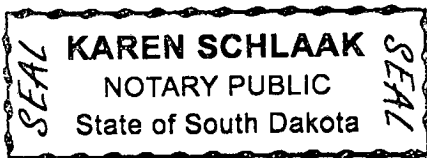
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 24th day of February, 2021.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



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FEB 24 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	ORDER ON MOTION <i>IN LIMINE</i> TO
APPLICATION NO. 2813-2, MINERAL	)	PRECLUDE EVIDENCE REGARDING
MOUNTAIN RESOURCES (SD), INC.	)	MINING AND POSSIBLE SURFACE
		WATER DISCHARGE

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on February 9, 2021 the Applicant filed a Motion *In Limine* to Preclude Evidence Regarding Mining and Possible Surface Water Discharge; and

WHEREAS, on February 17, 2021, Richard A Bell filed a Response to the Motion¹; and

WHEREAS, on February 19, 2021, an email was sent to the Water Rights Program purporting to be a response to the Motion by Bruce Ellison. On information and belief, no mailing has yet been received by the Water Rights Program evidencing a postmark indicating that it was timely filed.

NOW THEREFORE, in this Application the Board is being asked to approve the appropriation of 3.68 acre-feet of water with a maximum diversion rate of 0.022 cubic feet per second (cfs). The relevant inquiry as to whether the Board can grant such a request is set forth in SDCL § 46-2A-9 which states:

A permit to appropriate water may be issued only if there is (1) reasonable probability that there is unappropriated water available for the applicant's proposed use, (2) that the proposed diversion can be developed without unlawful impairment of existing rights and (3) that the proposed use is a beneficial use and (4) in the public interest. (*numbering added*).

¹ Richard A. Bell, by Order issued this even date, was dismissed as a petitioner as his Petition in Opposition was not properly filed. Therefore, his response to the instant Motion was not considered in this Order.

In order for the Board to grant a permit for the appropriation of water, evidence must be submitted on each of the four factors listed above. SDCL § 1-26-25 requires that a decision by the Board "include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings." (*See also, In the Matter of the 1990 RENEWAL APPLICATION OF SDDS, INC.*, 507 N.W.2d 702 (S.D. 1993)) stating "no...permit may be issued in a contested case unless the Board finds that to do so is in the public interest. We noted that findings of fact must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.)

SDCL § 1-29-19(1) states in relevant part "The rules of evidence as applied under statutory provisions and in the trial of civil cases in the circuit courts of this state, or as may be provided in statutes relating to the specific agency, shall be followed." Further SDCL § 19-19-401 provides:

Evidence is relevant if:

- (a) It has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) The fact is of consequence in determining the action.

SDCL § 19-19-402 provides:

All relevant evidence is admissible, except as otherwise provided by constitution or statute or by this chapter or other rules promulgated by the Supreme Court of this state. Evidence which is not relevant is not admissible.

The issue of relevance here is whether testimony/evidence on the relative merits of large scale gold mining are relevant to any of the four prongs set forth in SDCL § 46-2A-9. Likewise, is testimony/evidence regarding a theoretical surface water discharge relevant to those four factors. Testimony/evidence regarding large scale gold mining and a theoretical surface water discharge is irrelevant to the issues of the reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful

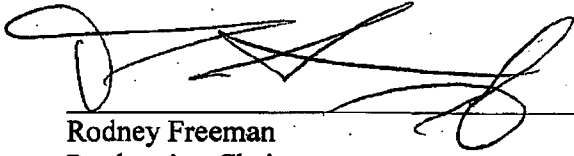
impairment of existing rights and whether that the proposed use is a beneficial use (which is defined as ""Beneficial use," any use of water within or outside the state, that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies" SDCL 46-1-6(3). The only remaining question is whether such testimony/evidence is relevant to whether the use is in the public interest.

The meaning of "public interest" remains undefined by statute and when deciding what is the in the "Public Interest," the Board has an un-delineated and therefore broad range of factors available for consideration when granting or denying water permit applications. This broad range factors could include the health, safety, and general welfare of people of South Dakota among any number of other possible considerations.

Testimony/ evidence regarding large scale gold mining and a theoretical surface water discharge may be relevant and the Board can rule at the time such testimony/evidence is offered whether is considers that particular offering to be relevant. The Board will be left to determine the relative weight of that evidence when considering determining whether or not the application satisfies the requirements of SDCL § 46-2A-9.

FOR THE REASONS set forth herein, the Applicant's Motion *In Limine* to preclude Evidence Regarding Mining and Possible Surface Water Discharge is **GRANTED** in part and **DENIED** in part. Such testimony/evidence will be allowed only as to the issue of public interest, without limiting the Board's ability to rule on the admissibility of any particular offering of evidence or testimony.

So Ordered this 24th day of February, 2021.


Rodney Freeman
Pre-hearing Chair
Water Management Board

FEB 24 2021

WATER RIGHTS
PROGRAMSTATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2813-2, MINERAL)
MOUNTAIN RESOURCES (SD), INC.)

ORDER ON MOTION FOR
CLARIFICATION

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

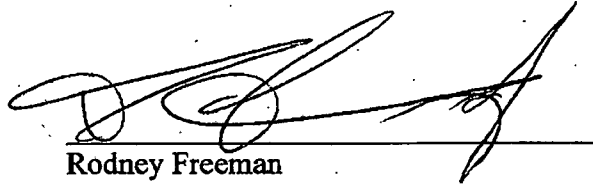
WHEREAS, on December 18, 2020 the Water Rights Program filed a Motion for Clarification by and through their counsel; and

WHEREAS, no responses to the Motion were filed.

NOW THEREFORE, The emails submitted to oppose the Application by Richard Bell, Juli Ames-Curtis, an email from emmafrostcam@live.com, Max P. at dowhatyouwantalways@protonmail.com, and Jerry Wilson do not comply with the notice requirements set forth in the public notice nor with the requirements of SDCL § 46-2A-6. Moreover, the emails from an email from emmafrostcam@live.com, Max P. at dowhatyouwantalways@protonmail.com fail to provide full names and mailing addresses as required by both the notice and SDCL §46-2A-4(5). Finally, the emails from Juli-Ames Curtis, an email from emmafrostcam@live.com, Max P. at dowhatyouwantalways@protonmail.com, and Jerry Wilson fails to meet the signature requirement as set forth in the Notice and in SDCL §46-2A-4.

Water Rights Motion for Clarification is **GRANTED**. The foregoing Petitions were not proper petitions and the individuals may not fully participate in the contested case proceeding as parties with all the rights inherent in that status.

So Ordered this 24th day of February, 2021.

A handwritten signature in black ink, appearing to read 'Rodney Freeman', is written over a horizontal line.

Rodney Freeman
Pre-hearing Chair
Water Management Board

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FEB 24 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2813-2, MINERAL)
MOUNTAIN RESOURCES (SD), INC.)

ORDER ON MOTION TO HOLD
HEARING IN RAPID CITY

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on December 26, 2020 the Liliias Jones Jarding, Ph.D. filed a Motion seeking to have the hearing moved to Rapid City; and

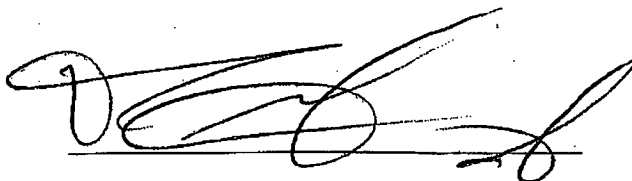
WHEREAS, on February 9, 2021, intervenors Bruce, Nakea, Aaron, Samuel, and Abby Ellison ("Ellison Intervenors") joined the Motion seeking to hold the hearing in Rapid City; and

WHEREAS, on February 18, 2021, the Water Rights Program filed a Response to the Ellison Intervenors Motion for Joinder; and

WHEREAS, on January 21, 2021, Water Rights filed a Response to Motion to Hold Hearing in Rapid City, South Dakota.

NOW THEREFORE, due technology considerations, cost considerations, other business items on the agenda, compliance with CDC guidelines and other factors more fully described in Water Rights Response, the Jarding Motion, along with the Ellison Intervenors Joinder Motion, to Hold the Hearing, in Rapid City, South Dakota are **DENIED**.

So Ordered this 24th day of February, 2021.



**Rodney Freeman
Pre-hearing Chair
Water Management Board**

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FEB 24 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	ORDER ON MOTION TO HOLD
APPLICATION NO. 2813-2, MINERAL	)	HEARING UNDER CDC GUIDELINES
MOUNTAIN RESOURCES (SD), INC.	)	OR IN THE ALTERNATIVE, PERMIT
		FULL AND REMOTE PARTICIPATION

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

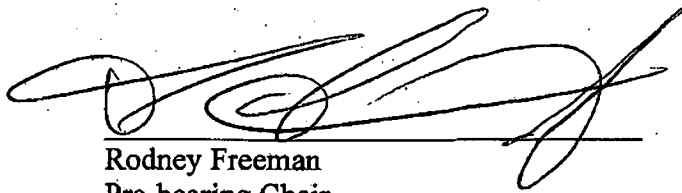
WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on February 9, 2021 intervenors Bruce, Nakea, Aaron, Samuel, and Abby Ellison ("Ellison Intervenors") filed a Motion to Hold the Hearing Under CDC Guidelines or in the Alternative, permit Full and Remote Participation; and

WHEREAS, on February 18, 2021, the Water Rights Program filed a Response to the Ellison Intervenors' Motion; and

NOW THEREFORE, By procedural order, the prehearing Chair has already taken steps to ensure that the hearing will be held in a manner consistent with CDC guidelines as far as practicable. Moreover, cleaning crews in the Matthew Training Center clean and disinfect by wiping down all common surfaces, including light switches, doorknobs and handles, tabletops, and chairs, etc. Appearing remotely creates technical and practical difficulties around the admission and use of exhibits and the ability of Board members to observe the testimony being proffered. The Ellison Intervenors' Motion is **DENIED**. Any Party who intends examine witnesses or admit exhibits must be physically present at the Hearing in Pierre, SD.

So Ordered this 24th day of February, 2021.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Rodney Freeman
Pre-hearing Chair
Water Management Board

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FEB 24 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	ORDER ON MINERAL MOUNTAIN
APPLICATION NO. 2813-2, MINERAL	)	MOTION TO DISMISS PETITIONS IN
MOUNTAIN RESOURCES (SD), INC.	)	INTERVENTATION

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on December 29, 2020 the Applicant filed a Motion to Dismiss Petitions in Intervention by and through their counsel; and

WHEREAS, responses to the Motion were filed by Liliias Jones Jarding dated January 19, 2021, Bruce Ellison dated January 26, 2021, and by Richard A. Bell dated February 17, 2021¹.

NOW THEREFORE, In this Application the Board is being asked to approve the appropriation of 3.68 acre-feet of water with a maximum diversion rate of 0.022 cubic feet per second (cfs).

All water within the boundaries of South Dakota belongs to the people of South Dakota. Specifically, SDCL § 46-1-3 states "It is hereby declared that all water within the state is the property of the people of the state, but the right to the use of water may be acquired by appropriation as provided by law." Further, SDCL § 46-1-1 states "It is hereby declared that the people of the state have a paramount interest in the use of all the water of the state and that the state shall determine what water of the state, surface and underground, can be converted to public use or controlled for public protection."

¹ Richard A. Bell, by Order issued this even date, was dismissed as a petitioner as his Petition in Opposition was not properly filed. Therefore, his response to the instant Motion was not considered in this Order.

Regarding the Publication of Application and Recommendation of Chief Engineer, the law requires the notice to contain, *inter alia*, a "A statement that any **interested** person who intends to participate in the hearing shall file a petition to oppose or support the application and that the petition shall be filed with the chief engineer and applicant at least ten days before the published date for hearing." (SDCL § 46-2A-4(4) *Emphasis supplied.*) Further, SDCL §46-2A-4(5) requires the notice to contain a statement that a petition to oppose or support an application may be informal. Further, SDCL §46-2A-4(5) requires the notice to contain a statement that a petition to oppose or support an application may be informal but that it:

shall be in writing and shall contain the following:

1. A statement describing the petitioner's interest in the application;
2. The reasons for the petitioner's opposition to or support for the application; and
3. The signature and mailing address of the petitioner or the petitioner's legal counsel.

The questions that must be answered for each of the proposed intervenors is whether they are **interested** persons who may intervene as contemplated in the notice provision of SDCL § 46-2A-4(4).

SDCL § 46-2A does not provide a definition for an "interested" party but it does state that any interested person may submit a petition in opposition or support. Contrary to the definition set forth in SDCL § 1-26-17.1, as applicable to contested cases generally regarding intervention, the Legislature did not include the qualifier that a person with a **pecuniary interest** may intervene in certain circumstances. SDCL §1-26-17.1 provides:

"A person who is not an original party to a contested case and whose **pecuniary** interests would be directly and immediately affected by an agency's order made upon the hearing may become a party to the hearing by intervention, if timely application therefor is made."(*Emphasis supplied.*)

Rather, in the context of an application for the appropriation of water pursuant to SDCL §46-2A, it appears that the legislature intended a broader scope of public participation. The Applicant

would have the Board adopt the definition of an interested person as set forth in SDCL § 1-26-17.1. essentially requiring the Board to serve as a gatekeeper to determine who is or is not entitled to intervene on the basis of whether they have, *inter alia*, a pecuniary interest. Yet there is no schedule, procedure, or process set forth in SDCL 46-2A for the Board to determine whether a person is interested pursuant to that definition. Instead, SDCL §46-2A-5 grants immediate rights to such intervenors; a grant of rights which directly contradicts the Applicant's notion that the Board should serve as a gatekeeper. For example, SDCL § 46-2A-5 states:

"The applicant or any person who has filed a petition to oppose or support an application, may submit a written notice to the chief engineer requesting a postponement of the date set for hearing on the application. Upon receipt of the written notice, the chief engineer shall cancel the original hearing on the application and reschedule the application for hearing by the Water Management Board not less than twenty days after the published date for hearing..." (*Emphasis supplied.*)

Had the Legislature intended for the Board to review the pecuniary interest of a proposed intervenor, it could have included a sentence to allow for the automatic delay for the purpose of requiring the proposed intervenor to establish its right to intervene; but they did not. Moreover, in SDCL § 46-2A-4 the Legislature could have required of petitioners a statement describing the petitioner's pecuniary interest in the application; but they did not.

The Applicant relies on In re Union Carbide Corp., 308 Nw.2d 753, for the proposition that "[T]he State's highest court determined the administrative proceeding criteria are identical to those that apply to judicial proceedings." (*See Applicant's Motion, P.2*). This overly-expansive reading of Union Carbide is inapplicable to the instant application. Specifically, the court in Union Carbide stated: "On the issue of timeliness, the criteria for intervention that is applicable in judicial proceedings is likewise applicable in administrative proceedings." (*Id.* at 759. *Emphasis supplied.*) It appears that the Court's holding in Union Carbide was expressly limited to timeliness. Moreover, even assuming *arguendo* that the Board adopted the notion that intervention must be governed by the strictures of SDCL §15-6-24 as suggested by the Applicant, the Applicant completely ignores the

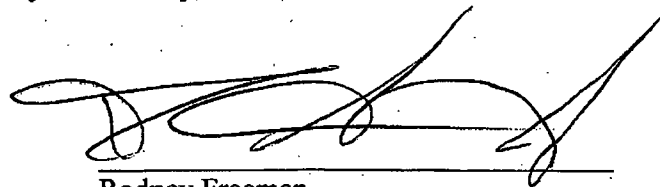
provisions regarding permissive intervention set forth in SDCL § 15-6-24(b) focusing only on intervention as of right. Moreover, the Applicant ignores SDCL § 15-6-24(c) which sets forth procedures for intervention which are in direct conflict with the procedure set forth in SDCL §46-2A-4, the relevant statute herein.

The Board does not need to reach a discussion of the provisions of SDCL § 15-6-24(b) or (c) and their potential application herein as the Board will not adopt the definition of an "interested" person as set forth in SDCL § 1-26-17.1 in this proceeding. It appears that the Legislature intended a broad scope of public participation when it set forth the administrative procedures for the appropriation of water in SDCL § 46-2A. In the instant case, this notion is even more evident when you consider the criteria set forth for the appropriation of water as stated in SDCL §46-2A-9, one of which is whether the appropriation is "in the public interest." Clearly the Legislature intended for the public to be heard on the issue of whether the proposed appropriation of water was in the public's interest, and requiring the Board to serve as a gate keeper to exclude those that do not have a pecuniary interest cuts against that legislative intent.

FOR THE REASONS set forth herein, the Applicant's Motion to Dismiss Intervenors is

DENIED.

So Ordered this 24th day of February, 2021.



Rodney Freeman
Pre-hearing Chair
Water Management Board

RECEIVED

FEB 25 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	ORDER ON MOTION <i>IN LIMINE</i> TO
APPLICATION NO. 2813-2, MINERAL	)	PRECLUDE EVIDENCE REGARDING
MOUNTAIN RESOURCES (SD), INC.	)	MINING AND POSSIBLE SURFACE
		WATER DISCHARGE

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on February 9, 2021 the Applicant filed a Motion *In Limine* to Preclude Evidence Regarding Mining and Possible Surface Water Discharge; and

WHEREAS, on February 17, 2021, Richard A Bell filed a Response to the Motion¹; and

WHEREAS, on February 19, 2021, an email was sent to the Water Rights Program purporting to be a response to the Motion by Bruce Ellison. On information and belief, no mailing has yet been received by the Water Rights Program evidencing a postmark indicating that it was timely filed.

NOW THEREFORE, in this Application the Board is being asked to approve the appropriation of 3.68 acre-feet of water with a maximum diversion rate of 0.022 cubic feet per second (cfs). The relevant inquiry as to whether the Board can grant such a request is set forth in SDCL § 46-2A-9 which states:

A permit to appropriate water may be issued only if there is (1) reasonable probability that there is unappropriated water available for the applicant's proposed use, (2) that the proposed diversion can be developed without unlawful impairment of existing rights and (3) that the proposed use is a beneficial use and (4) in the public interest. (*numbering added*).

¹ Richard A. Bell, by Order issued this even date, was dismissed as a petitioner as his Petition in Opposition was not properly filed. Therefore, his response to the instant Motion was not considered in this Order.

In order for the Board to grant a permit for the appropriation of water, evidence must be submitted on each of the four factors listed above. SDCL § 1-26-25 requires that a decision by the Board “include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.” (*See also, In the Matter of the 1990 RENEWAL APPLICATION OF SDDS, INC.*, 507 N.W.2d 702 (S.D. 1993)) stating “no...permit may be issued in a contested case unless the Board finds that to do so is in the public interest. We noted that findings of fact must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.)

SDCL § 1-29-19(1) states in relevant part “The rules of evidence as applied under statutory provisions and in the trial of civil cases in the circuit courts of this state, or as may be provided in statutes relating to the specific agency, shall be followed.” Further SDCL §19-19-401 provides:

Evidence is relevant if:

- (a) It has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) The fact is of consequence in determining the action.

SDCL § 19-19-402 provides:

All relevant evidence is admissible, except as otherwise provided by constitution or statute or by this chapter or other rules promulgated by the Supreme Court of this state. Evidence which is not relevant is not admissible.

The issue of relevance here is whether testimony/evidence on the relative merits of large scale gold mining are relevant to any of the four prongs set forth in SDCL §46-2A-9. Likewise, is testimony/evidence regarding a theoretical surface water discharge relevant to those four factors. Testimony/evidence regarding large scale gold mining and a theoretical surface water discharge is irrelevant to the issues of the reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful

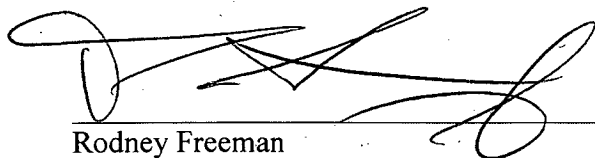
impairment of existing rights and whether that the proposed use is a beneficial use (which is defined as ""Beneficial use," any use of water within or outside the state, that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies" SDCL 46-1-6(3). The only remaining question is whether such testimony/evidence is relevant to whether the use is in the public interest.

The meaning of "public interest" remains undefined by statute and when deciding what is the in the "Public Interest," the Board has an un-delineated and therefore broad range of factors available for consideration when granting or denying water permit applications. This broad range factors could include the health, safety, and general welfare of people of South Dakota among any number of other possible considerations.

Testimony/ evidence regarding large scale gold mining and a theoretical surface water discharge may be relevant and the Board can rule at the time such testimony/evidence is offered whether is considers that particular offering to be relevant. The Board will be left to determine the relative weight of that evidence when considering determining whether or not the application satisfies the requirements of SDCL § 46-2A-9.

FOR THE REASONS set forth herein, the Applicant's Motion *In Limine* to preclude Evidence Regarding Mining and Possible Surface Water Discharge is **GRANTED** in part and **DENIED** in part. Such testimony/evidence will be allowed only as to the issue of public interest, without limiting the Board's ability to rule on the admissibility of any particular offering of evidence or testimony.

So Ordered this 24th day of February, 2021.

A handwritten signature in dark ink, appearing to read 'Rodney Freeman', is written over a horizontal line.

Rodney Freeman
Pre-hearing Chair
Water Management Board

RECEIVED

FEB 25 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 2813-2, MINERAL
MOUNTAIN RESOURCES (SD), INC.

)
)
)

ORDER ON MOTION FOR
CLARIFICATION

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

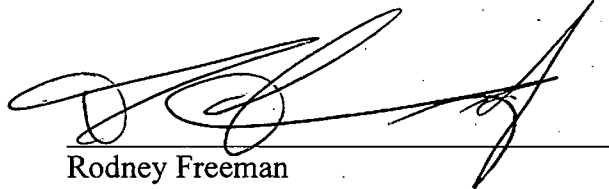
WHEREAS, on December 18, 2020 the Water Rights Program filed a Motion for Clarification by and through their counsel; and

WHEREAS, no responses to the Motion were filed.

NOW THEREFORE, The emails submitted to oppose the Application by Richard Bell, Juli Ames-Curtis, an email from emmafrostcam@live.com, Max P. at dowhatyouwantalways@protonmail.com, and Jerry Wilson do not comply with the notice requirements set forth in the public notice nor with the requirements of SDCL § 46-2A-6. Moreover, the emails from an email from emmafrostcam@live.com, Max P. at dowhatyouwantalways@protonmail.com fail to provide full names and mailing addresses as required by both the notice and SDCL §46-2A-4(5). Finally, the emails from Juli-Ames Curtis, an email from emmafrostcam@live.com, Max P. at dowhatyouwantalways@protonmail.com, and Jerry Wilson fails to meet the signature requirement as set forth in the Notice and in SDCL §46-2A-4.

Water Rights Motion for Clarification is **GRANTED**. The foregoing Petitions were not proper petitions and the individuals may not fully participate in the contested case proceeding as parties with all the rights inherent in that status.

So Ordered this 24th day of February, 2021.

A handwritten signature in black ink, appearing to read 'Rodney Freeman', written over a horizontal line.

Rodney Freeman
Pre-hearing Chair
Water Management Board

RECEIVED

FEB 25 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2813-2, MINERAL)
MOUNTAIN RESOURCES (SD), INC.)

ORDER ON MOTION TO HOLD
HEARING IN RAPID CITY

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on December 26, 2020 the Liliias Jones Jarding, Ph.D. filed a Motion seeking to have the hearing moved to Rapid City; and

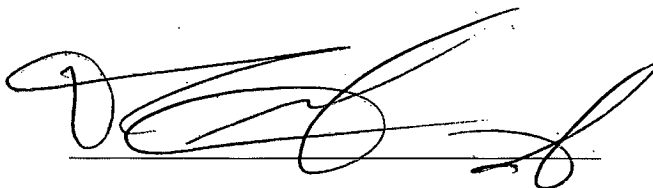
WHEREAS, on February 9, 2021, intervenors Bruce, Nakea, Aaron, Samuel, and Abby Ellison ("Ellison Intervenors") joined the Motion seeking to hold the hearing in Rapid City; and

WHEREAS, on February 18, 2021, the Water Rights Program filed a Response to the Ellison Intervenors Motion for Joinder; and

WHEREAS, on January 21, 2021, Water Rights filed a Response to Motion to Hold Hearing in Rapid City, South Dakota.

NOW THEREFORE, due technology considerations, cost considerations, other business items on the agenda, compliance with CDC guidelines and other factors more fully described in Water Rights Response, the Jarding Motion, along with the Ellison Intervenors Joinder Motion, to Hold the Hearing, in Rapid City, South Dakota are **DENIED**.

So Ordered this 24th day of February, 2021.



RECEIVED

FEB 25 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	ORDER ON MOTION TO HOLD
APPLICATION NO. 2813-2, MINERAL	)	HEARING UNDER CDC GUIDELINES
MOUNTAIN RESOURCES (SD), INC.	)	OR IN THE ALTERNATIVE, PERMIT
		FULL AND REMOTE PARTICIPATION

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

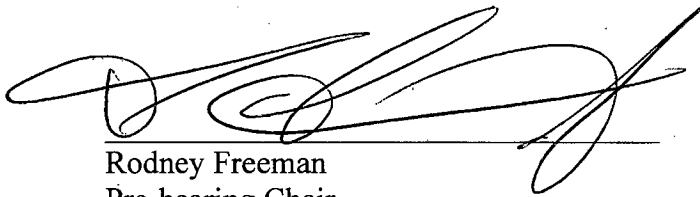
WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on February 9, 2021 intervenors Bruce, Nakea, Aaron, Samuel, and Abby Ellison ("Ellison Intervenors") filed a Motion to Hold the Hearing Under CDC Guidelines or in the Alternative, permit Full and Remote Participation; and

WHEREAS, on February 18, 2021, the Water Rights Program filed a Response to the Ellison Intervenors' Motion; and

NOW THEREFORE, By procedural order, the prehearing Chair has already taken steps to ensure that the hearing will be held in a manner consistent with CDC guidelines as far as practicable. Moreover, cleaning crews in the Matthew Training Center clean and disinfect by wiping down all common surfaces, including light switches, doorknobs and handles, tabletops, and chairs, etc. Appearing remotely creates technical and practical difficulties around the admission and use of exhibits and the ability of Board members to observe the testimony being proffered. The Ellison Intervenors' Motion is **DENIED**. Any Party who intends examine witnesses or admit exhibits must be physically present at the Hearing in Pierre, SD.

So Ordered this ²⁴24 day of February, 2021.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Rodney Freeman
Pre-hearing Chair
Water Management Board

RECEIVED

FEB 25 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 2813-2, MINERAL
MOUNTAIN RESOURCES (SD), INC.

)
)
)

ORDER ON MINERAL MOUNTAIN
MOTION TO DISMISS PETITIONS IN
INTERVENTATION

WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on December 29, 2020 the Applicant filed a Motion to Dismiss Petitions in Intervention by and through their counsel; and

WHEREAS, responses to the Motion were filed by Liliias Jones Jarding dated January 19, 2021, Bruce Ellison dated January 26, 2021, and by Richard A. Bell dated February 17, 2021¹.

NOW THEREFORE, In this Application the Board is being asked to approve the appropriation of 3.68 acre-feet of water with a maximum diversion rate of 0.022 cubic feet per second (cfs).

All water within the boundaries of South Dakota belongs to the people of South Dakota. Specifically, SDCL § 46-1-3 states "It is hereby declared that all water within the state is the property of the people of the state, but the right to the use of water may be acquired by appropriation as provided by law." Further, SDCL § 46-1-1 states "It is hereby declared that the people of the state have a paramount interest in the use of all the water of the state and that the state shall determine what water of the state, surface and underground, can be converted to public use or controlled for public protection."

¹ Richard A. Bell, by Order issued this even date, was dismissed as a petitioner as his Petition in Opposition was not properly filed. Therefore, his response to the instant Motion was not considered in this Order.

Regarding the Publication of Application and Recommendation of Chief Engineer, the law requires the notice to contain, *inter alia*, a “A statement that any **interested** person who intends to participate in the hearing shall file a petition to oppose or support the application and that the petition shall be filed with the chief engineer and applicant at least ten days before the published date for hearing.” (SDCL § 46-2A-4(4) *Emphasis supplied.*) Further, SDCL §46-2A-4(5) requires the notice to contain a statement that a petition to oppose or support an application may be informal. Further, SDCL §46-2A-4(5) requires the notice to contain a statement that a petition to oppose or support an application may be informal but that it:

shall be in writing and shall contain the following:

1. A statement describing the petitioner's interest in the application;
2. The reasons for the petitioner's opposition to or support for the application; and
3. The signature and mailing address of the petitioner or the petitioner's legal counsel.

The questions that must be answered for each of the proposed intervenors is whether they are **interested** persons who may intervene as contemplated in the notice provision of SDCL § 46-2A-4(4).

SDCL § 46-2A does not provide a definition for an “interested” party but it does state that **any** interested person may submit a petition in opposition or support. Contrary to the definition set forth in SDCL § 1-26-17.1, as applicable to contested cases generally regarding intervention, the Legislature did not include the qualifier that a person with a **pecuniary interest** may intervene in certain circumstances. SDCL §1-26-17.1 provides:

“A person who is not an original party to a contested case and whose **pecuniary** interests would be directly and immediately affected by an agency's order made upon the hearing may become a party to the hearing by intervention, if timely application therefor is made.”(*Emphasis supplied.*)

Rather, in the context of an application for the appropriation of water pursuant to SDCL §46-2A, it appears that the legislature intended a broader scope of public participation. The Applicant

would have the Board adopt the definition of an interested person as set forth in SDCL § 1-26-17.1, essentially requiring the Board to serve as a gatekeeper to determine who is or is not entitled to intervene on the basis of whether they have, *inter alia*, a pecuniary interest. Yet there is no schedule, procedure, or process set forth in SDCL 46-2A for the Board to determine whether a person is interested pursuant to that definition. Instead, SDCL §46-2A-5 grants immediate rights to such intervenors; a grant of rights which directly contradicts the Applicant's notion that the Board should serve as a gatekeeper. For example, SDCL § 46-2A-5 states:

"The applicant or any person who has filed a petition to oppose or support an application, may submit a written notice to the chief engineer requesting a postponement of the date set for hearing on the application. Upon receipt of the written notice, the chief engineer shall cancel the original hearing on the application and reschedule the application for hearing by the Water Management Board not less than twenty days after the published date for hearing..." (*Emphasis supplied.*)

Had the Legislature intended for the Board to review the pecuniary interest of a proposed intervenor, it could have included a sentence to allow for the automatic delay for the purpose of requiring the proposed intervenor to establish its right to intervene; but they did not. Moreover, in SDCL § 46-2A-4 the Legislature could have required of petitioners a statement describing the petitioner's **pecuniary** interest in the application; but they did not.

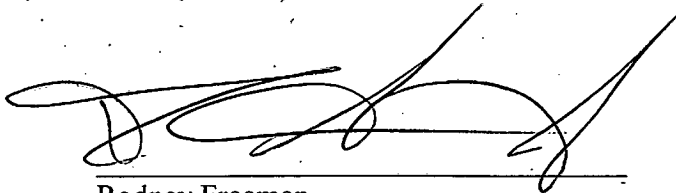
The Applicant relies on In re Union Carbide Corp., 308 Nw.2d 753, for the proposition that "[T]he State's highest court determined the administrative proceeding criteria are identical to those that apply to judicial proceedings." (*See Applicant's Motion, P.2*). This overly-expansive reading of Union Carbide is inapplicable to the instant application. Specifically, the court in Union Carbide stated: "**On the issue of timeliness**, the criteria for intervention that is applicable in judicial proceedings is likewise applicable in administrative proceedings." (*Id.* at 759. *Emphasis supplied.*) It appears that the Court's holding in Union Carbide was expressly limited to timeliness. Moreover, even assuming *arguendo* that the Board adopted the notion that intervention must be governed by the strictures of SDCL §15-6-24 as suggested by the Applicant, the Applicant completely ignores the

provisions regarding permissive intervention set forth in SDCL § 15-6-24(b) focusing only on intervention as of right. Moreover, the Applicant ignores SDCL § 15-6-24(c) which sets forth procedures for intervention which are in direct conflict with the procedure set forth in SDCL §46-2A-4, the relevant statute herein.

The Board does not need to reach a discussion of the provisions of SDCL § 15-6-24(b) or (c) and their potential application herein as the Board will not adopt the definition of an "interested" person as set forth in SDCL § 1-26-17.1 in this proceeding. It appears that the Legislature intended a broad scope of public participation when it set forth the administrative procedures for the appropriation of water in SDCL § 46-2A. In the instant case, this notion is even more evident when you consider the criteria set forth for the appropriation of water as stated in SDCL §46-2A-9, one of which is whether the appropriation is "in the public interest." Clearly the Legislature intended for the public to be heard on the issue of whether the proposed appropriation of water was in the public's interest, and requiring the Board to serve as a gate keeper to exclude those that do not have a pecuniary interest cuts against that legislative intent.

FOR THE REASONS set forth herein, the Applicant's Motion to Dismiss Intervenor is
DENIED.

So Ordered this 24th day of February, 2021.



Rodney Freeman.
Pre-hearing Chair
Water Management Board

DENR - WA

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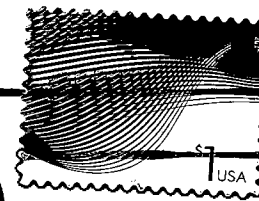
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PIERRE SOUTH DAKOTA 57501

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DAKOTA CENTRAL
FEB 24
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DAKOTA CENTRAL
FEB 24
2021
PM



JULIE SANTELLA
422 COLUMBUS ST., APT 1
RAPID CITY SD 57701

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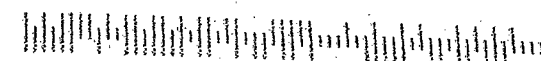
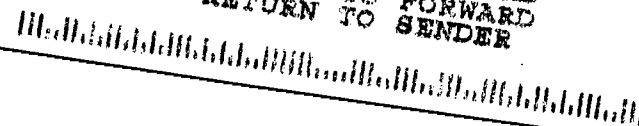
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WATER RIGHTS
PROGRAM

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DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 1, 2021

NOTICE OF ENTRY OF ORDER

TO: Mineral Mountain Resources (SD) Inc. Matthew E. Naasz, Counsel
c/o Bennett, Main & Gubbrud Gunderson, Palmer, Nelson &
618 State St. Ashmore, LLP
Belle Fourche SD 57717 P.O. Box 8045
Rapid City SD 57709

Interested Persons (see attached list)

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DENR, Water Rights Program

SUBJECT: Pre-hearing Officer's Order concerning Motion for Continuance in the matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Enclosed is Pre-Hearing Officer Freeman's Order denying a motion for continuance in the matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

Notices, orders and other pleadings filed in the matter of Water Permit Application No. 2813-2 are posted on DENR's contested case page at <https://denr.sd.gov/contested.aspx>.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey, Assistant Attorney General
David McVey, Assistant Attorney General

CERTIFICATION

I hereby certify that on March 1, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated March 1, 2021, regarding an order denying a motion for continuance in the matter of Water Permit Application No. 2813-2, as addressed below and on the attached interested person. Service was also provided by email if an email address was available:

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St.
Belle Fourche SD 57717

Matthew E. Naasz, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

Interested Persons (see attached list)

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Vickie Maberry

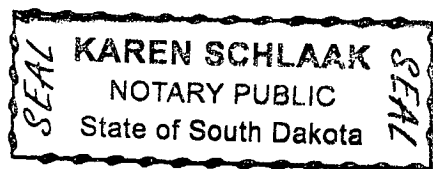
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 1st day of March, 2021.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2025



List of Interested Persons regarding Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnekahta Ave.
Hot Springs SD 57747

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

Bruce Ellison
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City SD 57709

Reno L. Red Cloud Sr
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

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WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2813-2, MINERAL)
MOUNTAIN RESOURCES (SD), INC.)

ORDER ON MOTION FOR
CONTINUANCE

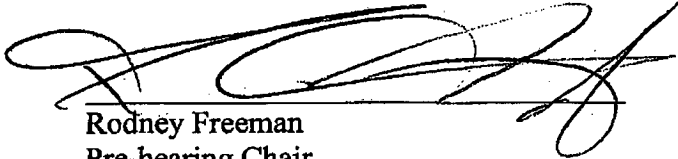
WHEREAS, Hearing on this matter will be held on March 3-4, 2021; and

WHEREAS, By procedural order, all motions were required to be filed by February 9, 2021 and all responses were required to be filed by February 19, 2021; and

WHEREAS, on February 26, 2021 intervenors Bruce, Nakea, Aaron, Samuel, and Abby Ellison ("Ellison Intervenors") filed a Motion to for a continuance based, *inter alia*, on revised CDC Guidelines related to the COVID-19 virus

NOW THEREFORE, the intervenors motion was filed after the date on which motions were required to be filed (February 9, 2021) and as such is not timely. Moreover, the issues raised by the intervenors were already addressed by the Board in the Order of the prehearing chair dated February 24, 2021. The Ellison Intervenors' Motion for a continuance is **DENIED**.

So Ordered this 1st day of March, 2021.


Rodney Freeman
Pre-hearing Chair
Water Management Board



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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WATER RIGHTS
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JULIE SANTELLA
422 COLUMBUS ST., APT 1
RAPID CITY SD 57701

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STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2813-2, MINERAL)
MOUNTAIN RESOURCES (SD), INC.)

ORDER ON MOTION FOR
CONTINUANCE

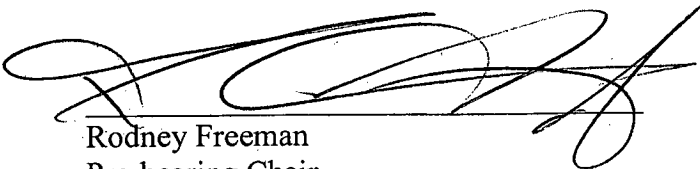
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So Ordered this 1st day of March, 2021.


Rodney Freeman
Pre-hearing Chair
Water Management Board

Lori Anderson

From: Lori Anderson <landerson.huronlaw@midconetwork.com>
Sent: Monday, March 1, 2021 11:28 AM
To: McVey, David (David.McVey@state.sd.us); ron.duvall@state.sd.us
Subject: Mineral Mountain Order
Attachments: DOC030121-03012021111153.pdf

David and Ron,

Enclosed please find the executed Order in the above matter. I will bring the original with me Wednesday.

Thanks,
Lori Anderson
Churchill, Manolis, Freeman,
Kludt & Burns, LLP
333 Dakota Avenue S, 2nd Floor
PO Box 176
Huron, SD 57350
Phone Number: (605) 352-8624
Fax Number: (605) 352-2205
E-mail: Landerson.huronlaw@midconetwork.com

Note: This e-mail and any attachments may be privileged and confidential and protected from disclosure. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of this e-mail and any attachments is strictly prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and deleting it from your computer system. Thank you for your cooperation.

-----Original Message-----

From: Churchill, Manolis, Freeman, Kludt, Shelton, & Burns LLP [<mailto:office@copier.com>]
Sent: Monday, March 1, 2021 11:12 AM
To: Lori Anderson
Subject: Send data from MFP11846321 03/01/2021 11:11

Scanned from MFP11846321
Date: 03/01/2021 11:11
Pages: 1
Resolution: 200x200 DPI

Rodney Freeman Jr.

From: McVey, David <David.McVey@state.sd.us>
Sent: Monday, March 1, 2021 10:06 AM
To: Rodney Freeman Jr.
Subject: Mineral Mountain Order
Attachments: ORDER ON MOTION FOR CONTINUANCE.docx

Rodney,

Here is an order on Ellison's motion for a continuance that he filed last Friday. As always, if you have comments or changes give me a call, otherwise sign and send to Ron.

Thanks.

David



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

March 8, 2021

NOTICE

TO: Mineral Mountain Resources (SD) Inc. Matthew E. Naasz, Counsel
c/o Bennett, Main & Gubbrud Gunderson, Palmer, Nelson &
618 State St. Ashmore, LLP
Belle Fourche SD 57717 P.O. Box 8045
Rapid City SD 57709

Parties of Record (see attached list)

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DENR, Water Rights Program

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed counsel for the Water Rights Program to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of the approval of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD) Inc.

The Board will consider adoption of Findings of Fact, Conclusions of Law and Final Decision at 9:30 AM Central Time, on Wednesday, May 5, 2021, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD.

The Board requested that the proposed Findings of Fact, Conclusions of Law and Final Decision be mailed to each Board member and parties of record by April 13, 2021. Written objections or comments in support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law and Final Decision are to be mailed to each Board member, the Board attorney, and other parties of record by April 23, 2021. A mailing list is enclosed. Board counsel requests that the draft findings or alternative findings be provided in both a PDF format and a WORD format file via email to David.McVey@state.sd.us.

At the Board's discretion, oral arguments in opposition or support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law and Final Decision may be made at the May 5, 2021 meeting. The evidentiary hearing was completed March 3, 2021. No additional testimony will be received on May 5, 2021.

If you have questions about the findings process, please contact Ann Mines Bailey at (605) 773-3215.

Enclosure

C: Ann Mines Bailey, Water Rights Program Counsel
David McVey, Water Management Board Counsel

Findings of Fact Mailing List
Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

APPLICANT

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St.
Belle Fourche SD 57717

Matthew E. Naasz, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

PETITIONERS

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnekahta Ave.
Hot Springs SD 57747

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
Rapid City SD 57709

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Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

Ann Mines Bailey, Assistant Attorney General
Counsel for Water Rights Program, DENR
Attorney General's Office
1302 East Highway 14, Suite 1
Pierre, SD 57501

BOARD LEGAL COUNSEL

David McVey, Assistant Attorney General, via
email at: David.McVey@state.sd.us

WATER MANAGEMENT BOARD MEMBERS

**LEO HOLZBAUER
WATER MANAGEMENT BOARD
PO BOX 64
DELMONT SD 57330**

**RODNEY FREEMAN JR
WATER MANAGEMENT BOARD
PO BOX 176
HURON SD 57350**

**JIM HUTMACHER
WATER MANAGEMENT BOARD
802 EAST 7TH ST
OACOMA SD 57365**

**CHAD COMES
WATER MANAGEMENT BOARD
116 W CENTER
MADISON SD 57042**

**PEGGY DIXON
3311 HOGAN COURT
RAPID CITY SD 57702**

**TIM BJORK
WATER MANAGEMENT BOARD
223 ENCHANTMENT ROAD
RAPID CITY SD 57701**

**WILLIAM LARSON
32197 PONDEROSA DRIVE
BURBANK SD 57010
CELL # 712-899-6997
larson@klasslaw.com**

CERTIFICATION

I hereby certify that on March 8, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 8, 2021, regarding preparation of findings of fact, conclusion of law and final decision for Water Permit Application No. 2813-2, as addressed below and on the attached parties of record list.

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St.
Belle Fourche SD 57717

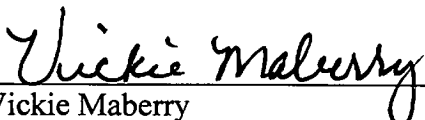
Matthew E. Naasz, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

Parties of Record (see attached list)

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



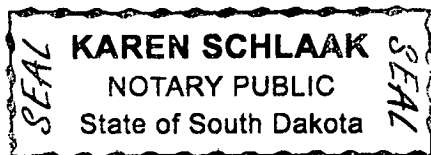
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of March, 2021.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



List of Parties of Record regarding Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
Rapid City SD 57701

Mark LaCompte
P.O. Box 175
Timber Lake SD 57656

Julie Benedict
1115 McGuigan Rd.
Spearfish SD 57783

Rajni Lerman
2244 Minnekahta Ave.
Hot Springs SD 57747

Black Hills Group, Sierra Club
c/o Suzanne Iudicello Martley
P.O. Box 1624
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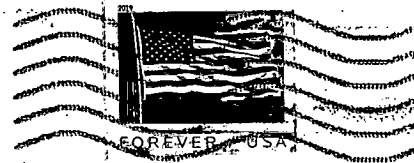
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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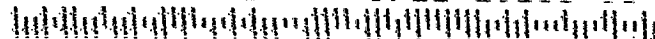
WATER RIGHTS
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JULIE SANTELLA
422 COLUMBUS ST., APT 1
RAPID CITY SD 57701

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OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

<http://atg.sd.gov/>

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APR 06 2021

**WATER RIGHTS
PROGRAM**

JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

March 31, 2021

Matt Naasz
Gunderson, Palmer, Nelson
& Ashmore LLP
P.O. Box 8045
Rapid City, SD 57709
Counsel for Mineral Mountain Resources

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City, SD 57702

Julie Santella
422 Columbus St., Apt. 1
Rapid City, SD 57701

Jeremiah J. Davis
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Cultural Affairs & Historic
Preservation Office
P.O. Box 320
Pine Ridge, SD 57770

David M. McVey
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Counsel for Water Rights Program

Re: *In the Matter of Water Permit Application No. 2813-2, Mineral Mountain Resources (SD), Inc.*

To Whom it May Concern:

Enclosed please find a copy of the Water Rights' Proposed Findings of Facts, Conclusions of Law and Final Decision along with the Certificate of Service in the above-entitled matter.

Sincerely,



Ann F. Mines Bailey
Assistant Attorney General

AFM/mn

Enclosures

cc w/encs: Ron Duvall, DENR Water Rights Program (*Interoffice mail*)✓

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APR 06 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	WATER RIGHTS' PROPOSED
APPLICATION NO. 2813-2, MINERAL	)	FINDINGS OF FACT,
MOUNTAIN RESOURCES (SD), INC.	)	CONCLUSIONS OF LAW AND
	)	FINAL DECISION

This matter came before the South Dakota Water Management Board for hearing on March 3, 2021. Board members James Hutmacher, Tim Bjork, Chad Comes, Rodney Freeman, Peggy Dixon, Leo Holzbauer, and Bill Larson were present at the hearing and heard the evidence presented. Mineral Mountain Resources (SD), Inc. (hereinafter Mineral Mountain) was represented by Matthew E. Naasz. Intervenors Dr. Liliias Jarding, Julie Santella, Thomas Brings, and Reno L. Red Cloud, Sr. appeared *pro se*. Ann F. Mines Bailey represented the DENR Water Rights Program and the Chief Engineer.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On March 9, 2020, Water Rights received Water Permit Application No. 2813-2 on behalf of Mineral Mountain seeking an appropriation of water for commercial and industrial use near Rochford, SD. The application proposes the diversion of 3.68 acre-feet of water annually with an instantaneous diversion rate of 0.022 cubic feet of water per second

(cfs) from a well to be completed into the Crystalline Rock aquifer in the NW¼SW¼ Sec. 24-T2N-R3E in Pennington County.

2. The water is to be used for exploratory drilling in the following locations:

Section 1-T1N-R3E, Section 7-T2N-R4E, Section 11-T2N-R3E;
Section 12-T1N-R3E, Section 12-T2N-R3E, Section 13-T2N-R3E,
Section 14-T2N-R3E, Section 18-T2N-R4E, Section 23-T1N-R3E,
Section 23-T2N-R3E, Section 24-T2N-R3E, Section 25-T2N-R3E,
Section 26-T2N-R3E, Section 35-T2N-R3E, Section 36-T2N-R3E

3. At the time the application was reviewed, the Chief Engineer, Eric Gronlund, recommended approval of the application subject to the permit including three specified qualifications. Those qualifications are as follows:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights
- The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer
- Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling

4. Notice of the application and hearing was timely advertised on November 4, 2020, in the Black Hills Pioneer (Lawrence County), the Rapid City Journal (Pennington County), and on the department website.

5. DENR received timely petitions to intervene from Dr. Liliias Jarding, Julie Santella, Reno L. Red Cloud, Sr., Thomas Brings, Jeremiah J. Davis, Mark LaCompte, Julie Benedict, Rajni Lerman, Black Hills Group of the Sierra Club, and Bruce Ellison individually and on behalf of Nakca Bagn-Ellison, Aaron Ellison, Samuel Ellison, and Abbey Ellison.

6. Documents purporting to be petitions to intervene were also received from Richard Bell, Juli Ames-Curtis, emmafrostdcam@live.com, dowhatyouwantalways@protonmail.com, and Jerry Wilson. The prehearing chairman ruled that these documents did not meet the requirements of SDCL §§ 46-2A-4 and/or 46-2A-6 and therefore were not petitions affording the proponents' rights to fully participate in the contested case proceedings.

7. The matter was initially scheduled to be heard by the Water Management Board during its December 2, 2020 meeting; however, an automatic delay was requested, and the hearing was rescheduled for the next regular Board meeting in March 2021.

8. Water Permit Application No. 2813-2 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 that there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

9. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater

source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

10. DENR witness, Timothy Magstadt, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Crystalline Rock aquifer, and reviewed the information obtained from observation wells completed into the Crystalline Rock aquifer, as well as current water right/permit files and well completion reports for the aquifer.

11. In this area, the Crystalline Rock aquifer consist of numerous, localized aquifers in the Precambrian aged core of the Black Hills. It is composed of black graphitic slate and schist. The Crystalline Rock aquifer occurs only where there is sufficient secondary porosity (fracturing and weathering) and therefore is highly site specific. The aquifer is estimated to contain approximately 2,900,000 acre-feet of recoverable water in storage in western South Dakota. Due to these aquifer characteristics, there are no average annual recharge estimates available for the localized portion of the Crystalline Rock aquifer in which the proposed diversion is sought.

12. Recharge to the Crystalline Rock aquifer occurs mainly through infiltration of precipitation and streamflow losses.

13. There are two observation wells in the Crystalline Rock aquifer. One of the wells is open to both the Deadwood Formation as well as the Crystalline Rock aquifer and was therefore not relied upon when reviewing this application. The other observation well, CU-86A, is located approximately 24.3 miles from the proposed diversion point. The data from this observation

well demonstrates that the aquifer responds to climatic trends, recharging during wet periods and declining during dry periods. Any response to pumping reflected in the observation well record is temporal and masked by climatic conditions.

14. Because the Crystalline Rock aquifer is highly variable and comprised of numerous localized aquifers, Mr. Magstadt opined that it is appropriate to examine the localized area where the proposed diversion will occur as opposed to examining the aquifer as a whole to determine if there is unappropriated water available and whether the proposed diversion would result in an unlawful impairment to an existing right.

15. The nearest water right to the proposed diversion is located approximately 0.8 miles northwest of the proposed diversion site.

16. Additionally, there are a number of domestic wells within the vicinity of the proposed diversion site with the nearest domestic well on file located approximately 0.6 miles from the proposed diversion site.

17. Mr. Magstadt concluded that based upon the continued development of the aquifer in the area without complaints of well interference, the observation well data, the information available regarding recharge, and the relatively small appropriation requested, there is a reasonable probability that there is unappropriated water available and that the proposed diversion would not result in an unlawful impairment of existing rights.

18. The Board finds Mr. Magstadt to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including

Mr. Magstadt's testimony and the reports and exhibits upon which he prepared and/or relied.

19. The Board also received the testimony of Kevin Leonard.

Mr. Leonard is the Operations Officer for Mineral Mountain. Mr. Leonard was the individual who completed the application submitted to the Water Rights Program. He testified about Mineral Mountain's project located near Rochford, SD and that the water would be used in the process of exploratory drilling to lubricate the drill hole and cool the drilling bit.

20. The Board also received the testimony of Crystal Hocking.

Ms. Hocking is a Professional Engineer and a Professional Geologist with RESPEC Consulting. Ms. Hocking testified that the proposed diversion site is to be completed into the Precambrian or Crystalline Rock aquifer. She further testified that she agreed with Mr. Magstadt's report and conclusions that there is a reasonable probability that there is unappropriated water available and that this proposed diversion could be developed without unlawful impairment to existing rights.

21. The Board finds Ms. Hocking to be a credible expert witness and that these Findings of Fact are also supported by her testimony.

22. The intervenors did not present any evidence.

23. The Board finds that granting this application would not unlawfully impair existing water rights.

24. The Board further finds that the proposed use of the water for commercial and industrial use in exploratory drilling constitutes a beneficial use.

25. The Board further finds that placing the water to this beneficial use is in the public interest.

26. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL § 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-9.

5. The Board concludes that Mineral Mountain has satisfied each of the factors set forth in SDCL § 46-2A-9.

6. South Dakota Codified Law, section 46-2A-9 provides that 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." Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: whether "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."

8. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

9. The Board further concludes that it is not probable that withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if this application is granted.

10. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing water rights.

11. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies as set forth in SDCL § 46-1-6(3). The proposed commercial and industrial use for exploratory drilling is a beneficial use.

12. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for commercial and industrial use such as this is in the public interest.

13. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 2813-2 is granted with the following qualifications:

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

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

3. Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling.

Dated this _____ day of May, 2021.

BY THE BOARD:

South Dakota Water Management Board

APR 06 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCESWATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
APPLICATION NO. 2813-2, MINERAL	)	CERTIFICATE OF SERVICE
MOUNTAIN RESOURCES (SD), INC.	)	

The undersigned hereby certifies that true and correct copies of the Water Rights' Proposed Findings of Fact, Conclusions of Law and Final Decision, in the above matter, were served by U.S. mail, first class, postage prepaid, upon the following, on this 31st day of March 2021:

Matt Naasz
Gunderson, Palmer, Nelson
& Ashmore LLP
P.O. Box 8045
Rapid City, SD 57709
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Reno L. Red Cloud Sr.
Oglala Sioux Water Resources
Department/Administrator
P.O. Box 320
Pine Ridge, SD 57770

Thomas Brings
Tribal Historic Preservation Officer
Cultural Affairs & Historic
Preservation Office
P.O. Box 320
Pine Ridge, SD 57770

And true and correct copies were served by email and hand-delivery upon the following:

David M. McVey
Counsel for Water Rights Program
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
David.McVey@state.sd.us

And the original was sent for filing by interoffice mail to the following:

Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 E. Capitol Ave.
Pierre, SD 57501


Ann F. Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

*Counsel for Chief Engineer and
Water Rights Program*

RECEIVED

APR 26 2021

WATER RIGHTS
PROGRAM

**BEFORE THE WATER MANAGEMENT BOARD
OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

IN RE APPLICATION OF MINERAL)
MOUNTAIN RESOURCES (SD) INC.)
– APPLICATION NO. 2813-2)

**MINERAL MOUNTAIN
RESOURCES (SD) INC.'S
OBJECTIONS TO WATER RIGHTS'
PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

COMES NOW, Mineral Mountain Resources (SD) INC., by and through its undersigned counsel and hereby submits its Objections to Water Rights' Proposed Findings of Fact and Conclusions of Law. Mineral Mountain Resources (SD) Inc. requests the following additional Finding of Fact be included in the Findings of Fact and Conclusions of Law adopted by the Board:

The Board finds that there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

Respectfully submitted this 22nd day of April, 2021.

By: /s/ Matthew E. Naasz

Matthew E. Naasz
506 Sixth Street
P.O. Box 8045
Rapid City, SD 57709
Telephone: (605) 342-1078
Telefax: (605) 342-9503
E-mail: mnaasz@gpna.com

CERTIFICATE OF SERVICE

I hereby certify on April 22, 2021, a true and correct copy of **MINERAL MOUNTAIN RESOURCES (SD) INC.'S OBJECTIONS TO WATER RIGHTS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW** was served upon the following individuals in the manner set forth below:

Ron Duval
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Thomas Brings
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Julie Benedict
1115 McGuigan Rd.
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Rajni Lerman
2244 Minnkahta Ave.
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Emma
emmafrostdcam@live.com

Max .
dowhatyouwantalways@protonmail.com

Jerry Wilson
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Vermillion SD 57059

and on the same date, the original was filed with:

Eric Gronlund, Chief Engineer
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Rodney Freeman
Prehearing Officer
South Dakota Water Management Board
523 E. Capitol Avenue
Pierre, SD 57501

By: /s/ Matthew E. Naasz
Matthew E. Naasz

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	FINDINGS OF FACT,
APPLICATION NO. 2813-2, MINERAL	)	CONCLUSIONS OF LAW AND
MOUNTAIN RESOURCES (SD), INC.	)	FINAL DECISION
	)	

This matter came before the South Dakota Water Management Board for hearing on March 3, 2021. Board members James Hutmacher, Tim Bjork, Chad Comes, Rodney Freeman, Peggy Dixon, Leo Holzbauer, and Bill Larson were present at the hearing and heard the evidence presented. Mineral Mountain Resources (SD), Inc. (hereinafter Mineral Mountain) was represented by Matthew E. Naasz. Intervenors Dr. Liliias Jarding, Julie Santella, Thomas Brings, and Reno L. Red Cloud, Sr. appeared *pro se*. Ann F. Mines Bailey represented the DENR Water Rights Program and the Chief Engineer.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On March 9, 2020, Water Rights received Water Permit Application No. 2813-2 on behalf of Mineral Mountain seeking an appropriation of water for commercial and industrial use near Rochford, SD. The application proposes the diversion of 3.68 acre-feet of water annually with an instantaneous diversion rate of 0.022 cubic feet of water per second

(cfs) from a well to be completed into the Crystalline Rock aquifer in the NW¼SW¼ Sec. 24-T2N-R3E in Pennington County.

2. The water is to be used for exploratory drilling in the following locations:

Section 1-T1N-R3E, Section 7-T2N-R4E, Section 11-T2N-R3E;
Section 12-T1N-R3E, Section 12-T2N-R3E, Section 13-T2N-R3E,
Section 14-T2N-R3E, Section 18-T2N-R4E, Section 23-T1N-R3E,
Section 23-T2N-R3E, Section 24-T2N-R3E, Section 25-T2N-R3E,
Section 26-T2N-R3E, Section 35-T2N-R3E, Section 36-T2N-R3E

3. At the time the application was reviewed, the Chief Engineer, Eric Gronlund, recommended approval of the application subject to the permit including three specified qualifications. Those qualifications are as follows:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights
- The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer
- Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling

4. Notice of the application and hearing was timely advertised on November 4, 2020, in the Black Hills Pioneer (Lawrence County), the Rapid City Journal (Pennington County), and on the department website.

5. DENR received timely petitions to intervene from Dr. Liliias Jarding, Julie Santella, Reno L. Red Cloud, Sr., Thomas Brings, Jeremiah J. Davis, Mark LaCompte, Julie Benedict, Rajni Lerman, Black Hills Group of the Sierra Club, and Bruce Ellison individually and on behalf of Nakca Bagn-Ellison, Aaron Ellison, Samuel Ellison, and Abbey Ellison.

6. Documents purporting to be petitions to intervene were also received from Richard Bell, Juli Ames-Curtis, emmafrostcam@live.com, dowhatyouwantalways@protonmail.com, and Jerry Wilson. The prehearing chairman ruled that these documents did not meet the requirements of SDCL §§ 46-2A-4 and/or 46-2A-6 and therefore were not petitions affording the proponents' rights to fully participate in the contested case proceedings.

7. The matter was initially scheduled to be heard by the Water Management Board during its December 2, 2020 meeting; however, an automatic delay was requested, and the hearing was rescheduled for the next regular Board meeting in March 2021.

8. Water Permit Application No. 2813-2 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 that there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

9. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater

source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

10. DENR witness, Timothy Magstadt, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Crystalline Rock aquifer, and reviewed the information obtained from observation wells completed into the Crystalline Rock aquifer, as well as current water right/permit files and well completion reports for the aquifer.

11. In this area, the Crystalline Rock aquifer consist of numerous, localized aquifers in the Precambrian aged core of the Black Hills. It is composed of black graphitic slate and schist. The Crystalline Rock aquifer occurs only where there is sufficient secondary porosity (fracturing and weathering) and therefore is highly site specific. The aquifer is estimated to contain approximately 2,900,000 acre-feet of recoverable water in storage in western South Dakota. Due to these aquifer characteristics, there are no average annual recharge estimates available for the localized portion of the Crystalline Rock aquifer in which the proposed diversion is sought.

12. Recharge to the Crystalline Rock aquifer occurs mainly through infiltration of precipitation and streamflow losses.

13. There are two observation wells in the Crystalline Rock aquifer. One of the wells is open to both the Deadwood Formation as well as the Crystalline Rock aquifer and was therefore not relied upon when reviewing this application. The other observation well, CU-86A, is located approximately 24.3 miles from the proposed diversion point. The data from this observation

well demonstrates that the aquifer responds to climatic trends, recharging during wet periods and declining during dry periods. Any response to pumping reflected in the observation well record is temporal and masked by climatic conditions.

14. Because the Crystalline Rock aquifer is highly variable and comprised of numerous localized aquifers, Mr. Magstadt opined that it is appropriate to examine the localized area where the proposed diversion will occur as opposed to examining the aquifer as a whole to determine if there is unappropriated water available and whether the proposed diversion would result in an unlawful impairment to an existing right.

15. The nearest water right to the proposed diversion is located approximately 0.8 miles northwest of the proposed diversion site.

16. Additionally, there are a number of domestic wells within the vicinity of the proposed diversion site with the nearest domestic well on file located approximately 0.6 miles from the proposed diversion site.

17. Mr. Magstadt concluded that based upon the continued development of the aquifer in the area without complaints of well interference, the observation well data, the information available regarding recharge, and the relatively small appropriation requested, there is a reasonable probability that there is unappropriated water available and that the proposed diversion would not result in an unlawful impairment of existing rights.

18. The Board finds Mr. Magstadt to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including

Mr. Magstadt's testimony and the reports and exhibits upon which he prepared and/or relied.

19. The Board also received the testimony of Kevin Leonard.

Mr. Leonard is the Operations Officer for Mineral Mountain. Mr. Leonard was the individual who completed the application submitted to the Water Rights Program. He testified about Mineral Mountain's project located near Rochford, SD and that the water would be used in the process of exploratory drilling to lubricate the drill hole and cool the drilling bit.

20. The Board also received the testimony of Crystal Hocking.

Ms. Hocking is a Professional Engineer and a Professional Geologist with RESPEC Consulting. Ms. Hocking testified that the proposed diversion site is to be completed into the Precambrian or Crystalline Rock aquifer. She further testified that she agreed with Mr. Magstadt's report and conclusions that there is a reasonable probability that there is unappropriated water available and that this proposed diversion could be developed without unlawful impairment to existing rights.

21. The Board finds Ms. Hocking to be a credible expert witness and that these Findings of Fact are also supported by her testimony.

22. The intervenors did not present any evidence.

23. The Board finds that granting this application would not unlawfully impair existing water rights.

24. The Board further finds that the proposed use of the water for commercial and industrial use in exploratory drilling constitutes a beneficial use.

25. The Board further finds that placing the water to this beneficial use is in the public interest.

26. The Board further finds that there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

27. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL § 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-9.

5. The Board concludes that Mineral Mountain has satisfied each of the factors set forth in SDCL § 46-2A-9.

6. South Dakota Codified Law, section 46-2A-9 provides that 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.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: whether “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.”

8. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

9. The Board further concludes that it is not probable that withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if this application is granted.

10. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing water rights.

11. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies as set forth in SDCL § 46-1-6(3). The proposed commercial and industrial use for exploratory drilling is a beneficial use.

12. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for commercial and industrial use such as this is in the public interest.

13. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

FINAL DECISION

Water Rights both filed complete Proposed Findings of Fact and Conclusions of Law and Decision and the Applicant filed an objection and requested an additional finding of fact. In compliance with SDCL § 1-26-25, the Proposed Findings of Fact and Conclusions of Law are accepted, modified, or rejected as follows:

Applicants Proposed Findings of Fact and Conclusions of Law

Applicant's request to include an additional finding of fact stating:

"The Board further finds that there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application" is accepted and set forth fully in Paragraph 26 above.

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 2813-2 is granted with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer.
3. Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling.

Dated this ____ day of May, 2021.

BY THE BOARD:

South Dakota Water Management Board



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 7, 2021

NOTICE OF ENTRY OF ORDER

TO: Mineral Mountain Resources (SD) Inc. Matthew E. Naasz, Counsel
c/o Bennett, Main & Gubbrud Gunderson, Palmer, Nelson &
618 State St. Ashmore, LLP
Belle Fourche SD 57717 P.O. Box 8045
 Rapid City SD 57709

Parties of Record (see attached list)

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DANR, Water Rights Program

SUBJECT: Notice of Entry of Findings of Fact, Conclusions of Law and Final Decision in the matter
of Water Permit No. 2813-2, Mineral Mountain Resources (SD) Inc.

Notice is given that on the 5th day of May 2021, the South Dakota Water Management Board entered its Findings of Fact, Conclusions of Law, and Final Decision in the above-entitled matter. Enclosed is the signed Findings of Fact, Conclusions of Law and Final Decision adopted by the Board.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosures

C: Ann Mines Bailey, Water Rights Program Counsel
David McVey, Water Management Board Counsel

List of Parties of Record regarding Water Permit Application No. 2813-2,
Mineral Mountain Resources (SD) Inc.

Lilias Jones Jarding, Ph.D.
418 N. 44th St.
Rapid City SD 57702

Julie Santella
422 Columbus St, Apt 1
Rapid City SD 57701

Jeremiah J. Davis
710 N. LaCrosse St. #1
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Mark LaCompte
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Thomas Brings
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Cultural Affairs & Historic Preservation Office
P.O. Box 320
Pine Ridge SD 57770

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	FINDINGS OF FACT,
APPLICATION NO. 2813-2, MINERAL	)	CONCLUSIONS OF LAW AND
MOUNTAIN RESOURCES (SD), INC.	)	FINAL DECISION
	)	

This matter came before the South Dakota Water Management Board for hearing on March 3, 2021. Board members James Hutmacher, Tim Bjork, Chad Comes, Rodney Freeman, Peggy Dixon, Leo Holzbauer, and Bill Larson were present at the hearing and heard the evidence presented. Mineral Mountain Resources (SD), Inc. (hereinafter Mineral Mountain) was represented by Matthew E. Naasz. Intervenors Dr. Liliias Jarding, Julie Santella, Thomas Brings, and Reno L. Red Cloud, Sr. appeared *pro se*. Ann F. Mines Bailey represented the DENR Water Rights Program and the Chief Engineer.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On March 9, 2020, Water Rights received Water Permit Application No. 2813-2 on behalf of Mineral Mountain seeking an appropriation of water for commercial and industrial use near Rochford, SD. The application proposes the diversion of 3.68 acre-feet of water annually with an instantaneous diversion rate of 0.022 cubic feet of water per second

(cfs) from a well to be completed into the Crystalline Rock aquifer in the NW¼SW¼ Sec. 24-T2N-R3E in Pennington County.

2. The water is to be used for exploratory drilling in the following locations:

Section 1-T1N-R3E, Section 7-T2N-R4E, Section 11-T2N-R3E;
Section 12-T1N-R3E, Section 12-T2N-R3E, Section 13-T2N-R3E,
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Section 23-T2N-R3E, Section 24-T2N-R3E, Section 25-T2N-R3E,
Section 26-T2N-R3E, Section 35-T2N-R3E, Section 36-T2N-R3E

3. At the time the application was reviewed, the Chief Engineer, Eric Gronlund, recommended approval of the application subject to the permit including three specified qualifications. Those qualifications are as follows:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights
- The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer
- Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling

4. Notice of the application and hearing was timely advertised on November 4, 2020, in the Black Hills Pioneer (Lawrence County), the Rapid City Journal (Pennington County), and on the department website.

5. DENR received timely petitions to intervene from Dr. Liliias Jarding, Julie Santella, Reno L. Red Cloud, Sr., Thomas Brings, Jeremiah J. Davis, Mark LaCompte, Julie Benedict, Rajni Lerman, Black Hills Group of the Sierra Club, and Bruce Ellison individually and on behalf of Nakca Bagn-Ellison, Aaron Ellison, Samuel Ellison, and Abbey Ellison.

6. Documents purporting to be petitions to intervene were also received from Richard Bell, Juli Ames-Curtis, emmafrostcam@live.com, dowhatyouwantalways@protonmail.com, and Jerry Wilson. The prehearing chairman ruled that these documents did not meet the requirements of SDCL §§ 46-2A-4 and/or 46-2A-6 and therefore were not petitions affording the proponents' rights to fully participate in the contested case proceedings.

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8. Water Permit Application No. 2813-2 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 that there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

9. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater

source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

10. DENR witness, Timothy Magstadt, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Crystalline Rock aquifer, and reviewed the information obtained from observation wells completed into the Crystalline Rock aquifer, as well as current water right/permit files and well completion reports for the aquifer.

11. In this area, the Crystalline Rock aquifer consist of numerous, localized aquifers in the Precambrian aged core of the Black Hills. It is composed of black graphitic slate and schist. The Crystalline Rock aquifer occurs only where there is sufficient secondary porosity (fracturing and weathering) and therefore is highly site specific. The aquifer is estimated to contain approximately 2,900,000 acre-feet of recoverable water in storage in western South Dakota. Due to these aquifer characteristics, there are no average annual recharge estimates available for the localized portion of the Crystalline Rock aquifer in which the proposed diversion is sought.

12. Recharge to the Crystalline Rock aquifer occurs mainly through infiltration of precipitation and streamflow losses.

13. There are two observation wells in the Crystalline Rock aquifer. One of the wells is open to both the Deadwood Formation as well as the Crystalline Rock aquifer and was therefore not relied upon when reviewing this application. The other observation well, CU-86A, is located approximately 24.3 miles from the proposed diversion point. The data from this observation

well demonstrates that the aquifer responds to climatic trends, recharging during wet periods and declining during dry periods. Any response to pumping reflected in the observation well record is temporal and masked by climatic conditions.

14. Because the Crystalline Rock aquifer is highly variable and comprised of numerous localized aquifers, Mr. Magstadt opined that it is appropriate to examine the localized area where the proposed diversion will occur as opposed to examining the aquifer as a whole to determine if there is unappropriated water available and whether the proposed diversion would result in an unlawful impairment to an existing right.

15. The nearest water right to the proposed diversion is located approximately 0.8 miles northwest of the proposed diversion site.

16. Additionally, there are a number of domestic wells within the vicinity of the proposed diversion site with the nearest domestic well on file located approximately 0.6 miles from the proposed diversion site.

17. Mr. Magstadt concluded that based upon the continued development of the aquifer in the area without complaints of well interference, the observation well data, the information available regarding recharge, and the relatively small appropriation requested, there is a reasonable probability that there is unappropriated water available and that the proposed diversion would not result in an unlawful impairment of existing rights.

18. The Board finds Mr. Magstadt to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including

Mr. Magstadt's testimony and the reports and exhibits upon which he prepared and/or relied.

19. The Board also received the testimony of Kevin Leonard.

Mr. Leonard is the Operations Officer for Mineral Mountain. Mr. Leonard was the individual who completed the application submitted to the Water Rights Program. He testified about Mineral Mountain's project located near Rochford, SD and that the water would be used in the process of exploratory drilling to lubricate the drill hole and cool the drilling bit.

20. The Board also received the testimony of Crystal Hocking.

Ms. Hocking is a Professional Engineer and a Professional Geologist with RESPEC Consulting. Ms. Hocking testified that the proposed diversion site is to be completed into the Precambrian or Crystalline Rock aquifer. She further testified that she agreed with Mr. Magstadt's report and conclusions that there is a reasonable probability that there is unappropriated water available and that this proposed diversion could be developed without unlawful impairment to existing rights.

21. The Board finds Ms. Hocking to be a credible expert witness and that these Findings of Fact are also supported by her testimony.

22. The intervenors did not present any evidence.

23. The Board finds that granting this application would not unlawfully impair existing water rights.

24. The Board further finds that the proposed use of the water for commercial and industrial use in exploratory drilling constitutes a beneficial use.

25. The Board further finds that placing the water to this beneficial use is in the public interest.

26. The Board further finds that there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

27. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL § 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-9.

5. The Board concludes that Mineral Mountain has satisfied each of the factors set forth in SDCL § 46-2A-9.

6. South Dakota Codified Law, section 46-2A-9 provides that 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.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: whether “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.”

8. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

9. The Board further concludes that it is not probable that withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if this application is granted.

10. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing water rights.

11. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies as set forth in SDCL § 46-1-6(3). The proposed commercial and industrial use for exploratory drilling is a beneficial use.

12. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for commercial and industrial use such as this is in the public interest.

13. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

FINAL DECISION

Water Rights both filed complete Proposed Findings of Fact and Conclusions of Law and Decision and the Applicant filed an objection and requested an additional finding of fact. In compliance with SDCL § 1-26-25, the Proposed Findings of Fact and Conclusions of Law are accepted, modified, or rejected as follows:

Applicants Proposed Findings of Fact and Conclusions of Law

Applicant's request to include an additional finding of fact stating:

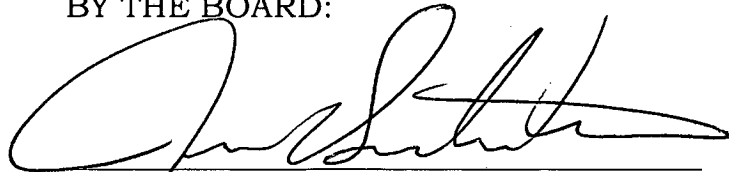
"The Board further finds that there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application" is accepted and set forth fully in Paragraph 26 above.

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 2813-2 is granted with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer.
3. Water Permit No. 2813-2 authorizes a total annual diversion of 3.68 acre-feet of water for exploratory drilling.

Dated this 5th day of May, 2021.

BY THE BOARD:

A handwritten signature in black ink, appearing to read "Jim Hutmacher", written over a horizontal line.

Jim Hutmacher, Chairman
South Dakota Water Management Board

CERTIFICATION

I hereby certify that on May 7, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated May 7, 2021, regarding adoption of findings of fact, conclusion of law and final decision for Water Permit Application No. 2813-2, a signed copy of the findings, conclusions, and final decision dated May 5, 2021, and a parties of record list as addressed below and on the attached parties of record list.

Mineral Mountain Resources (SD) Inc.
c/o Bennett, Main & Gubbrud
618 State St.
Belle Fourche SD 57717

Matthew E. Naasz, Counsel
Gunderson, Palmer, Nelson & Ashmore, LLP
P.O. Box 8045
Rapid City SD 57709

Parties of Record (see attached list)

Sent Inter-office to:

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

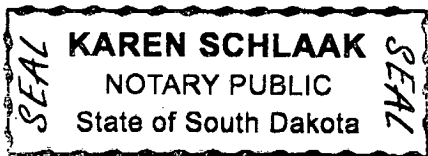
David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Ron Duvall
Water Rights Program, DANR

[illegible]

Sworn to, before me, this 6th day of May, 2021.

Karen Schlaak
 Karen Schlaak
 Notary Public
 My Commission expires April 1, 2025



Gronlund, Eric

From: Matthew Naasz <mnaasz@gpna.com>
Sent: Friday, September 24, 2021 11:17 AM
To: Gronlund, Eric
Cc: Mines Bailey, Ann; Anna Applegate
Subject: RE: [EXT] Mineral Mountain water permit

Good morning Eric,

Please direct all future correspondence regarding the Mineral Mountain Resources water permit to Mr. Leonard at the Port Orchard address below. I would also appreciate a copy on any such correspondence.

Thank you,

Matt



Matthew E. Naasz

Attorney

Phone: (605) 719-3424 | Fax: (605) 342-9503

506 Sixth Street | P.O. Box 8045 | Rapid City, SD 57709

Gunderson | Palmer | Nelson | Ashmore | LLP • www.gpna.com

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From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Friday, September 24, 2021 10:08 AM
To: Matthew Naasz <mnaasz@gpna.com>
Cc: Mines Bailey, Ann <Ann.MinesBailey@state.sd.us>
Subject: Mineral Mountain water permit

Matt – DANR is issuing the water permit for Mineral Mountain Resources. The address on the application and used throughout the process has been the Bennett, Main & Gubbrud law firm in Belle Fourche. However, you represented MMR at hearing before the Water Management Board. Also, Mr. Kevin Leonard at one point indicated to send correspondence to: 2049 Yukon Harbor Rd SE, Port Orchard WA 98366.

Please advise the proper address that should be used for all future correspondence regarding the Mineral Mountain Resources water right permit.

Thanks - Eric

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 28, 2021 10:05 AM
To: Matthew Naasz
Subject: Water Permit No. 2813-2, Mineral Mountain Resources
Attachments: 1921.pdf

Attached is a copy of the water permit issued to Mineral Mountain Resources.

Karen Schlaak
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

SEP 26 2021

Mineral Mountain Resources (SD) Inc.
Kevin Leonard
2049 Yukon Harbor Rd SE
Port Orchard WA 98366

Dear Mr. Leonard:

Enclosed is Water Permit No. 2813-2 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,

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

enclosures

c: Matthew E Naasz, GPNA mnaasz@gpna.com

Schlaak, Karen

2813-2

From: Kevin Leonard <leonard2049@gmail.com>
Sent: Monday, August 15, 2022 9:29 AM
To: Schlaak, Karen
Subject: [EXT] Amount of Water Used in SW 1/4 SW 1/4 Section 24 - Standby Property

Good Morning Ms Schlaak

I would like to inform the water program that as of this date Mineral Mountain Resources (SD) Inc has **diverted 0 gallons** of water from the Standby Well located near Rochford, SD.

Since my last communication with the Water Program my email address has been changed to leonard2049@gmail.com.

Sincerely, Kevin Leonard
Operations Manager
Cellular: 253-327-4263



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 11, 2024

2813-2

Badlands Resources Inc.
200 Burrard St, Suite 1680
Vancouver BC V6C 3L6

To whom it may concern:

Each year, the State of South Dakota require commercial, industrial, and municipal water users to report information based on annual water use from our state's waters.

This year we received word from one of the users that the system they'd previously reported on had been sold to you. For your convenience I have enclosed a partially completed "Transfer of Ownership" form for you to complete and return in the pre-paid envelope.

Please return the form with a check for \$50.00 made payable to "SD Water Rights Program" to cover the transfer fee. If you would prefer to pay by card you may call our Fiscal Office at 605.773.4216. This form will still need to be returned even if you are submitting payment over the phone.

Should you decide you wish to discontinue use of the water system, we would ask that you let us know.

If you have any questions or concerns, please give me a call. My direct number is 605.910.5187

Sincerely,

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

enclosures